

65, 1936

In the Privy Council.

No. 55 of 1935.

ON APPEAL FROM THE SUPREME COURT  
OF THE ISLAND OF CEYLON.

BETWEEN

STEPHEN SENEVIRATNE - - - - (Accused) Appellant

AND

THE KING - - - - - (Complainant) Respondent.

RECORD OF PROCEEDINGS.

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ON APPEAL FROM THE SUPREME COURT  
OF THE ISLAND OF CEYLON.

BETWEEN

STEPHEN SENEVIRATNE - - - - (Accused) Appellant

AND

THE KING - - - - (Complainant) Respondent.

RECORD OF PROCEEDINGS.

No. 1.

Proceedings at Inquest held at Colombo on 6th, 7th, 8th, 13th, 15th and 16th November  
and 1st December, 1933.

(a) Evidence of Dr. S. C. Paul  
(Not printed.)

(b) Evidence of S. R. Raymond (Undertaker)  
(Not printed.)

(c) Evidence of Dr. Milroy Paul  
(Not printed.)

10 Mr. Obeysekera now asks to be allowed to call Mr. Seneviratne.  
Mr. R. L. Pereira objects on the ground that he—Mr. Seneviratne—might  
be led into answering questions which might tend to incriminate himself.

No. 1.  
Inquest  
proceedings,  
6th Novem-  
ber to  
1st Decem-  
ber, 1933.

(a)  
(b)

(c)

(d) Applica-  
tion and  
Order.

ORDER.

I think in the interests of Mr. Seneviratne it would be best that he  
made his statement at this stage. He would appear to be able to give the  
Court the best possible evidence which may exonerate himself from all  
suspicion. I would therefore order that he be called at this stage.

(Sgd.) E. H. R. TENISON

P.M.

6.11.33

20

(e) Evidence of Stephen Seneviratne  
(Not printed.)

(e)

Remainder of Inquest proceedings  
(Not printed.)

No. 2.  
 Proceedings  
 in the Police  
 Court at  
 Colombo.  
 (a) Evidence  
 of Dr. W. C.  
 Hill.  
 Examina-  
 tion.

No. 2.  
 Proceedings in the Police Court of Colombo on 2nd, 8th, 19th December 1933 and  
 5th, 13th, 20th, 23rd January, 3rd, 10th, 23rd February, and 1st March, 1934.

(a) Evidence of Dr. W. C. Hill

DR. W. C. HILL. Sworn.

M.B., B.S., Professor of Anatomy Ceylon Medical College for four years. Before that I was Lecturer in Anatomy at Birmingham. I have seen the post-mortem report, pathologist's report, and the slides taken at post-mortem. I was present at post-mortem examination. I am well acquainted with bodies injected with formalin. The evidence being that deceased's body was injected with 6 barrels of 16 ozs each formalin diluted with water and coloured with eosin. The marks on deceased's face were not due to formalin. Nor were they post-mortem changes. I saw the marks in the arms. I have never seen anything like that as a result of formalin injection. I do not think that they are post mortem changes considering that formalin had been injected into the body. I have examined bodies into which formalin was injected after 24 hours and even in them I have not seen such post mortem changes. This body was injected within 12 hours. These marks are due to some damage to the skin before the formalin was injected. The effect of formalin injection is to preserve the body in the state it was at the time formalin was injected. There is an exudation on the elbows where they came into contact with coffin. The upper layers of the skin must have been damaged for this exudation to come out. This damage must have been prior to injection of formalin. If formalin had not been injected the exudation might have been the result of a post mortem injury. As regards condition of heart this condition could not have been induced by the injection of formalin. Directly formalin comes into contact with the blood stream the tendency is for the blood to clot. Formalin is injected contrary to direction of flow of blood. Formalin cannot reach the chambers of the heart because the valves in the aorta prevent the formalin going in. Considering that there is no evidence that the valves were diseased there was no chance for the formalin to go through the valves. The condition of the heart indicates asphyxia pure and simple, i.e. respiration being prevented and sufficient oxygen not coming in. I come to this conclusion as a result of the disproportion of the blood in the two chambers of the heart. I have taken into account the fact that the pulmonary veins were full. This condition may be present in asphyxia or not. You may find pulmonary veins full or empty in case of asphyxia. The normal flow of blood is from the right side of heart through lung to left side of heart. In the lung blood gets oxygenated. In trying to get oxygen the blood may stick there. The fact that blood flowed from the veins when they were opened to get at arteries to inject formalin. This is also an evidence of asphyxia. My opinion is that death is due to respiratory failure. I think syncope was not present. There may have been secondary syncope. The absence of classical

signs such as lividity of the skin may be explained that in a pigmented skin these signs are not so visible as on a white skin. Also these signs vary considerably with individuals. The marks on the face are consistent with burns from chloroform. Corrosive poison like carbolic acid or nitric acid may have caused it. If corrosive poison had been taken there would have been burns in the lips and mouth. The mark on the tongue was not a burn. It was tested and found to be a result of eosin which was injected with formalin. There was very much excess of mucous in trachea then in ordinary bodies. I have examined several dead bodies since. I came  
 10 across only one case with lot of mucous in trachea that was a case of pneumonia where too there had been difficulty in breathing. The lungs of the diseased were congested—another sign of asphyxia.

No. 2.  
 Proceedings  
 in the Police  
 Court,  
 Colombo.  
 (a) Evidence  
 of Dr. W. C.  
 Hill.  
 Examina-  
 tion—con-  
 tinued.

CROSS-EXAMINED: I have been in Ceylon four years. In the local laboratory for preserving dead bodies we use various mixtures mostly formalin with certain amount of glycerine, carbolic acid no arsenic. Usually about 10% formalin 20% alcohol 20% glycerine balance water. On an average 5 or 6 barrel fulls each containing 16 ozs. At the time of the inquest proceedings I had the opinion that a certain amount of syncope had inter-  
 20 vened. Since then I have changed my opinion and now I am certain that respiratory failure is the main cause. A certain amount of syncope is not impossible. I have carried out experiments with animals, a cat and a monkey. I injected both with formalin after having chloroformed the cat and the monkey. After some days I carried out a post mortem and I found the same condition as in Mrs. Seneviratne's body. I chloroformed these two animals to kill. I kept the chloroform for a period which was calculated to kill them and end life. I endeavoured to bring about death as quickly as possible. In the case of the cat I smothered the cat by apply-  
 30 ing a swab of chloroform and preventing oxygen going in. In the case of the monkey it was put into a box with swabs of chloroform. In both cases death was due to asphyxia not chloroform poisoning. Fibrillation of heart is one of the well known forms of death by chloroform. That how-  
 40 ever takes a long time. Spasm of the glottis is another form of death by chloroform. In death by this method post mortem will disclose symptoms of death by asphyxia. In both animals the lungs were gorged and the heart had this disproportion between the two ventricles. At inquest my opinion was death due to asphyxia added to that syncope of the heart. I said secondary syncope intervened. Absence of lividity indicates this. From what I saw symptoms showed that chloroform might have been given. Action of formalin may have prevented some of the signs of asphyxia  
 40 being present at the post mortem examination. Once the heart stops there is no question of the blood stream going into a particular direction. Formalin injected to a living body will kill the living body. Formalin will combine with the living tissues and coagulate and harden them. The action on a dead body will be just the same. Formalin injected into the artery of a living person will have the same effect as snake poison. The presence of chloroform will not make a difference except that it will delay

Cross-exa-  
 mination.

No. 2.  
 Proceedings  
 in the Police  
 Court,  
 Colombo.  
 (a) Evidence  
 of Dr. W. C.  
 Hill.  
 Cross-exa-  
 mination—  
 continued.

the coagulation of the blood on injection of formalin. The presence of sugar in the blood stream will not alter the effects of formalin. I do not know if deceased's urine was acid or alkaline. The tissue is not dead for about three hours after life is extinct. On the upper part of the arm there was a swelling and cellular re-action indicating that this injury was caused when the body was a living one, not only the tissues were alive. Bruises may result after death before the tissues are dead for instance in an attempt to revive life.

Re-exa-  
 mination.

RE-EXAMINED: In the case of the experiments on cat and monkey the chloroform was regulated. I did not see the cat actually die. I do not know how long it took the cat to die. The monkey died in about five minutes. 10

(b) State-  
 ment and  
 further  
 statement  
 of Accused,  
 10th Febru-  
 ary, 1934.

(b) Statement and further statement of Accused.

Name of Accused.....Stephen Seneviratne.

The particulars of the offence charged are explained to accused as follows:—Section 296 C.P.C.

The accused is addressed as follows: "I am prepared to hear any .....state what each can prove."

The accused states: I am not guilty.

I hereby certify.....of the accused. 20

Name of Accused: Stephen Seneviratne.

The Accused is addressed as follows: "I am prepared to hear any statement which you wish to make. Anything you say will be written down and will be read at your trial."

The Accused states:—

I am not guilty. This is either a case of suicide or accidental death. I was on the verandah where the chickens were when I heard a groan. I went through the house into the child's room and examined him. He was asleep. I then passed on to the deceased's room. I saw her lying across the bed as if in a swoon and I went to her assistance. As I entered the room Elpina also came in through another door. Previous evening my wife was upset over my going with my son, to my sister-in-law Mrs. Francis Seneviratne's house. My wife had expressly requested me not to go there. My wife's mind had been poisoned against Mrs. Francis Seneviratne by Mrs. Leo De Alwis by false and malicious statements. I had told my wife that I would inform Mrs. Francis Seneviratne of those statements and leave it to her and her father Mr. Freddie Dias Bandaranaike to deal with Mrs. Leo de Alwis. This had caused uneasiness to my wife. When I handed her the bottle of aspirin the night preceding her death she asked me whether I had carried out that evening my threat of informing Mrs. Francis Seneviratne. I said I had and that she would see the results soon. She replied you would repent and went towards her room. I did not see her 30 40

again till I saw her lying across the bed the next morning. Deceased had on previous occasions threatened to commit suicide when upset either by starving herself or by taking poison. My wife had knowledge of chloroform and she had been chloroformed on two occasions. When she was vaccinated by Dr. S. C. Paul about one year ago she wished to be chloroformed before the vaccination. I have also learnt from her that she had on occasions used chloroform for tooth-ache and to induce sleep. That chloroform used may have been some that was left over after one of the confinements or purchased by her. In explanation of my statement that the ampule of chloroform may be on the estate at Chilaw I wish to say that I made that statement thinking that my wife to whom it was entrusted may possibly have sent the ampule to Chilaw as she knew the purpose for which I had bought it.

No. 2. Proceedings in the Police Court, Colombo. (b) Statement and further statement of Accused, 10th February, 1934—*continued.*

I do hereby certify.....of the accused.

Date 10th February, 1934. (Sgd.) C. B. P. PERERA, A.P.M.

Remainder of Police Court proceedings.  
(Not printed.)

No. 3.

(a) Indictment.

In the Supreme Court.

20 P.C. Colombo.  
No. 11078.

No. 8.  
Criminal P.C. 1898, Ch. XX.  
(E.)

No. 3.  
(a) Indictment, 28th February, 1934.

INDICTMENT.

(Criminal Jurisdiction.)

In the Supreme Court of the Island of Ceylon.

Western Circuit,  
District of Colombo.  
Session  
1934.

At a Session of the said Supreme Court in its Criminal Jurisdiction for the Western Circuit to be holden at Colombo in the year of our Lord One thousand nine hundred and thirty four.

30

THE KING

versus

STEPHEN SENEVIRATNE.

You are indicted at the instance of the Honourable Sir Edward St. John Jackson, K.C., His Majesty's Attorney-General, and the charge against you is :—

(1) That on or about the 15th October 1933, at Colombo, you did commit murder by causing the death of one Mrs. Lillian Rosalin Seneviratne ;

*In the  
Supreme  
Court.*

No. 3.

(a) Indictment, 28th February, 1934—*continued.*

and that you have thereby committed an offence punishable under section 296 of the Ceylon Penal Code.

The 28th day of February, 1934.

(Sgd.) S. J. C. SCHOKMAN,  
Crown Counsel.

Colombo, the 14th day of May, 1934.

To this Indictment the prisoner, Stephen Seneviratne, pleads "not guilty."

(Sgd.) P. W. VAN LANGENBERG.

(b) Verdict,  
14th June,  
1934.

(b) Verdict.

10

Colombo, the fourteenth day of June, One thousand Nine hundred and thirty-four.

The Verdict by a division of five to two of the Jurors sworn to try the matter of accusation in this case is that the prisoner Stephen Seneviratne is guilty of the offence of murder with which he is charged, and that one of the five recommends the prisoner to mercy. The Jury also add a rider to the effect that in their opinion there has been slackness in the initial stage of the inquiry into this case, greatly to be deplored. They find that the action of Dr. S. C. Paul in granting a death certificate under the existing circumstances is difficult to understand and open to censure. They consider that some steps should be taken to ensure that the Coroner, in future, carries out his duties strictly in accordance with the Law and not on the lines of his own inclination. They desire that the Inspector General of Police be asked to enquire into the attitude of Sub-Inspector Gibson with a view to finding out if his inquiry was made in accordance with Police Procedure and as a precautionary measure for the future. It is felt very strongly that an all round tightening of the Procedure to be adopted by those who are responsible for inquiry into cases of sudden death is not only necessary but that it would be a benefit to the Public.

(Sgd.) T. A. THORNTON, Foreman. 30  
(Sgd.) P. W. VAN LANGENBERG,  
Dy. Registrar, S.C.

Colombo, the fourteenth day of June, One thousand Nine hundred and thirty four.

On this Indictment the sentence of the Court, pronounced and published this day, is that the prisoner, Stephen Seneviratne, be taken hence to the Welikada Prison in Colombo and on Thursday, the 19th day of July, 1934, within the walls of the said prison be hanged by the neck until he be dead.

(Sgd.) P. W. VAN LANGENBERG,  
Deputy Registrar, S.C. 40

(c)

(c) List of Productions and List of Witnesses.

(Not printed.)

**No. 4.**  
**Proceedings at Trial.**

*In the  
Supreme  
Court.*

S.C. No. 49.

P.C. Colombo No. 11078.

REX *vs.* STEPHEN SENEVIRATNE.

Dates of Trial :—14th May to 14th June, 1934.

Charge :— Murder—S.296, C.P.C.

Plea :— Not Guilty.

No. 4.  
Proceedings  
at trial,  
14th May,  
1934.

M. W. H. DE SILVA, Deputy Solicitor General, with Wendt Crown Counsel for the Crown.

10 R. L. PEREIRA, K.C., with STANLEY OBEYSEKERA, K.C., ERIC DE SOYSA and P. S. P. JAYATILLEKE, instructed by S. H. DIAS ABEYSINGHE, for the accused.

English-speaking Jury empanelled—all sworn.

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Before the Deputy Solicitor General opens his case, Mr. R. L. Pereira mentions to Court that there is a motion on which Mr. Stanley Obeyesekera will address the Court.

Mr. Obeyesekera wishes to address the Court in the absence of the Jury—the Jurors are asked to retire and in their absence Mr. Obeyesekera moves that the name of Dr. J. S. de Silva be added to the list of witnesses 20 on the back of the indictment. The D.S.G. has no objection. The motion is allowed.

Mr. Pereira wishes the D.S.G. to restrict his address to the Jury in view of the evidence of the doctors on the question whether this is a case of suicide or homicide. His Lordship says that the question of competency of the doctors to give evidence on that point is a matter for the Court to decide and that he will deal with that question at the proper time. He wishes the D.S.G. to restrict his opening address.

Mr. Pereira moves to add to the list of his witnesses the name of Mr. Forrester Obeyesekera.

30 Court allows it.

---

*In the  
Supreme  
Court.*

No. 5.

Evidence of V. F. D. Jayasinghe.

Evidence  
for  
Prosecution.

DEPUTY SOLICITOR GENERAL opens his case and calls :—

V. F. D. JAYASINGHE—sworn.

No. 5.  
V. F. D.  
Jayasinghe.  
14th May,  
1934.  
Examina-  
tion.

EXAMINED : I am an artist and draughtsman. I have been in the habit of preparing sketches for the purpose of trial in this Court for the last 6 or 7 years. I paid a visit to Duff House, Bagatelle Road, for the purpose of making a sketch in this case. I produced 6 copies of the sketch in the Police Court. The witnesses pointed out the various spots to me. Sub-Inspector Mendis assisted me in taking the measurements. The spots marked K. L. 10 M. N. and O. on the front verandah are the spots where Thomisa, Simon the cook, Banda, Seelas and Martin were sleeping that night. (*Witness explains the different spots marked on the sketch.*) I have marked deceased's bedroom. "Q" there is the place where Alpina was sleeping. She showed me that spot. There are 2 doors leading to the deceased's bedroom. The door "D" leads to the child's nursery. Two doors lead to the spare room I have marked. "C" is a window opening to the back compound towards the kitchen. Inside the room "H" is a door leading to the bathroom and lavatory. The bath and lavatory have independent exits to the garden. There are doors and steps which I have marked. 20 There is another window in the deceased's room. That is by an almirah. This window looks out to a small piece of compound between the baths and lavatories of the two rooms. The oblong space in the deceased's room is the bed and the arrow I have marked indicates that the head was pointing in that direction. Alpina pointed that out to me. There was a safe near "Q" in the room. On the safe there was a glass book-case.

No. 4 is a teapoy with square top. No. 8 is a chair. In the child's nursery "I.C." is a cot on which Master Seneviratne slept. That was pointed out to me by one of the witnesses. In that room "IB" is the bed on which Mabel Joseph slept. That room leads to a bathroom and lavatory. 30 From that room there are two doors leading outside. Adjoining the child's room is the child's study. That leads to the dining room and the nurse's room by two doors. The dining room leads on to the hall and the hall to the verandah by three doors. Adjoining the dining room there is a pantry. The spot "T" there is where Seelas was when he heard the groan. He showed me that spot. By "T" there is a coloured oblong space on the sketch. That is a window looking on to the back verandah. From the pantry you can enter the spare dining room. Between the spare dining room and the back verandah there are windows—shutters—looking on to the back verandah. Between the back verandah and the compound there are railings. "Y" 40 is the spot where the accused was. That was pointed out by Martin. "E" was pointed out by Martin as the place where he was feeding the chickens. At the time I was preparing the sketch there were no boxes in the verandah with chickens. The spot "W" is on the long verandah

leading from the front verandah on the right. That is the spot at which Banda was when accused asked him to fetch the paper. From the verandah you go to Mr. Seneviratne's quarters. "X" is a door leading to the office room. I have marked the office furniture in that. From the office room you go to a bed room. In that room what I have marked "I.A." is the bed on which Mr. Seneviratne used to sleep. Shoerack is 10 & 11. In a room further inside there is an almirah, dressing table and another almirah. The semicircle I have marked there represents three windows looking out to the back compound. The kitchen section is joined to the main house by the verandah. There is the poultry and egg room. Next to that is the servants' room. Inside the servants' room the spot "J" is the spot at which the cook Simon heard the groan. Next to that is a very long room, and then the kitchen. There is an inner door leading to that kitchen and another kitchen. In that kitchen "S" is where Alpina was when Seeras came and called her to the deceased's room. Outside the kitchen, "R" is the spot where Simon the driver was washing his face when he heard the groans. He showed me that spot. Then there are the out-houses. At the north there is the garage. "P" is where Peera slept. In the compound there are poultry runs. They were standing there when I visited. Sub-Inspector Mendis helped me all through in taking the measurements. The black line leading from "T" to the kitchen indicates the route taken by Seelas to call Alpina. Seelas pointed out that spot. The black dotted line from S to the bed is the route taken by Alpina to deceased's room. The red dotted line from the child's nursery is the route taken by Mabel Joseph to the dressing room. The inset on the left hand side of the sketch is a large scaled plan of the deceased's bedroom in which each article of furniture is marked. What is marked verandah near the portico is lower by one step that what is marked as front verandah. That verandah is also under the roof. The back verandah is also one step below. I have no recollection with regard to the level of the rooms. The sketch is drawn to scale which is 16 feet to an inch. I was not present when photographs were taken but I was shown the spots from where they were taken. Inspector Koelmeyer and Sub-Inspector Mendis were present when I was taking measurements.

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Court.*  
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Evidence  
for  
Prosecution.  
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No. 5.  
V. F. D.  
Jayasinghe,  
14th May,  
1934.  
Examina-  
tion—con-  
tinued.

CROSS-EXAMINED: There is a window to the north of the bed in deceased's bedroom. That window opens out into a little piece of ground between the two sets of bathrooms and lavatories. I was told that that window was left open on the night of 14th October last. The window at "C" had been closed. Over that window there is no lattice, but a segment of a circle with some fretwork. On the western side there were two big poultry runs and on the eastern side there were other poultry runs. I was not told that there was a large number of little boxes with wire netting in which chickens had been kept covered up, nor did I see them. I went there to prepare the plan on the 13th December—after the accused had been taken into custody. I did not produce the plan in Court till the 3rd February. "Y" on the plan is the spot where I was told Mr. Seneviratne

Cross-exa-  
mination.

*In the  
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Prosecution.  
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No. 5.  
V. F. D.  
Jayasinghe,  
14th May,  
1934.  
Cross-exa-  
mination—  
*continued.*

was. Martin the boy who was at "E" told me that. "W" is where Banda said he was sleeping. That is the western verandah of the house near the junction of the back verandah. "K.L.M.N.O." are the spots where Thomisa, Simon, Banda, Seelas and Martin respectively slept. "P" in the garage is where Seeras slept. "Q" inside the deceased's room is where Alpina slept. These spots were pointed out to me in the presence of Sub-Inspector Mendis and Inspector Koelmeyer. There is an annexe attached to the house—an independent set of rooms on the western side consisting of an office room, bedroom and dressing room with a bath and lavatory at the end of the verandah. I was told that those were Mr. 10 Seneviratne's rooms. The dressing table at the south-east corner of the room (2) had an ordinary mirror. That was in the adjoining room into which the door H leads. In that dressing room there was a Duchesse dressing table. In that room there is a wash stand affixed to the wall at (5) and over that there is a fanlight. The back verandah is 78' 9" by 8'. The front verandah consists of two verandahs—one broad verandah where spots K.L.M.N. & O are marked and another verandah at a lower level. That is also cement floored with the extensions of the roof over it. One of the inspectors asked me to mark the particular distances I have shown, but I cannot remember which inspector. Nobody was said to have been 20 in the room F. Thomisa is a bigger boy than Martin. I swear to the accuracy of all the references noted by me on the sketch.

No. 6.  
H. Mendis,  
14th May,  
1934.  
Examina-  
tion.

No. 6.

**Evidence of H. Mendis.**

H. MENDIS—sworn. Sub-Inspector of Police, Crimes.

EXAMINED: I know the last witness Mr. V. F. D. Jayasinghe. I was present when he was taking the measurements at Duff House. The plan was drawn by him at home. The spots marked on the plan were indicated to Mr. Jayasinghe by the witnesses. The room adjoining deceased's bedroom is the child's nursery. The oblong space "I.C." marked on the 30 sketch is the cot on which Master Seneviratne slept. The cot was not there on the day the measurements were taken by Mr. Jayasinghe. Subsequently I saw a cot. I know Mabel Joseph. I made a sketch of a cot I saw at St. Clare's College, Colpetty.

Cross-exa-  
mination.

CROSS-EXAMINED: I myself made a sketch of a cot shown to me. I produced that sketch in the Police Court. That cot was at St. Clare's College when I made the sketch. The bars of that cot were about 1½ or 1½" apart. In consequence of some information received Sub-Inspector Rutnam and I went to Urapola and he took a photograph of a white painted cot. The bars of that cot were about 7 or 8" apart. I did not hear any 40

evidence to the effect that accused heard a sound and rushed into the child's room and that he got the impression that the child's head was crushed between the bars of the cot. I did not follow the newspaper reports of this case. I did not even worry to think why a photograph of the cot at Urapola was necessary. I believe the house at Urapola is that of a brother of this accused. Urapola is about three miles to the east of Veyangoda.

*In the  
Supreme  
Court.*

*Evidence  
for  
Prosecution.*

*No. 6.  
continued.*

**No. 7.**

**Evidence of V. D. J. J. Rutnam.**

V. D. J. J. RUTNAM—sworn—Sub-Inspector of Police.

*No. 7.  
V. D. J. J.  
Rutnam,  
14th May,  
1934.  
Examina-  
tion.*

10 EXAMINED : I am the official photographer to the Criminal Investigation Department. I took photographs of Duff House, Bagatelle Road, on the 2nd November, 1933. The witnesses did not point out anything to me when I was taking the photographs. I took photographs with furniture in a certain position. I cannot say whether the furniture was in the same position on the day in question. I produce P 1 a photograph taken from spot " B " on the plan looking into the deceased's room towards the bed. This shows the bed, part of the lavatory and bathroom, the dressing table, the teapoy, the doorway with the lavatory basin and a window above. I also produce P 14 photograph taken from H on plan looking towards B.

20 It shows the book case on top of safe, the back of the bed, and the door marked B. The door that is closed leads into the child's nursery. I cannot say anything about the safe. I produce photograph P 50 taken from the window looking from the south down the room—not directly down. The window shown in this photograph is the window by the foot of the bed marked on the plan. I produce photograph P 19 taken from the doorway D of the deceased's bedroom looking south. I attended the General Hospital mortuary on the day of the post mortem—that is the 7th November, and took a photograph of the face of Mrs. Seneviratne's corpse—that was after the exhumation. I produce a copy of that photograph marked P 40.

30 CROSS-EXAMINED : The Superintendent of Police, Crimes, and Inspector Gunaratna and others were present when I took the photographs. Nobody told me that the teapoys and chairs were placed in the same position as they were on the 15th October. I do not pretend that they were in the same position. There was no bed sheet or pillow cases when I took the photograph of the bed. P 1 looking through the door leading into the dressing room shows a fanlight over the wash basin. P 14 shows a bookcase over the safe. I did not notice whether all the doors had bolts inside and outside. The open door by the book case has a bolt which could be shut from outside. The door corresponding to that door is shown in P 19 and

40 that door has a bolt on the inside as well. Against that wall is a whatnot. That washing stand has a cupboard attached to it. I did not open that

*Cross-exa-  
mination.*

Evidence  
for  
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No. 7.  
V. D. J. J.  
Rutnam,  
14th May,  
1934.  
Cross-exa-  
mination—  
*continued.*

cupboard. Window shown in P 19 is "C" marked on the plan. There is a semi-circular piece of lattice work on that window similar to what is above the doors and other windows. P 50 also shows that the door leading into the nursery has two bolts at the bottom and a lock in the middle. The window at the foot of the bed has bars and lattice on the top. Below the window at C there is an opening with iron bars at the floor level to allow air. I took the photo at the hospital mortuary before the post mortem. I did not notice whether the lips were unburnt nor did I see a triangular patch on the tip of the nose. The burn on the left eyelid is circular and that on the right eyelid is linear. Deceased looked a huge lady. I cannot 10 remember whether she had her hair cut.

Re-exa-  
mination.

RE-EXAMINED: I first visited Duff House on the day I took the photographs. I am unable to speak of any conditions before the 2nd November. About the bolts on the doors I am speaking from the photos, but I have no independent recollection of the rooms or the face of the corpse. The corpse was covered up to the neck, but I cannot say with what.

TO JURY: I think the photograph was taken within 45 minutes to one hour after the exhumation of the body.

No. 8.  
G. A.  
Alpina,  
14th May,  
1934.  
Examina-  
tion.

No. 8.

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Evidence of G. A. Alpina.

GANGODAWILA APPUHAMILAGE ALPINA—Affirmed.

EXAMINED: 25, Domestic servant, living at Malwana. I was employed under Mr. and Mrs. Seneviratne for about 5 years. When I first came to their employ they were living in White House in Ward Place. They left that house—cannot remember the date—and went to another house (in Arbuthnot road) where they lived for 7 or 8 months, and then went to live in Duff House. That was about the Sinhalese New Year time last year. I was in their employ all that time. I know Duff House. I remember the room in which Mrs. Seneviratne slept. (Witness is shown the deceased's 30 room as marked on the sketch) There is a door in that room leading to the child's room which was occupied by Master Terrence. There were 2 windows in the deceased's room—one looking towards the back compound and the other facing east. I remember the bed on which Mrs. Seneviratne slept. That was between the door leading to the dressing room and the window facing the east. (Bed is No. 1 on plan) The lady used to sleep with her head towards the kitchen and feet towards the nursery. Along the same wall in the corner there was an almirah (No. 6 on plan) and at the other corner there was an iron safe (No. 12) and on the top of the safe there was a small glass book case. On the kitchen side towards the west there was 40 a wash stand (No. 7) and in the other corner there was a dressing table

(No. 2). There were pink coloured curtains in the two windows in the deceased's room. They were cloth curtains, and not net curtains. They were fitted by two rods and only half the window was covered. (Shown P.1) This photo shows the door leading to the dressing room and lavatory and a small portion of the window. The bed and teapoy were in the position which is shown in this photo. The teapoy was towards the foot. There was no mosquito curtain to the bed, but it was just as it is shown in this photo. If a person stands at H and looks into the room it might look as it appears in P.14. I was present when the photos were taken and the furniture then was arranged in the same position as they were on the day the lady died. There were 2 beds in the child's room. There are 2 doors leading to the child's nursery. One bed was placed by the wall between the two doors and the other bed was in the corner where the safe was. I am sure there were only 2 beds in the child's room. Master Terrence slept on the bed placed between the 2 doors and Miss Mabel Joseph slept on the other bed. Usually I slept on a mat near the safe. Since this enquiry, for a short period I was living at Urapola in the house of the accused's younger brother Philip Seneviratne. From the time of his birth Master Terrence used two cots. I remember one was painted white. That was given over a few days before the lady's death by the deceased lady to Mrs. Philip Seneviratne as a present. That cot was placed at the same place where Master Terrence's cot is placed now. It was given over about a week before the lady's death. After that Master Terrence slept on another cot like the one shown on sketch X.1. It has railings fairly close to each other. The space between the railings was about the same as the space of the railings in this witness box, but the railings were thinner than this. The other cot which was presented had wooden bars with spacing much more than the spacing of bars of the witness box. On the day Mrs. Seneviratne presented that cot the accused was not at home. Master Terrence started sleeping on the other cot only a few days before Mrs. Seneviratne's death. I cannot say whether the accused came to see Master Terrence after he started sleeping on the new bed. He does not come very often. Master Terrence sleeps till about 8 a.m. on days he does not attend school, and on school going days he used to get up rather early—say about 7 or 7.30 a.m. The accused gets up rather early. I get up in the morning and go to the kitchen and I do not watch my masters movements at that time. (To COURT: The cot on which Master Terrence slept afterwards was also in the house. The cot which was presented was an iron cot with iron bars, painted white—the other cot had wooden bars polished.) Besides myself there were other servants in the house. A woman called Jane cooked the meals for the servants. A cook called Simon prepared the meals for my master and mistress. Jane was not in the house on the day the lady dies. She had gone to her village for her father's death about 3 days before. In her absence I attended to her work. I slept on a mat near the iron safe. When I was not sleeping there Jane used to sleep in the deceased lady's room. The lady used to sleep in the room either with me or Jane. I do not know why. I do not know whether she was frightened to sleep alone. She used

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tinued.

to get one of us to sleep in her room as a habit. (TO COURT: The electric light is put out at night, but a small bedroom lamp with a small chimney used to burn at night.) That lamp was placed on the floor near the almirah. That was towards the lady's feet. When we go to sleep the door near the iron safe leading to the spare room is closed. In the night we close up all the doors leaving open only the middle door leading to the child's room. There are 2 doors leading to the spare room. One of them is closed in the night. The other door is always kept closed. When I enter the lady's room I enter by the door which is closed only at night. (TO COURT: That door is closed from inside by a bolt at the top of the door. There is no bolt at the bottom of that door. The door between the lady's room and the child's room is always left open at night. Miss Mabel Joseph and Master Terrence used to sleep in the child's room. There was no light at all in that room. The little lamp burning in the deceased's room throws some light to the child's room. Except for that lamp there are electric lights in the house. The two doors on either side of the child's cot are closed from inside at night. So, at night when we are sleeping nobody from outside can come into the lady's room, or the child's room.) There are two doors leading to the lavatory. They are also closed at night. From the child's nursery overlooking the compound in front there is a door and a window to the east. They are all locked up in the night. There are 5 doors to the child's nursery including the door leading to the lady's room. At night three of them are locked, and the one to the bath and the other to the lady's room are left open. The child's room, the lady's room and the child's study are on a lower level than the rest of the house.

Adjourned for the day.

15th May,  
1934.

15th May 1934.

Accused present—same counsel as before.

GANGODAWILA APPUHAMILAGE ALPINA—affirmed.

EXAMINATION (continued): I see the photograph X.2. This is a cot sent as a present to Mrs. Philip Seneviratne. I said yesterday that I lived for a short time at Philip Seneviratne's. I am not still there. I left after two months. I went to my own house. I came to Court from my own house with my brother. My younger brother and I went to Duff House and from there I came to Court. My brother is still at Duff House. Last night I was with Miss Mabel Joseph in a house at Mt. Lavinia. It was not Mrs. Seneviratne's. I do not know the name of that gentleman. I do not know whether Mrs. Seneviratne was a relative. It was not Rexina Seneviratne. The doors of all these two rooms except the communicating door between the lavatory and the children's door were closed. This was an invariable practice. My brother Banda closes the other doors of the house. The inner doors are bolted from the inside. There was one door with a lock and key, the middle door leading to the back verandah. This is locked with a key and Banda sleeps in the front verandah. He usually goes to the verandah and sleeps with the key but on that day she did know where he slept. When the main door is closed nobody can enter from the outside.

Mr. Seneviratne the accused had a suite of rooms on the west of the house. He had a library, office room, a bedroom, dressing room, bath and a lavatory. (Shown the plan.) (To COURT: The deceased's room is on the west, when the main house is locked and Banda goes with the key the accused could not enter from the main house into the room until the door was opened. He could not enter his side if the door was locked. He could not enter the hall if the door was closed. The inside door was also locked. Since she came to Duff House it was the accused's practice to sleep in his suite of rooms. (To COURT: After they left Arbuthnot Street. They had a

10 separate suite of rooms as at White House. She always slept with the mistress and the accused slept somewhere else. This was done in the three houses. He used to come into Mrs. Seneviratne's room whenever he had occasion, about once a week. It was sometime before retiring to bed. I have never seen him at night. My mistress goes into his room if there was any occasion. I have only seen him in the daytime.) I always slept with my mistress. For about five days I did not sleep with my mistress. On two days after we came to Duff House, when I slept in the children's room with Jane. On those occasions Mrs. Seneviratne slept alone. When I say I slept in the children's room, it was near the door leading into the room.

20 After five days I came into the lady's room. (To COURT: I always slept in the lady's room.) The spare room and the child's study and the lady's room and the child's nursery are on a lower level than the rest of the house. I saw what was marked dining room and pantry. They are on a higher level than those occupied by the lady. There is a step by which I get down to the dining room and pantry. I remember the Saturday before the lady died. On that day the lady slept till 9 a.m. in the morning. On some days she used to sleep till 10 or 11 a.m. On the 14th when she got up at 9 a.m. she had her tea. That day Jane was absent. I could not see anything. When I am not at work, I generally stay with the lady all the time. My

30 work is concerned with the lady. I used to go in and out of the room about once or twice a day. (To COURT: My work was to clean and arrange the rooms.) I had no work in the kitchen, but on the 14th and 15th I had to work in the kitchen and had to go there. That was because Jane was not there. (To COURT: Jane went about three days before this incident. From that day I had to do kitchen work for the servants.) On Sundays Miss Mabel Joseph goes to church. That was an invariable custom unless she was unwell. (To COURT: When Jane left I thought she would come back. As a rule Miss Joseph goes to church in the morning. I cannot say she gets up early morning, but she gets up early and goes to church.) I did

40 not see whether it was about the time that I went to the kitchen. (To COURT: When Miss Joseph goes to Church, the child looks after himself. He is about 9 years old. He was going to school. There was no school on Saturdays. On Saturdays and Sundays he used to sleep till late, till about 8 or 8.30 a.m.) Mr. and Mrs. Seneviratne usually converse in English. I have not heard them talk much in Sinhalese. I do not understand English. If they were to talk louder than the usual tone I would understand that they were speaking in an angry tone. I have only heard them talk but I never

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saw their faces. Mr. and Mrs. Seneviratne talked loudly in my presence. From those talks I concluded that they were angry with each other and that it was an angry talk. After these talks, sometimes the lady comes and sleeps. Sometimes she used to sit without doing anything. She also refuses to eat food. Sometimes she did not allow me to enter the room with the food and locks the door. (To COURT: She locks both the doors.) After coming to Duff House this happened on about two occasions. These occasions were not long before this incident, about 2 or 2½ months before. That was the second of the two incidents. That was the last occasion on which such a thing happened. (To COURT: On one occasion I saw her in 10 tears.) The previous occasion was not long before. The same sort of thing occurred at White House and Leicester House at Arbuthnot Street. I remember about 3 or 4 occasions at White House. At Leicester House on one occasion. On my own knowledge I do not know what these quarrels were about. There was a servant called Jessie in the house. (To COURT: This was not at Duff House.) I do not know when Jessie came there. She was there when I came. She came there to attend to the mistress's work and for preparing the meals of the child. She was acting as cook for the child. She comes into the mistress's room. I cannot remember when she was discontinued from the services of the Seneviratne's. It was a long time ago. 20 (To COURT: It was at White House. It was before they left White House.) The discharge was caused by her using the lady's powder puff. I know the reason why she was discharged. There was no reason apart from this to my knowledge. On my own knowledge after Jessie was sent away I do not know where she was employed. (To COURT: Jessie is a young woman.) Jessie was about 20 years old. (To COURT: She is not as good looking as I. She is darker.) She is not a fair woman. She is not a woman with good features. When we two were there, Jessie and I were friendly. I did not visit her after she left White House. After she went away she did not pay a visit to White House, Duff House or the Arbuthnot Street House. On the 30 14th a relative of Mrs. Seneviratne came there. They were a lady and a gentleman. I did not see anyone coming about 2 o'clock before the lady and the gentleman came. The lady and the gentleman came in a car. They had dinner at Duff House and left. They were Mr. and Mrs. George de Saram. I do not know whether they came earlier in the evening, go back and come again. I only know they had dinner. I do not know whether they paid one or two visits. (To COURT: I think they were relatives.) They had their dinner and left about 9.30 p.m. At the time they went I was near about the kitchen. I heard the car starting off. At the time this lady and gentleman were leaving I remained near the kitchen. After that I took 40 my mat and pillow and went to sleep in the usual place. I brought the mat and pillow before they went, left it in the room and went back to the kitchen. (To COURT: When I took the mat and pillow the lady was not in the room. I had not noticed where the lady was. I did not come back to the room after Mr. and Mrs. Saram left. I did not stay the whole night in the kitchen. (To COURT: I came after my mistress called me from the room where the admirahs are left, that is in the spare room.) I do not know whether she

took dinner or not. She was seated at the table. (To COURT: I saw her seated.) After Mr. and Mrs. Saram left, Mrs. Seneviratne called me. I was in my spare room near the gas stove. I was not seated on the steps at that time. I was standing and leaning against the door. (To COURT: It is the room next to the kitchen. This is Simon's kitchen. There is a line of rooms along the kitchen where the gas stove was. It was the room where the gas stove was.)

*In the  
Supreme  
Court.*  
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Evidence  
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Q. In the Police Court you appear to have said that you were on the steps adjoining the lady's room. You also said that you left the mat and pillow and went back to the kitchen from the step leading to the spare room. You went from Mrs. Seneviratne's room down the step to the kitchen. A. I went to the kitchen along the door from the pantry to the kitchen. When the lady called me I came to the room. (To COURT: Mrs. Seneviratne was standing on the step or near about the step when she called me. It was the step leading to the spare room.) After I came she asked me to put on the light in her room. I put the light on. After that she asked me to bring a hot water glass and a cold water glass. That was her usual custom. She does that to clean her mouth. Sometimes she drinks water. She drinks cold water in the night. I left the glasses, one on the teapoy and the other one on the toilet table in the bedroom. (To COURT: It was the teapoy that was placed close to the bed. It was not at the feet. That was another teapoy. It was a low teapoy. (Shown photograph P.19.) It was the dressing table in the bedroom. After placing the water I went to the lavatory and I came back. When I came back the lady was not in the bedroom. She was in the dressing room. That was the room between the lavatory and the bedroom. I did not look at what she was doing. I got on my mat and was ready to sleep. I did not see the glass of cold water on the teapoy. I placed it there and did not pay any particular attention to it. (Shown P.18.) It is a phial similar to the one in my mistress's room on the dressing table. I have seen her on some days taking these tablets. (To COURT: She took the tablets at night before retiring.) I have seen a bottle like (shown P. 3) on the day she died. It was when Dr. Paul came there I noticed it. At the time I noticed it the bottle was in the hands of Dr. Paul. The accused was there. (To COURT: It was in my mistress's bedroom near the dressing table.) I did not see the accused hand it to Dr. Paul but I saw it in the hands of Dr. Paul. I did not see it being handed to Dr. Paul. (To COURT: I saw the bottle the day the lady died, not immediately after but a short while after Dr. Paul came. It was in the morning. I remember my evidence in the Police Court. I told the Police Magistrate that I saw Mr. Seneviratne give the bottle to Dr. Paul. I said I did not see the bottle before Mrs. Seneviratne died. I said that I first saw the bottle after Dr. Paul came in. I saw the bottle in Dr. Paul's hands. I can't say how it came in Dr. Paul's hands. I say that I did not see it before Dr. Paul came. I can say that the bottle was on the teapoy. It is not correct if I said that I saw Mr. Seneviratne handing it to Dr. Paul.

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Q. Your Counsel asked you repeatedly. Then why did you give such replies. (No answer.) When the bottle was in Dr. Paul's hands I was

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near Mr. Seneviratne. I never thought that accused gave Dr. Paul the bottle. I had never seen the bottle P.3 before that. When we were living at White House I have seen phials like that in my mistress's room but not at Duff House. I did not see the lady swallowing anything from that bottle. Even on that night I did not see. After I came to Duff House the only tablets I saw was from P.18 only. My mistress suffered from toothache frequently. She prepares a lotion to wash the mouth and I bring her water and she used some medicines. It was some white coloured powder. She also prepares a white creamy sort of medicine. Then the lady came back and I retired to bed. I did not see her taking any tablets that evening. 10  
After that I closed the door, switched off the light and then went to sleep. The night light was on the floor near the almirah. Once in the night my mistress called me. It was raining and she asked me to close the shutters. I closed them. There are two windows. The window on the kitchen side was closed. The other window was open. No rain comes through that. After I closed the window the lady did not do anything. She did not get out of bed. (To COURT: When I went to close the windows I did not put on the electric lights.) There was sufficient light to see. (To COURT: I had to pass the bed. Mrs. Seneviratne was not sleeping. She was lying down.) Later on after that she called me. The lady called me but she did 20  
not want me to get anything. She drank some water. She did not get out of the bed. She was lying in bed. She took the water and drank it. I saw it from the mat. (To COURT: She drank while she was lying down.) I did not notice anything on the teapoy. In the morning there was nothing except the glass. (To COURT: Sometimes she would not speak to me at night.) Sometimes she would call me by name. Sometimes I do not wake. (To COURT: I do not know whether she was nervous. It is usual even if she did not want anything she calls for me.) If she wants anything that is not at hand she would ask me. If the glass is not at hand she used to tell me to bring it to her. (To COURT: She wakes me if she was ill. 30  
The illness was sometimes headache. She wakes me to prepare tea for her and I go to the kitchen. It was not at White House but at Duff House. She woke me once at Duff House. She fell down and injured her leg. She woke me to apply medicine on her leg. It was some white medicine. It do not know from where she had taken it. She herself handed me the medicine. It was some time ago that she asked me to put the medicine on her leg. I put the medicine about five months before this incident. Since then I don't remember any occasions when she wanted me to get anything at night. After she drank the water she again slept. (To COURT: When Mrs. Seneviratne is in deep sleep she snores. On that night I cannot 40  
remember whether she snored.) The next time I got up was in the morning about 6 a.m. (To COURT: There was no alarm clock to wake me.) That is the usual time I get up. (To COURT: I remember there was a light.) I could see distinctly. (To COURT: I said it was raining in the night. It was not raining at 6 a.m.) There was slight light coming through the window. I did not look into the room but I could see the room light was burning. I did not put it out. I cannot remember whether the lamp was

burning or not. I looked in the direction of the lady and I saw that she was sleeping on the bed. In fact when I opened my eyes I could see her. I saw her with her right hand on her forehead. (To COURT: At the time I got up I saw her lying on her back. She had no sheet over her but only her legs were covered with a sheet. It was a white cloth.) The white cloth covered only her heels, not up to her knees. Then I went to the bathroom. (To COURT: The bed had no tent or cross beams. I met Miss Mabel near the bathroom. (To COURT: On the bed were two pillows, one on the head and the other on her side near the wall.) In the bathroom I met Miss Joseph. I washed my face. After washing my face I came back to my mistress's room, rolled my mat and pillow and took it back. When I came again my mistress had turned towards the wall and the pillow was by her side and the hand on her face. (To COURT: On that day I did not notice the lamp.) The lady was wearing a nightdress. The colour was light blue (shown P.16). It was of the same colour. I can say definitely that the lady had turned slightly on her side. The body was also turned, not only the face. I did not tell the lady that I was going to the kitchen. I did not speak to her at all. (To COURT: I know that at the time she was awake.) I knew it because she had turned on her side. Usually my mistress is awake at that time. Normally she is awake at that time but does not get out of bed. I took the mat and pillow and opened the door just by it and through that door I went to my kitchen. It is the door leading from the lady's room to the spare room. When I was going I did not totally close the door. I left it slightly ajar. (To COURT: Both shutters were not totally closed. There was just space for me to pass with my mat and pillow.) The door is sometimes closed when there is hard blowing, but on that day there was no blowing. I went to the kitchen by the door leading to the spare room. In the Police Court I stated that the door was open. I demonstrated what I meant by saying how I left the door. When I came back the door had been closed. (To COURT: I did not notice whether to open the door I had to pull the bolt.) When I went to the kitchen I kept the mat and pillow, combed my hair, and went to Jane's room. (To COURT: I combed my hair, in my room which is the gas cooker room. It is closest to Mrs. Seneviratne's room). From there I went to Jane's room. That is at the very end of that line of rooms. Next to that is the driver's room. That is a big room made into one. There are two cooking ranges. I went to the one adjoining the driver's room. I took the rice washed it and put it over the fire. (To COURT: I did not actually comb my hair. It hardly took one minute and then I went to the kitchen.) Before I was interrupted by the noise I cooked some rice. I washed the rice and put it on the fire. It took 3 minutes. After that I prepared a sambal. I was grinding the sambal and when I was putting some lime into it I was told the mistress wanted me. Up to that time everything took 15 or 20 minutes. I only placed the pot on the hearth but did not later examine it. (To COURT: I did not notice any servants outside. I did not notice if the other doors were opened. When I was going through the spare room the dining room door was closed. I closed

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it. I opened it and went out). There is another door from the spare room to the dining room. It is usually kept open. It is not closed. In the spare room there is a doorway. (To COURT: The door between the pantry and the room in which the almirah is, was open so that anyone in the pantry could see me. I did not see anyone in the pantry. I did not see anyone in the back verandah. On my return to the room I did not see Mr. Seneviratne). When I was preparing the sambal Seelas told me that he heard my mistress was calling me and the driver came. (To COURT: I was grinding the sambal on the grinding stone near the kitchen table. Seelas is a boy. He did not come near the stone). He spoke to me near the archway near the two kitchens. He spoke slightly loud so that I may hear. The kitchen where I was boiling rice is at a lower level. There is an arch and on the step Seelas stood and spoke to me at a distance of about  $1\frac{1}{2}$  yards. He said that it appeared as if Mrs. Seneviratne was calling me. (To COURT: I did not notice when the driver came. He came near the kitchen where I was. He came close up to me just as Seelas had spoken to me. He said that it appeared as if the lady wanted me. They both said almost the same thing.) The driver was standing near the step of the kitchen. He was near the water pipe. He came inside the kitchen through the door near the table. He stood two or three paces from me. (To COURT: When the mistress calls me, she calls me "Alpina"). When Seelas told me I did not see him in a hurry. I did not notice any particular hurry. (To COURT: When he spoke to me I was grinding the sambal. I left the sambal, washed my hands and I went. I did not run. I went in my usual pace. I took it to be an ordinary call. It did not appear to be an urgent one. I did not hear the call myself. When I grind the chilly, I have to powder the chilly.) I did not hear any noise before Seelas spoke to me. Then I washed my hands and went in. (To COURT: Seelas followed me). I took the same route when I went in as I came out. (To COURT: I had left the door leading to the verandah open when I came out and it was in the same condition when I went in. I found the other door leading to the room of my mistress closed. Seelas was following me up to the door leading to the outer verandah. From there Seelas turned to the pantry and I went to my mistress's room. (To COURT: I found the door closed. I pushed both shutters). I did not knock before I opened the door. It is usual for me to enter the room without knocking. I did not peep in to see anything. As the door was unlocked I did not want to knock at the door. (To COURT: There is a door opposite the door which I opened. In front of the dining room. There is a step. I cannot remember whether the door was wide open or just ajar). When I entered the room I saw the lady lying crosswise on the bed. She was on her back with her head towards the wall. The legs were hanging down from the bed. The head was on a pillow which was always left on a side. The legs were overhanging. They were not touching the floor. She was entirely supported on the bed. The two legs were hanging down from the bed. I think the right hand was flexed and placed on her body. The pillow on which she was sleeping was on the left. The sheet was in order.

The sheet covering her feet was lying on the bed just by the legs, not covering anything. Her night dress covered the knees up to the calves. It was not a short night dress. Ordinarily it would cover her feet when she was standing. Just above the heels. (To COURT: When Mrs. Seniviratne gets up in the night she wears slippers. When she was lying on the bed the sandals were near the bed just below her feet. That is the place where it is usually kept.) They were Burmese Sandals with straps separating the big toe. The left fingers were partially closed and were placed upwards. The fingers were closed but neither hands was on the body. The right hand was facing upwards and the fingers were partly closed. The left hand was by the body. The fingers were open but not stiff. Her eyes were partly open. The whites could be seen. There was nothing coming out of her nose. There was no saliva coming out of the mouth. The teeth were visible. I went near the bed. (To COURT: When I first saw my mistress I tried to lift her alone by placing my hand on the head. I spoke to her. When I saw her I screamed out unintentionally. I said "Walauiwa Hamuduruwo" addressing her. When I saw her I did not shout out. I did not wail. I made out she was dead. (To COURT: When I went to the head of the bed she was on her left side. When I was entering the lady's room I saw the accused coming into the room. When I pushed the door I saw the accused. When I was in the child's room I noticed him placing one step into my mistress's room and the other step into the child's room. When I opened the door I smelt something like poisonous oil. In the Police Court I said the same thing. (To COURT: I do not know the smell of English Medicine). I cannot remember that I smelt it before. (To COURT: We generally use that term as it was not a sweet smell. It was not scent). That was the first time I got the smell. I never got that smell before. (To COURT: When I raised the lady's head I did not get the smell but only just as I entered the room. I did not get the smell for a long time.) I attended to the mistress and did not take notice of the smell. I did not then know the lady was dead. I said that she was dead after Dr. Paul came in.

(Adjourned for lunch.)

GANGODAWILA APPUHAMILAGE ALPINA—(EXAMINATION  
CONTINUED).

When I entered the room I saw the accused coming with one foot in the deceased's room and the other foot in the child's room.

Just as he was entering the accused asked me "I heard a noise; what is it." I told him "I do not know anything. Seelas told me and I came here."

This conversation took place before I raised the lady's head, just as I was coming near her bed. After this conversation I ran first to the bed. Both went up to the bed about the same time. As I was raising the deceased's head accused took up a book from the teapoy and was going to fan her with it. While I was raising the head accused was about to fan her with the book. He then told me to go and find the bottle of brandy and bring it. I did not ask the accused was wrong with the lady, nor did he tell me

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anything. (To COURT: I did not actually lift her head, but I placed my hand and was going to lift the head. I stopped lifting because accused asked me to bring the bottle of brandy. Then he told me that he was seated on the bed and bending to a side and fanning the lady. He was on the right hand side of the lady, that is the side where the teapoy was and on which there were books. I was on the head side.) The bed was placed against the wall and there was no space for one to go between the bed and the wall. I had to go up to the head side of the bed, almost up to the end. I put my hand under the head, but not actually under the head. It did not occur to me at that time whether she was dead, but I thought she was unconscious. I did not notice her breathing. The bed was as broad as this (witness shows about a foot broader than the witness box). It was not as much as 4 feet. It was fairly wide. The head of the lady was very close to the wall—(witness shows about  $\frac{3}{4}$  foot as the space between the wall and head). (To COURT: I went towards the head and bent over the railings over the head of the bed and raised her head.) After going into the room and when I was attending to the lady I noticed a handkerchief on the bed. It was near about the lady's right hand that was flexed. (To COURT: The accused did not sit on the handkerchief. When she had the hand flexed and placed near her head the handkerchief was near about the head. Accused sat lower down when he was fanning.) The handkerchief was not between the hand and the body, but near the pillow. It was not under the pillow, but near about the pillow on which she was placing her head. The handkerchief was about this size (witness shows about a foot square). It was not open, but like one that somebody had had in his hand and placed near by (witness shows how the handkerchief was). It was slightly smaller than this handkerchief (one shown by Deputy Solicitor General). It was about half this size. There was no lace in it. It was not one of those tiny little handkerchiefs which ladies use, but slightly bigger—like the ones we stitch at home. I should say it was even slightly smaller than P.13. It was about this size (witness shows about 9 inches). Usually I have not seen a handkerchief with the lady when she goes to bed. I arrange her bed but I have never seen. Sometimes she keeps a handkerchief to wipe her mouth after taking water at night. She drinks water at night and sometimes she wipes her mouth after that. Sometimes she uses a handkerchief at night for that purpose. After the lady died I took the handkerchief from the bed and put it direct with the soiled linen—not in the dirty linen basket, but on the dressing table. That was before Mr. Leo de Alwis came. There were some dirty under-dresses of the lady on the dressing table and I put this handkerchief amongst them. That is the long dressing table in the dressing room. When she changes into her night dress she takes her underwear and puts them on that dressing table. I took the handkerchief from the bed and placed it on the dressing table in the dressing room. My recollection is that that was before Dr. Paul came. That was long after I brought the hot water bottles. I remember Mrs. Harry Dias Bandaranayake coming. I put the handkerchief with the soiled linen after she came. I stopped bringing hot water bottles after Dr. Paul came. I brought the hot water

bottles and they were placed near the body in different places and during that time I took the handkerchief. According to my recollection I took the handkerchief before Dr. Paul came there. Accused asked me to bring the bottle of brandy. Then I went to bring it. The brandy bottle was in the almirah in the pantry. I did not know where the brandy bottle was but I enquired from Seelas. At that time I did not tell Seelas that something sudden had happened to the lady. I only asked him where the brandy bottle was. He told me and I myself opened the almirah and took the bottle of brandy out. (Shown P.15.)

10 This is the bottle I took. There was brandy in this bottle up to the red mark shown on the label. I took a tea spoon and a cup with the bottle to the accused who was in the same position fanning the lady. Accused was seated. He was not actually seated on the bed but reclining to a side and placing one hand on the bed and with the other hand fanning. The accused poured some brandy into the cup and with the spoon poured it into the lady's mouth. Accused himself did all that. I cannot say whether the brandy went into the mouth, but I saw some brandy coming out of the mouth. When I was there accused gave her only one spoon of brandy. It was a tea spoon—not a very small one, but a fairly big tea spoon. I saw  
20 brandy slightly coming out of the mouth. Accused wiped it with his fingers. That is my recollection. He did not ask me for a cloth or handkerchief to wipe it. Then the accused asked me to get hot water bottles and I went to Simon's kitchen to get them. That is next to Jane's kitchen.

Simon's kitchen is not the gas cooker kitchen. I brought about 8 to 10 hot water bottles. I made trip after trip to bring the hot water bottles. (To COURT: I took the 8 bottles in several trips.) I made about 4 trips to bring the bottles. In the intervals of bringing the hot water bottles I did not do anything else. I am quite certain. I was very busy in bringing the hot water bottles. (To COURT: Each time I brought hot water accused  
30 asked me to bring some more.) On the first trip I brought 2 bottles. One was placed near the left shoulder and the other near the right shoulder. They were ordinary glass bottles. I took them from the kitchen and from here and there. Some were picked up near the drain. (To COURT: I picked them up. It did not take much time for me to pick them up.) There were some corks in the empty vinegar bottles. I did not lose any time in calling for the assistance of any other servant in that work. (To COURT: There was water already boiling on the hearth.)

Q. How hot was the water?—A. When I put my finger in I found I could touch the water. I touched the bottle and felt the heat. I carried  
40 the bottles in my hand. When I poured the water into the bottles I found the heat from outside the bottle. I had not to wrap up the bottles with cloth to carry them. It was not very hot, but fairly hot. The first two bottles were placed against the two shoulders. In the 2nd trip when I brought 3 bottles the previous two bottles were in the same position as they were placed and the accused was fanning the lady. The 2nd three bottles were placed on the 2 sides of the legs and one between the legs. In all I

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brought 5 bottles; two were placed against the 2 shoulders; two on either side of the two thighs and one between the two thighs.

Accused did not tell me the number of bottles I should bring. I bring the bottles and hand them to the accused and he places them against the body. He placed some bottles near the body and I myself placed some. I cannot remember how many bottles I brought on the 3rd trip, but my recollection is that I brought 2 bottles on that trip also. Those bottles were placed near about the body, near her side and he was fomenting her with the hot water bottles. He was fomenting the sides and legs. He fomented by placing the bottles on the body. He fomented the lady with the bottles I brought on the 3rd trip. I cannot remember how many bottles I brought on the 4th trip but my recollection is that I brought about 2 bottles. That was the last trip. When I was going into the room on the 4th trip I met Simon somewhere near about the room. (To COURT: Simon was not inside the deceased's room but he was in the spare room—perhaps my master may have called him). I heard as if he was calling him. My recollection is I heard that when I was going into the kitchen to bring the bottles for the 4th time. My master called him by his name "Simon." I distinctly heard him say that. Master did not ask me to call Simon. He did not ask me to call anybody. (To COURT: When I was going into the room with the bottles on the 4th trip my recollection is that I saw Simon going in towards the deceased's room.) I did not go for any more hot water bottles. The bottles I brought on the 4th trip were also placed near the body and I started attending to the lady. I cannot remember whether I was in the room when Simon came. I placed the bottles near her legs and fomented her with the bottles all over the body. My master and I were both engaged in fomenting the body. Dr. Paul came there when we were fomenting. When he came we were still fomenting. From the time I started bringing the hot water bottles till Dr. Paul came I was busy in bringing the bottles and fomenting the body. I did not go to attend to any other thing. I did not go to the lavatory or dressing room. I went nowhere. I took up the handkerchief and from the entrance to the dressing room I threw it on to the dressing table. I do not think my Master saw me throwing it. I cannot remember these details. I cannot remember after which trip I threw the handkerchief. I remember throwing it, but I cannot remember at what stage I threw it. After this incident my master asked me whether I found a handkerchief on the bed. I cannot remember how many days after the funeral he asked me that. My recollection is that he asked me that after the funeral I cannot say whether he asked me that on the day of the funeral. As far as I can remember the reply I gave him was that I took the handkerchief and put it in the dirty linen basket. I cannot remember whether I told him that I put it on the dressing table. After the lady's death I took all the soiled linen and put them all into the dirty linen basket. Now I cannot remember what exactly I told my master in reply. I remember to have told him that a handkerchief was found by me. I cannot remember whether I told him that I put the handkerchief on the dressing table or into the dirty linen basket. He did not ask me for it. I think I told him I put the

handkerchief to the dhoby with the other dirty linen. The dhoby came 3 days after the funeral. Accused must have questioned me about the handkerchief 3 days after the funeral. He did not tell me anything about the handkerchief. He did not tell me that he too found a handkerchief. He merely asked me whether I found a handkerchief. I saw Mrs. Bandaranayake coming into the room and going out before Dr. Paul came. I saw her only getting out from the deceased's room and going away. I saw her somewhere out of the middle of the spare room. I did not see her actually coming out of the deceased's room. When Dr. Paul came Mrs. Bandaranayake came with him. Both came about the same time. I have no recollection whether anybody else came with them. I cannot say where the accused was at the time Dr. Paul and Mrs. Bandaranayake came. I was fomenting the body at the time Dr. Paul came. At the time Dr. Paul came and was examining the lady the accused was not present there immediately. I cannot say whether accused was in the room or outside. I was immediately near the lady when Dr. Paul was examining her. I did not notice accused standing immediately close by when Dr. Paul was examining her body. I placed some hot water bottles on the lady's cheeks and fomented the face. I placed the bottles on her face and my master placed hot water bottles on the body. I did not place hot water bottles on the eyes. I did not notice the face being burnt or blistering when I was placing the bottles on her face. I did not place the bottles for any length of time in one place, but I fomented her with the bottles. (This witness has told the Magistrate that she applied bottles to the lady's heels but not said that she placed bottles on her face.) (To COURT : Even now I state that I placed the bottles to her heels. In the Police Court nobody asked me whether the bottles were placed on her face.) Dr. Paul came and examined the lady and told the other lady who had come from Bamabalapitiya that she was dead. Then I know that she was dead. Then I began to cry and kept on crying. I did nothing else. After that I did not notice the accused's movements. I remained in that room weeping and crying. I was near the lady's head; when Dr. Paul placed something on her body and examined her. Dr. Paul was standing near the dressing table but I do not know what he was examining there. I remember after a little time Mr. and Mrs. Leo de Alwis coming into the room. They looked at the body. I was also in the room at the time. I remember Mrs. Charles Seneviratne coming. I saw all those ladies coming there. (To COURT : That is after Dr. Paul left.) I remember the lady from Dehiwala questioning me about my mistress's death. The two ladies called Reeni and Roxina both questioned me. Mrs. Leo de Alwis did not speak to me at all. Mr. Leo de Alwis did not ask me anything except asking me to go away from that room when I was lying down on the ground and weeping. (To COURT : Mr. and Mrs. Leo de Alwis are not angry with me. I do not speak to them, but the other two ladies come very often to see my mistress and they are well known to me and I speak to them.) Mr. Edmund Dasanayake did not speak to me. I have never spoken to him. Mrs. Charles Seneviratne asked me "What happened to the lady; what is the sickness?" I said I do

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not know. Then she asked me what I did early in the morning when I attended to the lady. (To COURT: My mistress was in good health the previous evening and the following morning by 6 a.m. she was dead.) I was the woman who did my mistress's work. I can remember very well the lady from Dehiwala and the lady called Reenie questioning me. The lady called Reenie is the lady who came with Dr. Paul. That lady questioned me. I did not tell her (Mrs. Bandaranayake) that I heard the lady scream. The lady called Roxina (Mrs. Charles Seneviratne) also questioned me. I told her that Seelas came and told me that he heard as if the lady was calling me. I did not tell Mrs. Charles Seneviratne that Seelas told me that the lady screamed. I did not tell her that I saw Mr. Seneviratne in the room when I entered. I told her as I stated to-day. Mr. Leo de Alwis only asked me to clear out of the room when I was crying there. I did not tell him that I saw Mr. Seneviratne reclining on the bed and trying to revive her. I did not speak to Mrs. Leo de Alwis. I did not tell her that when I entered the room Mr. Seneviratne was already in the room. (To COURT: I did not tell anyone that when I went into the deceased's room the accused was in the room.) I was present at the funeral. After the funeral I remained in the house till the accused was taken into custody. Master Terrence remained in the house after the lady's death. He went and stayed in Urapola after the lady's death till the school vacation was over. Before he went to Urapola he did not live in any other house in Colombo. Till he went to Urapola he did not go and stay in any other house. During day time he went out of home but I do not know where he went. I cannot remember whether he stayed a day or two anywhere before he went to Urapola. I did not go with him anywhere except going to Urapola. I remember this bottle. (P.4 shown.) This was on my mistress's teapoy on which she had kept her books. I first saw P.4 on the day after the lady's death. Somebody wanted the teapoy and to clear it I put the books aside and while removing the books I found P.4 amongst them. I did not see P.4 before that. I have not seen any bottle like P.4 on the dressing table. There was the stopper on when I saw it that day. I took this bottle P.4 and put it on the chair on which I put the books. I did not see this bottle on the day the lady died or on the day before. About 4 or 5 months before my mistress's death I have seen my mistress using flat phials like P.4, but I have not seen her using this very phial P.4 (shown P.32 to P.37). I know these bags. Some of these were used by my mistress. Generally she used P.32, P.33 and P.34. I have not seen her using the others. I have not seen phials like P.4 in her bags but I have seen scent bottles in her bags, and sometimes coloured bottles also—green coloured bottles like P.4. I have seen flat bottles like P.4 green coloured—and white coloured bottles in her bag but not this particular bottle P.4. (Shown P.21.) I have not seen phials like this with my mistress. (Shown P.22.) I have seen a box like this in one of her almirahs. My recollection is that was about 4 or 5 months before this incident. Not so much as a year before.

Adjourned for the day.

16th May 1934. Accused present—same counsel as before.

GANGODAWILA ARACHIGE ALPINA—affirmed. Examination continued.

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At the time I was attending on Mrs. Seneviratne I did not notice anything else except small bubbles on the chin. I also saw some scars here and there on the face. I cannot say definitely as far as I remember she had some marks on both the cheeks. I cannot remember whether there were marks on the eyelids. They became visible after I came to know that my mistress was dead. As far as I can remember it was before Mr. Leo de Alwis came. Miss Mabel Joseph asked me what those scars were and I told her I did not know how they were caused. I remember that she was cross-wise on the bed. As far as I remember the body was placed lengthwise after Dr. Paul came but I cannot distinctly remember which servant straightened her body. I did not do so but I was standing by at the time. I cannot remember whether I assisted. I cannot remember how the body was straightened but I can say that the body was placed lengthwise. The people who were there lifted the body with their hands under the body.

CROSS-EXAMINED :—I was Mrs. Seneviratne's maid. She paid me. There are certain servants paid by the lady and certain servants by the master. Besides myself, Jane and the servant Seelas was paid by her. My village is Rakawana I was not paid a fixed salary but at the time I came to their employ I was paid Rs. 6/- per month and food. I had to supply myself with clothes. I was poorly paid. My people are not possessed of any property in the village. We are poor folk. I had been five years in the employ of Mrs. Seneviratne. My service began at White House. I remember the lady imagine she saw a ghost at White House. I remember one night she had all the lights on the whole night. My master was not at home. My lady was kind to me. She used to call me Alpino as well as Alpina. Alpino is a term of endearment. At White House I know the rows began by the sale of the White House. She used to go on hunger strike on two or three occasions. My mistress never told me about Mr. Seneviratne intending to sell White House, but it is my conjecture. I remember being asked by the Police Magistrate to identify a handkerchief with a purple border. It was in the iron safe. It was removed by the Police. I do not know that it was one of the vows she made. I have seen the handkerchief for some time in the safe. I saw that the knot contained 25 cents and a piece of paper. I do not know of the writing.

*Cross-exa-  
mination.*

(To COURT : She is not a Buddhist. Although the Revd. Mr. Ekanayake came there I do not know his name. I do not know that she used to go to Polwatte but she used to go to church. White House was sold about a year before her death. I do not know whether White House belonged to Mr. Seneviratne. I think it was left by his father. From White House they went to Leicester House. Both at White House and Leicester House, husband and wife lived in separate rooms in either wing. To my knowledge they never occupied the same room. The woman Jessie was got rid of

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\* *Sic.*

in the early days of my employment. I am not aware that Jessie was a married woman with a child. I know as a fact that the child died. My own age is 25 years. It is my idea that Jessie was younger than I. I do not know whether it was although she had a child. I do not know that in reality she was 30 years of age because she was shorter than I that I thought she was younger. (To COURT : She used to put powder on her black face). She was dismissed for putting powder on her face. I do not know any other reason. I cannot say that Jessie was a very good cook. She was a cook. Jessie left her master's employ about four years ago. I came to Duff House somewhere about Singhalese New Year last year. During the five years 10 I have been in the house I had not seen the master set his hands on her in anger. I heard them talk angrily at some times. Sometimes they quarrelled over Mrs. Seneviratne beating the boy Terrence. Whenever the little child is beaten the child used to cry and complain to his father. I have seen cases when the \*father developed the bad habit of taking sides with the \*father. (To COURT : The child is nine years of age.) He is rather small. Mrs. Seneviratne was a lady of big build and the face and the body are well built. I have not seen the accused striking or correcting the child. The little boy Terrence slept on a white painted cot for quite a long time. It was an iron cot, not a wooden one. A few days before the 15th October the 20 lady had sent that cot off to Mrs. Philip Seneviratne's place at Urapola. The cot was sent by lorry. On that day Mr. Seneviratne was not at home. This is a photo of that bed. (Shown X.2). After the removal of this bed, he slept on a bed used by Miss Mabel Joseph. Another bed in the house was given to Miss Joseph. I do not know whether Mrs. Seneviratne used to sleep on a similar bed. The side of it works on a hinge. It can be raised or lowered. I cannot say whether Mr. Seneviratne went to see the boy when he was sleeping on this bed. After Mr. Seneviratne was taken into custody Mr. Philip Seneviratne took charge of Terrence. I was there 30 last Christmas. It is correct that Terrence slept in that very cot at Christmas at Urapola. I was asked yesterday whether I was at Mt. Lavinia. It was in Mrs. Philip Seneviratne's father's house. I do not know whether it is Gate Mudaliyar Samarakkody. I left the service of the Seneviratne's about 3 months before I received summons. I was in the village with my brother Banda. (To COURT : Banda had also left and was living at home). Some of the servants are still at Duff House although the house was broken up. I do not know that my master vacated the house from January. The lady used to be taking medicines before going to bed. I know that she took medicines because she was unwell. I know the sickness. It was 40 Diabetes. She used to urinate much, at night also. On the 14th October I did not see her taking any pills at all. She was in the dressing room. I went near the mistress's lavatory. She called me to get two glasses of water. One glass was totally empty and in the other a small quantity of water was left. It was the hot water glass. I said that my lady spent a good deal of time on the bed. She sleeps till about 9 o'clock or so. She goes to bed after lunch and remains till 6 or 7. Ordinarily she went to bed again at 9.30 or so. On this particular night it was late because Mr. &

Mrs. George de Saram came. As she slept so much she may have been a light sleeper. To my knowledge she woke me twice, once to close the window because the rain was beating in and again apparently for nothing. It is usual for the lady to wake up by about 6 o'clock but she does not get out of the bed. The chickens in the back verandah make a big noise in the morning. There are about 150 chickens in coops. So far as I am able to judge from the fact that Mrs. Seneviratne had turned she was quite alive when I lifted the pillow. (To COURT: I could not see if her eyes were closed because she was lying on her side.) There are bolts on the door which I opened when I went out on the 14th. There are two bolts on the lady's side of the door leading to Terrence's room. There is a lock but no key. (To COURT: To my recollection the two bolts are one up and one down. To my recollection there is one at the top and one at the bottom. On the other side there was a bolt.) I got up about 6 o'clock and got to the bathroom about the same time as Miss Joseph. I spent about 5 minutes washing myself before going to the kitchen. Then I went to the women's kitchen to make the servants' meals. That was Jane's work. I had to prepare the tea and boil the milk on the gas cooker on the western side. It was my ordinary daily job going to boil the milk and prepare the tea. On this day I had not only to boil the milk and prepare the tea but also to make the rice also. (To COURT: I did not boil the milk on that day). I had to boil the milk ordinarily. It would take about 2 or 3 minutes to kindle the fire. Till it was burning well I could not prepare the sambal. Then I had to scrape the coconut. My statement in the Police Court that after an hour Seelas came is my guess. As far as I can remember the time required by me to wash the rice and place the pot on the hearth was about 15 or 20 minutes. I never mentioned to Mr. Leo de Alwis that I was preparing scrambled eggs. (To COURT: I know what "scrambled eggs" mean. We call it "egg sambal.") I do not know what Biju Rulang is. It is not correct that I was sent out directly I came in. I only got ready to raise her head. I was asked to fetch brandy. I brought that bottle of brandy which was quarter full. (To COURT: I thought that she was in a swoon. I cannot remember if she fainted like that before but I remember she once complained that she was going to vomit and was rolling on the bed. It was sometime ago when we were at White House. I was asked to bring these hot water bottles. It appeared to me that Mr. Seneviratne was trying his best to revive her. The first thing he did was to take a book and start fanning her. When he placed the hot water bottles he raised her arms to see if she was alive. He raised up the arms bending them and massaging the arms. (To COURT: I thought when he raised her arms it was to see whether she was alive. I saw the arms moved up and down like a drowning person's. He raised the arms up and down and massaged them for the purpose of finding out whether she would revive I have no recollection whether he put his hands to the mouth). Simon came in some time after in response to a call by Mr. Seneviratne. That is my recollection. Whether Simon came up to see what was going on I cannot say. I heard the car starting off to fetch Mrs. Bandaranaike. I now know that the driver

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went with Simon. About 7 or 8 minutes after Mrs. Bandaranaike came. Seelas gave my message. (To COURT: My recollection was that I had not finished carrying the hot water bottles when Mrs. Bandaranaike arrived. I did not see Mrs. Bandaranaike in the room. It is impossible for me to say.) Although I said in the Police Court on the 8th December that I made 3 or 4 visits to bring hot water from the kitchen I cannot remember. It was 2 months after the incident. These facts were quite fresh in my mind. I got the smell of Waha Thel when I entered the room. The stuff I call Waha Thel is also put in the fowl pens. It is used for washing the pens in the back verandah. I have heard it called Jeyes Fluid but we call it Waha Thel. 10  
It is mixed with water. All I can say is that the smell was something like that. In the Police Court I said I got a medicinal smell a funny smell. This is the same smell I am referring to. I said yesterday that I got the handkerchief and put it on the dressing table. I see the handkerchief. (Shown P.13.) This is a handkerchief made by the servants. It has the lady's initial "L." (To COURT: It is a lady's handkerchief). This is not the handkerchief I found. It was a little smaller. I said in the Police Court as well that I took the handkerchief and put it on the dressing table. That handkerchief I gave to the dhoby. (To COURT: This handkerchief was slightly smaller. There is no uniform size). I had not noticed P.3 on the 20  
dressing table, but I have seen a bottle like this in the room. She had a number of bottles in the cupboard in the washing stand. (To COURT: I know there was a number of bottles.) I did not see the Police remove some of the bottles. I found the bottle P.4 the next day, when I was asked to clear the books on the teapoy. There was a large number of books on the teapoy and the bottle was among them. I have seen the lady using scent phials similar to the smelling salts bottle. (To COURT: I did not notice whether there were any smelling salts in the bottle). I only put it away. My lady also used to apply creams before going to bed. Shown P.27 one like this was applied on her face. (To COURT: It was sometimes kept on the dress- 30  
ing table in the room near the lavatory and sometimes I do not know where she keeps it.) I said yesterday that the lady used to apply things for toothache. It was some white fluid like water. I used to see this because sometimes she used to mix it with water and wash her teeth. Sometimes she dips it with cotton wool and put it to the tooth. (To COURT: She had a fair quantity of cotton wool on the dressing table. I have seen a box like P.22 before her death. It was in the almirah in the spare room. I know the medicinal smell I spoke of. I noticed the smell when I entered the room, not in the spare room.) It was not boiling water I brought in the hot water bottles. I did not find the bedsheets disarranged when 40  
Seelas brought that message. (To COURT: On the mattress on which the lady slept was a sheet. It was not disarranged). Master Terrence used to make soap in the house with soda, water and coconut oil. One day a certain gentleman came there and taught him. It was not a hawker of caustic soda. I do not know where he got the soda from. He got it down. I said that Mrs. Seneviratne used to thrash the boy. On some occasions she was very rough towards the child. She took the child out for drives. I did not notice her behaviour towards the child on the 14th as I was busy

in the kitchen. When I came in that night I did not see her go to the child's room. When all these things happened I do not know whether the child was asleep or gone out. I did not see if he came into the room or not. Jane went 3 or 4 days before. Mr. Seneviratne must have known that Jane had left. The accused knows that every day I got up and go to the kitchen. If I happened to be close to my mistress when she opened the iron safe or the almirah, she would ask me to move off. She objected to my seeing anything in the almirah as she does not like me looking at her jewellery. There may have been plenty of jewellery. Jane is a cook. She had to cook the curry. In the morning she cooks the rice, and sometimes prepares sothi for the servants. She had to cook the servants' meals. My duties were to boil the milk and prepare the tea. That was in the gas stove kitchen. Jane and I got out independently. Jane precedes me. I go to boil the milk about quarter of an hour after Jane goes out. On this day I did both my work and Jane's work. As a matter of fact a few days before I had gone to the village. Jane attended to my duties. Even before that Jane had gone to the village. It is correct that one or other of us was in the village.

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RE-EXAMINED: The caustic soda used to be kept sometimes in the child's study, sometimes in the nursery, sometimes in the nurse's quarters. The child and Mabel Joseph had charge of that. In the bed the sheet was tucked in on three sides but on the front the sheet was hanging down. I do not know English. I have never learned English. I heard English terms used in the house. I do not know the medicine called "Touch and Go." The bottle was a small one. She used several kinds of bottles which she used to wash her mouth with. I do not know the name "Tilit" mouth wash. I do not know a medicine called Listerine. I do not know the names of any medicine. I know the smell of Jeyes fluid. It was always used in the house in places where there was a bad smell. I cannot mistake the smell. The smell I got I said I never got before. (To COURT: It is like Waha Thel. I cannot specify whether it was the same smell as Jeyes Fluid. What I saw is true according to my recollection. In that room I never got that smell before. It was smell like Jeyes Fluid. At that time I felt that it was a strange kind of smell. I have never smelt before. But if I was asked to classify it I would say it was like Jeyes Fluid Waha Thel.) I say that the deceased's arms were raised several times. I can say I saw the handkerchief before the arms were raised. I said the lady had a vomiting fit when we were at White House. I cannot remember whether the accused was present. No doctor was called. My lady never takes any exercise. Sometimes in the evening she goes out of the bungalow but never walking. She goes by car. It is not that she cannot do any hard work but she would not do any work. She sleeps most of the time. She used to take the tablets for Diabetes only at times, not as a rule. When she takes the tablets she uses cold water. (To COURT: The water was not placed in the lavatory. It was at the foot of the bed. I do not know how the rest of the water disappeared. I only saw the empty glass. It was done inside the lavatory.

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The hot water was used to rinse the mouth. I found that glass with much of the water gone off near the lavatory. I do not know if she rinsed her mouth). The rinsing of the mouth is generally done before retiring. She saw the ghost when we were at White House near about the time we were leaving White House. It was a few months before we left. (Shown X3 and X4.) I have seen one like X3 before. I have seen bottles like this before. (TO JURY : There was a cook who used to cook for the master and mistress, for the child and for visitors. I do not know whether the master or mistress paid the cook.)

(This Witness was recalled. See No. 12, page 47.)

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No. 9.  
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No. 9.

**Evidence of Mabel Joseph.**

**MABEL JOSEPH—sworn.**

EXAMINED : I am 21 years old. I stayed at Mt. Lavinia at Mrs. Samarakkody's. Alpina and Banda stayed at Duff House. The night before only Alpina slept at Mt. Lavinia. Last night Alpina was not there. I am not employed. I am staying with Mrs. Philip Seneviratne. That is her father's house. Mrs. Seneviratne is the wife of the accused's brother. Terence is now at St. Clare's College. I am staying with Mrs. Philip Seneviratne. I just play with the little boy. I was employed under the accused for 3 years. I was first employed at White House, then at Arbuthnot Street, then at Duff House. I was not paid a fixed salary. She gave me ten or twelve rupees. I was paid by Mrs. Seneviratne. I came from St. Margaret's Convent. My special duty was to look after Terence. I take his lessons too. I used to occupy Terence's room to sleep in. During the day I had another room. I take my meals alone. I see Mr. and Mrs. Seneviratne frequently. I heard them quarrelling several times at White House, Duff House and Arbuthnot Street. It took place about once a month. I could not gather what they were quarrelling about. Once it was about Jessie for using Mrs. Seneviratne's powder puff. Mrs. Seneviratne got angry with her and asked me to go away. She beat her and asked to go away. She dashed the powder box on the ground and burnt the puff and asked Jessie to go away. The accused objected to her being sent away. I think she wanted to come back. I do not know where Jessie went. They quarrelled about the car. Mrs. Seneviratne wanted the car, but Mr. Seneviratne did not allow. They quarrelled about White House as Mrs. Seneviratne did not want to live in a rented house. They quarrelled about Nawala Farm. I do not know the circumstances under which Nawala Farm was bought. They used to quarrel about Terence, because Mrs. Seneviratne used to beat Terence when he did not do his home work. She was fond of Terence. (TO COURT : She used to beat the child with her hand.) Sometimes she beat him more than necessary for him to cry. (TO COURT :

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She used to beat him with a foot ruler on the body not to cause injury. She hits him on the hands. I say that she was fond of him because she gave him anything he wanted.) I lived for 3 years and I can say she was fond of him. (To COURT: They quarrelled because he did not like her beating Terence.) On the 14th morning we were in the house. Mr. and Mrs. Charles Seneviratne came about 1 o'clock. Before they came, Mrs. Seneviratne was not doing anything. Mr. Charles Seneviratne went to the races and Mrs. Seneviratne went to her room and slept till about 4 o'clock in the evening. Then Mrs. Harry Dias Bandaranaike came in about 10 5 o'clock with her two children. I cannot remember whether Mr. Bandaranaike came. She wanted all of us to come to Mr. Felix Jayawardene's place at Flower Road. Terence had gone with Mr. Seneviratne at about 1 o'clock in the car to one of his estates at Waka. He returned at about 7.30 p.m. Before we went, Mr. and Mrs. George de Saram came. I do not know of an earlier visit. Mr. and Mrs. George de Saram came about 8 o'clock. Mrs. Harry Dias Bandaranaike left the place. Then Mrs. Seneviratne went to her room and changed. That was before Mr. and Mrs. George de Saram had come. She changed into a kimono. At about 10 o'clock on Saturday morning Mrs. Seneviratne and I prepared some Billing preserve. After 20 Mr. and Mrs. George de Saram came she asked them to excuse her. She asked them to have dinner. It is not usual when visitors come for her to be in kimono. I have seen her several times in a kimono even when visitors come. (To COURT: Mr. and Mrs. de Saram are related to the deceased.) Mr. and Mrs. George de Saram came about 8.30 and they were all talking together. (To COURT: Terence had also come back.) They had dinner. Terence and I already had dinner. After dinner I saw Mr. and Mrs. George de Saram going away. I was in Terence's room. Mr. and Mrs. Seneviratne were in the front verandah. Then Mrs. Seneviratne followed Mr. Seneviratne into his room from the front verandah into the hall and to the verandah 30 in which Mr. Seneviratne's office was. From there I think she went to Mr. Seneviratne's room. I did not actually see. She came back. She took about 15 minutes. (To COURT: I was in the hall.) I did not notice anything in her hands. (To COURT: She came to where I was.) I went along the hall to her bedroom. I went with her. (To COURT: I went through the hall to the verandah near the spare room.) I told her that I wanted to go to Church. I did not tell her anything else. I asked her for the collection and then I went into my room. She gave me 25 cents. I took it and went into my room and slept. Terence also slept. I got up on Sunday at about 6 o'clock. (To COURT: I sometimes go at about 6.30. 40 On that day I went about 6.30 to St. Michael's church.) I got up about 6 o'clock. Terence was sleeping in his cot. I went to the bathroom to have a wash. I saw her with her hand on her head. (To COURT: There was light enough to see her. I saw her as I passed the door.) I saw her elbow on her forehead but I do not know whether she was asleep. I mean her hand. She was on her back and I did not think anything. I met Alpina when I was washing. I came away first. I did not see Alpina coming. I dressed up. I met Banda in the vernadah and asked Seelas

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to bring the rickshaw. (To COURT: There was plenty of light. I did not see Mr. Seneviratne at all.) Then I went to Church. The rickshaw was brought on the left drive. I only saw Banda. I did not see Martin or the cook Simon. (To COURT: Terence was sleeping when I left. He does not go to school on Sundays.) He sleeps till about 8 o'clock. When he goes to school he gets up early for his study. I was practically the whole day with Mrs. Seneviratne. I know her well. (To COURT: She had a headache in the morning.) There was nothing unusual apart from that. (To JURY: When I returned Terence was in the verandah.)

(Adjourned for lunch.)

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MABEL JOSEPH—EXAMINATION (continued)

When I went to Church that morning the early service was over. I attended the 7/30 service. After service while I was talking to some of my friends the driver came and told the rickshaw man that Mrs. Seneviratne had died and to ask me to hurry up and come. I got into the car and came home. The rickshaw man gave me the information just as the 7/30 service was over. Generally the service is over at 9. a.m. It may be 8.45 or 9. a.m. When I came home I went to Mrs. Seneviratne's room and saw the dead lady. I saw some marks on her face. I asked Alpina what the marks were. She was in the room. Only she was in the room—no others. The body was lying straight on the bed—not crossways. When I asked Alpina what the marks were she told me she thinks that brandy was given to her and it might have spilt on the face. They were like stains at that time—brown coloured. They were not spread all over the face, but only on the two cheeks and the chin and the tip of the nose. I did not notice anything on the eye lids. When I asked Alpina what the marks were she said it might be due to brandy. I did not ask her how brandy could produce marks all over the face. (To COURT: Those marks were darker than her usual colour—she had the complexion of the interpreter Mudaliyar). The marks were brown. They were quite distinct and I could see them very well. I could not make a mistake about them. I asked Alpina how Mrs. Seneviratne died. She told me that the doctor said that Mrs. Seneviratne had taken too many of these aspirin tablets and that was the cause of death. I know aspirin tablets (shown P.3 a bottle of aspirin). I saw this very bottle before. Mrs. Seneviratne had it on her table long ago about 3 months before her death. (To COURT: I have seen a bottle like P.3 and the first time I saw it was about 3 months before Mrs. Seneviratne's death on her toilet table.) I did not see it on the 14th night but I saw it on the 15th morning after I returned from service. It was on the top of the iron safe itself but not on the top of the book case. I do not know how it got there. (To COURT: Alpina did not show that bottle to me). I have seen Mrs. Seneviratne taking aspirin tablets before when she had headaches—that was not shortly before her death—must be about 2 or 3 weeks before. I did not see her taking tablets that morning. She takes 1 or 2 tablets when she has a headache. I did not notice her

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taking more than 1 or 2 (Shown P.4.) I have seen her having a bottle like this long ago—just as we came to Duff House. It was something like P.4. There was something in it—smelling salts. Just before her death I did not see her using anything like that. This lady used to suffer from a toothache frequently. She had several medicines for it—she had tooth jelly. I did not notice her using mouth wash. I do not know Tilit mouth wash (Shown X.3 & X.4). I have seen the Touch-and-Go bottle X.4. I remember that name. Mrs. Seneviratne puts it into cotton wool and keeps it in the mouth. I did not see her having any bottle like P.20. I do not know what chloroform is. I did not see her using chloroform for toothache. One day I saw her using Touch-and-go. She had several medicines in her almirah and toilet table. That is the table shown in P.19. There are lot of bottles on that table. There is no key to it and anybody can open it. They are just the ordinary medicines used for toothache etc. After Mrs. Seneviratne died I was taken to the convent where I stayed just one night and I came back to Duff House again. There was no nurse apart from myself. At the time of this incident Mr. Seneviratne was working for the Public Trustee and in the Mortgage Bank. He used to value lands for the Public Trustee. He looked after lands belonging to Mr. Tom Walker and Mr. Rupesinghe. I do not know any other whose lands he looked after. After Mrs. Seneviratne died I think Mr. Seneviratne went to Chilaw to look after lands. Then Terence, one Mrs. Harris and I were left at home. Mrs. Harris was brought there to be with me and Terence. Just as Mr. Seneviratne went away at about 7.30 a.m. Mrs. Harris left. Then I took the child to Mrs. Rupesinghe's. Nobody told me to take the child there. I went to tell Mrs. Rupesinghe that if Mr. Seneviratne returns to tell him that I was going to St. Margaret with the boy as Mrs. Harris did not return although she promised to come within half an hour. I stayed at Mrs. Rupesinghe's with the child for about 2 or 3 days. Accused came there that very night, but did not remove the child. He said he will find an elderly lady and in the meantime wanted me and Terence to stay there. I did not visit Mrs. Rupesinghe's before that. Accused has several relations in Colombo. Mrs. Harry Dias Bandaranaike is at Bambalapitiya. Mr. Rupesinghe is dead. Only a girl of his is alive. I do not know her age. After the death of deceased I saw the green bottle P.4 on the teapoy that was next to Mrs. Seneviratne's bed. I saw it on the teapoy for the first time about 3 days after Mrs. Seneviratne's death.

CROSS-EXAMINED: The day after Mrs. Seneviratne was buried, I was more or less abducted from the house. I was taken away in my home clothes by two sisters from St. Margaret's on something that had been conveyed to Sister Eva the principal by Mr. Leo de Alwis the brother of the deceased. (To COURT: I know the meaning of abduction—carried by force.) Mr. Seneviratne was not in the house when I was abducted. Thereafter the sisters insisted that there should be a governess in the house if I was to be in the house. It was only on that condition that I was allowed to go back to the house. I know that Mrs. Harris is a retired

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tion—con-  
tinued.

Cross-exa-  
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*continued.*

Municipal Nurse. She was engaged by the accused to be in charge of me and the boy. I was brought up at St. Margarets' Home from my infancy and I was obtained by Mrs. Seneviratne from St. Margaret's Home. My removal from the house was in consequence of a suggestion that there would be something improper between me and Mr. Seneviratne but in fact there was nothing improper. Terence was particularly attached to me. I had been 3 years with him. The boy having lost his mother, Mr. Seneviratne was very anxious to have me to keep the boy's company. Mrs. Harris was under the influence of Mr. Leo de Alwis. Mr. Seneviratne left me, Terence and Mrs. Harris in the house and went to Chilaw district to make payments on certain estates on behalf of the Public Trustee. About 10 minutes after Mr. Seneviratne left the house Mrs. Harris left the house. Mrs. Leo de Alwis' children have dancing lessons at the place where Mrs. Harris stayed. When Mrs. Harris left the house I was alarmed. I feared that Mr. Leo de Alwis would send somebody to take the little boy away. I feared that he would abduct the boy. I know as a fact that Mr. Leo de Alwis had done his best to get the custody of the child from Mr. Seneviratne on the day after the funeral, and that Mr. Seneviratne had refused. (To COURT : I know that because Mr. Seneviratne asked me to keep the child carefully when he goes out because Mr. Leo de Alwis might come when Mr. Seneviratne was out.) I know that Mr. and Mrs. Rupesinghe had armed watchers at their gate. Even now Mrs. Rupesinghe has armed watchers at the gate. The idea of going to Mrs. Rupesinghe struck me. I thought of going there because there were guards at the gate and because the child would be safe. I was thinking of the child. (To COURT : Mr. Rupesinghe lives in Gregory's Road not far from Duff House and close to the Training College. The boy was going to the Training College at this time. Mr. Rupesinghe's gates are closed day and night. Mr. Seneviratne had endeavoured to get one of his relations to get the custody of the child. I know that Mrs. Ronald de Livera and Mrs. P. S. P. Jayatilleke were approached and that they refused to take the responsibility of taking the child. I know that personally. Mr. Seneviratne advertised in the papers the very next day for a governess and one\* but the next day she got Mrs. Jonklaas and the boy and I were taken to Duff House with Mrs. Jonklaas in our charge. In addition, Mr. Seneviratne had an old Malay Police Sergeant pensioner to guard his gate. Till he was arrested that man was at the gate. Mr. Seneviratne was very much attached to that boy. \*Mr. Seneviratne striking the boy was occasionally the ground for difference of opinion between husband and wife. I know that the sale of White House was one of the causes of friction between them. I do not know that Mrs. Seneviratne had made a vow at St. Antony's to prevent a sale of White House. (To COURT : I know Mrs. Seneviratne's writing.) (Shown P.17 the writing attached to the vow) This is Mrs. Seneviratne's writing. It is written here "Vow to St. Antony and White House not to be sold—1000 candles; Rs. 100/- and to feed 100 beggars—10 at a time.) She was a Church of England lady. This is a vow to prevent the sale of White House, but that did not succeed. She had preserved that in her iron safe. I do not know whether she made

\* *sic.*

\* *sic. ? Mrs.*

vows about trifling matters. She made a vow to get a milk contract. When she was at White House she had an idea that it was haunted and she kept many lights in the house burning when Mr. Seneviratne was out of the house. When she got very angry with Mr. Seneviratne over anything she used to lock herself up in her room. Sometimes she used to take her meals in her room; at other times Mr. Seneviratne used to call for meals. Sometimes she remained without meals for about 3 days. She took water and orange juice. At the end Mr. Seneviratne would go and call her to take meals. I do not know whether she wanted accused to come to her feet and coax her to come and take her meals. (To COURT: Sometimes she gets into a sudden fit of temper. She used to get very angry and scold the boy. Sometimes she used to beat him—not severely.) She assaulted Jessie over the powder puff incident for some considerable time—for about 10 minutes. She lost her temper and beat her severely on the occasion. She was in the habit of slapping servants. She did not slap Jane. She used to slap the table boy Seelas and the cooly. At other times she was kind. Terence, myself and Mr. & Mrs. Seneviratne used to go to Galle Face in the motor car for an airing about once a week. On such occasions Terence and I walk at Galle Face while Mr. & Mrs. Seneviratne remain in the car. They went out together visiting nearly every week. They went out visiting Mr. Charles Seneviratne. Mrs. Charles Seneviratne and Mrs. Stephen Seneviratne were first cousins but were more like sisters—they were very friendly. I cannot remember of a picnic to Chilaw shortly before Mrs. Seneviratne's death. Mr. and Mrs. Seneviratne, myself, Mrs. Charles Seneviratne went to Palankudawa in Chilaw. Having sold White House Mr. Seneviratne bought cocoanut estates from Mr. French and that was the estate we visited. (To COURT: That was about a year before October last.) That visit was sometime after the sale of White House. I remember lunching at the Chilaw Rest house that day. I remember the christening ceremony of Mr. Francis Seneviratne's last child. I remember the accused, his wife, Terence and I going to Veyangoda estate for that ceremony. (To COURT: That was about 6 months before the death of Mrs. Seneviratne) Mrs. Francis Seneviratne's child was about 3 months old when Mrs. Seneviratne died. We paid that visit about 2 months before the death. I remember Mrs. Seneviratne, Mrs. Philip Seneviratne, Terence and I going to Mr. & Mrs. Noel Seneviratne's estate. Accused did not go there on that occasion. I remember 1932 Christmas. I think we spent that Christmas at Veyangoda. I remember a roasted turkey being enjoyed. Sir Soloman Dias Bandaranaiake and accused and his wife were also there. Accused and his wife did not go out like that often but occasionally. (To COURT: I cannot remember how long before the death was the last visit like that to an estate or a Resthouse. During the last few weeks before her death Mrs. Seneviratne went to Galle Face with accused.) Mrs. Seneviratne was not fond of lot of motoring. She did not like much exercise. She was a big made lady. She did not like walking much. She was a strongly built person. I have not seen accused touching his wife in anger. Jane and Alpina had specified duties. Jane had to cook

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the servant's morning meal. The preparation of morning tea was done by Alpina. Each one of them used to go to the village leaving the other to do her work also. A few days before Mrs. Seneviratne's death Jane was away and the previous week Alpina was away and previous to that Jane was away Mrs. Seneviratne had frequent toothaches and she tried various medicines for that. I do not know that she was in the habit of soaking a piece of woolen in chloroform and taking it for toothache. She had several cupboards attached to the toilet table and there were about 30 bottles in them. Mrs. Seneviratne had expressly asked me not to meddle with that cupboard. Terence slept at one time on the bed on which I used to sleep. I gave my bed to him about 2 or 3 days before Mrs. Seneviratne's death. Mrs. Seneviratne gave the cot over to Mrs. Philip Seneviratne. That cot was removed to her place at Urapola. I have seen that cot at Urapola. Last Christmas holidays Terence slept on that same cot. That was an iron cot painted white. There is some considerable space between the bars of that cot and the child whilst tossing about might get his head between the bars. (To COURT: He has got his head caught between the bars and sometimes he cannot pull his head out.) After that cot was given over the bed on which I slept was given to Terence and a spare bed which was in the house was given to me. When I came back and asked Alpina on this day what the marks on the deceased's face were she said it might be due to brandy and she added that the doctor had said that Mrs. Seneviratne had taken too much aspirin. So far as I know she used to take 1 or 2 aspirin tablets at a time. She takes aspirin about twice a day so far as I know. I definitely saw Mrs. Seneviratne going towards Mr. Seneviratne's room the previous night and she returned in about 5 minutes time. Mrs. Seneviratne could have had an aspirin bottle in her hand with the fingers closed without my seeing it. "Bilin Jelly" was prepared at home. They wanted to sell it. Mrs. Seneviratne reared fowls, turkeys and ducks. She had White Leghorns, black leghorns, Buff Orpingtons, Australorps, R.I.R's and Aylesburys. The chickens were hatched out in large numbers and there was a whole row of chicken coops in the back verandah. The verandah had to be washed frequently with Jeyes Fluid. (To COURT: It was Martin's job to wash the verandah.) As the chickens grew they used to be sent to various estates. Mr. Seneviratne was running a poultry and cattle farm at Nawala, off the Cotta Road, some time back and he sold that. That was one of the reasons why Mrs. Seneviratne got angry. That was run at a loss. (To COURT: Mrs. Seneviratne had told me several times that Nawala Farm was run at a loss.) Mrs. Seneviratne used smelling salts similar to P.4. She used to carry smelling salts in her handbag also. On the 15th morning Mr. Edmund Dasanayake asked me to keep P.3 on the top of the iron safe. Mrs. Seneviratne herself used to buy her drugs, etc., at Paiva without Mr. Seneviratne knowing it. Mrs. Seneviratne had a large number of sarees. I am not aware that the Police removed a large number of them from the house. Some of the toilet table drawers had locks and keys. Some drugs were in the dressing table drawers, locked up. I cannot remember whether I was present when the Police removed this bottle C.2. (To COURT: I

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know the child's nursery. At night when I sleep the doors are closed from inside by me and nobody can come into the room. There was no light in our room but the light from Mrs. Seneviratne's room fell into our room. When I went to Church that morning I did not open both the doors, but only one door—the one into the spare room that leads into my room. There are 2 doors one on each side of the child's cot. I opened the door towards the gate. I know the child's study. There are 2 doors in that room and I locked one door from inside and the door by the drawing room I locked from outside. From the dining room to the child's study one cannot  
10 come because I lock the door from inside. Nobody could come from outside. When I went out to church that morning I opened the top door. Then I go to the child's study. There are 2 doors to the child's study. I came through the top door—just as it is marked on the plan. The two doors in the child's study were closed from inside; that morning when I left I opened only one door. The one that is shown on the plan. Then I went to the nurse's room and from that room I went to the dining room as shown on the plan.

To JURY: When the servants went on leave they asked for permission from Mrs. Seneviratne. She was very kind to me. Sometimes she appeared  
20 to be worried about trifles—magnify little things. She told me not to have anything to do with the washstand cupboard. I did not enquire from Mr. Seneviratne as to how the burns on his wife's face were caused.

CROSS-EXAMINED (with permission): When Mr. and Mrs. Seneviratne were on friendly terms, during the daytime they visited each other in their rooms. At night after the doors were closed it is not possible for them to see each other. The keys of the main buildings are with Banda, and Mr. Seneviratne locks up his quarters.

RE-EXAMINED: Q. You seem to know a good deal about Mr. Seneviratne's affairs?—A. No. I know that Mrs. P. S. Jayatilleke had refused  
30 to take charge of the child because Mr. Seneviratne had told me that. I do not know whether he told me that on the day Mrs. Jayatilleke refused. He told me that not on the day he was going to Chilaw but on the day he went to an estate at Kurunegala. On that day he told me that some relations, Mrs. P. S. Jayatilleke being one of them, refused to take charge of the child. He told me that Mrs. Ronald Livera also refused to take charge of the child. He told me that several relations refused to take the child, but mentioned only those two names. He said that when he was going to the Kurunegala estate. He did not tell me to whom to go if anything happens. I know Mrs. Harry Dias Bandaranayake. She lives at Bam-  
40 balapitiya, about a mile from Duff House. Mrs. Rupesinghe's house on Gregory's Road is also about a mile from Duff House. Accused did not tell me not to go to Mrs. Dias Bandaranayake's house. I had never visited Mrs. Rupesinghe's house before, nor did Mrs. Rupesinghe visit accused's house. I saw guards in Mr. Rupesinghe's house. I did not see guards at other houses. I know there are Police Stations. I did not go to Mrs. Harry Dias Bandaranayake's house because they were angry with Mr. Seneviratne. I know that because they did not visit the bungalow after

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Mrs. Seneviratne died. Even Mrs. Rupesinghe did not visit the bungalow after Mrs. Seneviratne's death. I did not learn all this subsequently. Sometimes Mrs. Seneviratne used medicines for toothache. I made a statement to the Police. In that statement I mentioned two specific medicines for toothache—that was the tooth jelly and Touch-and-go. I did not mention anything else. Sometimes we go for picnics. When we go for picnics we prepare things. I assist Mrs. Seneviratne in preparing them. On the 14th evening she did not ask me to prepare anything for a picnic. On the 14th evening she did not speak about a picnic but she said Mr. Seneviratne was going with Mr. and Mrs. George de Saram to visit an estate on the following Monday and they might want something when they were going and wanted some pattis made. Alpina makes the pattis. I supervise it. Mrs. Seneviratne told me that at about 10 that night, after I got the collection—that was after she came back from Mr. Seneviratne's room. Terence got his head between the bars of the cot on two occasions about 3 or 4 months before Mrs. Seneviratne's death. Sometimes it was difficult to release the boy. In spite of that they used that cot as the other bed was not ready for the boy. About 2 or 3 months before Mrs. Seneviratne's death they arranged to get the other bed ready. It was lately that they arranged to get the bed I had for the boy. They did not take so long as 3 or 4 months to arrange to get another bed ready for the boy. Just before the 14th October Terence slept on a certain cot. That cot was in the house for 3 years. (To COURT: That was my cot.) There was no other cot in the house. The bed I was sleeping on they wanted to give Terence and there was a spare bed and I was to take it. That spare bed was in the house from the time we shifted from Arbuthnot Street. All three beds were there from the time we came to Duff House. Mrs. Seneviratne assaulted Jessie for about 10 minutes with her hands—did not use a club or stick. She did not assault me Alpina Jane or Banda. She used to assault Seelas and Martin the boy who was looking after the fowls. I know that Mr. Alwis wanted to abduct the boy because Mr. Seneviratne told me that he wanted the boy and that at any time when he (Mr. Seneviratne) was not home he (Mr. Alwis) might come and remove the boy. He said Mr. Alwis might want the boy but did not tell me that he actually attempted to take the boy and that he refused. He said Mr. Alwis might come for the boy but did not say anything about a previous attempt. The sisters abducted me. When I was teaching the little boy they asked me to get into the car and I got into the car. I would have gone if the sisters called me at any time. I was not so fond of Accused's employment that I would not have gone at any time.

Further  
cross-exa-  
mination.

CROSS-EXAMINED (with permission): Sometimes in the house I do not wear shoes. On the day the sisters took me I did not wear shoes. I went into the room and put on my shoes and came. The servants did not prevent my going. To COURT: The sisters did not call me to go and stay but said that the sisters wanted to speak to me. Then I went.

(This witness was recalled *see* No. 11, page 45.)

## No. 10.

## Evidence of Udaganage Seemon.

## UDAGANAGE SEEMON—affirmed.

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tion.

EXAMINED : 15, domestic servant, living at Radawana. I am also called Seelas. I was employed under the accused for about 3 years. I first came under his employment when he was living at White House. From there I was continuously under his employment. I was paid Rs. 2/50 a month. I remember some visitors coming to the house on the 14th October. I know them. They were the gentleman and lady from Aturugiriya. That is Mr. & Mrs. George de Saram. They came about 9 p.m. and sat for dinner at about 9.15 p.m. Mr. & Mrs. George de Saram and Mr. & Mrs. Seneviratne sat for dinner. I served at the table. The dinner passed alright. There was nothing unusual. (To COURT : Mrs. Seneviratne took her meals. There was no liquor. I cannot remember that definitely.) I cannot recollect any liquor being taken by anybody that night. All had dinner as usual. Mrs. Seneviratne was wearing something like a gown. I cannot describe it. Sometimes she wears that. When visitors come usually she comes dressed in a saree. That night she came with a gown. I cannot remember any other occasion on which she came dressed like that. (Police Court evidence on this point read.) (To COURT : A kimono is a long dress like a shirt. She was wearing a dress like that when she sat for dinner that night. Sometimes when her relations visit them she comes out with a kimono. I do not know whether Mr. & Mrs. George de Saram are relations of our lady—may be related. After dinner Mr. & Mrs. Saram left. Then I was in the pantry. When they were leaving Mrs. Seneviratne went to the front verandah. I did not notice where she went from there. I saw her going into her room. I did not see her going anywhere else before going into her room. The only thing I saw after dinner was the lady going towards the front verandah with the visitors and after that going into her room. I have no idea where Mr. Seneviratne went. I had to clear the table. Banda closed the doors. I went and slept in the front verandah. Simon, Banda, Martin and Thomisa slept with me in the front verandah. Nothing happened in the night to disturb me. In the morning at about 6 a.m. I got up. I cannot remember whether the others had got up by that time. I went to the tap near the kitchen and washed my face and went into the servants' room and wiped my face and combed my hair. Then I went to the pantry. My duties are in the pantry. In the morning my duty is to set the table. I cleared the table removing some cups and plates which were on the table and then spread the table cloth. That is the table in the actual dining room—not the spare dining room. When I was preparing the table I saw my master and Martin feeding the fowls at the back verandah just opposite the window. Just after that I heard some noise from the direction of the lady's room. (To COURT : When I heard that noise I was in the pantry wiping the plates.) I heard as if the lady was calling Alpina. (Witness reproduces the sound he heard). To COURT : I cannot say whether it was a male or a female voice. That

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sound came from the direction of the lady's room. It was not a very loud sound, but a fairly loud sound. I cannot say whether it was a long drawn sound or a short sound. The fowls were also making a noise there.

*Q.* Why did you draw the conclusion that it was a human being's voice—was it different to a fowl's cry? Fowl's cry is not similar to that sound I heard. I drew the conclusion it was my mistress' voice because it came from the direction of her room.

*Q.* Why did you draw the conclusion that it was a call for Alpina—may be for you?—*A.* That is how I heard. I heard as if Alpina was being called.) The sound was not so much as three syllables "Al-pi-no." Then I went up to Alpina and told her. I heard that sound only once. I did not run but walked from the pantry. I know that Alpina was in the kitchen. Jane had gone to her village for her father's death. In the morning I did not see Alpina going to the kitchen: because Jane was not in the house I concluded that Alpina must be in the kitchen cooking meals for the servants. That is why I went to the kitchen also because I thought the sound was a call for Alpina. When I was going to the kitchen to call Alpina I did not see my master and Martin in the back verandah. If I wanted to look at them I had to turn and look. I called Alpina and came back. Alpina did not run. When I went to the kitchen the driver was also there. I do not know whether the driver said anything. I told Alpina "I heard as if the mistress was calling you: go up there and see." I have no recollection whether I saw my master and Martin when I was returning after calling Alpina. From the kitchen I went to the pantry. Alpina went to the lady's room. After that I prepared the table. Alpina told me to fill two bottles with hot water. When Alpina came out I asked her what was the matter and why she went there. She told me that the lady was unwell. She did not tell me anything else. She did not ask me for anything else. She asked me where the brandy bottle was. I saw her taking the brandy bottle. I did not notice her going into the lady's room with the brandy bottle. I did not give Alpina anything else. I did not see her taking anything else except the brandy bottle and 2 bottles of hot water. She first took the bottles of hot water and then took the bottle of brandy. I filled 2 bottles of hot water and gave her. I cannot say how many more bottles she took. Sometime after that Alpina told me that the lady died. In the meantime I did not gather that the lady was very bad. The bottle of brandy was asked for and taken in a hurry. The hot water bottles were also taken in a hurry. I did not see anybody else doing anything. (To COURT: I did not hear my master calling out to Simon.) From the time this enquiry started till now I have been living at Duff House.

Adjourned for the day.

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17th May, 1934. Accused present—same counsel as before.

UDAGANAGE SEEMON. Affirmed. (EXAMINATION CONTINUED.)

I do not remember that I said yesterday that when I was between the pantry and the dining room I heard the cry. (To COURT I was in the

pantry for the purpose of laying the table.) I saw accused when I was taking the plates and arranging them. That was before I went to the dining room. I cannot remember whether I saw Martin and the accused when I went to the dining room. I did not see the accused. (To COURT: I cannot remember whether the accused was to be seen when I was in the dining room. I said so in the Police Court. My mind was clearer in the Police Court). It was after I came back from the dining room to the pantry I heard the cry. I was wiping the plates when I heard the noise. Then from there I went to inform Alpina about it. When I heard the  
 10 cry I did not see the accused and Martin standing at the spot.

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CROSS-EXAMINED: I was in the pantry when I saw Mr. Seneviratne and Martin feed the chickens. Thereafter I went to the dining room to lay the table. When I was in the dining room not a single person could go to Mrs. Seneviratne's room without my seeing it. (To COURT: On either side if anyone went to the lady's room I could see it through the spare room. I commanded the view.) If my master went along the verandah anybody near the table was bound to see Mr. Seneviratne. I came back to the pantry and heard the sound. At the time although I may not have been able to see Mr. Seneviratne or Martin I could hear the conversing. I gave  
 20 evidence at the inquest on 7th November. I cannot remember that I told the Coroner that when I heard the cry my master was feeding the fowls. I said I saw Martin feeding the fowls. Those chicken coops extend right along the verandah. There were 15 or 20 in a row. I cannot say that Mr. Seneviratne found fault with Martin for giving the chickens rice and water but I heard a talk although I could not follow it properly. I did not hear that he ordered him to give broken rice. He said something which I could not follow. He had moved further up the verandah. (To COURT: It was towards his room.) The coops extend from the pantry window towards his rooms. (To COURT: From the pantry I could see through  
 30 the venetian windows as they were open). There is a series of glass shutters in the spare dining room. (To COURT: The shutters are still there). I was paid by Mrs. Seneviratne. I was engaged by her. My father and my grandfather were in her parents' employ. I have no interests in trying to shield Mr. Seneviratne. My sister is working with the deceased's grandmother. I served the dinner the previous night. There was roast pork. (To COURT: She used to take roast pork. I believe she did). It was not a formal dinner but an ordinary dinner which they shared. The dinner consisted of roast pork as a course, rice and curry. After dinner Mrs. Seneviratne went towards the hall. (To COURT: The dinner was  
 40 served in the spare dining room, the small one). It was the one alongside the verandah. (To COURT: It was near the glass windows. That morning I was laying the table in the large dining room. It was because in the morning it is not used on account of the smell.) The morning meal is taken in the large dining room. The dinner and noonday meal is taken in the room alongside the back verandah. The reason was that there is a smell in the morning on account of the chicken coops. This is washed

Cross-exa-  
 mination.

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mination—  
*continued.*

every morning with Jeyes Fluid. We know it as Waha Tel. It is from that dining room that anyone going into my mistress's room must come under my observation. Mrs. Seneviratne went into the hall after dinner the previous night. I cleaned up the plates and went to have my dinner. When I came back a considerable time later I saw Mrs. Seneviratne coming in the direction of the accused's room. (TO COURT: I saw her coming along the spare dining room.) I do not remember her calling for Alpina after she went into her room. I have no recollection that Mrs. Seneviratne asked Alpina to switch the light. Thereafter the doors were closed. Banda locked up one door for which there is a key. We all then slept. The following morning I got up about 6 or so. I went and washed my face and went to the pantry to attend to the morning meal. (TO COURT: Roughly I get up at 6 o'clock in the morning.) I cannot guess how long after I heard the cry. I told the Coroner and the Police Magistrate I got up at 6 a.m. I told the Magistrate that it must be about 6.15 when I came to the pantry. It was after sometime I heard the cry. (TO COURT: I cannot fix the interval between my coming to the pantry and hearing the cry.) I suppose it must be a few minutes. I did not see Miss Mabel Joseph going away. I saw the car going with the cook and the driver. (TO COURT: I heard the car going. I cannot remember the time between the cry and the car going away. I told the Police Magistrate that I heard a gurgling sound. The sound came in the direction of the Mistress' room. I concluded that she was wanting Alpina. No male servants ever go to the lady's room. I went to-wards the kitchen where I expected to see Alpina and found her. I said the sound was ending in "O." The lady was frequently in the habit of calling Alpina as Alpino. Alpino is a term of endearment. I went to where Alpina was and told her that I thought the lady was wanting her. I told the Police Magistrate that I heard as if Alpina was wanted. At the time I saw the driver in between the tap and the kitchen. Alpina and I went back. Alpina went to the lady's room when Alpina came out she asked me where the brandy bottle was. I indicated the safe where it was. It was thereafter that she took the hot water bottles. I assisted in filling two bottles. I then learned that there was some trouble in the room. Mrs. Bandaranaike was brought in the car and thereafter the car brought Dr. Paul. Alpina told me that the lady had died. I have no recollection that I saw the boy Martin after the sound. Martin is rather deaf. He is a little boy. (TO JURY: I cannot remember whether there was any special preparation for Mrs. Seneviratne.) (TO COURT: She takes the same food. No special food was prepared for her.)

Re-exa-  
mination.

RE-EXAMINED: Ordinarily the master and the mistress take the same kind of food. No special dishes were prepared for the lady. The lady paid me. I cannot say where the money to pay me came from the lady's private purse or from the gentleman. I do not know whether the accused gave money for expenses. I have no particular enmity against the accused. I have lived at Duff House since the inquest proceedings started. Mr. Abeysinghe the Proctor for the accused gives me money for my meals.

The other servants Thomisa and the driver are there. They are fed there. Last night Alpina was at Duff House. I did not speak to her about the evidence in the case. Alpina did not tell me about the case. I did not speak to anyone else about the case. (TO JURY: I made a mistake about the brandy.) I did not tell anybody about this matter. It occurred to me that I told Alpina about the brandy bottle. (Shown Plan.) I cannot understand the plan I know the room where the child was. There is a door leading out of the child's room. (TO COURT: If that door was open one could not see from the main dining room anyone coming in). I know the doors leading from the lavatory to the garden. There are four doors. If any one of the four doors were open any one coming in could not be seen. I was in the dining room. I know the room between the dining room and the spare room. That door was open I know the door from the spare room to the lady's room. There are two doors, one door is always closed. I cannot remember about the other door. (TO COURT: When I heard the groan I was in the pantry. I looked in the direction of the lady's room. When I looked the door was closed. I did not look whether the door was closed before I heard the cry. I have no idea whether I saw the night light when I was moving about.) I remember the door between the nurse's room and the big dining room. I know the room along the room where I lay the table in the morning. There is a door between the two. I cannot remember whether it was open in the morning. I know these outer doors are generally open in the morning about 6 a.m. I do not know whether the doors of the child's room are open about that time. I do not understand even a little English. I do not know English at all.

CROSS-EXAMINED (with permission): I know the child's door leading from the child's room to the compound, is always kept closed. (TO JURY: From the peculiarity in the sound I concluded that it was a call for Alpina, and that it was nothing unusual) (TO COURT: It ended with the sound "O". I did not think it was a new sound. Because I heard the sound "O" I went to inform Alpina) (TO JURY: I cannot remember whether the outer door of the child's room was ever opened before he gets up.

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cross-exa-  
mination.

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**No. 11.**

**Evidence of Mabel Joseph (recalled).**

MABEL JOSEPH. (recalled, sworn).

(TO COURT: Next to Mrs. Seneviratne's room is the nursery. There is a door leading to the compound. In the day time it is opened. When I left for church the door was closed. When I came from church that door was closed. The next room is the child's study. Next to that is my room. The dotted line shows the route I took to go to church. To get ready to go to church I went through the child's study and the nurse's room. I left by the dining room to the verandah. The room between is open in the

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day and closed at night. Banda opens the doors. I locked the room door next to the front verandah. I went through that. My clothes are inside. When I left for church I closed it. I lock it when I go out as my clothes are in it. The door leading to the verandah is locked from inside. The other door leading to the dining room is opened and closed from the inside. Nobody can get into the nurse's room from the front verandah. The study is between the child's room and the nursery. The door is locked from inside. It is locked in the night. Each night the nurse's room, the dining room, the child's room and the lavatory doors are closed from inside. I did not see whether they were open.

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RE-EXAMINED : During day the door leading to the verandah from the child's room is closed. Sometimes I open it, sometimes Alpina. Banda does not open it. I did not open the door opening from the child's room to the verandah on the 15th. It was never opened at any time on the 15th. I cannot say whether it was opened by Alpina. It was not open because when I came from church it was closed. I do not know whether it was open the whole day. It may have been opened some time during the day. When I returned from church and came to Terence's room the door was open. I came long after her death. I was anxious to see her. I came in the car. I alighted in the portico. I got inside. The car stopped in front of the child's study room because there were several other cars in the portico. Mr. Leo de Alwis car was there and Mr. Harry Dias Bandaranaike's car a little further from the portico towards the garden. One was under the portico and the other a little further away to the west. I came from the east and stopped at the child's nursery. I attempted to go in from there. The study door was open and Seelas was there at the door leading to the nursery. I do not know about the other door. (To COURT : The other door was closed. Afterwards I saw that the door was closed. When I came from Mrs. Seneviratne's room Terence was in the room at that time. I am quite positive about that. Terence was in his pyjamas. I called him to change. He was following me). I met him in the verandah and followed me. It was the verandah in which the study room is. From there I came through the spare room and went into the lady's room. Then I went to the child's room to ask him to change. It was not very dark. I did not open the window. The windows are generally kept open. That was the time I observed the door closed.

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Cross-exa-  
mination.

CROSS-EXAMINED (with permission) : The lavatory doors are kept closed all night and day. The cooly comes once a day. Alpina or I stand by till the man cleans the bathroom and then it is closed. Unless someone is watching the lavatory doors are kept locked. (To JURY : I sometimes open the door of the child's nursery. During week days it is opened at about 9 o'clock before he leaves for school. It is not usually opened before the child gets out.

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## No. 12.

## Evidence of G. A. Alpina (recalled).

GANGODAWILA ARATCHIGE ALPINA (recalled, affirmed).

(To COURT: I know the doors. There are three rooms the child's room, the nursery and the nurse's room. I sometimes closed the outer doors of the child's nursery and the child's study I close but not as a rule. It is only when it occurs to me. On some days Miss Joseph used to open the doors for the child to study and if she did not do it I used to open them. I remember the Sunday. I did not open the outer doors. I cannot definitely say whether the door of the middle room was open. After I left Mrs. Seneviratne's room to go to the kitchen I did not open any outer doors.) I only know that Banda opens and closes the front doors. I cannot say whether he opens or closes the other doors. When Miss Joseph goes to church I have noticed the outer door is locked. The door leading to the child's study has a bolt to close from the outside but the door leading to the dining room has a padlock. There are two bolts in the upper part of the door. Sometimes the door between the nurse's room and the dining room is left open. Sometimes it is locked. On that day I did not look whether the door leading from the verandah to the child's study was closed. After the death of my mistress later in the day I saw it open. Later the door from the nursery to the study was left open. The back doors of the lavatory are always kept closed. The inner doors are left open. The cooly comes in at about 11 a.m. When I go to the kitchen I always go through the lady's room or the nursery. Either Miss Mabel or I open the door for the cooly. I do not know whether it is possible to open the lavatory doors by design.

CROSS-EXAMINED (with permission): Men servants are allowed in the rooms in case of work we could not attend to such as cleaning the roof or lifting heavy weights.

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## No. 13.

## Evidence of G. A. Banda.

GANGODAWILA APPUHAMILAGE BANDA. Affirmed.

EXAMINED: I am 18 years old. I am a domestic servant. I am now living at Malwana. I am a brother of Alpina. I was employed for 7 months under the Seneviratne's. My duties were to sweep the verandah and also arrange the things in the drawing room. I also go to the boutique. I lock up the doors at night. (To COURT: I close only the doors leading to the hall and dining room.) I do not close the door leading from the child's study to the outer verandah. The door leading to the nurse's room is kept closed. The door leading to the child's nursery is closed from the inside. On the 14th I closed the doors. I slept and got up in the morning. I slept with the other servants. The other servants except Martin had got up. I got up and opened the doors which I had locked. (To COURT: I locked the door

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leading to the dining room from the back verandah.) Then I came to the hall and opened the doors leading to the front verandah. I opened the door near the telephone box. From there I came to the child's study from the outer verandah and opened the door. (TO COURT: Then I washed my face at the kitchen pipe. I got up about 6 a.m. Then I opened the door leading from the child's study to the verandah. I remember the Sunday when I opened the door. All the inmates were asleep. Then I went to the kitchen tap.) I saw the servants Simon, Seelas and Thomisa at that time. Simon is the cook. I saw Sima putting a kettle to boil water. Seelas was washing his face. Thomisa was feeding the fowls. Just close by to the tap there is a table on which food for the fowls is kept. I saw him mixing fowl food. Martin was near about the other verandah making food for the fowls. Then I started sweeping the outer verandah in the direction of my master's room. (TO COURT: When I was sweeping Mr. Seneviratne opened the door and came out.) When Mr. Seneviratne came out he was in the outer verandah. He spoke to me. He told me to take two papers when the newspapers are brought. (TO COURT: It was the Sunday Times and the Observer. They are bought from one boy who comes to the outer verandah. He asked me to take delivery of them. He did not ask me to buy. The boy comes back again to take the money.) After talking to me about the papers he went to the front verandah. (TO COURT: When he asked me to bring the papers I continued sweeping.) Mr. Seneviratne went to the front verandah. I did not see him speak to anybody else. (TO COURT: I did not notice him.) A short while after he came to the hall I lost sight of him. He came to the back verandah to feed the fowls. (TO COURT: After an interval I saw him coming through the hall. At that time Miss Joseph asked me to get the rickshaw.) When my master came to the verandah I did not see Miss Joseph. After asking Martin to feed the fowls, I saw him there. Martin was also there. I noticed him there but after he moved further up. While sweeping I lost sight of him. (TO COURT: I was sweeping towards the front verandah. I cannot say how long it was before I lost sight of him.) I took a short time to sweep the verandah. When I was sweeping Miss Joseph asked me to get the rickshaw. I was then sweeping the front verandah. I did not see the accused at that stage. Miss Joseph asked me to get the rickshaw. It is left in the stable near the firewood shed. (TO COURT: I did not come from the front of the house.) I had just passed the portico when I saw him coming with it. I told him Miss Joseph wanted it. (TO COURT: I came back to the verandah and began to sweep the verandah.) Just after I got out to call the rickshaw Miss Joseph came and got into the rickshaw. She asked me because she did not see the man coming. I do not know whether she had to wait a long time. (TO COURT: The rickshawman's name is Peera. It is true that I stated to the Police Magistrate that I told Peera to bring the rickshaw. Just as I was getting out of the portico I told him to bring the rickshaw. He was in a line with the portico of the child's nursery.) I called him when he was bringing the rickshaw. Then Miss Joseph got into the rickshaw and went. I continued to sweep. I did not finish the verandah. (TO COURT: After Miss Joseph left I swept

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all along the front verandah. I was at one end of the verandah which I first had to sweep. I was sweeping towards the nurse's room. I cannot say how long it took. The rickshaw went by the left hand side. I did not go to the gate to see if the boy brought the papers. Mr. Seneviratne wanted me to bring the paper immediately the boy brought the paper.) When I was engaged in sweeping the verandah, the car went off. (To COURT: The next incident I remember was at that time I was sweeping the low verandah. I did not hear any noise.) I saw the car going. I saw the driver and Simon. (To COURT: I was sweeping at the lower verandah. The car went 10 on the right hand side.) It was on the opposite side of the rickshaw. (To COURT: I did not think it was due to something.) The car sometimes starts early to buy things from the shop. (To COURT: I saw the car going with Simon and the driver. Just as I finished sweeping the lady from Bambalapitiya came. I took a long time to sweep. It is my usual time. (To COURT: I was sweeping the verandah from the time Miss Joseph went till the time Mrs. Bandaranaike came.) When the lady from Bambalapitiya came I went to the pantry. The car came under the portico. I cannot remember on what side it came. I saw her getting down. She went to the hall. I did not see her getting out. I was talking to Seelas. I cannot 20 remember how I went to the pantry. I cannot remember whether I went through the hall. (To COURT: I remember the paper had arrived at that time.) I cannot remember whether it was after the car went or before. (To COURT: I took delivery of the papers and placed it in the outer verandah.) When I took the papers my master was not in the place where the fowls were fed. I went to the back verandah and looked for him. He was not to be seen. The paper boy said he would come later for the money. My master asked me to bring the paper. I looked for him and in fact I did not go in search of him. I thought he must have gone to the lavatory. I went to the back verandah where he used to feed the fowls. 30 He was not there. I went to his office room. I looked through the door. He was not there. I did not look in the bedroom. I thought he was in the lavatory. I kept the 2 papers on a chair just outside the office room. After placing the papers I came back to the verandah. (To COURT: The car went before that.) Miss Joseph had gone when the papers came. Mrs. Bandaranaike had not come. The papers were brought after the car left and before Mrs. Bandaranaike came. (To COURT: I did not see Mr. Seneviratne at that time. I did not see him going to the child's nursery.) In the Police Court I mentioned about the papers. I said that I followed Mrs. Bandaranaike and spoke to Seelas. I went to speak to him to ask 40 him why Mrs. Bandaranaike came. I thought it was a strange thing for her come early morning. Seelas told me that the lady was unwell. I did not ask him where the master was. I did not ask him where Alpina was. I did not ask who was attending on the lady. After that I remained a short while until Dr. Paul came. I was waiting there. I only asked him about the lady's sickness. I cannot remember anything else. I saw Alpina carrying two bottles of water I did not speak to Alpina. That time I did not clean Mr. Seneviratne's room. I usually clean his room. I clean his dressing table,

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not daily but once a week or so. There are two almirahs in the room. I do not know what it contains. I have not seen him taking any medicine from the almirahs. I do not know he keeps medicines. One or two phials of cinnaquin are kept outside. I do not know what is kept inside. I do not remember a bottle like P.4 on his table. I have never seen a bottle like P.46 before.

CROSS-EXAMINED : I never saw Mr. Seneviratne speak to anybody in the verandah. The only key to the main building is in my possession. With that I open the door leading from the back verandah in the morning. I began sweeping close to Mr. Seneviratne's room. This is where my master asked me to take delivery of the papers when they were brought. I know the paper boy Hinniappu's son Simon. He brings the Sunday papers. The week's papers are delivered as a matter of course. (TO COURT : My master does not get the evening papers.) They are taken delivery of only when Mr. Seneviratne is at home. Simon brought the papers that day. That was after the car had left. I am quite certain of that. When Miss Joseph asked me to fetch the rickshaw I was sweeping the western end of the verandah. That front verandah consists of a broad verandah ending at Miss Mabel Joseph's dressing room. It is 15 feet broad, fairly broad. There is a lower, narrower verandah besides. That extends along the house. The lower verandah has got a number of flower pots and lots of corners. It would take a long time to sweep. I was paid Rs. 5/- per month and food. (TO COURT : There is no coir matting in either verandah. It is bare floor. The upper floor is tiled. I was sweeping this upper section of the verandah when Miss Joseph wanted the rickshaw. At her request I shouted at the portico when I found Peera coming with the rickshaw. If Mr. Seneviratne came to the verandah I was bound to have seen him and even thereafter. After I found him going to the back verandah to feed the chicken. I did not come to the front verandah. From where I was I could not see Seelas. In December last when Mr. Seneviratne was taken into custody I went to my village. I am now working as a rubber tapper. As a matter of fact I was fetched from my village to indicate to the Police where I was sweeping to make a plan. (TO COURT : When I swept the extra verandah in the morning I did not sweep the child's study. I cannot remember when I swept this verandah. I swept the verandah along the child's study. I remember Mrs. Bandaranaike came just when I was finishing sweeping. It was near the child's study. I had swept the other side. When I was cleaning the upper front verandah I could see the hall. When I was sweeping that side I did not see the accused at all. (TO JURY : I saw Miss Joseph getting into the rickshaw. I saw Alpina take water bottles into the lady's room. I cannot say what was the interval. I came back and resumed sweeping. I saw Mrs. Bandaranaike come. I cannot give any idea of time. When I saw Mr. Seneviratne he was dressed in his pyjamas. In the mornings he is usually in his pyjamas. (TO COURT : He wears sandals. I gave evidence before the Coroner. If I told the Police Magistrate that the car came 10 or 15 minutes after Miss Joseph left it must be correct. I cannot remember now.

(Adjourned for lunch.)

## GANGODAWILA APPUHAMILAGE BANDA. (Continued.)

RE-EXAMINED : In sweeping the lower verandah I started from the west and went sweeping towards the child's study. When I was sweeping there I can see the hall at the doorways. I can see part of the hall only. (To COURT : Between the 2 verandahs there are big pillars.) From the lower verandah I can see the dining room near which the chicken coops are kept, but not the other dining room. I am now engaged in rubber tapping. I was served with a summons and I came to Colombo on Sunday by bus. My sister came with me. We were not both staying together from Sunday.

10 I was staying at Duff House and my sister was at Mt. Lavinia. After the trial commenced all those days I have been at Duff House and I have been provided with my meals. I do not know who provided for my meals—not the Crown.

(This Witness was recalled. See No. 17, page 61.)

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## No. 14.

## Evidence of W. G. S. Perera.

WITARANA GAMAGE SIMON PERERA—Affirmed.

EXAMINED : 38, Motor car driver under the accused still. I am employed under him as his car driver for the last 3 years. My quarters are in the room next to the kitchen. I sleep in that room. I take my morning tea outside, but the other meals are supplied by the bungalow. I take my meals in my own room. I remember the 14th October. The car is kept in the garage on the eastern side of the premises, practically in a line with the portico. I sleep in the room next to the kitchen. The rickshaw man sleeps in the garage. On the 14th we went to an estate about 12 noon. My master, his child, 2 servants Davith and Delkolaya and I went. Delkolaya was employed at the Newala Farm to look after cattle. After that was closed he was looking after Kowdana estate belonging to my master. Davith used to transport cattle. We started from the bungalow that day

20 at 12 noon and went to Maligawa estate at Weekka belonging to a relation of my master and we visited other places and returned to the bungalow at about 8.30 p.m. I had my dinner as usual and went to sleep. On the 15th I got up at about 6.30 a.m. As soon as I got up I went to the tap close to the kitchen to wash my face. I cannot say the exact time. It was about 6.30 a.m. When I was washing my face I heard a noise. (To COURT : I had not been long at the tap when I heard that noise. Therefore I can say that I heard that noise about 6.30 a.m.) It is not possible for me to reproduce that same sound but as far as I can I will try to do it. (Witness reproduces the sound as "ah-ah-ah." When I heard that sound

40 I told the ayah who was in the adjoining kitchen, that is Alpina. I told her that I heard some noise from the direction of the lady's room and asked her to go up and see. (To COURT : the noise came from the direction of the

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lady's room. It was not a loud sound but fairly loud sound.) It was loud enough for me to take notice of. Those days there were lot of chickens and poultry on the premises and they used to make a lot of noise, particularly in the morning. The sound which I heard was sufficient to drown all that noise and to take notice of. I did not tell Alpina what I thought the sound was. I connected the sound with the lady because the end of the sound appeared to be as if it was a call to Alpina. That is why I told Alpina. I told Alpina that I heard as if the lady was calling her. (To COURT: Because the sound came from the direction of the lady's room I thought the lady was making that noise to call Alpina. I heard only one voice.) 10  
About the same time I told that to Alpina the boy Seelas came and told her something. By that time I had finished what I had to say. I did not hear what Seelas told her, but I distinctly heard him tell her something. I did not wait to recognise what he said. Then I went back to my room, put on my coat and got ready to go to the boutique. I got out of my room and went about 10 or 15 paces. Then the cook Simon came running up to me and said that the car was wanted to fetch the gentleman at Bambalapitiya. He did not tell me at that time that the car was wanted to bring any other person. On my way back from Bambalapitiya the cook told me that Dr. Paul was also wanted. I cannot remember whether I told the Magistrate that the cook told me that Dr. Paul was also wanted. I went with the cook to Bambalapitiya. (To COURT: There is a clock in my car. I saw the time. In the Police Court I stated the time I got into the car. If it is recorded that I said I got into the car at 6.40 a.m. that is correct. The gentleman at Bambalapitiya lives at 12th Lane. From Duff House I took about 10 minutes to go there. (Witness' Police Court evidence read. "The cook said that I have been asked to bring the Bambalapitiya Walauwa Hamuduruwo. Simon did not mention any other name. He did not say that we were asked to bring Dr. Paul.") What I mean is that he did not tell me then that Dr. Paul was also wanted. 20

Q. When did it first strike you that the cook told you later on your return journey that Dr. Paul was also wanted?—A. It struck me only just now. I brought Mrs. Bandaranayake to Duff House and she and the cook got down. Then it did not strike me to go and bring Dr. Paul immediately. (To COURT: It was on our way to our bungalow from Bambalapitiya that I was told to bring Dr. Paul also.) Before I opened the door of the car and got down at Duff House Mrs. Bandaranayake herself came back running to the car and asked me to drive to Dr. Paul's. (To COURT: I was asked to bring the gentleman but he was not there. The lady took hardly 5 minutes to get into the car. It took 10 minutes to come back to the bungalow.) After the lady got down at our bungalow I stopped the engine. I kept the engine stopped till the lady came back to the car again. She came back immediately afterwards and told me to drive to Dr. Paul's bungalow. Then I re-started the engine and drove to Dr. Paul's. We reached Dr. Paul's about 7/10 or 7/15 a.m. (To COURT: I told the Magistrate that it took about 3 minutes for the lady to get into the car at her bungalow. We started to go to Dr. Paul's bungalow at 30

\*7.30 a.m. and we took about 10 minutes to go to Dr. Paul's. We got there about 7.15 a.m. At Dr. Paul's bungalow I got down from the car first and knocked at the door. A servant came out. I told him that Dr. Paul was wanted as our lady was ill. The servant took the message and immediately Dr. Paul came out dressed in a banian and verti cloth. Immediately he came out the lady spoke to him. Then he went in and dressed up and came into the car. Then I drove the car to Duff House. (To COURT: We came to Duff House about 7.30 a.m.—just about an hour after I heard the sound. The interval between my hearing the sound and Mrs. Bandaranayake's arrival was about  $\frac{1}{2}$  hour.) Dr. Paul got down from the car and went into the house. He asked me to bring his bag. Mrs. Bandaranayake followed him and I took the bag and followed her. I did not see the accused at that time. (To COURT: As one enters the house there is a doorway on the left. That is the doorway next to the child's study. That is the passage between the child's bedroom and the nurse's room. We got in not from the extreme end of the verandah but at the middle of the outer verandah. The car was stopped at the centre of the portico. Then we got on to the verandah. Just as one gets on from the steps of the portico that is the way to the room. We had to go through the house and slightly turn to the left. We went through the house and turned to the left. We got into the hall.) As I entered I saw Dr. Paul handling the deceased lady. I saw the lady myself. She was lying on the bed with her head towards the wall and legs stretching out of the bed crossways. Her knees were just touching the bed. I did not see any marks on the lady's face. (To COURT: I did not enter the lady's room through the child's nursery. There is a doorway just near the spare room and as one enters by the steps he comes on to that doorway. I had to stop the car engine and then take the bag and go in. There was an interval between Dr. Paul going in and my going in. Until I got into the room I did not meet the accused. I did not see him even in the room.) Dr. Paul examined the lady and said she was dead. Then Alpina and Mrs. Bandaranayake started to cry; then I also started to weep and left the room in the same way I went in. (To COURT: I went back to the car. I came out and was thinking for a short while near the car and I saw the accused coming through some entrance up to Dr. Paul and talking to him in the verandah. I did not get out of the verandah. By the verandah there is a pillar and I was leaning against it and placing my hand on my chin I was thinking. Then I saw my master. I cannot remember by which door my master came out. I think he came from the same side where his rooms are. (To COURT: My master was wearing striped pyjamas suit at that time. Dr. Paul and my master were talking to each other about 20 feet away from where I was standing. I was standing on the verandah opposite the portico. If I stood looking towards the east they were about 20 feet away behind me. They were directly behind me. That is a broad verandah. They were near the entrance to the hall. Accused called me and gave me money to buy petrol and asked me to go and drop Dr. Paul. I went and dropped him. On the way Dr. Paul got down at the Cinnamon Gardens Police Station,

*In the  
Supreme  
Court.*

Evidence  
for  
Prosecution.

No. 14.  
W. G. S.  
Perera,  
17th May,  
1934.

Examina-  
tion—con-  
tinued.

\* sic.

*In the  
Supreme  
Court.*

Evidence  
for  
Prosecution.

No. 14.  
W. G. S.  
Perera,  
17th May,  
1934.

Cross-exa-  
mination.

and I came back to the bungalow about 9 a.m. Then I was asked to fetch Miss Mabel Joseph. After dropping the doctor I came with Miss Joseph to the bungalow at about 9 a.m. After dropping the doctor I did not come back to the bungalow and then go and bring Miss Mabel. On the same trip I went to drop Dr. Paul I went and brought Miss Mabel Joseph. After accused spoke to Dr. Paul and after accused gave me money to buy petrol he asked me to come with Miss Joseph. After I brought her to the bungalow I attended to my work. Before I went to fetch Mrs. Bandaranayake I did not see the accused at all. I did not see a newspaper boy. I did not see a Tamil man coming.

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CROSS-EXAMINED : I am fairly certain that I got up at about 6.30 a.m. that morning. I gave the identical time to Mr. Tennyson when he held the inquest proceedings and also to the Magistrate. Having got up I came to the tap and rubbed my teeth and washed my face and I was rinsing the water from my face with my fingers when I heard the sound. The fowls were about 20 fathoms from where I was. The turkey run was close to where I was. I heard this sound fairly audibly and I thought the lady was calling Alpina. Just then Seelas also came and told Alpina something. I went back to my room and put on my coat and walked about 10 to 15 paces intending to go and have my tea at the boutique, when the cook Simon came running up and wanted the car.

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Q. What interval of time would you think elapsed of your hearing the sound and the cook telling you that the car was wanted?—A. I think hardly 5 minutes had elapsed. There is a telephone at Duff House. I took the car out of the garage. I do not know whether there is a telephone to Mrs. Bandaranayake's bungalow. When Simon and I started off in the car the car clock indicated the time as 20 to 7 a.m. I did not see Peera taking the rickshaw out when I got up that morning. The rickshaw is kept in the room next to mine. When I got up the rickshaw had gone. I brought Mrs. Bandaranayake as soon as possible. She lives by the sea in the lane opposite the first Hindu temple. I do not know that Joachim's garage adjoins that lane. That lane is just opposite a tea boutique. The car touches the trees on either side when going through the lane and I have to go very slow down the lane and coming back to the road I have to come cautiously. That is not a widened part of the Galle Road. At Duff House Mrs. Bandaranayake got down from the car and went in and came back to the car immediately and asked me to drive the car to Dr. Paul's. She did not take much time. She came in her home clothes. (TO COURT : I first went to Mrs. Bandaranayake's instead of to Dr. Paul's because that was the cook's message. When I was driving the car there I did not know that my mistress was very bad.) Dr. Paul was not ready and he had to dress up and come. At Duff House the doctor examined the lady and said she was dead. On the 14th October Mr. Seneviratne and the child went to Mr. Francis Seneviratne's house. I do not know whether Mrs. Seneviratne was averse to my master going to that house. I drove my master and lady, the child and Miss Mabel for the Christening ceremony of Mr. and Mrs.

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Francis Seneviratne's child. I do not remember in what month that was. It was about 2 months before this incident. After I spoke to Alpina and when I was coming out of the kitchen on 15th morning I saw Martin at the tap. As I came out he came from my left to the tap that is from the direction of the main building. I am certain I heard only one sound. Mr. Leo de Alwis did not ask me what I know about this matter. If he says that I told him I heard 2 sounds, that is true.

*In the  
Supreme  
Court.*

Evidence  
for  
Prosecution.

No. 14.  
*continued.*

No. 15.

Evidence of K. Simon.

10 KALANCHIDEWAGE SIMON. Affirmed.

No. 15.  
K. Simon,  
17th May,  
1934.  
Examina-  
tion.

EXAMINED: 26, Cook. All these days I was staying at Duff House. I get a salary for being at Duff House. I was paid for last month and I expect salary for this month too. Besides myself the others at Duff House are Banda, Seelas and driver and Alpina. They are living on the same terms as myself. (To COURT: Alpina is also at Duff House for the last two or three days. Before that she was in her village.) I was at Duff House throughout from the time of this incident till now. I have been under the accused for about 8 years, and am paid Rs. 10/- a month. My duty is only to cook for the lady and gentleman and their child. Usually  
20 as soon as I get up I go to the kitchen and kindle a fire and keep the bottle to boil water. On the 14th October night we all slept and on the 15th morning I got up and went to the kitchen at about 6 or 6.30 a.m. I put the kettle on the hearth; before that I did not wash myself. After placing the kettle on the hearth I went to the pipe near the kitchen and washed myself. The driver also washes near that pipe. I did not see the driver when I went to the pipe that morning. I did not see anyone. I have no recollection whether I saw Alpina or not. Before I went to the pipe I did not hear any sound. After I washed myself I heard a noise. (To  
30 COURT: Then I was combing my hair in our room next to the kitchen.) I heard a sound like "kau." I heard as if that sound came from the open ground behind our room. That is the open ground where a church was being built. (To COURT: I did nothing when I heard that sound. I did not attach any importance to that.) I have no recollection whether I saw Seelas after I heard that sound. I am not deaf. Hearing that sound I looked in the direction of that open ground and saw two little children near the tap in that garden and I thought those boys made that noise. From my room I went to the kitchen and from there I went to my master's room to enquire what meals I was to prepare. I did not go into my master's room. He was not there. I did not know that he was not in the room.  
40 When I was going towards my master's room I saw Alpina running from the direction of my master's room towards the lady's room. When I first saw Alpina she was on the back verandah coming up. She was going

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tinued.

towards the deceased's room. She was not carrying anything. When I first saw Alpina she was coming somewhere near about the middle door leading from the dining room to the verandah. I was near about the kitchen. Alpina came running from the direction of my master's room. At that time she was about the middle of the back verandah. That is the verandah next to the dining room. That is where the chicken coops are. I saw her running from the western side towards the eastern side. I did not notice anything in her hand. I did not see her carrying anything in her hands. I have no recollection whether she was carrying any bottles. When I saw her I asked her where she was running to. I did not ask her "Where are you running with those bottles?" She did not reply. Then I followed her up to the door leading to the lady's room. From the back verandah Alpina got on to the dining room along the pantry and through the spare room. She went between the two almirahs. I did not see anyone else when I was following Alpina. Then I looked into the lady's room I saw my master in the room. He was stooping down near the lady, having a book or something in his hand. He appeared to be fanning her. (Witness shows how the accused was fanning by moving hand from side to side.) He had something like a book in his hand. I saw the lady on the bed. He was standing with the book in hand. He was not doing anything with the book. He was standing near the lady's legs which were hanging down from the bed. He was bending. With a book he was fanning like this (indicates in the same way as before). With a book in the hand he was bending down and doing this with the hand (same motion). It appeared to me as if he was fanning. He was distinctly fanning. (To COURT: He was slightly bending. He had something in his hand. Something like a book. I saw that book move slightly. I concluded that he was fanning.) (Police Court evidence read—"Mr. Seneviratne was just standing—not doing anything.") I cannot remember whether this is correct. I just ran behind Alpina up to the lady's room. I did not hear anybody calling me. I went up to the door. Then my master asked me to go on the cycle and bring the Bambalapitiya Hamuduruwo. Alpina went into the room and stood behind my master. I did not see her giving him anything. The cycle is kept in the room next to where I sleep. I did not take the cycle. I went about 2 or 3 fathoms and turned back. I went as far as the door leading to the verandah and then went back and asked my master whether I was to take the car. I wanted to take the car as that was quicker than cycling. (To COURT: He then called out to me and said "Simo, go and fetch Bandaranayake Hamuduruwo and Dr. Paul. On the 2nd occasion I did not go inside the room but stood outside. The door was open. I did not see my master then. When I asked my master whether I was to take the car he said alright. The door was open and I could look into the room. I saw the lady lying across the bed. I did not see the lady lying on the bed. One shutter of the door was closed. On the 1st occasion also only one shutter was open. On the 2nd occasion I looked into the room. Then I saw my master—he was doing nothing. He was standing in the same position as before: with the book

in hand. I did not see Alpina at that time. I did not speak to my master first on that occasion. I waited there. When one goes up to the door he could see. He saw me. He turned towards me and told me "take the car." I spoke to him first. I asked him "Am I to take the car." Then he said "Come with Dr. Paul also." Because Mrs. Bandaranayake's house is closer I went there first without going to Dr. Paul's first. (Police Court evidence read: "Mr. Seneviratne was just standing not doing anything. Mr. Seneviratne asked me to fetch the Bambalapitiya Walauwa Mahatmaya and Dr. Paul. He asked me to go by bicycle to Bambalapitiya first.")

10 That is correct.

Q. You made that statement in the Police Court and here you said that your master first asked you to bring Mrs. Bandaranayake and after going a short distance you turned back and went and asked whether you were to take the car and it was then that your master asked you to bring Dr. Paul also. Which of the two statements is correct?—A. I do not know which statement is correct. I told the driver to go to Bambalapitiya and fetch the Hamuduruwo. I cannot remember whether I told him anything about Dr. Paul. (Police Court evidence read: "I did not tell the driver about Dr. Paul. Then the car went again. I do not know where it went. I did not ask the driver to bring Dr. Paul.") I do not know whether that statement is correct. I have no recollection whether at that time I told the driver anything about Dr. Paul. I went to Bamabalapitiya and brought the lady. That morning I did not see my master till I went up to the room and saw him in the room fanning the lady.

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CROSS-EXAMINED: I am of the Wahumpura caste. Peera is my brother. I have a licence to drive a car, but I could not get a job as a driver. So I started working as a cook at Rs. 10/- a month. In the Police Court I was pelted with questions by Crown Counsel and I was not allowed to come out with the story as I wanted. That morning I went in the car to bring Mrs. Bandaranayake. That is correct. I went there at the request of my master. I mentioned that fact to the Coroner and to the Magistrate. On the 7th November to the Coroner I stated "Mr. Seneviratne told me to go on my cycle and fetch Dr. Paul and Mrs. Bandaranayake. He did not tell me to whom to go to first." (To COURT: My master asked me to fetch Dr. Paul and Mrs. Bandaranayake, but did not tell me which one to fetch first. First he told me to go on a cycle. That is right. He left the choice to me which one to fetch first. Then it occurred to me that it was better to go by car.) Then I went and stood by the door and asked my master whether I am to take the car. Mrs. Bandaranayake came to the bungalow and left in the

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To JURY: No visitors stayed the night over on the 14th nor were there any visitors. There were visitors for dinner on the 14th night. On the 15th morning when I followed Alpina up to the lady's room I have no recollection whether I saw anyone else.

CROSS-EXAMINED (with permission): Mr. Seneviratne ceased to be the tenant of Duff House from the 31st January last. I do not know whether

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No. 15.  
K. Simon,  
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tion—con-  
tinued.

Cross-exa-  
mination.

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Mr. Fred de Saram as attorney for Mr. Negriz looks after the house now. We have been asked to stay in the house and look after. I am still staying at Duff House because I have to cook meals and take my master's meals to the Wellikada jail 3 times a day.

No. 15.  
K. Simon,  
17th May,  
1934.  
Re-exa-  
mination.

RE-EXAMINED: I made a statement to the Police (on the 2nd November) I have no recollection whether I did not mention Dr. Paul in that statement.

No. 16.  
D. Martin,  
17th May,  
1934.  
Examina-  
tion.

No. 16.

Evidence of D. Martin.

DALUGAMAGE MARTIN—affirmed.

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EXAMINED: 14, domestic servant. (TO COURT: I am of the Goigama caste.) I have been under the accused's employment for about 1 year and 4 months. I am still under his employment. I remember the day the lady died. That morning I got up. I was sleeping in the front verandah with the other servants. Having got up I washed the cups and saucers in the outer verandah where the chicken coops are. Food is given to chickens in these cups. After having washed them I brought some cooked rice and water and mixed that and gave it to the fowls. There is one room in which morning tea is taken and another room where breakfast and dinner are taken. I took the cooked rice from the dinner table at which 20 they take their breakfast and dinner. The doors and windows were open at that time and I was able to get into the dining room. When I was giving the food to the chickens my master came from his room along the back verandah. I know his 3 rooms. He came along the verandah in front of his 3 rooms and then got on to the verandah in which the chicken coops were. That is how he came. I am sure that is the route he took. He told me that some chickens had to be taken to Kettawa and asked me to take the food kept for the chickens and put it in the vessels placed for the ducklings. After that he told me to go to the kitchen and bring some broken rice (hunusal). It was at the same time that he told me to feed the 30 ducklings and to bring the broken rice. This conversation took a short time. Then I went direct to the water tap to wash my hands as I had mixed the rice and water. Then I went to the broken rice which was kept on a plank in the kitchen. I took some broken rice into a small box which was there and then came back to where the chickens were. I do not know how long that took. I did not delay long. When I came back to where the chickens were my master was not there. When I turned to come away from the kitchen I did not see my master. When I was going to wash my hands I saw the driver coming out of the kitchen and going towards his room. After I washed my hands and was going towards the 40 kitchen I saw Alpina and Seelas going towards the dining room. I did

not hear them speak anything. (To COURT: Leaving my master I came to the kitchen to take the broken rice. After my master spoke to me I took the rice to the ducklings which were closer to my master's room. I got down from the back verandah to the ducks' pond. I fed about 10 ducklings. I left my master and went to feed the ducks. I did not see my master after that for some time. Having fed the ducklings I went to get the broken rice. There is a fence and a door in that fence and I had to pass that door and go. I went through the compound at the back of the house. I got on to the verandah. When I came back with the  
 10 broken rice I did not see my master. I went to the pipe and washed my hands as there was rice on my hands. Then I saw Alpina and Seelas going.) I put the food to the ducklings and came away, but did not wait there till they finished taking their food. After my master spoke to me on the back verandah till I heard that the lady was dead, I did not see my master. I saw Alpina and Seelas going towards the dining room. They had nothing in their hands. (To COURT: Alpina was going from the kitchen.)

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Court.*

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D. Martin,  
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Examina-  
tion—con-  
tinued.

CROSS-EXAMINED: I have been under accused's employment for one year and four months. I was given food and clothing and once in a way given a rupee. I remember the night before the day the lady died. That  
 20 night I slept in the front verandah with Simon, Thomisa, Banda, Seelas. Being the youngest I am the last to get up. That morning when I got up the others had already got up. Then the front doors had not yet been opened. After I got up I first washed the cups—not my face. I had 20 cups to wash. There are 20 coops. After that I put rice and water into each of those coops and placed them under each chicken coop. That took about 20 minutes. By that time my master turned up. He found fault with me for giving rice and water to the chickens. He asked me to go and give that to the ducklings and give broken rice to the chickens. I had to take out the 20 cups again and put the food in all those to one plate. Then  
 30 I took the bigger chickens from the different coops and put them into one cage. My master himself was engaged in selecting the chickens. That also took about 20 minutes. Then I went and placed the plate of rice and water for the ducklings and then went to get the broken rice. On the way to get that I went to the tap to wash my hands. Till I went to put the food for the ducklings my master was on the back verandah. I had to take the plate of rice and water and keep it over a big tree where the ducklings were. I merely go and place the plate of food there. When I was going towards the pipe I saw the driver going towards his room. When I was going to the kitchen I saw Alpina and Seelas going towards the dining room. (To  
 40 COURT: After washing the hands when I was getting over the steps I saw them). When I went back to where the chicken coops were my master was not there. I did not hear any groan or any other sound. I am a bit deaf and I stammer a little.

Cross-exa-  
mination.

RE-EXAMINED: To be taken to Kottawa about 10 big chickens were selected and placed in a bigger cage in the same verandah. My master was there when they were placed in that cage. I did not see him leaving.

Re-exa-  
mination.

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Re-exa-  
mination—  
*continued.*

(To COURT: The important job I did with my master that morning was selecting the bigger chickens to be taken to Kottawa). That is what my master did as soon as he came there. I cannot remember whether before to-day I mentioned about the selection of chickens to be taken to Kottawa. Before I came to Court today nobody reminded me of that. I did not discuss what evidence I was going to give (Police Court evidence read: "When I was feeding the chickens Mr. Seneviratne came there and asked me to collect the remnants and feed the ducklings"). That is correct. He asked me to collect the remnants. After the chickens had eaten the food I had to take the remnants and feed the ducklings. He also asked me to go to the kitchen and get the broken rice.) I gave my evidence in the Police Court long ago. After that the whole time I remained at Duff House. I did not discuss with anyone what evidence I was going to give. Nobody reminded me about the taking of the chickens to Kottawa. It struck me at once today. The bigger chickens were selected and put into a big cage and placed in the same verandah. That cage was on the same verandah a short distance away. I myself brought it and put the chickens into it. All that time my master was there. Till I collected the remnants my master was there—doing nothing. I had to take 20 vessels out. I had to wait till chickens in 20 coops had eaten. I do not know how many minutes accused waited there. Accused first waited till I selected the chickens and put them into another cage; he waited till all the chickens were fed; he waited till I took out the vessels and collected the remnants into another vessel and he also waited till I took the remnants to the ducklings. All that time he was standing there doing nothing. I do not know whether a newspaper was brought there. Till I did all this accused was there walking up and down. Anybody could have seen him. I do not know whether Seelas saw him. (To COURT: When I was going for the broken rice my master was there. After putting the food for the ducklings when I was returning I saw my master. I cannot remember what he was doing then.

Q. According to a newspaper (Independent) you are reported to have said that when you were going to get the broken rice your master was sorting chickens. Is that correct?—A. I do not know. He started sorting chickens after I placed the food for the chickens in the coops and before I left with the food for the ducklings. (To JURY: When I first saw my master that morning I had finished washing the cups and was putting the rice and water into the cups.)

Adjourned for the day.

## No. 17.

## Evidence of G. A. Banda (recalled).

18th May, 1934. Accused present. Same Counsel as before.

GANGODAWILA APPUHAMILAGE BANDA. Affirmed.

RECALLED: Q. You remember yesterday you were asked a very important question by the foreman. The question was this. What is your idea of the time between Miss Joseph's leaving for church and the time the car returned. Your answer was that you were not certain. You told the Police Magistrate "I saw the car come back. Mrs. Bandaranayake came in it. The car came 10 or 15 minutes after she left." This is what you said.—A. I cannot remember. Q. I want to know if your evidence is correct. Did Miss Joseph leave before the cry was heard. The car came at 7.03 so that the car came about after an hour. Have you any idea of what is a minute? (No answer.) Q. How long have you been in the box?—A. About 3 or 4 minutes. Q. Are you sure that it was 10 or 15 minutes?—A. If I have stated so it must be correct. It cannot be correct when contrasted with the evidence. It must have been about one-third of the time. (No answer.) Q. Did you see the car going?—A. Yes I am sure. Q. I thought you told the Magistrate that you heard the car going.—A. No I said that I saw. Q. The car leaving that morning? What is the meaning of it you must have seen the car or did not see it. No Answer. Q. At the inquest you said you did not see the car going. You told the Police Magistrate "I saw the car coming from somewhere. In the interval I saw or heard nothing. (No answer). Q. Again you say after 15 or 20 minutes you say the car returned.—A. I cannot remember. Q. Did you see the car going.—A. My recollection is that I saw the car going. Q. Can you say the interval between the car going and coming.—A. No I cannot say.

*In the  
Supreme  
Court.*

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Evidence  
for  
Prosecution.

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No. 17.  
G. A. Banda,  
(recalled),  
18th May,  
1934.

## No. 18.

## Evidence of G. Thomisa.

30 GODAGAMPOLADEWAGE THOMISA. Affirmed.

EXAMINED: I am 17 years of age. I was a domestic servant looking after the fowls of the accused. I was employed for about 6 months. I came under his employment at Duff House. Now I am not there. I am with Mr. Abeysinghe. Proctor for the accused. I am not still living at Duff House. I am at Mr. Abeysighe's bungalow at Castle Street, Borella. In Duff House there are several poultry runs practically on every side. Some runs are on the east, some on the west from the garage to the firewood shed. Some are near the road on the west side. I went to sleep on the 14th on the front verandah with the other servants. I got up on the 15th morning at 6 a.m. After getting up I went to the lavatory to wash my face and took

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the food for the fowls. At that time I saw Alpina in the kitchen. (To COURT: I cannot say how high the sun was up. It was not dark.) I went to wash near the tap at the kitchen. When I went to wash I saw Alpina. She was preparing sambal. (To COURT: After washing the face I went to feed the fowls. I saw Miss Joseph leave. I was feeding the fowls. When I went to wash I saw Alpina preparing the sambal. (To COURT: I cannot remember seeing the driver. I remember better when I gave evidence in the Police Court. (Q. This is what you said in the Police Court. (Police Court evidence read: When I was washing at the tap, I saw the driver cleaning his teeth. I also saw Alpina in the kitchen preparing food for the servants. Does that refresh your memory. You were particular in mentioning about the teeth.—A. I cannot remember now.) I did not see Martin in the verandah. I did not see the master anywhere. After washing my face I took the food for the fowls. I took the fowls food from the room next to the servants' room. After washing I went to that room and took the food for the fowls. I took the bran and went to feed the fowls. I went along the stable near about the kitchen and passed the stable. I went to the front of the house. There is a fowl run just opposite the portico. I passed the bird cage and went to the front of the house. (To COURT: That is not near the fountain. There are some trees near about.) I could see the front verandah from the poultry run. I could see the driver. I saw Miss Joseph going in a rickshaw. (To COURT: When Miss Joseph left I had been feeding the birds for about quarter of an hour.) I did not see Miss Joseph in the verandah. When I caught sight of her she was in the rickshaw and she was going. (To COURT: I saw her near the gate. She was getting out of the gate.) I passed the bird cage and went to the fowl run when I saw Miss Joseph going. (To COURT: From there I could see the verandah. I just saw Miss Joseph going.) After that I saw the car going out. I saw the car going out along the drive out of the garden. I saw Sima and the driver in the car. That is all I saw. I did not see the car returning. I cannot remember seeing Dr. Paul coming. I know on Sundays the newspaper boy brings the paper. I did not see the boy. I did not see any Tamil man coming. I could see the portico although there are palm pots placed hear and there. I did not see my master before Miss Joseph left. Between the time Miss Joseph left and the car went I did not go to the side where the chickens are left. I did not see Mr. Seneviratne in the front verandah. (To COURT: After Banda got up I remember I did not see him. I did not see Banda sweep. I did not hear Banda call the rickshaw. I did not see him sweeping the outer verandah. I did not notice him sweeping for half an hour. I did not see him take a newspaper nor the boy giving him a paper. I did not see the newspaper boy come and go. I was occupied in giving food to the fowls. After finishing feeding the fowls I went. I cannot give the exact time. It was about 7.30. Then I went towards the kitchen. I did not then know what happened. Alpina was weeping at the time. It must have been after Dr. Paul came. I do not know whether the car came back twice. I do not know at which time Dr. Paul came. I saw Simon and the driver. I did not see the car coming

back twice. I did not remain at one place. There are fowl runs all along. The fowl runs are wiremeshed. In some places there is gunny. The car went along the high road and the drive but I did not pay any particular attention. I do not seize the fowls and feed them. There is a receptacle for the food and I come away. I have to keep the water. It takes about 1½ hours to attend to all the places. I cannot give an exact time for each run. I keep the food and make them to eat it. I do not put it into their mouths. There are about 10 sheds all round. There are about 4 in the western side opposite the garage. On the east there are 3. (To COURT :  
 10 I feed all sides. I was walking from east to west.) Up to the top beam it is about 5 feet high (shows height). I feed one side before I went to the other side and first the front side. Then I went to the eastern side. I saw Simon and the driver going in the car before I finished that side. I cannot remember how long I was engaged on that side, but after giving the food I came away. After feeding the fowls and cleaning the place and sweeping it, it is nearly 10 o'clock every day.

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CROSS-EXAMINED : I do not know whether everybody but the learned Deputy Solicitor General knows that the fowls were seized by the Fiscal and sold. I do not know whether Mr. Abeysinghe had obtained a release of the seizure saying that he would see that the fowls would be sold and the money  
 20 paid in. I do not know whether this suggestion that Mr. Abeysinghe was keeping the fowls is untrue. (To COURT : All that I know is that some of the fowls are still there. I do not know whether Mr. Abeysinghe might have bought some himself.) I do not know that they were seized by the Fiscal and sold and bought by various people. I was in the village. I do not know whether Mr. Abeysinghe got married last December and set up house in January this year. I came on the 2nd January. (To COURT : He got married two or three days before I came. I cannot remember the exact date. There were seven big fowl runs. I said 4 on the left and 3 on  
 30 the right. In addition there are certain small coops where cocks are separated from the pullets. In the morning I take bran mash. There are two large turkeys. They consume half a bucket of bran. I have to replenish it before I complete my round. (To COURT : I do not come back to the kitchen. All along I distribute the food, one bucket for each. The bucket is 1½ feet deep. I do not merely put bran I have to put water in the dishes. I have to wash the dishes and put fresh water. I have to sweep and clean each of the fowl runs. That is what I said took 1½ hours. I was engaged in my work and did not notice the car going out. These things happened over 6 months ago. (To JURY : I saw Mrs. Seneviratne that  
 40 morning after Dr. Paul came. Once I went in and looked.) (To COURT : She was dead then.)

Cross-exa-  
 mination.

CROSS-EXAMINED (with permission) : I am actually employed as a car cleaner.

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No. 19.

Evidence of V. K. Peera.

Evidence  
for  
Prosecution.

VEYANGODA KALANCHIDEWAGE PEERA. Affirmed.

No. 19.  
V. K. Peera,  
18th May,  
1934.  
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tion.

EXAMINED : I am 40 years of age. I am living at Duff House. I am employed as rickshaw cooly. I have been employed from my childhood attending to odd jobs. The cook is my younger brother. I am paid Rs. 7/50 a month. On the 15th morning I took my rickshaw up to the portico. I had instructions from Miss Joseph who asked me to bring the rickshaw. (To COURT : On Saturday evening she told me to bring it on Sunday morning.) She goes to church every Sunday. I know the time. It is as soon as I get up. I bring the rickshaw. When I get up I did not notice whether the other servants were up. I sleep in the garage. The rickshaw is kept in the room next to the car driver's room. In that room I keep the rickshaw. I saw the car driver sleeping. I did not see anyone up. I brought the rickshaw to the portico. Miss Joseph was in the front verandah. She was standing waiting for me. I was taking the rickshaw and I cannot remember whether anybody called. I took Miss Joseph to church. I waited till service was over. (To COURT : When Miss Joseph got into the rickshaw I did not see Banda. I did not see Banda at all. I did not hear his voice. I did not see Thomisa. I know Thomisa works in the fowl runs. If he had been there I should have seen him. He was not there and I did not see him. When I was at Church the car driver brought the car to take Miss Joseph saying that Mrs. Seneviratne was dead. (To COURT : I know that there are two services in the morning. The first service was over.) I did not see any Tamil man in the verandah or in the garden when I was going. I do not know a woman called Jessie.

Cross-exa-  
mination.

CROSS-EXAMINED : Nil.

TO JURY : I knew the first service was over because all the people were coming out.

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No. 20.

Evidence of G. de Saram.

GEORGE DE SARAM. Sworn.

EXAMINED : I am a planter living at Homagama. I know the accused and the deceased. I am not related to them. My wife is a cousin of the deceased. She is also a cousin of the accused. I am very friendly with the accused's family. I used to visit them. The accused was searching for a land my wife wanted to purchase. The accused took quite a lot of interest. In fact he wrote a letter to my wife. I got a postcard addressed to my wife (Shown P.39). This is the postcard I received. (To COURT : It was addressed to my wife. The postmark is illegible but it is dated 11th October.) When

I received the postcard I visited the Seneviratnes on the day before the death. I am not certain whether it was the 14th. (To COURT: The postcard is addressed to my wife by Mr. Seneviratne.) I did not send a reply in writing. Instead of that I visited them. I remember the death was on Sunday. I went there on the previous day. I came about 4 in the evening. This was my first visit. We met Mrs. Seneviratne. Mr. Seneviratne was not in. I spoke to Mrs. Seneviratne and went away. We came back again about 6 or 7 in the evening. Mrs. Seneviratne was in. Mr. Seneviratne had not come in. We decided to wait. No one was there. (To COURT: Mrs. Seneviratne came out and talked to us.) It was quite an ordinary conversation. (To COURT: She was dressed in a kimono.) It did not strike me as peculiar at that time. (To COURT: It is rather a handsome garment.) I do not know what she was doing when we came in. Then the accused came in. (To COURT: She was quite normal.) The accused came in round about 7 o'clock. I am not quite certain about the time. (To COURT: He was also quite normal.) Mr. Seneviratne and his son come in. He spoke to me and I told him why we came. We wanted to go away. He suggested that we should wait for dinner. Mrs. Seneviratne also asked us to wait for dinner. We were in the front verandah. We had dinner. It was quite an ordinary dinner. (To COURT: Mrs. Seneviratne had the same food. We had roast pork and rice and curry.) At the dinner it was suggested that we should call on Monday morning to go to the estate. The party was to consist of my wife and I, Mr. and Mrs. Seneviratne and Thamby the broker. Dunagaha is about one hours run from Colombo. (To COURT: If I remember aright we were to call about 7 or 8 in the morning. We were going to make a day of it. My wife was going to bring the eatables. I am perfectly certain one of the ladies was to bring the eatables and one the breakfast. I left about 9.30 or 10 p.m. (To COURT: There was no unpleasant feeling. I remember when Terence came. Mrs. Seneviratne asked where he had been. Mr. Seneviratne said they had been to his brother's place.) Someone came to take Terence for his dinner. There was some conversation about his dinner between Mr. and Mrs. Seneviratne. Terence had been eating some sweets and Mrs. Seneviratne said it would interfere with his dinner. After dinner I went away. As a matter of courtesy they came right up to the car to see us off. We said farewell and went away. The next thing I got a telegram saying that Mrs. Seneviratne had expired on Sunday. I came down to the bungalow with my wife. I saw the body. I did not meet the accused before I saw the body. I saw that there were marks on the face. They seemed to be patches of skin of a darker colour. I only saw one side, the right cheek. The patches were irregular starting from the upper portion of the cheek and extending up to the jaw. I did not notice any other marks. I saw one side of the room. I stood in one side of the doorway. I saw the body perhaps on the bed or a couch. It must have been about quarter past five in the evening. I wondered what the marks were. I asked Mr. Seneviratne about it. (To COURT: I asked Mr. Seneviratne what those marks on the face were. He told me that it was due to brandy on the face. For the purpose of reviving her he said that froth was issuing from her lips and he wiped the mouth with any rough piece of cloth he could pick. I

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could not imagine what the marks were and I asked the accused what they were. Apart from brandy he did not mention anything else. He did not mention hot water bottles. I am quite sure of that. I thought that death was very sudden. I asked what the marks on the face were. As far as I can remember I do not think the accused told me how Mrs. Seneviratne died. (To COURT: He mentioned about some medicines she may have taken. He told me it was aspirin. I cannot remember where it was stated.) He told me that she had taken too much aspirin. My memory was fresher in the Police Court. My statement is correct. After the funeral I think we went back to Duff House but after that we did not go. I paid a visit to Leo de Alwis about 3 or 4 days after. When I went to Alwis' house there was conversation about the death. (To COURT: The conversation was between Leo de Alwis and myself. He told me that Mr. Seneviratne had shown the handkerchief that his sister had chloroformed herself to death with. There was no talk of chloroform at the time I talked to the accused. I am perfectly certain of that. Apart from speaking to the accused about the death I do not remember speaking about the death to anyone. (To COURT: I told the accused of the conversation I had.)

Adjourned for lunch.

GEORGE DE SARAM (continued.)

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Cross-exa-  
mination.

CROSS-EXAMINED: I am afraid my memory is not a good one.

Q. Would you pit your recollection of things against your wife's recollection of things?—A. Certainly not.

Q. You have been having worries of late?—A. Quite right. My present recollection is that when I went and saw Mrs. Seneviratne on the 15th evening I saw only her right cheek burnt. These marks were more irregular than linear. That is my recollection now. I saw marks on the right cheek alone. Linear marks as I understand will be ruled with a ruler—straight lines.

Q. Linear in shape means like the marks left by a cane. You will describe that as linear?—A. I am not sure about that description but I understand you now. It was a patch on the side of the face, wider at the top than at the bottom, running something like this (shown how the patch was). Beginning with an irregular oval and tapering down. I am not perfectly certain of the colour of the robe she was wearing. My recollection now is that it was more white than coloured. (Police Court evidence on this point read:—"She certainly was wearing white.") That is what I am saying now. She was wearing more white than coloured. I am not aware that Dr. Milroy Paul has said that she was in a blue gown at 7.30 p.m. when he went to inject formalin. He injected formalin after I got there. I am not aware that Mr. Charles Seneviratne was holding the electric light while the formalin was being injected. I was there, but I did not notice that. I heard that the operation was going on. That was after dusk. (P.C. evidence read out to witness "I saw some marks on the right cheek." That is correct. "These marks seem to be raw." That is correct. "They were

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streaks or bands about  $\frac{1}{2}$ " wide running down the cheek." That is different from your present description? Yes. "The marks were red. I did not observe the left side of the cheek." That is correct.

Q. In Cross-Examination you said "I observed 1 or 2 linear marks on the right cheek. They were not of uniform width throughout?"—A. That was my attempt to describe the difference in my first statement and when I was cross-examined.

Q. You stated to the Coroner "I reached the house at 5 or 5/30. I saw the body; noticed some marks on the face; both cheeks appeared raw; skin off both cheeks."—A. I have no recollection of that. I would not contradict if it is so recorded. I do not think I saw the other cheek. My present recollection is that it was an oval shaped mark. As a matter of fact no clear impression was created in my mind because the room was rather dark and I did not go very close to look. My recollection is that the accused told me that the marks were due to brandy being applied and brandy being wiped off with a rough piece of cloth and that possibly the marks were due to that. On the Sunday afternoon many people were calling at the house. Those marks were noticeable to anybody who went in. Everybody was asking how the marks were caused.

Q. If you were in a similar position and you did not know how the marks were caused you could only ascribe the probable cause for it?—A. Yes.

Q. One might give brandy; one might say some froth was wiped out; one might say due to hot water bottles—not necessarily that everything which passes through one's mind must be given to everyone who questioned? (No answer.) (Mrs. Leo de Alwis's P.C. evidence as to the causes for the burn marks given to her by the accused is read out to this witness.) Q. This statement of hers, if true, is a comprehensive answer coming from the accused so far as he could explain what the burns were due to. (No answer.) (To COURT: It is possible that accused may have mentioned all those reasons to Mrs. Alwis and given me only one reason.) To me accused only said that they were due to the froth from the mouth or due to the brandy, but did not mention hot water bottles. I myself do not know what the cause is, but I can only surmise.

Q. You stated to the Coroner "During dinner Mrs. Seneviratne said she wondered what you people (husbands) would say of us (wives) when we are dead and gone."—A. Yes.

Q. Then you said this "This was made a propos nothing"?—A. Yes.

Q. In the Police Court you said a propos Mrs. Tillekeratne.—A. I was not paying attention to the early part of the conversation. When I heard her say this and when I was questioned further about it, on further thought it struck me that perhaps the portion I had not been paying attention to might be the connecting link between that and that business about Mrs. Tillekeratna.

Q. The earliest impression in your mind when you gave evidence before the Coroner was that a propos nothing she made this remark "I wonder what you men would have to think of us when we are dead and gone"?—A. That is how it struck me then. When I got the telegram early

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morning that Mrs. Seneviratne was dead I remarked, "How strange that she is dead following on that remark of hers last night." I made that remark to my wife. I do not remember making that remark to my friends. I may have mentioned it to Mr. Forrester Obeysekera at the house, but I cannot remember. When Mrs. Seneviratne made that remark at dinner I quoted the Latin proverb, "De mortuis nil nisi bonum," and I explained it for her benefit and she was amused and said that she was not quite certain about it. I think Aunt Neeta referred to by Terence is Mrs. Francis Seneviratne.

Q. Deceased had forbidden the accused from taking the boy to Mrs. Francis Seneviratne?—A. So we hear now. (To COURT: I cannot remember from whom I heard that, but I heard the talk.) Mrs. Francis Seneviratne is a daughter of Mr. Fred. Dias Bandaranayake. I only heard that deceased did not like the accused taking the boy there. (To COURT: That did not lead to exchange of words between husband and wife. Q. Did you notice that her face fell?—A. I noticed to this extent that she spoke about the inability of the boy to take dinner as a result of eating sweets. I would not contradict my wife when she says that Mrs. Seneviratne's face fell when the boy said he had eaten cakes at Aunt Neeta's. (To COURT: Perhaps she may have known about the ill-feeling and noticed the deceased's face.) I did not hear Mrs. Seneviratne apologising for coming in a kimono or saying that she was having a headache. Accused had only brandy in the house and I told him I had only whiskies and if he had no whisky to excuse me. Perhaps the ladies may have been discussing things while accused and I were discussing the probability of a drink. I do not know whether Mrs. Seneviratne had complained to Reeni and Roxina that her husband had probably gone to Mrs. Francis Seneviratne's despite her asking him that very evening not to go there. I heard it afterwards myself. Accused mentioned the brandy and froth and told me that the marks may have been caused by one of those or both. There was no mention of chloroform to me when I went there. I do not know that Mr. Leo de Alwis says that about 3 o'clock somebody mentioned to him the possibility of the burns being caused by chloroform and that he went and asked Dr. Paul whether they were caused by chloroform. There were many people in the house at the time and I did not hear every bit of conversation that was going on in the house. Perhaps the possibility of the marks being caused by chloroform may have been discussed in the house without my hearing. My wife and I called on Mr. Leo de Alwis at Mt. Lavinia few days after this incident—about the 17th or 18th October. Then I was not shown a handkerchief, but told that a handkerchief had been handed to or shown to Mr. Alwis by the accused. (To COURT: If I have stated in the Police Court that Mr. Leo de Alwis told me that it was shown to him by the accused that would be more correct.) (Mrs. George de Saram's evidence which is in inverted commas is read out to this witness: "Two or three days later my husband and I went to Mr. Leo de Alwis' place." That is correct. "He had asked my husband to come." That is not so. We went there in the evening. We had to come about 19 miles from Homagama to Mt. Lavinia as we went through Colombo.

“ Mr. Leo de Alwis said that Mrs. Seneviratne’s death may have been caused by means of chloroform.” I suppose so. I would not contradict that. “ He said that someone at Duff House had shown him a handkerchief and that she may have used chloroform.” That is not what Mr. Alwis said. He told me that Mr. Seneviratne had shown him that handkerchief. He did not say that she may have been chloroformed. “ He said that Mr. Seneviratne had told him that he had given an ampule of chloroform to Mrs. Seneviratne for safe keeping.” A. I cannot remember that. He may have told that to my wife and I may not have been listening. I cannot contradict my wife because I did not hear it. (To COURT : I am not suggesting that my wife is telling an untruth. He may have told her that and I may not have been paying attention. There were other people talking there.) I do not know that Mr. Leo. de Alwis had an almsgiving in memory of his sister. To JURY : When the deceased made that remark at the dinner table I do not think the accused made any comment but my recollection is that he merely laughed.

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mination—  
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RE-EXAMINED : Did you consider the deceased’s remark as a joke or a serious one?—A. On the first occasion when I was asked I thought it had no bearing on anything. That is why I said apropos of nothing, but later when I heard about Mrs. Tillekeratne I thought it might have some bearing on that. I do not know what explanation was given by the accused to Mrs. Leo de Alwis. I can only speak to what explanation he gave me and that was that froth came out of the mouth and brandy was poured and he thought that it was caused by the wiping of the froth caused by brandy with a rough cloth.

Re-exa-  
mination.

Q. On that occasion when he suggested that death was caused by aspirin, was there any mention of chloroform. A. Not at all. If I am questioned about a thing which I do not know I would say I do not know. If I was asked how the marks were caused I would say that I do not know, but I would not suggest explanations.

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No. 21.

**Evidence of Mrs. G. de Saram.**

MRS. GEORGE DE SARAM—sworn.

EXAMINED : I am the wife of the last witness. I remember I had asked the accused to look for a land for me to purchase and in that connection he sent me a postcard (shown P.39). This is the postcard I got. As a result of this postcard we went to the accused’s house on Saturday morning. Mrs. Seneviratne is related to me as 3rd or 4th cousin, and accused himself is related to me as first cousin. My husband and I went to the accused’s house on the 14th October. Once we went there about 5 in the evening. Then Mrs. Seneviratne was in the house. I do not know what she was doing because she came out when we went. I do not remember how she was dressed at that time. I spoke to her and found that Mr. Seneviratne was not in the house. I told her that I had changed my mind and was not

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going to buy the land. We went away and came back to accused's house about 8 p.m. At that time Mr. Seneviratne had not returned, but Mrs. Seneviratne was in the house. She sent the maid to ask us to wait a little till she comes out. Then she came out and suggested that we should wait till Mr. Seneviratne comes and also that we should wait for dinner. When we were waiting there Mr. Seneviratne and his son came in the car and they spoke to us. We had a general conversation. After that we went for dinner. It was an enjoyable dinner. At dinner Mrs. Seneviratne was a little thoughtful, but apart from that there was nothing unusual. I do not know why she was thoughtful. While at dinner Terence who was some- 10  
where outside came and sat on his father's lap. At dinner no conversation took place about the boy. Before dinner Mrs. Seneviratne wanted the boy to go and have his dinner. He said he did not want to eat as he had had sweets at his Aunt's place. Then she did not make any remark nor did the accused make any remark. (To COURT: She was displeased about the boy going to the aunt's place. Her face fell as soon as the boy said he would not take dinner having taken sweets at the aunt's house, and she was very thoughtful. This aunt is the wife of the accused's youngest brother Francis Seneviratne).

I think she got displeased because he went to that particular place. 20  
Before that I know that Mrs. Seneviratne was against the accused going to that particular place. I know that of my personal knowledge. Therefore I concluded that she was displeased—not because of anything that happened then and there—she was thoughtful after that. (To COURT: By thoughtful I mean that she did not speak too much; otherwise she would have spoken). I may have told the Police that Mrs. Seneviratne was jolly and cracking jokes, but on further consideration I think she was thoughtful. Apart from the fact she was thoughtful the dinner passed all right. She took her meals and she spoke to me. (To COURT: Before the dinner Mrs. Seneviratne and my husband and myself had arranged in the verandah 30  
to go on the following Monday at 9 a.m. to see an estate. Mr. Seneviratne was not in the verandah when this conversation took place. At dinner we said we were going to see an estate on Monday and Mrs. Seneviratne also agreed to come. (To COURT: I was to bring the rice and Mrs. Seneviratne was to bring the pattis. We arranged that just before we left). I expected her to bring the tiffin and I was to take the breakfast. After dinner we left. Mr. and Mrs. Seneviratne accompanied us to the car, Mrs. Seneviratne was talking at that time in the ordinary way. I was expecting to go to the estate on Monday. On Sunday we got a telegram to the effect that Mrs. Seneviratne was dead. We came in the evening 40  
about 5 p.m. to Duff House and I saw the body. It was on a couch. I do not remember in what it was dressed. There was a little mark on a side of the face. I went near the body. I distinctly saw the face. It was just a little brown patch on one side of the face. I noticed only one side. The patch was on the right side. The mark was on the cheek. It did not come as far as the chin so far as I remember. I did not speak to anyone about the mark. I did not speak to accused about the mark. There was

sufficient daylight to see clearly when I went into the room. I think there were candles also lit at the foot and head. I saw the mark only on one side. (To COURT: P.C. evidence on this point read. "I saw some marks on both cheeks." That is possible. "Marks on the cheeks were brown marks. Linear marks on each cheek as wide as 2 fingers." I may have said that. "None on the eyelid—just a little mark on the tip of the nose." I remember there were marks on the tip of the nose and on both cheeks.) I do not remember to have spoken to Mrs. Harry Dias Bandaranayake about the cause of death. I think I may have asked her that question.

10 If you refresh my memory as to what I have said before I can say. If I have said that Mrs. Bandaranayake replied "She had taken an overdose of aspirin," she must have told me that. Yes, I think she told me that. I did not ask anyone else. Then I went away. The funeral was on the following day and I attended the funeral. Mr. Leo de Alwis asked us to come to his place one day. He asked my husband and he told me that we are asked by Mr. Alwis to come there. Both of us went to Mr. Leo de Alwis's place. We had no dinner there. We were having a conversation there discussing about the death. I do not quite remember as to whether he said what Mrs. Seneviratne died of. I remember a reference to a handkerchief—Mr. Alwis said that somebody brought and gave a handkerchief to him and that she must have used chloroform. I do not remember whether Mr. Alwis said he was shown or given a handkerchief, but he did not give us a handkerchief that day. I do not remember whether he said that accused gave him a handkerchief.

CROSS-EXAMINED: On the 16th October at the funeral Mr. Alwis had asked us to come to his place the next day. We went there on the Tuesday evening. We went through Colombo. No, we did not come through Colombo, but we went cross country which is much shorter. My husband said he wanted to go cross country. We did not come through Colombo. It is a long way through Colombo (Witness' P.C. Evidence read out to her: "Mr. Leo de Alwis said that Mrs. Seneviratne's death may have been by means of chloroform." I said that. "He said that someone at Duff House had shown him a handkerchief and that she may have used chloroform." I said that. I remember Mr. Alwis saying that accused told him he had given an ampule of chloroform to Mrs. Seneviratne for safe keeping.

RE-EXAMINED: I think our visit to Mr. Alwis was very soon after the funeral, maybe the Tuesday. It may be the following day because he wanted us to come soon and see him. I am not quite sure whether that visit was 2 or 3 days after the funeral. About a month or two after than when Abraham Livera was staying at Mr. Alwis' place we went there, but on that occasion we did not discuss anything about the cause of death and did not speak about accused telling Mr. Alwis that accused had given an ampule of chloroform to his wife for safe keeping. I am perfectly certain that Mr. Alwis told us when we visited him 2 or 3 days after the funeral that accused had told him he had given his wife an ampule of chloroform for safe keeping.

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Saram,  
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tion—con-  
tinued.

Cross-exa-  
mination.

Re-exa-  
mination.

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**No. 22.**

**Evidence of R. D. Bandaranayake.**

Evidence  
for  
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No. 22.  
R. D. Ban-  
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Examina-  
tion.

**REENI DIAS BANDARANAYAKE—sworn.**

**EXAMINED :** I am the wife of Harry Dias Bandaranayake and I live at Bambalapitiya in the house called "Carlton." It is in 12th Lane, Bambalapitiya. I am not sure whether it is next to Clifford Place. I know accused very well. I knew the late Mrs. Seneviratne too very well. She was my husband's sister's daughter. Accused is very distantly related to him. I am related to Mrs. Seneviratne. She was my father's cousin's daughter. I was very friendly with Mrs. Seneviratne. I used to visit them frequently. I remember the 14th October—the day before the death. On that day I visited Mrs. Seneviratne at about 4.30 p.m. My husband had gone to Gampola on that day. When I went to Mrs. Seneviratne's place Mrs. Chas. Seneviratne was there. That is a cousin of mine. All three of us paid a visit to my sister Mrs. Jayawardene at Colpetty. Mrs. Chas. Seneviratne, Mrs. Stephen Seneviratne, myself, my children and Mabel Joseph went to Mrs. Jayawardene's and returned about 8.30 p.m. and then I left for my house with my children. Mrs. Chas. Seneviratne left with her husband before I left Duff House. (To COURT : There is no telephone to our house.) On my visit I noticed nothing unusual in Mrs. Seneviratne. She was quite normal. She did not complain of a headache. On the 15th October between 6.30 and 7 a.m. I got a message. Accused's driver came with the car saying that Mrs. Seneviratne was seriously ill. I got into the car and went to Duff House. Before I went there there was no talk about going to a doctor in my presence. I got down from the car at Duff House and got in through the hall. I cannot remember exactly whether I went through the spare room. I got in through the hall and passed the dining room, but did not enter the deceased's room. I did not go through the nursery but through the spare room. I went up to the door which was open. I could see inside. I cannot exactly say in what position the deceased was. I did not distinctly see her. I saw Mr. Seneviratne in the room. He was lying by the side of his wife near the railings. I cannot say on which side of the lady. I believe on the left, but I cannot be sure. I did not see what accused was doing. I cannot remember whether there was anybody else in the room. Accused got down from the bed and standing near the bed asked me to fetch the doctor. I could see only deceased's head but not her face—not even the body. I cannot say why I did not see the body, but I did not see it. I asked accused what was the matter with her. Then he asked me to fetch the doctor and I went back to the car. (To COURT : As soon as I went up to the door he got down from the bed and seeing me he stood up and told me to go and fetch Dr. Paul. He mentioned Dr. Paul. He did not ask me whether I fetched the doctor as if he had sent a message. There is a telephone in that house. Because we are not on the telephone it did not strike me at the time to telephone. He asked me to fetch Dr. Paul or any other doctor. I am sure he said that. Dr. Paul being their family doctor, I went to him. After he

asked me to fetch the doctor I asked him what was the matter. He did not reply to that. I did not want to waste time by going in and looking. I thought she was very bad. I thought she had a fainting fit.) Accused was not excited. His bearing did not convey any very great urgency. When he asked me to bring Doctor Paul or any other doctor I did not think anything at the time. I was so excited that I just went back to the car. The accused was dressed in his pyjamas at the time. I cannot be too sure of the colour, but I think it was a pink coloured one. From the time I got down from the car and went in till I went back to the car not more than three

10 minutes had passed. I got into the car and asked the driver to drive to Dr. Paul's. When the car reached Dr. Paul's I told the driver to give the message to the doctor. When the Doctor came out I told him that Mr. Seneviratne wanted him immediately. Then he went in, dressed himself up and came out and got into the car. (To COURT: I told him that Mrs. Seneviratne was seriously ill. He did not ask me what the matter was. I cannot remember whether he asked me that. Both of us got down at Duff House and went into the room. I went first and the doctor followed. When I went in the accused was in the room in the same position. As we entered the room accused got down from the bed and left the room. (To COURT:

20 We got in through the same door. I believe accused went out through the dining room door but I am not quite sure. He went out of the room through the same door by which we entered—not through the nursery.) I cannot say whether we went in through the same door or any other door. Accused did not speak to me or Dr. Paul at that time. The doctor examined Mrs. Seneviratne and found she was gone. He told me that she was gone. Then I started crying. Then I saw Alpina. Besides myself and Dr. Paul there was nobody else in the room. Then the doctor examined the toilet table. Accused left the room and did not come in till I was in the room. After examining everything Dr. Paul left and then I also left. Till we left the

30 room accused did not come in again. I believe he was dressed in the same pyjamas when I went into the room a 2nd time. Dr. Paul examined the bed and dressing table also. I cannot remember whether he went into the dressing room but I do not think he went. He examined the dressing table, the toilet stand and the bed. I cannot remember whether he examined the teapoy. He did not examine under the bed at that time. During his examination there was a bottle of Pancreas salts and a bottle of aspirin and he took them. (Shown P.18.) This is the Pancreas bottle. (Shown P.3.) This is the aspirin bottle. This was on the toilet table near the window. I did not see him taking up any other bottle. (Shown P.4.) I

40 did not see him taking up this bottle. (To COURT: I think it took about 10 minutes from the time we went into the room and our leaving the room, but I cannot be sure of the time.) When Dr. Paul was telephoning Mr. Alwis I saw accused coming from his quarters and speaking to Dr. Paul. The telephone is in the spare dining room. Accused was dressed in the same pyjamas then, but I cannot be sure. I was present when he was talking to Dr. Paul but I do not know what conversation passed between them. On the first occasion I did not enter the room, but when I entered the room

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with Dr. Paul, I saw a faint whitish mark on the left cheek of Mrs. Seneviratne as far as I can remember. I cannot be sure how far it extended down. I did not notice it on the other side. (To COURT : The body was across the bed on her back. The legs were hanging down. I do not think they were touching the floor.) I cannot be sure how far the knees were from the edge of the bed. I did not notice the legs on the first occasion. I was in the house till the next day. About 9 or 9.30 a.m. I saw further marks. There were brownish marks—quite visible—on the tip of the nose, tip of chin and both cheeks and both eye lids. After I left the room with Dr. Paul. I did not enter the room again till 9 or 9.30 a.m. I was not afraid but I was sorry. (To COURT : The body was resting on the bed with the legs hanging down. She had a blue night gown. It did not reach right up to the heels. I cannot be too sure but it reached up to the calves or a little further down. I do not know whether ordinarily it would reach up to the heels. It looked a short one. If her legs were in the same condition when I first went in, that is an uncomfortable position for a lady.) When I asked Alpina she said that at about 5.30 a.m. as usual she got up; then Mrs. Seneviratne was sleeping as usual. She went to the kitchen and was doing something; then she heard someone screaming but did not take notice, but thought the child was playing with the mother. She said “ kehe-geheuwa ” (Screamed). She said she heard the scream. Then she heard a hoarse voice calling out “ Alpina.” (To COURT : I am quite sure of all this.) She did not say “ Alpino ” but “ Alpina.” She did not tell me the interval between the first scream and the voice calling out to her. Then she said that both the driver and Seelas came and told her that the lady was calling her and to go and see. Then when she went in she saw Mrs. Seneviratne stretched out on the bed unconscious. She said “ Enda uda vetila hitiya ” (lay fallen on the bed). I did not ask her where the accused was at that time. Just after Miss Mabel Joseph returned from church I asked her whether she knew that Mrs. Seneviratne was dead. She said that the driver told her that. Then I asked her how Mrs. Seneviratne was when she (Mabel) left the house and she said that Mrs. Seneviratne was sleeping peacefully. (To COURT : I did not ask Alpina about the marks.) Mr. & Mrs. Leo de Alwis came there. I asked Mr. Alwis what would have caused Mrs. Seneviratne’s death and he said that Mr. Seneviratne told him that Mrs. Seneviratne had been frothing at the mouth and nostrils and that he had been wiping it with brandy. When I went and saw the body there was no froth. I did not notice anything on the bed when I went, but I got a faint smell of brandy and I believe there was a tea spoon under her pillow. The bed clothes were not disarranged. I know Mrs. Seneviratne very well. She was possessed of much property. At the time of marriage I do not know how much she was worth, but I know that she had considerable property—she had big estates at Mahawellawatta—property unbuilt upon. She had a house and land at Dehiwala. Accused and deceased were not very cordial for some time—for about 5 or 6 years. (To COURT : They married about 11 years ago. I am not sure whether that was in 1923. Only one child is alive. One child was born in 1927, not stillborn. That child died 3 days after

birth. No child after that. They were not cordial after the child's death. The trouble between them was about lands and about the woman Jessie. Jessie was a servant woman in the house. Mrs. Seneviratne did not like her very much. For using her powder puff she was sent away. Mr. Seneviratne resented it and he did not want her to go. Mrs. Seneviratne herself told me that. I do not know that from the conduct of the parties. I did not hear from the accused anything. After leaving Seneviratne's, Jessie went home. I know that personally. I did not see her after that. I do not know personally where she lived afterwards. The trouble about  
 10 property was about the sale of White House and the sale of Nawala. The Nawala property was bought with Mrs. Seneviratne's consent as far as I know. It was bought in accused's name. It was sold about a year ago, or a little less than that. Mrs. Seneviratne did not like that sale. She did not want White House to be sold. I might have stated in the Police Court that the Nawala property was sold 2 months ago (from then) but I am not sure. She objected to that. White House belonged to accused, but Mrs. Seneviratne wanted Terence to inherit after his father. She did not complain to me that she did not like living in rented houses. Sometimes about the child they used to have some unpleasantness. (To COURT: When Mrs.  
 20 Seneviratne chastises the child for some naughtiness Mr. Seneviratne used to resent it. By "resent" I mean they used to exchange words.) They did not quarrel in my presence. Mrs. Seneviratne had been telling me that. When she was off her food I went and coaxed her to take her food—she used to go on hunger strike. One such occasion was after the sale of White House. Not lately to my knowledge. (To COURT: Mrs. Seneviratne was not a hysterical woman. I have never seen her in a temper. One day she said she saw a face near the window and that frightened her. It was a thief I suppose.) She did not actually say it was a ghost—might have been anything. Mrs. Seneviratne was passionately fond of her child. She was  
 30 about my height and build or even thinner than myself. She did not go for dances. She was not a very strong woman. (To COURT: She was very anxious about the boy at the least thing. I do not think I have ever seen her beating him. The only punishment was she would just wring him by the ear and put him in a corner.) I have children myself and I chastise them occasionally in spite of the fact that I am fond of them. The night dress Mrs. Seneviratne was wearing was wet. I noticed hot water bottles on the floor. That was when I went in with Dr. Paul. I did not notice them on the bed at that time. (To COURT: Dr. Paul told me at that time that she must have gone about 5 in the morning.)

40 CROSS-EXAMINED: I am quite sure that Dr. Paul told me that she had died about 5 in the morning. He did not come there so late as 7.30 a.m. but about 7 or quarter past 7. I am not sure. I gave evidence in the Police Court. I cannot be sure whether I stated in the Police Court that I reached Dr. Paul's about 7.15 a.m. because this happened about 6 months before. That is what Dr. Paul told me—it might be a mistake on the part of Dr. Paul. When I told him to try and revive her he said that she might have

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died at 5 in the morning. I might have told the Magistrate that I reached Dr. Paul's at about 7.15 a.m. I told the Coroner that I reached Dr. Paul about 7.10 a.m. That is quite correct. I might have told the Magistrate that when we got back to Duff House it must have been a little after 7.30 a.m. I do not say that as time goes my memory improves. This happened 6 months ago. Before to-day I was not asked whether Dr. Paul told me that the lady had died at 5 in the morning. I made 2 statements to the Police. I gave evidence at the inquest and in the Police Court.

*Q.* You did not then say one word about Dr. Paul or anybody else suggesting that this happened at 5 a.m.?—*A.* Not then. I was not put that question before. The message came to me between 6.30 and 7 a.m. that Mrs. Seneviratne was seriously ill. (To COURT: It was my own son who came and delivered that message to me.) I had been to Duff House on the previous day and taken Mrs. Stephen Seneviratne and Mrs. Chas. Seneviratne and Miss Joseph to Mrs. Jayawardene's another sister of mine. She did not say that the boy was taken to Mr. Francis Seneviratne's but she said that the boy was taken to Veyangoda. She did not say that she suspected the accused had taken him to Mr. Francis Seneviratne's. She did not tell me that she hoped he would not take the boy there. I am not aware that latterly she was very angry with Mr. Francis Seneviratne. She did not want him to go there. She did not like her husband going there. I know that Mr. & Mrs. Seneviratne had gone for the Christening ceremony of Mr. & Mrs. Francis Seneviratne's child, but I do not know the date. That was about 2 months before her death. They were the God-parents of the child. I do not know whether Mr. & Mrs. Leo de Alwis were not asked for that function. I was not asked for that function. I know that after that ceremony Mrs. Seneviratne did not want her husband to go to Mr. Francis Seneviratne's place. I do not know what her change of mind was due to. I never heard that Mr. Leo de Alwis was responsible for that. He is my nephew by marriage. He is my husband's sister's son. I am related to him otherwise also. Accused is only a connection but not a blood relation to me. Mrs. Chas. Seneviratne is my father's brother's daughter. Her Mother is my husband's sister. I live at Bambalapitiya and my cousin lives at Dehiwala close to Mr. Alwis' place. Why should we try to help Mr. Alwis in this case?

*Q.* Owing to the relationship?—*A.* Not at all. Certainly not. I come to Court daily with Mr. Alwis. Mrs. Chas. Seneviratne does not come to court with her husband but with me. I go for lunch daily with Mr. Alwis. I have a car of my own. My father and husband come in that car. I do not come in that. Our car is not so small for me also to come in that. It is more convenient for me to come in Mr. Alwis' car. Mrs. Chas. Seneviratne, myself, Mr. & Mrs. Leo de Alwis come in Mr. Alwis' car. Our car is rather an old one and it is not quite safe. That is why we come in Mr. Alwis car. Mr. Alwis' car does not go down our lane. From our lane we walk a few paces to another lane which is wide enough to allow Mr. Alwis's car to come down that lane. I do not think anything happened to

our car these days. My husband has a property at Pasdum Korale which is about 40 miles away and my husband visits that estate in our car.

*Q.* It is safe for him?—*A.* If it breaks on the way he could get in a bus. It has broken down, but I have not kept an account of how many times, but still he travels in it. Even before this case whenever we wanted lifts Mr. Alwis used to give us his car. I am not sure from when he started giving us his car, but we have gone fairly often in his car. Before this case we did not travel in his car. After this case we started travelling in his car.

*Q.* Your car was safe to travel before this case started?—*A.* I do not know, but I will have to say Yes.

*Q.* What was the trouble with Jessie?—*A.* Jessie was sent away for using Mrs. Seneviratne's powder puff. Mrs. Seneviratne did not tell me anything more about her. Mrs. Seneviratne was very upset over the sale of White House. She was not hysterical over it. I do not know whether she became hysterical, I never notice that she was ever hysterical. I used to go sometimes once a week and sometimes twice a week to accused's house and accused and his wife also called on me together about once a week and also whenever there was any function at my place. Mrs. Seneviratne never told me that she disliked living in rented houses. It is quite possible that she kept away a good deal of things from me.

*Q.* You said in the Police Court "She did not like White House being sold and she did not like to live in rented houses." Was that the mistake of the Magistrate or yours?—*A.* That might be a mistake of mine I suppose.

*Q.* By mistake you say things which are opposite to the truth?—*A.* I was misunderstood. I do not think I said that. I must have misunderstood the question when it was put to me in the Police Court and said Yes.

*Q.* You stated this to the Coroner:—"Mrs. Seneviratne did not like the sale of White House, but Mr. Seneviratne sold it."—*A.* That is correct.

*Q.* Then you said "She accused him of having sold it without her knowledge."—*A.* That is correct.

*Q.* Then you said "She told me she was averse to living in rented houses."—*A.* That is a mistake.

*Q.* You are deliberately altering your story that Mrs. Seneviratne told you she was averse to living in a rented house?—*A.* I am not deliberately altering my story. I cannot remember to have said that. The nurse and the Doctor who treated Mrs. Seneviratne will be able to say that she was never a hysterical woman. Mrs. Seneviratne was possessed of considerable property. Mr. Seneviratne sold the Nawala property I believe. That is what I heard. That was sold with his wife's consent. I do not know whether Wellawatta lands were not bringing any income. They were bare lands—unbuilt. With the proceeds of the sale of those lands two estates and Nawala farm were bought. I have not heard that Morahena estate was bought for Rs. 43,000/- in the name of Mrs. Seneviratne. I do not know that the bulk of the proceeds of the sale of Wellawatta lands was spent in buying estates in the name of Mrs. Seneviratne. I think Kottawa was Mrs. Seneviratne's property. I do not know whether it cost Rs. 43,000/-. I do not know what the Wellawatta lands were sold for.

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I do not know that 2/3rd of the proceeds of that sale were invested in the Kottawa property. I do not know that Mrs. Seneviratne had given the accused Rs. 14,000/- to buy the Nawala property. I do not know that part of the money which went to purchase Nawala was Mr. Seneviratne's. At Nawala there was a farm. I do not know that it was sold because it was run at a loss. White House is a fairly big house in Ward Place. I suppose if one has any income a big house like White House to live in is very good but if there is no income it would be simply be a White Elephant. An Estate belonging to the late Mr. French at Chilaw was bought by this accused with the proceeds of the sale of White House.

Q. At that time it was considered a fine acquisition—even by Mrs. Seneviratne?—A. Mrs. Seneviratne did not say anything about that purchase. (To COURT: That estate is still owned by the accused.) (That is Pananakudawa estate.) Accused was educated at the Cambridge University and got a degree, L.L.B. and became a Barrister. He was the only one of the Seneviratne family that did well in his studies. One brother—Mr. Chas. Seneviratne, is a proctor. The others are planters. I believe there are 6 brothers in the family. I do not know whether the other brothers were left more property than the accused. Mrs. Seneviratne did not exactly say that she was tired of life. Once about Jessie she said she would like to die—that must have been about 5 years ago. I cannot remember anything else over which she wanted to die. I do not know why she said she wanted to die. She was very unhappy over it. I do not know whether she had worked herself up to a temper over Jessie. To my knowledge she did not threaten to commit suicide if any thing happened to her child. Even at her death she was possessed of considerable property.

Q. If she described herself as a pauper would that disclose that her mind was not well balanced?—A. She was quite a normal person as far as I know. I have no idea why she called herself a pauper. Towards the end of 1932 it was possible to get a fairly decent house for Rs. 90/-.

Q. If she referred to a house of Rs. 100/- as a miserable house would you be surprised?—A. She did not tell me anything about it and I cannot say anything about it. So far as I can see she had a normal mind.

Q. If she said she had nothing to leave her son would that be true?—A. I do not know. I do not know what she meant by that. I think that is an exaggeration. I have no idea whether that shows she had worked herself to a hysterical condition (To COURT: Some of her properties were mortgaged) (Mr. Pereira wants to show letter P.11. to this witness, but D.S.G. objects on the ground that there is no proof that it is Mrs. Seneviratne's). (To COURT (Shown P.11)): As far as I know this is in Mrs. Seneviratne's handwriting.

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## No. 23.

## Proceedings and order as to admission of letters.

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At this stage the Jurors are asked to retire and in their absence a discussion takes place on a point of law.

The Deputy Solicitor General objects to the letters marked P.10 to P.12 going in evidence as he says there is no evidence that they reached the hands of the accused. The letters were found inside a book in deceased's room. He says they are not admissible although that may be relevant evidence. He cites 28 N.L.R. 481 in support. The Deputy Solicitor  
10 General says he objects to all the letters P.6 to P.12 going in evidence.

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Mr. Stanley Obeysekera replies.

Court reserves its order for Monday.

Adjourned for the day.

21st May, 1934. Accused present. Same Counsel as before.

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With regard to the point of law raised on Friday last, the Court allows the letters referred to P.6 to P.12, to be produced in the case on the footing that they do not prove the truth of what is said there, but only to explain the state of their feelings at that time.

## No. 24.

## Evidence of R. D. Bandaranayake (continued).

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Prosecution.

MRS. HARRY DIAS BANDARANAYAKE—Sworn.

CROSS-EXAMINATION (continued): I was one of the most intimate friends Mrs. Seneviratne had. Mrs. Chas. Seneviratne and I were her most intimate friends—more like sisters than aunt and niece. She had never stated to me at any time that this accused had laid violent hands on her—not even touched her by way of remonstrance. I do not know whether the relations between accused and Jessie were improper. I might have stated at the inquest that the deceased never suspected improper relations between Mr. Seneviratne and Jessie. I stated at the inquest that Mrs.  
30 Seneviratne never suggested anything improper between Mr. Seneviratne and Jessie. She objected to Jessie being employed by Mr. Seneviratne in any capacity on any of her lands. I do not know whether she objected to a man called Podda being in accused's employ. I do not know whether such a man was dismissed. I know she had a personal attendant—a girl called Seleena. I do not remember whether a chauffeur called Suwaris in accused's employment eloped with Seleena. I know that she went away. I know that Mrs. Seneviratne objected to that chauffeur being employed in any custody by Mr. Seneviratne. I do not know that there was a row over that man bringing a lorry load of rafters to the house. On the 15th

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morning when I came to Duff House I did not enter the room, but stood at the door and I made certain observations from that door. I saw Mr. Seneviratne lying on the bed beside his wife. I did not see hot water bottles at that time, but I saw them when I entered the room with Dr. Paul. At the inquest proceedings did you say "When I first went into the room I saw some hot water bottles round Mrs. Seneviratne?" I might have made a mistake. I might have stated that but I cannot remember. My memory was fresher at that time. If I said so that is correct. I saw the hot water bottles. I saw Mr. Seneviratne lying by his wife. I saw him getting up and he asked me to fetch Dr. Paul or any other Doctor. (To COURT: He did not come up to me but stood near the bed and told me that.) I did not go into the room. He told me to hurry up so I went.

Q. You did not want to intrude without his asking you to come in?—

A. It might be so. Yes. I saw about 10 or 12 bottles. I do not know whether Mrs. Seneviratne had a particular partiality for Dr. Paul. She might have liked him. She worked hard for Dr. Paul in the Colombo South election against Mr. Dassanayake, and Mr. Leo de Alwis was Dr. Paul's polling agent at Mt. Lavinia. I believe Mr. S. W. Dassanayake is connected to Mrs. Seneviratne although she worked for Dr. Paul. Mr. Seneviratne backed Mr. Dassanayake. I was not told that there was one Dr. Chissel close to Duff House. I am not aware that there was any Doctor living in the vicinity of Duff House. I did not know that one Dr. Silva or one Dr. Dorai was living close by. I have not heard of Dr. Dorai. I do not know whether any of those Doctors treated any one at Duff House. I went to fetch Dr. Paul. In the room I found the bed sheets not disarranged—but normal. On my return with Dr. Paul, as Dr. Paul went into the room the accused who was lying on the bed got up from the bed. I did not notice whether he walked out of the same door as the door by which we entered. He probably went out by the door through which we entered or by the door leading to Terence's room. Later when Dr. Paul was telephoning to Mr. Alwis the accused came and spoke to him. Dr. Paul looked about for any drugs which Mrs. Seneviratne may have taken. He found a bottle of aspirins and a bottle of pancreatic salts on the dressing table. (To COURT: I do not know whether he found an empty smelling salts bottle P.4. I did not see that bottle. I cannot remember Dr. Paul looking at it.) I did not notice him going into the dressing room. I cannot remember what Dr. Paul did with the bottle of aspirins. If the Police Court record shows that I said that Dr. Paul examined the whole room including the dressing room I might have said it, but I cannot remember. (To COURT: That must be correct.) Mr. and Mrs. Leo de Alwis came there followed soon after by Mrs. Chas. Seneviratne and her mother. Mr. Dassanayake the father of Mr. S. Seneviratne did not come with them. He came very much later. He had gone to Pasdum Korale. Mr. Edmund Dassanayake who gave evidence in this case is my father. He came about 9 a.m. I cannot say exactly at what time I questioned Alpina. I am not sure whether I questioned her after some of the relations came. If I said in the Police Court that I questioned her after the deceased's relatives had

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come that must be correct. That might include Mrs. Dasanayake, Mrs. Roxina Seneviratne, Mr. and Mrs. Alwis and my father as well. When I questioned Alpina Mrs. John Dasanayake was present. I believe what Alpina said was in the presence of Roxina, and Mr. Edmund Dasanayake and Mrs. Dasanayake. It is correct when I told the Coroner that Alpina said she heard a shriek and that she thought it might be the child and that she took no notice. I cannot remember whether Alpina did not say she found Mr. Seneviratne in the room. It might be so. I remember she told me she heard a shriek which she thought might be that of the child, but she took

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no notice, but I cannot remember her saying that Mr. Seneviratne was not in the room. I asked her why she took no notice. She said she thought the child was playing with the mother. She said she did not take any notice at the moment. First she said she heard a scream. Then she heard a hoarse voice calling out Alpina. I believe I told the Coroner that she told me she heard someone calling her in a hoarse voice. She said she went in because she heard a hoarse voice calling Alpina and then both the driver and Seelas came at the same time and told her that the lady was calling her.

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Q. Mr. Dasanayake, Mr. and Mrs. Leo de Alwis, Mrs. Dasanayake, Mrs. Roxina Seneviratne—not one of them has said up to date one word that Alpina told you in their hearing that she personally heard any cry?—A. I cannot account for that. Then before they came I might have asked her, but I am not sure. I am not sure whether I questioned her after the relatives came. I cannot remember whether those persons mentioned were present when I questioned Alpina.

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Q. You did not say one word to the Coroner about Alpina having told you that she heard more than one cry, one shriek is what you have described. To the Magistrate on the 19th December you said this “She said she heard the lady scream”?—A. I cannot recall the Singhalese words she used for scream or groan or shout. She might have said “keheganawa.”

It is difficult to give expression to those different words in Singhalese. She told me “Gorosu Kata anda kin kehe-geheuwa, Alpina.” (She shouted out in a hoarse voice.) That is the last cry she heard.

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Q. Why did you describe it as a “shriek” to the Coroner?—A. That was the last voice she said she heard. (To COURT: I suppose I forgot to tell the Coroner that Alpina said she heard a shout in a hoarse voice.) As far as I remember I think I told the Magistrate that Alpina told me she heard a voice calling to her in a hoarse voice. (Witness P.C. Evidence read:—“She said she heard a scream. Just then the boy came. She went to the room and found her lying on the bed ill. She said she heard Mrs. Seneviratne scream out Alpina in a hoarse voice.”)

Q. You said not one word about a different cry. You referred to only one scream. You now say that she told you that there were 2 distinct cries?—A. She said for the first cry she thought the child was playing with the mother. Then she said she heard Mrs. Seneviratne in a hoarse voice calling out Alpina. (To COURT: I am not sure whether Alpina said she heard a scream or screams.) I knew that the Magistrate held an inquest to find out whether Mrs. Seneviratne died of natural causes or not. I

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knew therefore that it was of extreme importance that I should say every-thing I knew on the subject to him.

*Q.* Can you account for your failure to say a word about Alpina having told you that she heard a hoarse voice and a cry of Alpina?—*A.* As far as I remember I think I told the Court. I do not say that the Magistrate failed to record it.

*Q.* You cannot say so?—*A.* Perfectly so. (To COURT: Alpina did say that she heard a cry of Alpina in a hoarse voice. She distinctly told me that in a hoarse voice Mrs. Seneviratne called her Alpina.) I do not know whether Alpina heard 2 or 3 cries. I am not sure at what time my father came. As far as I remember he was the last to come. My father did not give evidence at the inquest. (To COURT: Alpina was excited when I was questioning her. I am not sure how she expressed herself to me.) Alpina told me that she got up at 5.30 a.m. Miss Mabel Joseph might have told me that she went to Church at 6.30 a.m. If I said so to the Coroner I would not contradict that. Miss Joseph said she did not hear any cry. Alpina told me she got up at 5.30 a.m. and went to the kitchen and when she was doing something in the kitchen she heard the cry. Dr. Paul told me that Mrs. Seneviratne must have died about 5 a.m. I did not ask Alpina how she could have heard a cry at 6 a.m. when Dr. Paul says the lady died at 5 a.m. (To COURT: I am quite sure that Dr. Paul told me that Mrs. Seneviratne died at 5 a.m. When I told him to revive her he said "she must have gone at about 5 a.m.") Before last Friday I mentioned that to my people only. I do not think I mentioned it at the inquest proceedings or in the Police Court or to the Police. I cannot remember to which of my relations I mentioned that, but I mentioned it to them. Mr. Seneviratne did not tell me that he heard a cry or groan and that he ran into the child's room thinking it was the child's cry. I know that he has told that to Mr. Alwis. I do not think I mentioned at that time to Mr. Alwis that Dr. Paul told me she must have gone at about 5. I cannot remember at what time or on what day I mentioned that to any one for the first time. I cannot remember whether it was on that day or the day after, or whether it was before or after the funeral. (To COURT: Dr. Paul said she must have gone at about 5. I cannot say when I mentioned it or to whom. I might have mentioned it to my cousin and to my father—to all of them. I cannot remember to whom I mentioned it first. I do not think I mentioned it till I mentioned in Court last Friday.

*Q.* The fact is that you mentioned it after the cross-examination last Friday?—*A.* No.

*Q.* If Dr. Paul told you that she died at 5 the whole story of the accused and every single servant of the house is utterly false? (To COURT: That must have struck you?—I did not think anything at that time.) I do not know whether the whole story is false.

If it is true that Dr. Paul told you that the lady died at 5, then the whole story must be false?—*A.* He told me quite distinctly that she must have died at 5.30. No, I made a mistake. He said 5 a.m. (To COURT: I was asking the Doctor to revive her. Then he said "She must have gone

about 5.”) I did not tell Miss Mabel Joseph that she could not be correct when she says that when she got up Mrs. Seneviratne was having a good sleep because Dr. Paul said she must have gone at 5. It did not strike me to ask her that at that time. Alpina told me that Mrs. Seneviratne was sleeping when she left the room. I did not question any of the servants after Dr. Paul told me that. Inspector Gibson came there and took a statement from accused, and I do not know what explanation accused gave him, but I did not speak to the inspector. I do not know whether on the 28th October Mr. Leo de Alwis made a long statement to the Police. I do not know when he went to the Police. After he gave the information he came and told me that he mentioned my name as a witness in his statement to the Police.

10 he went to the Police. After he gave the information he came and told me that he mentioned my name as a witness in his statement to the Police.

Q. Did you then tell him that Dr. Paul told you that she died at 5 and the talk about the cries must be untrue?—A. I cannot remember. I might have said it. I am not sure. I cannot remember when or to whom I first mentioned it. Before last Friday I did mention it.

Q. Alpina told you that when she went into the room Mr. Seneviratne was not in the room?—A. I cannot remember. (To COURT: Is this not a rash statement of yours that Dr. Paul told you that she died at 5?—A. No. I am positively sure.) The quarrels accused and deceased had were about trifling matters. I told the Coroner they were due to little things. Sale of White House was one of the causes. (To COURT: I know Mrs. Seneviratne’s writing.) (Shown letters P.6 to P.12.) They look like her writing. Yes they are hers. Her name is Lilian Seneviratne. She had threatened suicide to my knowledge. I am aware that Mr. Alwis mentioned my name to the Police among others as one of the persons who knew that she had threatened to commit suicide. I do not know that he had also mentioned the names of my husband, my brother-in-law, Reginald Dias Bandaranayake and my mother-in-law Mrs. Matilda Bandaranayake. My husband may have stated in the Police Court that deceased often threatened to commit suicide. Deceased was well off at the time of her death.

Q. Would you be surprised if she said “To-day I am almost a beggar—even Kottawa is mortgaged”?—(No answer.)

Q. (Shown Letter P.12—a passage from it read out—“I am a miserable beggar to-day and now have to creep into rented houses which in my life time I have not done would never have to do if not for you. By creeping into a miserable hovel for Rs.100/- a month if anything goes wrong with my child I will without hesitation kill myself then and there.)—A. I do not know under what circumstances she wrote those letters.

Q. From her point of view 100/- a month house in 1932 was a miserable hovel?—A. Compared with the house she was living I suppose. The house in Arbuthnot Street is not very good. Rentals have come down by halves now. I do not think Rs.100/- house was big enough to hold all their furniture. That is what I think she meant. (Mr. Pereira reads another passage from P.12—“From now onwards I will pray night and day to God to end my life.” Apparently she was tired of life according to this letter?—(No answer.)

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(Passage from P.11 is read): "I will not be a burden and a stumbling block to you much longer. Only a few years is left for me." Does this letter not show she was of a morbid mind?—*A.* I cannot say. So far as I know she was quite a sensible person.

(Another passage from P.11 read—"To give your freedom which you so badly want will be my one aim in life. Somehow or other I will die and give it to you . . . nearly two lacs.")—*A.* I do not know whether she had  $\frac{3}{4}$ ths of what her parents left, but she had enough wealth. (Another passage from P.11 read—"I now wait in the cell . . . All these I want to settle before I enter the coffin.")—*A.* I do not know under what circumstances she wrote them. (Another passage from P.11 read—"When I see you with the child my fears fly away.")—*A.* That is because she was fond of the child. (To COURT: I believe Alawwa and Nawala properties were in the name of the accused.) I do not know whether Mrs. Seneviratne fell out with her brother Leo de Alwis. She was rather timid to sleep alone. I never knew that she wanted to buy a revolver or pistol when she left White House. (Mr. Pereira reads letter P.9 to witness.) The "Effie" referred to there is a lady who is divorced. Deceased had passed the Junior Cambridge, and was an educated lady. I do not know whether Leo de Alwis had not got through his Junior Cambridge. Mrs. Seneviratne told me 20 that she detested selling White House and going into a rented house.

*Q.* Did accused threaten to go and live outside?—*A.* I think Mr. Seneviratne wanted to go and stay at Chilaw—the property he bought after the sale of White House—but I am not sure.

(Passage from letter P. 9 read—"If I cannot live . . . something else may happen." *A.* She had an idea she would not live more than 40 or 45 years because her parents died early. Her father died at 45, I suppose of diabetes—and her mother died at 45. The letters show that she was tired of life but she did not tell me that.

*Q.* "Can you buy a pistol before I go into the other house. I can get a friend to do all the necessary things but Government will not allow without your consent. At night I will then have some sort of defence." That is because she had seen a ghost?—*A.* She never told me anything against Mr. Seneviratne. She told me that she saw something at White House.

*Q.* In the light of those letters she was at times very morbid minded?—*A.* I cannot give an opinion. I cannot say whether those letters convey a morbid mind.

(The Deputy Solicitor General objects to this witness being asked for her opinion when she has said that she cannot give an opinion.)

Can you express an opinion?—*A.* I cannot say whether that shows a morbid mind. I cannot form an opinion. 40

*Q.* You would not write a letter of that sort?—*A.* In those circumstances I would. I do not know under what circumstances she wrote—possibly I might. Mrs. Seneviratne has put down a good deal about Jessie in some of those letters. I am aware that she objected to Jessie being employed in any capacity in any of Mrs. Seneviratne's lands. I am also aware that she threatened to leave the house, even before White

House was sold, if Jessie was employed by Mr. Seneviratne on any of his lands. I cannot say what income her lands would have brought.

Q. Would you be surprised to hear that she says in P.6 "As you know I have hardly enough to clothe and feed myself, leaving luxuries to which I have been brought up. Yet I can face that rather than witness Jessie at Chilaw. My fields will give you enough rice and my house will shelter you and the cocoanut trees and the grassfield will provide me the other things I need."—A. She had some water grass fields at Kowdana. I never heard that she threatened to go to the Home of Refuge.

10 Q. In letter P.7 she states—"It is true I want to go not to a thatched hut but to the home of refuge for women."—A. I know that Home. I suppose she must have meant the hostel—Y.W.C.A. I have heard of the Home of Refuge for Women near Hendela. That is a place to which for the most part fallen women are admitted.

Q. That is not a place where a normal person with any degree of calmness of mind would think of going?—A. I suppose not.

Q. Mrs. Seneviratne was shifted from the position she lay across the bed to the normal position lengthwise on the bed short while after Dr. Paul left?—A. It was Dr. Paul who shifted her. Alpina might have  
20 assisted her but I am not sure. Little later she was shifted on to a sofa that was placed in the same room. I think she remained in the blue dress till Dr. Milroy Paul embalmed her that evening. That blue dress had to be cut for the purpose of embalming. It got soiled in the course of embalming. There was lot of blood. The embalming finished at about 7 p.m. or a bit earlier. Mr. Chas. Seneviratne was holding an electric bulb for that purpose. It might have been over between 7 and 7.30 p.m. It took about an hour or more to embalm the body. Before Dr. Paul left that morning he said that death might have been due to an overdose of aspirin. None of us knew what the marks on the face were due to. Mrs.  
30 Ronald Livera took a piece of wet cloth and tried to wash off the marks without any result. As the day progressed it looked quite brownish. It looked like blisters wiped off (P.C. evidence read: "Later blisters appeared all over the face except on the eyelid.") At 9 or 9.30 I saw blisters on the eyelid. (To COURT: I mean blisters that had been wiped off.) I think the embalming was done at the instance of Mr. Leo de Alwis. I do not know whether he took charge of the funeral arrangements. Being Sunday it was difficult to announce the fact that she had died to the various relatives and friends. Therefore it was decided that the funeral should be on the Monday evening. As the Sunday wore on the marks became more and  
40 more distinct. I did not powder the marks nor did I see anyone applying powder on the marks. I think my husband suggested that the lid of the coffin should be closed as many people were enquiring what the marks were due to. I think the lid was put on the coffin on the Monday morning. I was in the room but did not assist him in doing that. At the time of Mrs. Seneviratne's death the room was not disarranged. I did not notice the bed disarranged. I saw a teaspoon under the pillow—not by the pillow. I say so emphatically because it was I who took it out. I might have made a mistake in telling the Coroner that it was by the pillow. I

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must have told him that, but it is a mistake. Mr. Seneviratne told me that Mrs. Seneviratne threw out some flem. I saw some discolouration when I first saw the body. He told me that it might be due to the flem that came out. I got a smell of brandy when I walked into the room. My husband and I are not very friendly now. My husband has a dairy licence at Kelanimulla. He has a milk room there. There are cows there. There are 3 cows at our place at Bambalapitiya and we turn the milk into curd and sell. The milk is always brought from Kelaniya. There are milk cows on our own premises at Bambalapitiya. There is not a single cow now on the land adjoining ours. Quite recently I returned an Australian cow belonging to Mr. Seneviratne. My husband is not very well off. He got 27 acres of rubber land at Pasdum Korale gifted to him by my father. I do not know whether he is popularly known as "Gal Harry." He used to make money by getting bricks made and selling them. I do not know whether my husband supplied all the bricks to Mr. Alwis for his house at Mt. Lavinia, but he supplied some. Mahawellawatta was bought by the Municipality for purification works for Rs. 125,000/-. With that money Mr. Leo de Alwis' mother put up a very big building at Mt. Lavinia where Mr. Alwis is living.

Q. Are you aware that at the division of the property between the brother and sister it was understood that Mr. Leo de Alwis would, when he got that money, pay his sister half the value of that estate?—A. I do not know. I do not know that Mr. Alwis would have to pay a considerable sum to the deceased if she lived. I do not know any of their business transactions. I think Mr. Alwis suggested an inquest being held over the deceased's death. I know Proctor Felix Jayawardene. He is married to my sister. He also suggested an inquest. I and my aunt Mrs. Dasanayake and Mrs. Chas. Seneviratne objected to the inquest on sentimental grounds. I do not know whether Mr. Seneviratne did not object to an inquest being held. I do not think he objected. I do not know whether he did not want to expedite the funeral. When Mr. Alwis suggested that the funeral should be on Monday evening accused must have agreed, but I do not know. At the inquest I did not say that Mrs. Seneviratne was hysterical. If it is so recorded it is a mistake. To COURT: I knew Mrs. Seneviratne very well. She was not a fat woman—face was not fat. I will not rather see a photograph of her face taken after the exhumation. I did not see her face after the exhumation. Her face might have been bloated up after the death. During her lifetime, I have seen her face well. I have not seen her sweat on the face or about the mouth. I have not noticed.

CROSS-EXAMINED (with permission): Deceased was about my build or slightly thinner. I am quite sure of this. To COURT: I am not sure of my weight.) The first photograph which appeared in the papers when the inquest proceedings were going on represents what she was at the time of her wedding, but after that she was thin. The later photograph in the papers was her appearance soon after her wedding. At the time of her wedding she was quite fat. At the time of her death she was not. She was not double my size at the time of her death. She was not bigger than

me. She was about my build. She looked fuller than me, not broader than me. She hadn't a massive jaw. She was rather darker than her brother. She had liver patches (alu-hung). It was not a skin disease. It is quite a common thing. She had those marks on her face and under her arm. She had been using some sort of oil over that and she had blisters and for that she took treatment. To JURY : On the first occasion I arrived at Duff House, I stood near the door, but I did not enter the room. I did not get any smell at that time. Only Dr. Paul, myself and the driver came in the car from Dr. Paul's. When I went to Duff House with Dr. Paul I was quite close to the bed. Besides the brandy smell I did not get any other smell then. Accused did not speak to Dr. Paul in the room. When Dr. Paul arrived he walked away without speaking anything to Dr. Paul. I did not think of anything at that time. I did think it peculiar.

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RE-EXAMINED : On the 15th October I entered the room several times. The first time I entered the room was with Dr. Paul. When I said that I saw the bottles of water on the first occasion I entered the room that is correct because when I first went to the house I did not enter the room. What I stated at the inquest and what I say now is the same.

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Q. You had a conversation with Alpina, and you say that she first said it was a shriek when she thought the boy was playing and she also heard a hoarse cry Alpina. In your mind had you any doubt about this at all at any time?—A. I had no doubt whatsoever. I made a detailed statement to the police. Letter P.6 is from Arbuthnot Street and it is dated 6th December 1932. This is before coming to Duff House. The only threat in P.6 is that she will leave the house. P.7 is also from Arbuthnot Street—it is not dated—but it is before coming to Duff House. P.8 is dated 9th March 1932. The passage in P.8 about what Jessie must be saying is "Let her struggle as much as she likes. What can you do to me when the master is on my side. Though she gives everything and did everything for the master he loves me and not the wife."

Q. That suggests she had given lot of her things to accused?—A. Yes. Mrs. Seneviratne had been brought up in luxurious surroundings; her parents possessed a rather big house; latterly her mother built a very big house spending a lac of rupees. The name of that house is "Samuthra Giri." I have been to White House. It is a large house with a large number of rooms, a big hall and two wings. Comparatively speaking a house at rent of Rs. 100/- a month would be very much smaller. I have been to Leicester House. It is much smaller than White House.

Q. These days of depression a mortgage, if it is put in suite, will swallow up all the property of a person? (To COURT : You are not an authority on mortgages? A. Not very.) For the discolouration of the skin deceased used some oil and that caused blisters—that was about 3 or 4 years ago when they were at White House. She did not complain to me about any conduct on the part of Jessie except her using the powder puff.

Q. Can you suggest that the letters show that she suspected that there was something more than the powder puff incident?—A. She might.

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Evidence of Mrs. C. Seneviratne.

MRS. CHARLES SENEVIRATNE—sworn.

EXAMINED : I am the wife of Mr. Charles Seneviratne who is a brother of this accused. I live at Dehiwala. I know deceased Mrs. Lilian Roslin Seneviratne. She is a cousin of mine. Accused is a brother-in-law of mine. Apart from marriage he is related to me as cousin. My father is Mr. John Dasanayake and the last witness's father is Mr. Edmund Dasanayake. They are brothers. I knew Mr. and Mrs. Seneviratne very well. I was on visiting terms and very friendly with them. Mrs. Seneviratne and I were brought up like 2 sisters I knew about them as much as anybody else. Mr. & Mrs. Seneviratne did not get on well for the last 4 or 5 years. They disagreed about everything. They had a quarrel over a servant girl called Jessie when they were at White House. She did not like the sale of White House. She did not like the sale of Nawala. I do not know how that property was bought. I cannot say when it was bought. I cannot remember when the Nawala property was sold. I think it was fairly recent. There were no other grounds for quarrelling. I can only think of those three reasons. Personally I do not know anything about the trouble regarding Jessie. What I stated in the Police Court was what I heard from Mrs. Seneviratne. I have been present at quarrels between accused and deceased. (To COURT : I do not remember any quarrel between them at Duff House.) After she quarrels she locks herself up in a room and refuses to take her food. I cannot remember when the last such incident was. I cannot remember any such occasion when they were at Duff House. I remember the 14th October. I went to Mrs. Seneviratne's house that day. I arrived there at about 1 p.m. My husband was going for the races and he dropped me there. I cannot remember what Mrs. Seneviratne was doing when I went there. When I went there she told me that Mr. Seneviratne and child had just left for Veyangoda. (To COURT : I remember she came out and spoke to me.) She was a bit angry because she told me that she had asked Mr. Seneviratne not to take the child to Francis Seneviratne's. She did not know that the child was taken there but he usually did things that she did not want him to do. I cannot recollect in what occupation she was engaged at the time I went. After I went there I had a chat with her and after a little while we had a nap. About 5 p.m. Mrs. Bandaranayake and the child came there. Then we were sleeping. They came into our room. Then we spoke to them. After that we had our tea and then we went in the evening to Mrs. Jayawardene's. She is also a relation of mine. She is another daughter of Mr. Edmund Dasanayake. We spent some time there and returned. At that time Mrs. Seneviratne was in her usual normal mood. (To COURT : We went to Mrs. Jayawardene's with Mrs. Seneviratne in our car—there were 2 cars—our car and the Bambalapitiya car. From Mrs. Jayawardene' we went home straight.) Mrs. Bandaranayake and her children, Mrs. Seneviratne, myself and Miss Mabel Joseph went to Mrs. Jayawardene's

and from there we went home direct. My husband returned to Duff House from the races at about 6 p.m. before we went to Mrs. Jayawardene's. He also went with\* out to Mrs. Jayawardene's. After my husband returned from the races, Mrs. Seneviratne suggested to go for the pictures—for the 6 o'clock show—I cannot say whether it was the Regal. That show would be over by about 8/30 or so. I did not want to go. I persuaded her not to go. She wanted me to get some fence sticks "ini" for her. I do not know what for; she did not say whether she wanted many. The house in which we stay at Dehiwala belongs to her and she wanted some fence sticks from our garden. I said alright. She said "We will send Mr. Seneviratne's carts the following day if they are available. (P.C. Evidence on this point read:) That is correct. It is usual for Mrs. Seneviratne to make preserves. I think on the 14th when I went there she had made some preserve and she showed me. I cannot remember what kind of preserve. No it is 7 months. (To COURT: When I first went there she was a bit angry but later she was quite alright. She did not complain of any headache.) We left for our home about 8 p.m. Till then we were at Mrs. Jayawardene's. We went home first. I cannot say at what time Mrs. Seneviratne and Mrs. Bandaranayake returned to Duff House. (To COURT: Up to that time she was quite alright. I was thunderstruck when I heard of her death the next morning.)

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tinued.  
\* *sic.*

Adjourned for lunch.

MRS. CHARLES SENEVIRATNE. (Examination continued.)

I got information about the death at about 8.30. I was at Dehiwala in my house. Mrs. Bandaranayake's driver brought the information. We dressed up quickly and went to Duff House. My mother Mrs. J. H. P. Dassanayake also went. I entered the room where the body was. Before entering I did not speak to any one. I saw the body. I noticed brownish marks on the face—two sides of the cheek. I do not remember whether there were any marks anywhere else except the cheeks. I cannot remember whether there were any marks on the nose, chin and eyebrows. The body was lying lengthwise. It was on the bed. I did not question any one as to what those marks were, or as to what had happened. Alpina made a statement to my mother. She told her that Seelas said that the lady wanted her and when Alpina went to the room she found her lying across the bed. As Alpina entered the room she said she saw Mr. Seneviratne. She did not specify any place but I understood near the door. (To COURT: She said as she entered the room she saw Mr. Seneviratne.) I do not know what her actual words were. She said that as she entered she saw Mr. Seneviratne. I do not know whether my recollection is better now than in the Police Court. If she said she saw Mr. Seneviratne in the room that would be correct. I drew the inference that he must have been at the door. I cannot remember the words she used. I cannot remember whether she used Sinhalese words. Besides Alpina I asked Miss Joseph. She said that when she went to Church Mrs. Seneviratne was asleep. I asked Alpina about it. She also said practically the same thing that when

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she went in the morning she was asleep. I cannot remember what time she went out. I did not speak to Mr. Seneviratne about the marks or how she died. I think soon after we went the body was shifted. I cannot remember what time Rev. Mr. Ekanayake held the service. I cannot recollect whether the body was on the bed or on the couch at that time. I asked the accused whether I was to send the child any breakfast. He told me not to send the child to Mrs. Jayawardene. A day after the funeral he told me that Mrs. Seneviratne had asked him not to take him to Mrs. Francis Seneviratne. I cannot remember anything else. I do not personally know why she objected to Mrs. Francis Seneviratne. They were on good terms. When I entered the room on the 15th the room was in order, so were the bed clothes and the sheets. (To COURT: Mrs. Seneviratne was very kind to her son. I never saw Mrs. Seneviratne using smelling salts. I have not seen a bottle like P4 used by Mrs. Seneviratne. I do not use smelling salts.) I used to go about with Mrs. Seneviratne quite freely. I know her as well as anybody else. (To COURT: She did have headaches but I did not see her using Aspirin. I use Aspro.) Mrs. Seneviratne was about my size, a little thinner. I know Mrs. Harry Dias Bandaranayake. I cannot say she is bigger. (To COURT: She was not fatter or fuller.)

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Cross-exa-  
mination.

CROSS-EXAMINED: I do not know my height. Deceased was about the same height. When she got married she was much bigger. I did not see the body after it was exhumed. I cannot say that she had a much bigger face or broader face. She was very attached to Dr. Paul and never called any other Doctor for her confinements and whenever she was ill. During the election for Colombo South the husband and wife took opposite sides. Mrs. Seneviratne was for Dr. Paul and Mr. Seneviratne for Mr. Dasanaike. Everybody in the family knew that she was particularly attached to Dr. Paul as a doctor. For the last 4 or 5 years they disagreed about everything. The deceased was rather a self-willed person. She had determination. She had a girl called Selena a personal attendant who eloped with a chauffeur called Swaris who was a married man. She was upset about it. When he drove in with a lorry load of timber Mrs. Seneviratne got very upset about it. I do not remember a servant called Podda. The accused used to disregard Mrs. Seneviratne's wishes. If Mrs. Seneviratne told him not to do a thing he would do it. For instance when he wanted to sell White House she objected strongly. He wanted to sell White House and buy a cocoanut estate. It was a valuable cocoanut estate. The sale of White House was to bring a bigger income. In January 1932 cocoanut was Rs. 52/- a candy. My husband had cocoanut estates. (To COURT: It is now about Rs. 10 or 12 a thousand.) Copra is to-day Rs. 20/-. Although my husband is a Proctor he does not practice. I do not depend on cocoanut for my living. Everybody who has cocoanuts is in straitened circumstances. They are badly off. Mr. Seneviratne was for 3 or 4 years in 1930 Assessor at the Government Kachcheri. He gave it up in 1930 and used practice as an Advocate. He is a Cambridge

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Graduate. After he gave up his Assessor's post he depended on cocoanuts for his income. His father had left each of the sons a cocoanut estate. He sold White House to increase his income. Mrs. Seneviratne did not tell me of a vow. Another cause of friction was the sale of Nawala Farm which is a comparatively small place 13 acres. I have been there. It is scrub land converted into a farm. I do not know that it was bought for some Rs. 14,000/-. (To COURT: I do not know why she got angry. I do not know whether it was bought with her money.) I do not know that after the sale of the Wellawatta property land was bought at Kottawa-Morahena. I am  
 10 not aware that husband and wife had arranged to go to Kottawa on that particular Sunday. She had asked me about the fence sticks. She did not tell me what for. I cannot remember whether Mrs. F. Jayawardene wanted a setting of eggs. Mr. Jayawardene has a business of selling eggs and chickens. I have not seen whether the chickens were hatched at Duff House. I knew that when the chickens got bigger he sent them on to his various lands. The deceased had threatened to commit suicide to my knowledge. (To COURT: I cannot remember but she threatened several times. I cannot remember whether she threatened to do so at Duff House.)  
 20 As a matter of fact she had been threatening suicide that my first remark was that she must have committed suicide. I have persuaded her to take her food when she shut herself up in her room and refused to take food. One way of showing her displeasure was to go on hunger strike. I remember on one occasion she wanted to leave her husband and go away. She wanted me to get her husband to give her a writing that she had the liberty to go away. The accused laughed at it. The accused never took her seriously and treated everything as a joke. On the 14th my husband went to the races and dropped me about 1 o'clock. Mr. Seneviratne and the son had already left. Mrs. Seneviratne appeared to be in a state of annoyance. Two months' earlier they were on quite friendly terms with Mrs. Francis Seneviratne.  
 30 I did not go to the Christening ceremony myself. I do not know whether she made a gift of a book of Common Prayer to her. I am not aware that the child's name was Surangani Sirikanti. It is not to my knowledge that later on she seemed to be very angry with Mrs. Francis Seneviratne. I did not ask her why she was annoyed on the 14th. I do not know that she had forbidden the accused to go there. She told me that she had asked Mr. Seneviratne not to take the child there. I do not know that the child might marry into that family. I do not know that she said that if he did she would disinherit him. She only said she would disinherit him if he married against her wishes. I had deposited Rs. 175 with her for safe keeping.  
 40 She asked me on the 14th to take the money but I did not. She gave no reason. (To COURT: I practically spent half the day with her. I did that often before.) We were brought up together like sisters and I was very much attached to her. I said she must have committed suicide when I was dressing in my room. The deceased was interested in scientific matters. She used to read a good lot. My husband got her a receiving set installed into the house. She had actually discussed the question of chloroform with my husband about 6 weeks before her death. (To COURT :

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She discussed the possibility of committing suicide by chloroform.) That afternoon I slept with the deceased on the same bed until Mrs. Bandaranayake came in the evening. Then in two cars all of us went to Mrs. Jayawardene's. She is my cousin as well as my aunt. (To COURT: My husband told me about the chloroform 3 or 4 days after her death.) I do not know whether it was earlier. The following week my husband and I, my mother and a servant woman Karlina went to Duff House. When we went there Mr. and Mrs. Leo de Alwis was already there. I saw the bed linen clean. I cannot remember whether after seeing the body I or my mother questioned Alpina. Mrs. Bandaranayake and I are children of two brothers. 10  
 My mother is Mrs. John Dasanayake. (To COURT: My name is Roxina Seneviratne.) I cannot remember whether my mother and Mrs. Harry Dias Bandaranayake were together. I cannot remember my uncle being there. Leo de Alwis was not present when my mother questioned Alpina. It was earlier than 9.30 when my mother questioned her. I do not know that nobody except Mrs. Dias Bandaranayake ever said anything about Alpina hearing a cry herself. I told the Magistrate and the Coroner that Seelas came and told her that he heard a scream. (P.C. Evidence read:—  
 "And then I went into the room and saw Mrs. Seneviratne lying across the bed, and that Mr. Seneviratne was in the room when she went in." 20  
 I understood that as she entered she saw Mr. Seneviratne near the door. She said she was asleep and that brandy was given to her and hot water was what Alpina told my mother. They made ordinary home remedies to resuscitate a person in an unconscious state. I cannot remember whether Mrs. Bandaranayake told me that Mrs. Seneviratne died at 5 o'clock. Up to date I have no recollection of her having told me that. Alpina told me that Mrs. Seneviratne appeared to be asleep. I questioned Mabel Joseph also. Miss Joseph told me she went to Church at 6.30 a.m. I was present when Mrs. Seneviratne was shifted from the bed to the sofa. I cannot remember whether the night dress had remained till Dr. Milroy 30  
 Paul had embalmed the body. Carlina swept the room. The blue night dress had no marks on it. (To COURT: Charles and Francis are brothers.) When I was there on the 14th Mrs. Seneviratne wrote to Mrs. Harry Dias Bandaranaike for the use of her car. We did not know she would come. My husband went to the races and we wished to come back before he returned. In response to that letter Mrs. Harry Dias Bandaranayake came. I am aware that the deceased instead of talking to her husband used to write and send him letters. I do not know she used to pin these letters on his bed. (To JURY: I say that Mr. Seneviratne treated his wife's threats of suicide as a joke.) 40

Re-examination.

RE-EXAMINED: Before Mr. Seneviratne purchased the property at Chilaw he did not discuss the advantages of that purchase with me. I am more friendly with Mrs. Seneviratne than with Mr. Seneviratne. I have not discussed financial matters with him. I cannot remember whether he was an Assessor under Government. I do not know why he left. I do not know what particular work he did under the Public Trustee. I do not

know how much was realised by the sale of the Wellawatta property. I think the last time she threatened to commit suicide was when the girl Jessie was brought, but I cannot remember. I do not know where she was brought. They were living at White House (To COURT: These threats to commit suicide was at White House.) As soon as Mrs. Seneviratne was dead I made a remark that Mrs. Seneviratne had committed suicide. My husband did not tell me anything. When I made the remark I said she may have committed suicide. He did not say anything. The deceased wanted a writing from Mr. Seneviratne to give her permission to leave him.

10 She did not tell me that she wanted to come and stay with me. The accused said that no writing was necessary; if she wanted she can go. It was not at White House. I told Mrs. Seneviratne. She did not say anything. To my knowledge she was not angry with Mrs. Francis Seneviratne. She asked me to take the Rs. 175 deposited with her. I said I did not want the money. I gave it for safe keeping. Mrs. Seneviratne had the key of the iron safe. She kept her jewellery. There was plenty of jewellery. I cannot say roughly how much. I cannot say how much money was in the safe. I did not know she had money after selling a field. Mrs. Seneviratne was interested in scientific matters and consulted my husband. My husband

20 has a receiving set. She did not dabble in chemistry or anything else. I do not know that she read a lot. I was grieved at her death. My mother and I were close when she questioned Alpina and I was listening to her because I did not know what happened to her. I do not know anything about a talk of a handkerchief. It is 7 months ago and I cannot remember. I do not know whether it was after or before the handkerchief was found. In a casual conversation the accused told me that Mrs. Seneviratne had asked him not to take the child to Mrs. Francis Seneviratne.

The house is rented to me. There is a big garden, and an old house. It is close to Samuthra Giri occupied by Leo de Alwis.

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Seneviratne,  
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Re-exa-  
mination—  
*continued.*

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No. 26.

Evidence of H. D. Bandaranayake.

HARRY DIAS BANDARANAYAKE—sworn.

EXAMINED: I am a proprietary planter living at Bambalapitiya. I know the deceased Mrs. Seneviratne. I know the accused. The deceased was my niece. I am the closest relative next to Leo de Alwis. I used to be on friendly terms with them and they used to visit me. On the 14th they called at my house. In the course of conversation I said I was going to Gampola. Mrs. Seneviratne asked me to look out for land for Mrs. George de Saram. Then I went on the 14th to Gampola. I returned on the 15th

40 evening about 8 p.m. in the evening. I heard that Mrs. Seneviratne was seriously ill. My sister-in-law told me. I went to Duff House immediately. I found that she was dead. Mr. and Mrs. Leo de Alwis, my wife, Mrs.

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Dasanayake, Mrs. Ronald Livera and other relatives were there. I saw the dead body in her own room on a sofa. The embalming had finished at that time. I noticed some marks on her face. There were burnt marks on either side of the face, two eyelids and tip of the nose. At the time I was told she took an overdose of aspirin. My wife told me so. I questioned about the marks. I asked my wife. I did not ask the accused at that time. I wanted to speak to him but he was crying. I spoke to him on the following morning. I went back home, returned and remained the night. The accused did not speak to me. He said that he tried to rub off some froth that came from the mouth and nostrils with brandy and probably the marks were due to that. The brandy was dipped in a piece of rag. (To COURT: I spoke to him in Sinhalese. The word was rag.) At that time there was a talk about chloroform. I asked him whether he had chloroform in the house. He said that he had an ampule of chloroform but he did not know whether it was in the house or on the estate at Chilaw. He did not make a suggestion that he handed it to his wife. He said that he would let me know definitely whether it was on the estate and that he was sending a servant there and would let me know definitely on the 20th. (To COURT: He said it may have been taken there for veterinary purposes.) He went with me to the room to see whether the ampule was there and showed me his almirah. Charles Seneviratne and his wife accompanied me. No ampule was found. He searched the almirah where medicines were kept. There were corrosive tablets. The almirah was in the room adjoining the dressing room. (To COURT: He kept a lot of medicines, but I do not know for what purpose). He did not tell me where it had been bought. He told me it was for veterinary purposes to amputate the leg of a buffalo. I know these people to some extent I would not say that they were getting on well. It was due to quarrels about properties and the servant girl Jessie. I have not heard anything from the accused. I have not personally seen Jessie on any estate. I know of no person who saw. (To COURT: "That was one subject of quarrels. I do not remember her quarrelling about any other woman. When she got angry she used to confine herself to the room. On more than one occasion I had to pacify them at White House. At Leicester House once. This was the last. At Duff House I had no occasion to go and pacify her. I have a 1926 model Chevrolet. It is a 4 cylinder car. It is not a reliable car. I have had breakdowns more than once. (To COURT: Mrs. Seneviratne borrowed the car on several occasions. Mrs. Seneviratne was very much attached to the child. She complained to me about the life she was leading). With regard to her position in regard to her child she said she was living for the sake of the child. She saw that she was dissatisfied with life and not wishing to live. There is no crime in supplying bricks. Mrs. Seneviratne was as strongly built as my wife. She was bloated in the picture. I should say she was thinner.

Cross-exa-  
mination.

CROSS-EXAMINED: As a matter of fact her brother is a strongly built fellow. I did not say a big figure. She had a better build. She might have been bigger in appearance. I do not think that Mrs. Seneviratne was

bigger than Mrs. Bandaranaike. Selling bricks is as good as advocating. I am very well off. Mr. Leo de Alwis complained on the 28th October. He did not consult me. He consulted his elders. I do not know who the elders were. I do not know that he consulted Sir Solomon Dias Bandaranayake. I do not know that he complained that the deceased had threatened suicide. My Mother is Mrs. J. H. P. Bandaranayake. Matilda is my mothers name. Her daughter is Mrs. Charles Seneviratne. People may have been aware that the deceased had complained that sooner or later she would commit suicide by taking poison. This was Mr. Leo de Alwis's statement. My mother, my brother and sister know that Mrs. Seneviratne sooner or later would take her life by poison. I do not know that if she was attached to the child she would not commit suicide. I do not know whether apparently Leo de Alwis made an untrue statement to the Police. She had never threatened to take her life by poison. I may have heard that at any time she threatened to commit suicide but not from Mrs. Seneviratne. I have heard from my wife or Mrs. Roxina Seneviratne that on more than one occasion Mrs. Seneviratne threatened suicide. Except my sister and my daughter I never knew about the suicide. I used to pacify her when she used to confine herself in the room.

20 The door was closed and locked. She used to starve herself. If I told the Magistrate so it may be so. I meant that she shut herself. (To COURT : What I meant was that she shut herself in the room.)

*Q.* To-day is the first time you develop the story that the accused told you on the 16th morning that he did not know whether an ampule of chloroform was in the house or sent to Chilaw.—*A.* I may have said that. No. I think I mentioned that.

*Q.* You realise that in your evidence given to-day you carry the implication that the accused must be a fool.—*A.* I said what I meant in the Police Court. Leo de Alwis told me that Dr. Paul had told him that the marks could have been made by chloroform. I said it was the 20th. I went there to see if there was any poison she could have taken. If it is in the evidence it must be so. (To COURT : When I was asked the question Mr. Seneviratne said it was either in the house or at Chilaw.) Leo de Alwis was not present when this conversation occurred. Leo de Alwis was not present when we were looking for any other poison. He told me that chloroform was bought to cut or amputate a leg of a buffalo. I do not know whether Leo de Alwis told me on the 16th instant that Mrs. Seneviratne had it in the iron safe for safe keeping. The idea of building "Samuthra Giri" was not a suggestion of mine. My sister sold a land at

40 Wellawatta to the Municipality for purification purposes. Up to that time she lived in much smaller house where Mr. and Mrs. Charlie Seneviratne are now living to-day. In fact the marriage of Mrs. Seneviratne (Lilian) took place in that house. At the time of my sister's death the house was three quarters complete. It was not to my knowledge that it was a big house and that it cost Rs. 100,000/-. I supplied a considerable quantity of bricks. My brother did not supply the timber. This happened long ago

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mination—  
*continued.*

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Cross-exa-  
mination—  
*continued.*

and he did not supply the timber. The timber was supplied by a Headman. My brother Abraham is a Mudaliyar. Mr. Leo de Alwis' father died quite young. An Aunt inherited the best part of it. Mr. Silbert de Alwis is not a proctor. I do not know that he is mad. I know John Bappa. John Bappa is mad. Leo calls him uncle. I do not know he was related. Albert died of diabetes at 43 and his sister died when she was 45. I do not know that Albert de Alwis was continuing to live in the house that Mrs. Chas. Seneviratne lived. I do not know whether although Leo de Alwis is living in a big house he pays no income tax. He has been constrained to sell plots of "Samuthra Giri" grounds. I own a small property at Dehiwala in extent 1A. 1P. 36R. It brought Rs. 120/- without produce. I now get Rs. 75/-. I have also 27 acres of land at Pasum Korale. I am living at Bambalapitiya in a rented house. I went to Gampola to buy a rubber roller. I mentioned this fact to Mrs. Seneviratne although she wrote a letter to borrow the car. I went with Mr. Goonewardene in his car. I know the deceased had asked for the car. I said I was going there at 2 o'clock but I received the letter at 1 o'clock. My car is a 1926 4 cylinder car. I never looked inside the car. (To COURT: I never drive my car). The car is a powerful engined car but there is engine trouble. It is quite servicable for use in Colombo. I had two breakdowns last week. I cannot remember the day. My father and I had to walk to the hotel. The driver repaired the car. The second was a breakdown near Bambalapitiya about a quarter of a mile away from my bungalow. There was engine trouble and tyre trouble. The driver repaired the car. I left it to the driver to decarbonize the car. I sent the car about 4 or 5 months ago to be decarbonized. I sent it to Agalawatta, Belana, when I went there. The repairs took 2 days. I paid Rs. 15/-. It was repaired by a man called Adolphus. I did not get a receipt. It is useless for me to keep receipts. I pay but I do not preserve receipts. I sell milk and issue receipts. I do not know whether my clients preserve my bills. I have my file. I preserve what I consider necessary. I put my bills into the file I do not think it is extraordinary. (To COURT: Mrs. Bandaranayake comes in Leo de Alwis's car. Ladies like to travel together.)

Adjourned.

22nd May,  
1934.

22nd May 1934. Accused present—same Counsel as before.

HARRY DIAS BANDARANAYAKE. CROSS-EXAMINATION continued.

I had a birthday party on the 11th October. It was my son's birthday. Mr. and Mrs. Seneviratne attended it. They were in the habit of calling about once a week at my house. So far as relatives were concerned Leo de Alwis accompanied my wife. Mrs. Seneviratne was of a rather timid disposition. She did not like the idea of being left alone in the house. I heard that she invariably got a servant to sleep in her room. Her mother died in the General Hospital Colombo. She died of heart failure after an operation. Leo de Alwis and Mrs. Seneviratne did not inherit anything

from their mother. In fact my mother's estate is not given to anyone. She is living. Albert de Alwis was not an unknown quantity till he married my sister. He was a very close relation of James de Alwis. I cannot trace the relationship. We are a good family though not possessed of much money. I do not know that he is about the 10th cousin. I do not know the relationship. I do not know who his parents were. I do not know that he used to walk about the beach with a cloth and coat barefoot for the best part of the day and that he was known as Pissu Hamu. I do not know what his father's name was. I do not know who his mother was. And yet I say  
 10 that he was a close relative of the Honourable Mr. James de Alwis. The sister of Albert de Alwis is married to Dr. Seneviratne's father who is in Kandy now. It may be an aunt of Dr. Seneviratne that Albert Peiris married. I never heard that Albert Peiris' wife was made. I had a brother William. He died suddenly while he was in the garden. Neither I nor Leo de Alwis insisted on an inquest being held on his body. It was held at my brother Abraham's instance. It was found that death was due to rupture of a blood vessel. It is the case that I had to make peace between Stephen Seneviratne and his wife on more than one occasion when she used to shut herself up in the rooms. I told the Magistrate that on several occasions I  
 20 have been trying to pacify her. She told me that she was dissatisfied with life and that but for the child she did not want to live. I got to Duff House earlier than 9 at night, about 8 or 8.30. I spoke to Mr. Seneviratne about 10. He was sobbing and crying at the time. I did not speak to him at all because he was in a distressed condition. I know Fred Dias Bandaranaike father of Mrs. Francis Seneviratne. I do not know whether he was a harum scarum sort of fellow. To some extent he was an unruly sort of fellow.

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Cross-exa-  
mination—  
*continued.*

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No. 27.

Evidence of C. E. Seneviratne.

CHARLES EDWARD SENEVIRATNE—sworn.

30 EXAMINED: I am a Proctor and Notary Public. I am a brother of the accused. I have always been on good terms with the accused. (To COURT: They were married in April 1923). I have been on visiting terms. My wife and I visited the accused but not so frequently as I. I do not think I had differences since he returned from England. He returned in 1930. (To COURT: He was at Trinity Hall, Cambridge. Since 1920 I have not had any differences with my brother. On the 15th October I got a message about my sister-in-law's death approximately about 8.30 in the morning. I think my wife took the message. She did not inform me immediately. I think she informed her mother. I was in the front verandah. Afterwards  
 40 when she went to dress she spoke to me. When my wife was dressing she said this creature must have committed suicide. I said wait when we go there we can find out. She was suffering from diabetes and her death

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might have been due to diabetic coma. I have been dabbling in drugs. I was a medical student for one year. I have been reading the latest authorities and I think diabetic coma can cause sudden death. I have not lost my interest in medicine. I take an interest in medical science and I am in the habit of reading the latest authorities. I borrow the *Lancet*, and the *British Medical Journal* from friends. I read about Diabetes and said might have been diabetic coma. My wife may have forgotten about it. I dressed up and came to Duff House. I went to the room where the deceased was. I did not speak to the accused. He was busy on the verandah at the time I came. The inspector had already arrived. I observed the face not the body. There were marks on either cheek on the tip of the nose the two eyelids. I cannot remember the chin. I cannot remember whether one mark on the cheek was bigger than the other one. (To COURT : It was close upon 9 when we got there. The marks were very prominent and had the colour of tincture iodine—reddish brown. The marks were fairly symmetrical.) I did not hold a post-mortem examination to find out if it was a case of diabetic coma. My idea was that she had taken some poison before I got close to the body, that it might have been Jeyes, Lysol or something. After I got close I got absolutely no smell. Then I thought it may have been caustic soda or corrosive sublimate. I thought something must have been dribbling from her mouth, and that the marks were caused by them. I did not question my brother. He was cut up and I thought I could question him afterwards. When I saw her I gave up that theory altogether. I examined closely and found that I could not get any smell. I did not enquire from anyone. If I remember aright when I went into the room Mrs. Leo de Alwis was there and I asked her what happened. She was there already. She said that she had evidently committed suicide. Then she gave me two reasons. I was not questioned about it. I had a faint recollection. One was that my brother had gone to Mrs. P. S. P. Jayatilleke's one night and the other was that he had taken the child to Mrs. Francis Seneviratne. I do not remember mentioning it at the Police Court. I was not summoned for the inquest. On certain information given to me by Leo de Alwis I questioned my brother. Leo de Alwis told me that my brother had entrusted an ampule of chloroform for safe keeping and that those marks may have been caused by chloroform. He told me this on the morning of the 16th no sooner he arrived from Mount Lavinia about 8 o'clock earlier or later. (To COURT : On the 16th I got that information. I had my doubts even then.) Leo de Alwis told him that the doctor had told him that the marks could be due to chloroform. He said he could prove it by the marks. He drew some attention to the marks on the hands and the marks on the nostrils. I said that it was due to splashes of blood during the embalming. I am quite certain that the conversation about the chloroform took place on the 16th. I did not question my brother immediately. I asked him later in the day and asked him if it was true towards midday. I asked him whether it was true that he had entrusted chloroform to his wife. He said he had bought some Chloroform for amputating a buffalo's leg. The Police

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Court statement must have been a mistake. It might have been the Magistrate's mistake. There is another reference to 1½ months. He said that he bought it 2½ months ago. He told me it was to amputate a buffalo's leg. He told me he had not made use of it for the amputation and that there was a possibility of it being at Chilaw. Somebody else must have taken or he would have known. I told the Police Magistrate it was somebody else that had taken it. The Police Court evidence is not correct. What I meant is someone other than accused. The Magistrate was totally wrong. We did not discuss it. What he indicated was the possibility of it being at Chilaw. We did not discuss how it got there. He may have omitted the words. He did not suggest as to how it got there, all he discussed was the possibility of the ampule being at Chilaw. He did not suggest that the deceased may have sent it by the man who brought the eggs. (To COURT: He said it was at Chilaw and until he went there he could not say.) All this did not take place on the 16th. It was later. On the 16th I questioned him and he said that the ampule had been bought to amputate a buffalo. I left it at that. What he said was that he bought the ampule for amputating a buffalo's leg and that he given it to his wife for safe keeping. I asked him on the 18th whether the house was searched. I cannot remember the time at this stage. My purpose was as a result of a conversation with Leo de Alwis on the 17th night. I cannot tell the time when I went to Duff House. On the 18th he told me that the house had been searched. He did not tell me with whom and when the house had been searched. I understood the whole house. Mrs. Seneviratne's quarters and the rest of the house, his room, his medicine chest. He said he only searched the whole house. This conversation took place on the 18th. I had a conversation about chloroform with Leo de Alwis on the 17th night. He phoned me and got me down there. I got there about 6.30 or 7. The conversation was about death by chloroform. He showed me a handkerchief and told me that it was the handkerchief his sister had chloroformed herself. He said my brother gave it to him. (Shown P.13.) It was something like this. Leo de Alwis had the handkerchief and said my brother had given him the handkerchief. He wanted me to get some chloroform. He said evidently she had used chloroform. (To COURT: He said that accused said it must have been chloroform.) He wanted me to test it for traces of chloroform and I told him it was an impossibility at that time. It is highly volatile. I gave him the benefit of my knowledge and said it was useless. Then he said that he wanted me to procure some chloroform to conduct some experiments on his skin to see if it did leave some stains. I said that I would try to get him some. He did not question me whether chloroform burns. I said I would try and get him some. I did not get any. I think I did have some conversation with Leo de Alwis on a subsequent date on the same subject. I cannot remember, but definitely some day about the 17th. I can warrant and undertake to say that it was before the 20th. At the subsequent conversation I told him it was useless experimenting, that chloroform burns. I cannot remember him saying anything. I do not think I saw him on the 20th. I remember bottle P.4.

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(Shown P.4.) He had this bottle on a subsequent occasion. I cannot say but I saw him with this bottle, probably on the 19th or 18th night I saw him. He said that the bottle had been found by the deceased's bed. I do not know who found it. (To COURT: My brother gave this to me some day after the 17th. I think I asked him "did you find the bottle containing chloroform"? He showed me the handkerchief. Then he said this bottle had been found on the teapoy on the bed. I think he went and brought it from the deceased's room if I remember right. On the 18th night I put it to Mr. Leo de Alwis. I told him that the bottle was found by the bed and I suggested that the chloroform was in that bottle. I asked whether there was not a bottle found in the room. He said there was a bottle found in her room. It was empty and had the stopper on. He did not suggest that chloroform was in that bottle. It was my suggestion to Alwis. I think I brought it back. It must be after the 17th. I did not question my brother as to who found this bottle. I do not remember whether he mentioned finding anything apart from the handkerchief and the bottle. He did not mention anything about caustic soda. (To COURT: I cannot remember the accused telling me that she had aspirin.) The talk was all over the house was it an overdose of aspirin. (To COURT: My previous experience was that I got it on my hands and it did not burn. At the time I had this conversation I knew that chloroform did burn under certain circumstances. My experience was that it did not burn my hands. I told this to Leo de Alwis. He suggested that chloroform burns and I said it did not. He wanted some chloroform for experimenting. Caustic soda burns in the laboratory we handle it every day. I did not entrust caustic soda to the child. One of the soapmakers showed him, but I knew it long ago. I did not examine the room. I tried to find out from the corpse, but beyond that I did not. I did not see P.4 anywhere before. (To COURT: I know that chloroform burns. Even the doctors learned something. Evaporation had to be prevented. I had no chloroform to experiment. I knew it did not burn. I do not mind burning myself if you want it.) We had looked into one almirah at Chilaw and found some every day medicines like Yeatwhite, Cinnaquin, but no Chloroform. Leo de Alwis suggests that there might have been other chloroform. He said there might have been some left over after the deceased's last confinement. (To COURT: My brother told me that deceased used chloroform for toothache. She used to take a piece of cotton wool and soak it in chloroform and put it into the tooth. When I went to Chilaw I did not question any one. Henry Perera I know is the conductor in charge of the estate. He came in there after I came. I did not question him nor did I see him questioning him. Her last confinement was in 1927 or 1928. Chloroform is not safe for anæsthetic purposes but if you prevent evaporation it might be preserved. I think I had chloroform for 16 years. I experimented with it on some poultry and found it quite a good anæsthetic. It was kept in a glass stoppered bottle.

Cross-exa-  
mination.

CROSS-EXAMINED: The accused told me that he bought a bottle of chloroform to amputate a buffalo's leg and that he gave it to his wife for

safe keeping till it was removed to Chilaw. (To COURT: I questioned him on the point. His explanation was that he had gone out shopping that day and bought several articles eatables and non-eatables, oilmanstores and the chloroform. Then no sooner he got to Duff House his wife came running to the front verandah and said the Public Trustee's office had phoned for him twice and wanted him urgently. He did not get down from the car but handed all the parcels to his wife and the Chloroform and he said "This is the chloroform take care that the baby does not get at it. Keep it in a safe place." That was about 2½ months ago. That was how he came to give it to her.) That was how it came to be in her custody. When Mr. Leo de Alwis wanted to know on the 16th morning whether there was chloroform in the house Mr. Seneviratne did not try to conceal that he had bought chloroform. He made no secret of it. He said that he was not sure whether it was in the house still or whether it had been sent to Chilaw. On the 20th I and my brother went to Chilaw with the object of finding out whether the chloroform was sent there. The buffalo had a fight at the Chilaw Railway Station and broke a leg and the leg had to be amputated at Chilaw. There are 2 bungalows on the estate. Henry Perera is the conductor in charge of the estate. I and my brother went to the proprietor's bungalow and examined the almirah in that bungalow. We found certain other drugs but not the chloroform. (P.C. Evidence read: "We went to Chilaw on the 20th October. Before going to Chilaw I asked the accused. We went after satisfying ourselves that it was not in the house." Then he told me there were two ounces of chloroform. The lady had the ampule and she was apparently using it for toothache. (To COURT: P.4 holds about ¾ of an ounce. She may have evidently broken the ampule and decanted it into the coloured bottle). If he had taken it himself he must have known. The leg had to be amputated. When Leo de Alwis showed the handkerchief that his sister had chloroformed herself he said "This is a clear case of suicide but the fact remains that she was driven to it by your brother's conduct." He also said it is a pity that he gets scot free after doing all this and that he further feels like going to Duff House and giving him 2 slaps. (To COURT: He was very angry) He made the suggestion that he must have done it deliberately to arm her with the means of committing suicide. (To COURT: This was on the 17th. He kept me till 12.30. At that time I did not look up any books. He suggested that being a doctor's version, so I presumed the possibility of being correct. I dined there at Leo de Alwis' request. At the dinner table he gave me a vivid description of what may have happened. (To COURT: He said this that evidently this lady had got up from her bed, walked a little distance, came back, left her slippers by the bed and soaked the handkerchief, applied it to her nose and drew in a breath and off she went over. According to Medical evidence she must have died at once. The heart and the brains stop.) He was fully satisfied that it was suicide. (To COURT: He said Mr. Seneviratne was morally responsible for the death.) As a matter of fact not long before the death I discussed the question of chloroform with her.

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mination—  
*continued.*

The Deputy Solicitor-General objects to this question. His Lordship rules that the evidence was relevant but not as to the truth of it.

Six weeks before she died she had discussed the possibility of suicide by chloroform with me. I noticed some articles in the *Sunday Times* illustrated under the head "March of Science" and referring to this article I spoke to her. I told her that science is advancing very rapidly and that it is a good thing in a way but at the same time it was very bad. Television is an established fact and when makers get set to suit our pockets, we should be having sets in our own room. She said in her opinion the greatest discovery that science has done for mankind was the discovery of chloroform. I said that it was so. Then she asked me what was the effect of an overdose. Then I detailed to her the usual precautions. (To COURT: What I understood was by inhalation.) I told her that is in a highly diluted form it is administered, like in the carburetter of a car.) I said that a slight overdose would kill. She asked me if I knew any people who committed suicide by chloroform. I gave her the two instances I know of. One a local case and the other a foreign. One in England where a Doctor committed suicide by placing a tub of chloroform on his bed and passed off. The other was a local case in the Lady Havelock. It was a case of attempted suicide by drinking. She wanted to know whether caustic potash was dangerous or poisonous substance. I said it was highly corrosive. (To COURT: She asked me about aspirins. I said that I did not take aspirin as it was supposed to be harmful to the heart.) I mentioned this discussion I had with the deceased to my wife. I have given this evidence in the Police Court as well. My evidence was strongly challenged as being invention. The Crown Counsel said I made a very long statement to the Police, that I had not given one word there and he handed me an information book and asked me to point it out. I could not see it. I lost my temper and flung the book back. I mentioned this to my wife after the funeral about the 20th or 21st, after the trip to Chilaw. I am quite certain that Leo de Alwis was rather indignant that even though he was morally responsible for the sister's death he was going scot free and that two slaps would have satisfied him. I heard that on the 17th Leo de Alwis attempted to remove the boy Terence. While I was a Law student I stayed at White House with Mr. and Mrs. Seneviratne for three years before I married right up to the end of 1925. Just soon after the honeymoon they seemed to be getting on very well but subsequently they were not getting on as well as they should have got on. She was hot tempered. She made use of wedding presents as dashing crackers. I remember an expensive toilet set going.

Q. Did Leo de Alwis tell you on the 25th or 26th October he had done a record run in 40 or 45 minutes from Horagolla up to the Wellawatta Hindu Temple?—A. I remember my brother received a number of postcards posted from Yakkala (P.32-37) addressed to the Public Trustee, Manager State Mortgage Bank and his own house printed in block letters and some in black ink. Yakkala is on the Kandy Road. There is no truth in the statement of Mr. Harry Dias Bandaranayake that I and he searched his

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room for Chloroform. (To JURY : I mentioned to my brother the conversation I had with his wife after I made the statement to the police. I did not want him to know. I made the statement on the 30th or 31st October.) (To COURT : About 6 weeks before the death I had the gruesome talk with the deceased.)

RE-EXAMINED : I do not think I mentioned that Leo de Alwis felt like giving the accused 2 slaps before. I cannot remember whether I said it before that it would be a pity that he got off scot free. It did make me angry but I saw his feelings in the matter and his sole object was to pacify him. I stayed for dinner that night. He suggested that a doctor told him. That was why I looked up the book. I did not tell this to anybody except to my wife and I gave her strict instructions not to mention it to anybody. I kept it a dead secret. If I thought that she had chloroform I would have asked him to remove it immediately. (To COURT : I said aspirin was bad for the heart. I thought she mentioned caustic soda because the child was making soap. I did not know that I had any in the medicine cupboard in the dining room. I also used to put chloroform into my tooth and I learned from my brother that she was doing the same thing). I did not know that she was using chloroform, till my brother told me. I got into an uncontrollable fit of temper when a suggestion was made in the Police Court that I did not make a certain statement to the Police. I got into a temper after this case otherwise I was quite cool. I said valuable things were used as dashing crackers. My brother did not get angry or annoyed because most of them were her presents. I have already said so that a search was made in the house for chloroform. I do not know who took part in the search. I have never seen him in a temper.

(This Witness was recalled. See No. 57, page 205.)

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No. 28.

Evidence of L. G. de Alwis.

LEONARD GODWIN DE ALWIS—sworn.

EXAMINED : I am a proprietary planter. The deceased was my sister. At the time my sister married both parents were dead. They died in 1923. My parents left a certain amount of property, about 5 lacs in all. It was left to both of us in equal shares. My sister got 2½ lacs. She had 15 acres at Wellawatta. It was a valuable property between the road and the sea. Five and a half acres of land and a house at Dehiwala. 2 building sites at Mt. Lavinia, 6 or 7 acres of land scattered at Ratmalana. Coconut estate of 8 acres at Madapatha; paddy field at Kesbewa 9 acres in extent, another paddy field 6 acres in Mt. Lavinia; 5 acres in a village called Kawdana; another 3 roods at another place at Kawdana. (To COURT : She had not big estates.) Wellawatta property was subsequently sold and fetched Rs. 12,000 per acre. With the money Mr. Seneviratne bought a property at

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Alawwa. Before this property was sold he had to borrow Rs. 20,000. That was to settle with this money. Then he bought a property at Kottawa. I am not certain but I think it was for Rs. 52,000. It was bought in my sister's name. (To COURT: Alawwa was in accused's name.) The property at Nawala was bought with this money but I am not certain. He bought it for about 12-14,000 rupees. Though my grandmother is still alive we are entitled to our mother's share from her yet. When she dies we will get some property from her. Mr. Seneviratne had no fixed employment. I know that he used to get some work from the Public Trustee's Department. I think he was managing some estate lands belonging to Tom Walker and Estates belonging to Mrs. Rupasinghe. This was a couple of months before my sister's death. After my sister married Mr. Seneviratne they lived at White House up to the year 1932. After that they shifted to Leicester House at Arbuthnot Street and in April, 1933, they came to Duff House. I am sorry to say they were not living happily for about 5½ years. The first point of dispute was about a servant woman Jessie. Beyond that I do not know details. They used to disagree even in ordinary conversation. The sale of White House was another and after they went to Duff House the sale of Nawala property. I do not know exactly when it was sold. I think it was about a month or two after they left White House last May. (To COURT: It must have been before, just as they went to Duff House. I only heard of it in the month of May. The deceased paid me a visit shortly before her death. Between the 2nd and the 8th I was laid up with an attack of flu. There was nothing unusual in her. She spoke to me. I had an ordinary conversation. It was by my bed. I said that Colonel Jayawardene had asked me to come to Balangoda for the elections and that I would go. It was not possible for me to go. I had not sufficiently recovered. The elections were on the 14th October. That was the day I was to come up. (To COURT: I was asked to help him to canvas.) On the 15th morning I got a telephone message from Dr. Paul about a quarter to eight that something disastrous has taken place at Duff House. I asked what it was. He said I could see it when I came and I rushed up. It was about 5 or 10 minutes to 8 or so. I met my aunt Mrs. Harry Dias Bandaranayake. She came running up and said my sister was dead. When my wife got out the accused stood in the verandah. I asked him to direct me to the room. I had a look at my sister's body. I saw some marks on her face. My wife followed me. There were brownish marks on either side of the face and on the chin. They were rather extensive marks. I am not certain about the tip of the nose. I am certain about the eyelids and forehead. Accused said he found her dead in the morning and produced a bottle of aspirin. The accused told me that it was an overdose of aspirin. He said nothing further. He said it was given by the doctor. I questioned him where he was in the morning. He said from his room he came on the western end of the verandah to ask the boy to buy the morning papers. He saw a Tamil Cooly on the lawn, and he said that the man complained that the typist had taken Rs. 10/- and had not returned it. He said he heard two shrieks from the end of the verandah. Just after he came there a servant came there and started

sweeping. From there he heard two groans and as he stepped into the drawing room he faintly heard the name of Alpina being uttered, and he rushed into the child's room and found the child was asleep and he went through his wife's room where he found the deceased lying across the bed in a state of collapse. Alpina also came into the room. Immediately she came in he asked her to bring the brandy and hot water bottles. He went on applying the brandy all over the face. According to the accused he was in the verandah where he heard the shrieks. Then he said again that he was by the portico. He said the marks were caused by brandy and hot water bottles all over the face. And he also said that deceased had taken chocolate coloured tablets for diabetes and some of the things came out of her mouth. Therefore he applied the brandy to clean it out. I am not certain whether anybody was present. My wife may have been there. When Mr. Seneviratne gave this explanation I told him that I was not satisfied with the explanation and that I was going to the Police. My wife asked me not to be in a hurry about it. A few minutes afterwards Mr. Felix Jayawardene came and said he wanted the Police to have an inquest and not to stand against it. Then a Police Officer came. The morning I went I examined the whole of the room with the accused. I found nothing at all. P.3 was shown by the accused after that. I did not see P.4 anywhere. I saw no handkerchief or caustic soda. I looked under the bed. My sister was dressed in a blue night dress. The bed clothes were in the ordinary way. I have no recollection at the time I went the body was straightened. When I came out Inspector Gibson came in. He took me to be Mr. Seneviratne. I took him to Mr. Seneviratne and he took down a statement from Mr. Seneviratne thereafter. The Inspector did not go to the room nor did he see the body. I now understand that the Inspector came back in my absence. From there I spoke to Mr. Jayasinghe and went to see Dr. Paul to find out the cause of death. This was three quarters of an hour after these things happened. (To COURT: I should say it was about 9 or 9.15.) I spoke to Dr. Paul. I asked him as to the cause of death. He said Mr. Seneviratne showed a bottle of aspirin and he presumed that as there were 6 or 8 left, the rest had been swallowed by my sister. I asked him whether in his experience that happened before. I asked him what followed next. He said that the Inspector of Police had seen him and he did not suspect foul play and that he is prepared to give a death certificate. He asked me to come about 3 or 4 for the certificate. I cannot remember whether I asked about the marks on the face. There was much speculation about the marks on the face and they had their own versions. There was a suggestion that chloroform might have been mentioned at this time. Whether it was between this time and 1—I could not exactly fix the time. I did not question the accused at that time. I went to Dr. Paul at about 3 for the certificate some one or at my wife's request wanted me to see whether there were marks on my sister's tongue as well. I told Dr. Paul to come and examine her again. He gave me the certificate and said he would follow up and within half an hour he came. I took him to where my sister was. Dr. Paul said that rigidity had set in but the lips and gum were not burnt, most probably it was

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by chloroform. I asked him whether it was in his experience. He said it was probably by chloroform. Having said that Dr. Paul left. He went after fifteen or twenty minutes. I saw the accused seated on a chair and asked him whether he had occasion to get chloroform and the accused said he got some two months ago for some veterinary purpose. I asked him whether it was with him. He said it must be in the cupboard. Then he suggested that it might have been sent to Chilaw. I insisted that we should search the house. He said that a servant was going to Chilaw in five or six days and would then let me know whether it was there or not. It must have been about 4 o'clock on the 15th. There was no suggestion that the chloroform has been given 10 to the wife. Only myself and the accused went to the cupboard. I was there till about 10 o'clock making arrangements for the funeral. I suggested embalming the body. I asked Dr. Milroy Paul to embalm the body.

Adjourned for lunch.

LEO DE ALWIS. (Examination continued.)

Dr. Milroy Paul embalmed the body on the 15th evening I think about quarter to 6. I was there in the room for about an hour. Dr. Milroy Paul took about 2 hours for embalming. The funeral took place on the 16th October. My conversation with the accused regarding his being on the verandah and talking to the Tamil man was on the 15th, about half an hour 20 after I went to the house. I went into the room to see about the chloroform in the evening. I was not satisfied with regard to the accused's explanation regarding my sister's death. (To COURT: I attempted to have an inquest more than once, but I was prevented by the ladies who were present there.) I came to Duff House on the 17th also. I had occasion to visit Duff House twice that morning,—once when I came early that morning accused had 3 lady visitors and he said he was rather busy and then I went to my sister's grave. I went and met accused at about 11.30 a.m. and as far as I can remember at that time he was reading some letters of sympathies he had received. I told him I had come to ask him whether he knew anything 30 more about the death. He said he had occasion that morning to open out the iron safe in certain almirahs in my sister's room and he got some documents which were of no use and he destroyed them. He gave me a handkerchief with my sister's monogram on it. (Shown P.13.) This is the handkerchief. (To COURT: There was an iron safe I did not open it.) Accused gave that handkerchief to me and said "This was found by a servant girl on the 17th morning inside the room where my sister died. I believe he said Alpina found it." He did not say where exactly inside the room it was found. (To COURT: Accused told me this on the 17th and he he said it was found that same day.) He said there was a bit of caustic 40 soda also. He did not show it to me. I asked for the handkerchief and he gave it to me. I took it to my house. After the funeral I think one day I invited accused's brother to my place. I have no recollection whether I showed him the handkerchief or tell him anything about it when he came home. I think I had a conversation with him about my sister's death.

I discussed with him about chloroform. I do not think I told him that my sister had committed suicide, but that accused was morally responsible for it. I did not tell him that I feel like giving him 2 slaps. He himself suggested that if I wanted he could bring chloroform and experiment on the back of my palm to show that chloroform burns and that it would leave a stain as that which appeared on my sister's face. I am not quite certain whether I suggested that the Government Analyst should be asked to test the handkerchief to see if there was chloroform on it. But if he says so I would not deny it. I have no recollection whether he waited for dinner that night.

10 He came again to my house later on. On that occasion he brought a green bottle like P.4 (shown) and said that that bottle was found inside a magazine on a teapoy which was by my sister's bed. On the 15th I examined the room but did not find a bottle like that or the handkerchief. (To COURT : He brought the bottle to me about 3 or 4 days after the funeral.)

Q. Was there any suggestion that an ampule of chloroform purchased by the accused had been given to your sister for safe keeping? A. I think accused's brother Chas. Seneviratne told me that on the day he brought this vial. That was the first time I learnt that. I gathered that he learnt that from the accused. In connection with this death I went to see Dr. Paul twice

20 on the day of the death, viz., 15th and again on the 27th October. I cannot remember whether I mentioned to him on any occasion about accused having given an ampule of chloroform to my sister for safe keeping. On the 2 visits to him on the 15th I could not have said that because I did not know it then myself. On the 15th morning I questioned the servants at Duff House. I believe my driver was by me when I questioned accused's driver. I also questioned Alpina and Mabel Joseph. I questioned Mabel Joseph not along with the others because she was at church and returned rather late. I questioned Alpina and accused's driver before Mabel Joseph came from church. I first questioned accused's driver. I asked him whether

30 he could throw any light on this incident. He said that all what he knew is that he heard 2 loud shrieks which he said in Singhalese " Mara anda dala kegeheuwa " and he said those shrieks could have been heard about 50 yards away from my sister's bed room window. That is all he said. It was not a lengthy conversation. He pretended not to know anything beyond that and I did not question him further. I asked Alpina what she knew about this. She said that the driver and the boy Seelas informed her that the lady gave 2 shrieks resembling as if she was calling for her and she rushed into the room when she saw accused seated on the bed with his hand on my sister's face and what I understood at that time for her to say

40 was that accused was trying to revive my sister who was ill. I am absolutely certain that she said that Mr. Seneviratne was seated on the bed with the hand on my sister's face. When Mabel Joseph returned from church I asked her whether she knew that my sister was dead. She said the driver informed her. I asked her whether she viewed the body. She said No. I told her to go and see it. When she came back I asked her what those marks were. She said she cannot explain. I asked her whether she had occasion to see my sister in the morning before she left for church. She said she

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passed by her in the morning almost tip-toe as not to disturb her. I know my sister's child Terence. I did not make an attempt to abduct him. That is absolutely false. I have absolutely no reason to abduct him. My sister was passionately fond of the boy. (To COURT : I have no idea whether my sister's estate is administered. There is a mortgage on the Kottawa property.) Accused told me that the Chilaw estate was under mortgage. Kottawa estate was in my sister's name. I think it was mortgaged at the request of the accused and the money was given to him on the promise I think that he was not going to sell White House. This is what I heard from my sister—not from the accused. As a matter of fact I know that Kottawa is mortgaged. There is absolutely no truth in the suggestion that I was anxious to get the custody of this child for his property. I know that merely taking the boy would not bring his property to me or that I would be benefitted by one cent from his property. (To COURT : Up to date I know nothing of a Will left by my sister. If she died intestate half of her estate will go to Terence and half to accused. I get nothing whatever. Even if I get the boy his property will have to be administered in court being a minor.) I got my own property. I am not in need of getting other's property. My wife has property of her own. (To COURT : Have you any sentimental reason to get the boy to your custody? I made no attempt to get the boy.) On the evening of the day of the funeral before I parted accused's company I said that if the boy felt dull at Duff House to send him to my place for a fortnight or even school him from there if he so desired. I have two children of my own, slightly younger than Terence. I felt that the boy would be lonely in the house after my sister's death and through kindness I said that if he so desired he could send the boy to my place. 10

Cross-exa-  
mination.

CROSS-EXAMINED : I do not think I represent myself as a man of considerable means. It is a matter of opinion about how one would think of oneself. I know that income tax is payable on the joint income of husband and wife. Up to date I have not paid one cent income tax. The joint income of myself and my wife is less than Rs. 5,000/- a year. I own coconut lands. I do not live on any estate. With the proceeds of the sale of Wellawatta lands I bought 50 acres of cocoanut land at Veyangoda and 40 acres of cocoanut land in the Kurunegala District. These are the only two cocoanut properties I own. I bought those lands in 1926 and 1928, when cocoanut lands were pretty high in value. Today it is much less than what it was. Both the estates bring me about Rs. 300 a month. I cannot say whether that is the nett income. I get an income of Rs. 300/-. That is the nett income of the 2 estates. 30

Q. Your sister sold lands at Wellawatta to the tune of Rs. 80,000/-?— 40  
A. I think it is more. I know it because I own the adjoining land and I know what I realised. I cannot say off hand what my lands realised. I cannot give the amount in a lump sum as the lands were not sold all at once but in different blocks. I owned an acre less than what my sister owned. I cannot be definite whether my sister realised Rs. 180/000/- from her lands at Wellawatta. With the proceeds of that sale she bought one property—

Morahena estate at Kottawa, I think for Rs. 52,000/- in her name and another property in the name of her husband. I think the Alawwa property was bought for Rs. 23,000/- and the Newala property for Rs. 14,000/-. I have no idea whether Rs. 3,000/- of accused's money went to purchase the Newala property.

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Q. The total value of lands bought with the proceeds of sale of Wellawatta lands was 89,000/-. What happened to the balance money?—

A. Perhaps she spent on housekeeping. I do not know whether the whole of the proceeds of that sale were invested on this cocoanut land. I invested the best part of the proceeds of the sale of my blocks on my two lands. Veyangoda property caused me 57,000/- and Kurunegala property 41,000/- total 98,000/-. A portion of the lands at Wellawatta was sold to meet my mother's estate duty by my sister, myself and 3 of my cousins.

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Q. Your mother got 125,000/- by the sale of a large extent?—A. She was not entitled to the whole amount of the Wellawatta property. My sister and I came in for Rs. 75,000/-, a certain amount went to the 3 Seneviratne boys who are my cousins and 11,000/- to my mother. The 3 cousins are Dr. Seneviratne's relatives. There were no girls in that family but only 3 boys. I do not know who Albert Peiris married. My mother and I put our money and built the house "Samuthra Giri," at Mt. Lavinia. It caused over a lac. One of my uncles supplied materials. The Mudaliyar had nothing to do with it. The Headman under Mudaliyar Harry Dias Bandaranayake supplied the timber. Apart from the two estates and my residing house, I have 27 acres of paddy at Kesbawa. I got about 400/- a year from that. That is not berewela field. I am entitled to some land through my mother for which I have to wait till my grandmother dies.

Q. The division of the property was made by the accused?—A. I made 2 divisions which they did not accept.

Q. Did he not make a division and offer you the choice of choosing either set of lands?—A. I think so. There was difference of opinion between me and accused at that division. For a period of 6 months or one year immediately after this division I have not been on the best of terms with him—not for a long time. I forget that he wrote to me calling me a swollen headed fool, but perhaps he might have. That made no impression on my mind. Perfectly sure. If he admits that he wrote to me calling me a swollen headed fool I would not deny.

Q. At the division your residential house which stood on 5 acres of land and the old house in which your parents lived at Dehiwala were both valued at the same price and they were set off one against the other?—A. Yes.

Q. With the understanding that if and when you got a dowry you were going to refund something to your sister?—A. Oh, no—not at all. I think the house at Dehiwala with 5 acres was worth much more than 30,000/-. I have no idea whether it was valued at that. That house is only about 40 years old.

Q. You said this in the Police Court: "My sister got 5 acres and a house valued at that time at 30,000/-"?—A. I may have been misunderstood. What I said was that at the time I was questioned it was worth 30,000/-.

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In 1923 it was worth more. That property was midway between Dehiwala and Mt. Lavinia railway stations. I should think it was worth about Rs.75,000/-.

*Q.* A good part of the 5 acres is marshy low lying ground?—*A.* A drain about 6 foot wide runs through—not a canal. There is water grass there since my aunt got in there, but when I was there it was all dry land. For the duplication of the railway line we were paid at 10,000/- an acre sea front.

*Q.* Where it came to a sale of lands by the acre there is no land there to be sold over 5,000/- an acre?—*A.* I disagree with that. I do not think 10 the 5 acres and the house was worth only 35,000/- My 5 acres land which is close to St. Thomas college and Mt. Lavinia railway station was worth 15,000/- an acre. I acquired to the tune of one lac.

*Q.* Did not your sister say that if and when you got a dowry you will have to pay the difference of 50,000/- to her?—*A.* It is absolutely false if anybody says that. Very likely she made a gift of that to me.

*Q.* Why should she gift?—*A.* Why should she not. Our parents left equal share to both of us. With the generosity of my sister I got one lac more.

*Q.* The whole of those proceedings were started by you to get the one 20 man who would ask for the 50,000 off the way.—*A.* That was the furthestest thing from my mind.

*Q.* Do you suggest for a moment that the husband agreed to your getting one lac extra for nothing?—*A.* I do not think he had anything to do whatever in the division. (To COURT: I married a few months after my sister.)

*Q.* Did your sister not ask you to go and live in that house to help to get married to Sir Solomon Dias Bandaranayake's daughter?—*A.* Nobody dictated to me to whom to get married.

*Q.* She was of a much higher status than yourself?—*A.* Not a bit. 30 When I got married I never asked for a dowry. I got none because I did not ask. My wife had a cocconut property gifted to her by her father—that is an extent more than mine at Veyangoda in the Meetirigala district. That was gifted to her some years after my marriage. That property may have brought her an income of Rs.1,500/- last year. I think she cannot make over 100/- a month on that property. The place where I live in was about 5 or 6 acres in extent divided by a road reservation. I was selling the land between that reservation and the railway line as it is of no use to me—that is opposite my house. I would not have sold that unless the times 40 are hard. I ran a dairy all along, not because now the times are hard. I did have 2 boys belonging to two friends; they were boarders at my house. We were paid for their expenses. It is not a come down for a person living in a house worth about a lac to take boarders. Even if that was done as a living I consider it as an honest living. I consider it no disgrace whatever.

*Q.* You would have welcomed Terence coming to your house also?—*A.* Certainly not. I would have welcomed him as my sister's son but

would never have brought him down to my place and charge him. How could I make money over him except that I would charge him something for his boarding. Mr. Forrester Obeysekera was nowhere present at Duff House on the 17th October. He gave evidence at the inquest proceedings. I told him "You know Forrester how much I loved my sister. The only thing I can do now is to care for her son." I said that to him on the 15th and not on the 17th. "On behalf of myself and my wife I have asked Stephen to let me have the boy." I did not say that. That is the honest truth. I never mentioned like that. I had gone to Raymonds or to some shop to make the funeral arrangements and when I came to Duff House I saw Mr. Obeysekera seated with Mr. Donald Obeysekere and I tapped Forrester Obeysekera on the back and took him to a side and said "My sister is dead and it is not a natural death. My affection now is for the son." Beyond that I said nothing. I never asked Stephen for the boy. Mr. Forrester Obeysekera is my wife's mother's brother.

- 10 *Q.* Can you suggest anything why Mr. Obeysekera should say what you did not tell him?—*A.* The only thing I can say in that connection is that he telephoned me and asked me whether it was a fact that I have placed facts before the police over this death and whether I could discuss the matter with him. I said if he was going to dissuade me from taking this step he might drop the receiver. He might be saying what I did not say perhaps because he resented that. If he is saying what is not true it is false—either that is an invention of his or he has misunderstood the words I addressed to him. I assisted him in the elections and I raised a loan on my living house to pay for the hire of cars during his elections. I was in the witness box for about 2 days under cross-examination in the Avisawella election petition enquiry. It was easier in that witness box because I was cross-examined by someone else and not by you. (Mr. Pereira.) (To COURT: Mr. Obeysekera was not unseated.) *Q.* You admitted that
- 30 Mr. Obeysekera attributed to you that you said the only way for you to care for her son is correct.—*A.* I do not say I used the very words, but I may have said "My sister is gone, my affection is for the child"—that idea. How cannot I care for the child. For most days of the month I am at home. As Valuator attached to the State Mortgage Bank and the Public Trustee accused used to be away from home occasionally.

- Q.* Did it not strike you that the mother having died, the boy would be left alone and it was a good thing for the child to be with you?—*A.* That never struck me. I asked the boy only for a fortnight, just to get through the period of dullness at the loss of the mother and if the accused wanted he could keep the boy or remove him from my place. Showing my affection to the boy—does it suggest that I wanted to grab the boy. I never wanted the custody of the boy and I would not ask. (To COURT: I was emotional at the time. I tapped Mr. Obeysekera on the back and I did not want to speak about the death in the presence of others.) In the night, after the funeral, before I parted Mr. Seneviratne's company I told him that the boy would be welcome at my house. I said that if after 2 or 3 days the boy feels dull and if Mr. Seneviratne so desires it the boy will be welcomed

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at my place. He reported that the boy cared very little for his mother and it was not likely that he would feel much; that annoyed me because I knew that was not the truth.

*Q.* Mr. Seneviratne was not out to please you in any way over anything after his wife's death?—*A.* I do not think so at all. There was no reason why he should have pleased me in everything after my sister's death.

*Q.* Supposing he had murdered his wife would he not have done everything possible to placate you?—*A.* I could not quite answer that question. Perhaps it all depends on how he thought of it—whether he was going to please me or not. A week after the burial I had an almsgiving in memory of my sister. I did not personally invite the accused to come for that, but I informed him through his brother. I cannot remember whether I mentioned the child. Accused never sent a reply nor did he come. I do not think it mattered very much with me. I was not annoyed at that. I may have thought that he had not the decency to come, but I was not annoyed. (To COURT: The almsgiving was on the following Sunday.) I learnt afterwards that he had gone to his brother Francis Seneviratne's house that day.

*Q.* The very house your sister had forbidden him to take the child?—*A.* I thought he should not have done that but it did not annoy me.

*Q.* As a matter of fact you were so annoyed that the boy was not given to your custody that on the 17th you went and saw Sister Eva of St. Margaret's Home.—*A.* I never cast eyes on this lady nor have I ever been anywhere close to her. I know Rev. G. B. Ekanayake.

*Q.* Did you through his influence have Miss Mabel Joseph removed from Duff House?—*A.* I did not, but my wife did.

*Q.* What for?—*A.* On certain information I received from Proctor Dias Abeysinghe I thought it improper to allow her to remain in that house. Therefore I conveyed it to my wife and she through the influence of Rev. Ekanayake got her out. The only action I took in that matter was to inform my wife.

*Q.* You stated this at the inquest: "I tried to get Miss Joseph out of the house." I admit that. Then you said: "I asked the sisters of St. Margaret's Home to get her removed."—*A.* If I have said so it is a mistake. I never met those sisters—perhaps I was puzzled by your (Mr. Pereira) worrying me at that inquest and I gave that reply.

You also said "I was concerned with the morals of Mr. Seneviratne."—*A.* Yes, that I was concerned with.

*Q.* You were trying to make it impossible for him to look after that child by even trying to remove the child's nurse?—*A.* Certainly not. When my sister was dead I did not want a character like that to live in the house. I was going on hearsay. My sister had that girl in the house for 4 years. I had heard nothing about her then. On the 14th my sister had taken that girl on a visit to her relatives.

*Q.* It was not care for your brother-in-law or any idea that this girl was going to influence your brother-in-law on wrong lines but it was a desire to get the child into your custody?—*A.* It was not so. I heard that

the sisters agreed to her going back on the condition that there was an elderly lady in the house. I have no recollection of having read accused's advertisement in the papers for an elderly lady to be in the house. I only wanted the boy till the period of sorrow was over. The removal of the girl was done by Mr. Ekanayake. It is a mistake if I told the coroner that I asked the sisters to have the girl removed. I do not know what made me say so. I heard that accused engaged Mrs. Harris. I have no idea that when the advertisement appeared a filthy postcard was sent to him. I have no recollection whatever on the 24th October I went to  
 10 Horagalla—my father-in-law's place with my wife. I may or may not have gone. I have no recollection of having told one Chas. Seneviratne that I did a record run in 40 minutes from Horagalla to Wellawatta. Perhaps I did a record run. I cannot recollect that I boasted about it. I do not think it is possible to run in 40 minutes from Horagalla to Wellawatta. I absolutely deny that I posted letters at Yakgalla when I was coming from Horagalla to Wellawatta. I have no recollection of having passed the accused on the road, but I may have. I do not think I ever said that I did a record run from Horagalla to Colombo. There is no junction near the 18th mile post. Yakgala junction is perhaps between the 18th and  
 20 19th mile posts on the Colombo-Kandy road, but I cannot remember. I know that Horagalla is between the 24th and 25th mile post. I have no idea whether there is a postal pillar at Yakgala junction. I may have passed it but that made no impression on my mind. I do not think I met Mr. Chas. Seneviratne on the 17th. I cannot fix a date, but I got him sometime after my sister's death. Perhaps a day or two after. If it is so, it is so. Rev. Ekanayake was at my place at the time he came. If Chas. Seneviratne has stated that he stayed at my place for dinner that night, I will not contradict him. I do not remember having told him that there is no doubt in my mind that my sister had committed suicide  
 30 but that accused had driven her to it. I had on no occasion made up my mind that it was suicide. I always doubted it.

Q. Did you on any occasion believe that your sister had been driven to it?—A. I do not think so. I did not use the words "Accused drove her to it." We might have discussed. (To COURT : If I described to him how suicide must have taken place it ought to impress in my mind. No doctor told me how it must have been caused. If no doctor told me I would not have told him). Why should I invent that a doctor told me so. I have no recollection of having told Chas. Seneviratne "Although he has driven my sister to it he goes scot free." (To COURT : Sometimes I speak  
 40 to him in English and sometimes in Singhalese.) I deny that I used that word "Scot free" but I do not think in this connection I said about accused having driven my sister to it. I do not think I told him that although my sister had committed suicide as a result of accused's conduct he gets off scot free. I have no recollection whether I told him that I felt like going and giving him (accused) two thundering slaps. When accused told me that the boy did not feel the want of the mother at all I did feel that. Perhaps I may have felt like going and giving him 2 slaps. I have no

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recollection of having told anybody that my sister was driven to suicide by the accused; if I did say I could not have forgotten it. (To COURT: If it was suicide then you would have thought that she was driven to it by accused?—That is possible.) From the very outset I was weighing between the two—whether it was suicide or homicide.

Q. You are still of that view?—A. I cannot definitely say whether it is homicide. After the last medical evidence I thought there is a possibility of homicide. Up to then I was weighing between the two. I was not any time decidedly of the view that it was a case of suicide. Therefore I could not have told Chas. Seneviratne that I was satisfied that it was a case of suicide and that his brother had driven her to it. I know Mrs. Ronald de Livera. 10

Q. You wrote to her thanking her for all she had done on the day your sister had died. Did you not, writing to her say that accused had driven your sister to it and the pity is that he gets off scot free?—A. I have no recollection. If I have put it down in writing I shall admit it.

Q. Did you not write to her on the 21st October to say that your sister was driven to commit suicide and the pity is that your brother-in-law gets scot free?—A. I have absolutely no recollection but if you produce the letter I will admit it. 20

Q. Still you purport to be able to recall what each of the witnesses in this case told you on different occasions?—A. Yes. About the witnesses I read and re-read their evidence in the Police Court from the newspapers. I kept cuttings from the newspapers. When I know I have to come to give evidence here I refresh my memory over the whole case. I have not got a copy of the real evidence. I have not got a copy of the statement I made to the police. I asked for a copy from Mr. Bantock, but he refused. I made no attempt to get it surreptitiously. I am not aware of tactics in departments.

Q. Writing to Mrs. Ronald Livera you said “Stephen drove her to this but gets off scot free”?—A. If it is there I will admit it but I have no recollection. (To COURT: Why cannot Mr. Pereira show the letter to me. Then I will admit it. If it is there I will admit it.) 30

Q. Will you take my assurance that it is in the letter?—A. If you assure me it is there I will admit it.

Q. If you could have written that to Mrs. Livera there is nothing improbable in your having told Chas. Seneviratne?—A. I have no recollection of having this discussion with him.

Q. Yet for the first time you said here that the driver told you that he heard 2 cries “Mara anda dala kehegehawa”?—A. My recollection is that I said so in the Police Court or at the inquest. “Mara anda dala kehegeuwa” means that she gave 2 loud shrieks. That is how I understood it. How am I to know why the driver used the words. Usually these words are used for shrieks. 40

Q. “She was crying out as if she was being killed.” Is that not the literal meaning of the words?—A. That is the literal meaning but it is always used in the other way—“loud shrieks.” I am not inventing these

words. In the Police Court or at the inquest perhaps I was not asked about it. I am surprised that it is not in the record because it is so fresh in my mind. I have no recollection whether I said in the Police Court or to the Coroner that my driver was present when I questioned the witnesses. My wife was not present when I questioned the driver. I cannot remember whether she was present when I questioned Alpina. I have no recollection whether anybody was present when I questioned Alpina. I cannot remember who were present when I questioned her. I asked her what she knew about this death. She said that Seelas and the driver informed her that the lady had given 2 shrieks resembling as if the lady was calling Alpina by her name and when she came into the room she found Mr. Seneviratne seated on the bed doing something to my sister's face and the impression conveyed to me was that Mr. Seneviratne was trying to revive my sister. That is my recollection of what she told me. She said she was in the kitchen preparing scrambled eggs for the baby when she got this information. My memory was freshest when I gave evidence at the inquest. I forget the date of the inquest.

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*Q.* You stated this to the Coroner. "I know Alpina; asked her what happened; said she was making scrambled eggs and the driver said the lady was calling for her and she came into the room"—*A.* Yes.

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*Q.* You now said that Alpina told you that the driver and Seelas came and told her that the lady gave 2 shrieks as if calling for Alpina, but you said something different to the Coroner?—*A.* If that is in the record, I go by that. I could not have remembered exactly what happened. I may be wrong to-day and correct on the 8th November when I gave evidence at the inquest.

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*Q.* On the 19th November in the Police Court you said "When she was in the kitchen making scrambled eggs for the boy the driver and servant boy Seelas informed her that the lady shrieked and perhaps that she was wanted by the lady." You see the difference?—*A.* Perhaps there are little contradictions. I did not use the very words but I conveyed to you the message.

*Q.* Then you went on to say "She came quickly and found my sister lying across the bed"—*A.* She never told me how she found my sister.

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*Q.* You said further "She also found Mr. Seneviratne on the bed reclining on the side with his palm on my sister's face"—*A.* I think the Crown Counsel use the word "Reclining." I do not know whether I said Yes to that question but I did not use the word "Reclining." He was not leading me by the nose putting all the words to my mouth. I really do not know how these things are done, whether you are led by the nose or what it is, but I was examined. Crown Counsel put questions to me to which I gave answers—not just say "Yes" and "No." I think Alpina told me that when she went into the room she found my sister lying across the bed.

*Q.* A moment ago you said she did not say that?—*A.* You are puzzling me by asking all sorts of questions. I have no recollection of having said

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“accused was reclining on his side.” What I mean when I say that accused had his palm on my sister’s face is that he was trying to revive her. By reviving I mean either massaging the face with the palm (over the face) or rubbing the face. From what Alpina told me I gathered that accused was trying to revive my sister. I told the magistrate that the girl told me that accused was seated on the bed but I did not say reclining. The girl told me that she was asked by Mr. Seneviratne to bring bottles of hot water and brandy. On purpose I never developed my story at any stage. Mrs. Harry Dias Bandaranayake told me that Dr. Paul had told her that my sister must have died about 5. I think she told me that on that very day. I do not think I confronted Alpina and the other servants with that statement. I did not tell the police about what Mrs. Dias Bandaranayake told me regarding what Dr. Paul had told her. I made a lengthy statement to the police. I cannot remember the substance in that statement. If it is not there that Mrs. Bandaranayake told me what Dr. Paul had told her, I have not said so. 10

Q. If Mrs. Bandaranayake had told you one word about this you are bound to have told all the witnesses and also the accused, “How could you have heard my sister cry at 6/30 when she was dead at 5”?—A. Where my brother-in-law was concerned I could not make up my mind to cross-examine him or show that I had any doubt in this. I thought it was improper for me to do so. About others, I can give no reason why I did not put this to them. Perhaps because we were so very excited we did not speak about it there. (To COURT: If you know that death had taken place at 5, accused goes out at once? May be so but I had occasion to ask my aunt what Dr. Paul said. She said she was dead. I asked “could he not have done anything more”. Then she said “He came late; if she died at all it was at 5”) I am not apologising for my aunt. Where was the occasion for me to meet the accused after Dr. Paul had said this. I think my aunt may have told me this after I questioned Alpina. I saw Dr. Paul twice that day. I am not quite certain. I think even Dr. Paul told me something to that effect—that when he came she was dead 2 hours. I am telling you 5 as having heard it from my aunt. I did not ask the doctor whether it is true that my sister died at 5. I saw the doctor twice on the 15th and once on the 27th October. On the 16th I saw him at the cemetery but I did not speak to him. On the 16th morning I did not speak to him. I remember Dr. Paul having said that I came to his house on the 16th morning, but that is a mistake. I never saw him between the 15th and 27th October. If Dr. Paul says that on the 16th or the next day I told him that I learnt that accused had given his wife an ampule of chloroform for safe keeping that is untrue. I did not act as an Election Agent for Dr. Paul, but I helped him in the elections in getting cars. I worked hard for Dr. Paul against Mr. Dasanayake. I do not say that Mr. Dasanayake is related to me. Dasanayakes are related to me, but I do not know whether this particular gentlemen is related to me. My sister gave no support to Dr. Paul. Accused worked for Mr. Dasanayake. There is no reason at all why Dr. Paul should come out with something in favour 20 30 40

of the accused in preference to me. If any gratitude was due, it was to me and my sister and not the accused.

10 Q. Yet he says that you came to him on the 16th and told him about chloroform and that he told you to find out whether there was chloroform in the house and you came back that very day and told that accused had told you that he had given chloroform to his wife for safe keeping.—A. I do not know what made Dr. Paul say that but I never met him on the 16th. I have no recollection of having told him that accused told me he had given his wife an ampule of chloroform for safe keeping. Perhaps in the course of conversation on the 27th I may have told him that. Perhaps he made a muddle of the 2 days. It is quite possible that I made a muddle. I know Mrs. George de Saram.

20 Q. She has said that you told her that Mrs. Seneviratne's death may have been by means of chloroform. She says she and her husband came to your place on the 17th so far she can recollect at your invitation?—A. I never invited them. I would not have invited visitors immediately after my sister's death. I may have been anxious to have a quiet talk with her as regards what happened at dinner the previous night. I never invited them to my house immediately after my sister's death. They live at Homagama. I do not know what induced them to come from there, but I deny that I invited them. When she says that they came there at my invitation she is speaking an untruth. I think I showed the handkerchief to Mr. Saram and if I said anything at all it was that the handkerchief was given to me by Mr. Seneviratne and I may have said that Mr. Seneviratne wants me to believe that my sister used that handkerchief. Is it likely that I told him that somebody at Duff House showed me the handkerchief when the accused himself showed it. I cannot definitely say whether I told them that Mr. Seneviratne had told me that he had given an ampule of chloroform to his wife for safe keeping. The first information 30 I had about the ampule was when Mr. Chas. Seneviratne brought P.4 to me and said he found it on the teapoy and that probably my sister broke the ampule and decanted the chloroform into it and used it. I cannot say whether Sarams came before or after Mr. Chas. Seneviratne saw me. If they saw me after, I admit Mr. Pereiras's question as correct, but if it was before it is not correct because no mention of ampule was made to me.

40 Q. If you did tell Mrs. Saram that the accused had told you that he had given his wife an ampule of chloroform for safe keeping you admit the possibility of your having been mistaken when you said that it was given only by Chas. Seneviratne?—A. I admit the possibility this way—if Chas. Seneviratne had visited me earlier than Mrs. Saram but if he visited me after Mrs. Saram I could never have got the ampule idea into my head. I stated to Crown Counsel that accused did not tell me that he had handed an ampule to his wife for safe keeping. If Mrs. Saram says that you told her that accused himself told you that, that is something at variance with your recollection of events? That is if she is true. I may have mentioned this to Mrs. Saram. I cannot say why she says it, but I never mentioned it to

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her. (To COURT : I am definite that I did not tell her that the accused told me personally that he had given an ampule of chloroform to his wife). I found a mark on my sister's forehead also when I viewed her body. If I have not said that before I may have omitted that detail. I am not stating an untruth but speaking the truth in this case as far as my memory goes. I have no recollection whether none of the doctors spoke of a mark on her forehead.

Q. I suggest that you speak about a mark on the forehead because Mr. Zoysa whom we have summoned has got a prominent mark on his forehead?—A. I know nothing about a mark on his forehead. I distinctly remember the mark on the forehead also. I have never cast eyes on Mr. Zoysa. My recollection is that the bed sheets were dirty coloured but not disarranged. In the Police Court I did not say they were soiled, but I said they were dirty looking. If the record shows that I said they were soiled I must have said it. You cannot expect me to go into details in every Court. My wife and I never agreed to contradict Dr. Paul on this point. If the record shows that my wife said in the Police Court that the bed sheets were dirty and crumpled I take it she said it. I cannot remember the doctors and Mrs. Bandaranayake saying that when they came the bed sheets were clean and not disarranged. I did not discuss with my wife the question of the bed sheets being dirty and disarranged and agree what we should say on the point. If my wife has said in the Police Court "I have discussed about the sheets being dirty and crumpled with my husband." She must have done it, but I cannot remember. I am keeping cuttings of newspapers and reading and re-reading the evidence. The real things which I read are to refresh my memory on what I should say. Perhaps I did read in the papers what Dr. Paul has said regarding the bed sheets.

Q. If the sheets were clean and not disarranged that was evidence lacking of any struggle or forcible chloroform and to the accused's advantage?—A. It never occurred to me that it was to his advantage. The only thing that prompted me to say that the bed clothes were dirty and crumpled was because I saw it so. Perhaps at the inquest or in the Police Court I was not asked regarding the condition of the bed sheets.

Q. I suggest this is a set policy of yours to discredit Dr. Paul by your wife and yourself contradicting him?—A. No. I do not think the Police questioned me about the condition of the bed sheets.

Adjourned for the day.

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23rd May 1934. Accused present—same Counsel as before.

LEONARD GODWIN DE ALWIS.—Cross-examined (continued).

I may have made a statement to the Police on the 28th. In that statement I may have given a number of names of relatives to whom the deceased had threatened suicide. I cannot remember. That statement was made on the 28th October. I cannot remember unless I refresh my memory. This statement was made within a fortnight of the death of my sister. It is true that I said that my uncle Harry Dias Bandaranayake,

my other uncle E. Reginald Dias Bandaranaike, my aunt Mrs. Dassanayake her daughter Mrs. Charles Seneviratne, my wife and my grand-mother all knew that more than once she did threaten to put an end to her life by taking poison. I have no recollection if Mr. Jayawardene says so but I would not contradict him if he says that the idea was so impressed in my mind that when Mr. Jayawardene came to Duff House, I told him that she had probably committed suicide. I deny that I told him that my sister had threatened suicide often. (To COURT: She has not told me, I heard from some of my relatives.) It is true that I also told the Police that at one time or another my relatives had individually or collectively pacified my sister. (To COURT: It was a well known fact to me that she had threatened to commit suicide. My relatives had known that. I am not aware that the accused was aware of that.) I also learned from the accused since, that he had gone to Mr. Francis Seneviratne's house on the 14th afternoon. (To COURT: I can only say what I have heard what the mystery about her not liking Mrs. Francis Seneviratne was.) I deny that my wife prevented Mrs. Francis Seneviratne from marrying him. I attended the marriage with my wife. Mr. and Mrs. Francis Seneviratne never called at my house although I called at their house. I think Mr. and Mrs. Seneviratne called on us at an estate bungalow not at my house. I am not sure of the date of the christening ceremony at their house, I know it was a christening ceremony. I have no recollection. My wife and I were not asked nor did we go. She has not given me certain information about Mrs. Francis Seneviratne. Except from my sister who gave me information against Mrs. Seneviratne, I have never heard from anybody else. I have no idea when my sister came to learn of this. I may have asked my sister who told her this. I have no recollection whether she told me why. I may have asked. Even if I did I do not think she mentioned names that created an impression in my mind.

Q. And on the strength of what your sister told you, you told the police that you had good grounds to show that your brother-in-law was misbehaving with the lady in the house?—A. I cannot vouch for the accuracy of the statement. I may have said so taking the grounds merely on hearsay. I cannot recollect. I cannot remember whether I heard from anybody else. I cannot remember her giving any names. The only grounds are what I heard from my sister. My informant was not my wife. Simon Tillekeratne is at Mt. Lavinia. He pays coolies and picks nuts. He was not my informant. I told the Police that the accused told me that his wife always suspected his actions at Mrs. Francis Seneviratne's house, and that his wife got into a temper when he went there that afternoon. I think she found out from the son that he had been there. I do not think that after the de Sarams left his wife had had a discussion about it. I told the Police what I thought had occurred even though the accused did not tell me. I did not say that I suspected that they had a row after the De Sarams left. (To COURT: The accused told me that after the de Sarams left, he and his wife were seated in the verandah and she complained that she had a headache. She followed him into his room and asked him for aspirin and he gave her a bottle that was nearly full. He

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said that he had taken 3 tablets. That is what he told me. I never take quinine for headache. I have taken aspirin. I take one or two aspirins for headaches. I have no knowledge that there were 9 left. (To COURT : He said that it was 6. This was after he came out from the room. I cannot recollect whether he brought it from the deceased's room. I do not know that Dr. Paul says that he had given his wife a bottle of aspirin nearly full and that a good many had been consumed. Yesterday I said when I asked my brother-in-law how she had come by the marks he told me that she had brought out some brown phlegm or something of that kind and that he wiped it with brandy. He said the colouring of the phlegm was due to some pills she had taken, chocolate colour. He said it was to take away the stain he applied rag soaked in brandy to remove the marks and there was the hot water bottle, all that taken together may have caused the marks. All these explanations were given one after the other. I do not know what my wife may have said to the police and at the inquest that it was due to the combined effect of brandy and hot water bottles. I have no recollection that it was told in my wife's presence. I would not contradict my wife. I understood him to say that the brandy was used to wipe the marks. The impression created in my mind was the he was taking out the froth. Though her statement at the inquest was that brandy was not used to wipe off the froth my impression was that it was sticky and it was to wipe it out. I remember that. I said yesterday that the question of chloroform was discussed for the first time after Dr. Paul came at 4 o'clock in the afternoon. I cannot fix the suggestion that it was chloroform on anybody. Everybody made various suggestions but one of the suggestions was this. Even the police questioned me whether I made the first suggestion but I could not exactly remember because I had forgotten. Some said Lysol, some said chloroform, I cannot remember. At the moment I did not think chloroform was more important than anything else. I took everything as important. I cannot remember whether Mrs. Dias Bandaranayake suggested it. I cannot fix it on anyone. Dr. Paul said that it was very probably chloroform. (To COURT : Dr. Paul gave me the death certificate when I went to see him.) (P.C. Evidence read) I do not think Dr. Paul asked me to find out whether there was any chloroform in the house. I have no recollection if Dr. Paul asked me. (To COURT : He may have asked me. I remember questioning Mr. Seneviratne.) The accused did not mention ampule, he said he bought chloroform for veterinary purposes to amputate the leg of a buffalo. (To COURT : He said it may be in his room.) Then he said it might be in his room or at Chilaw. I went into his room with him and he opened his cupboard on the 15th evening. I emphasised the word room. He said either his bed room or any room where the cupboard was. He did not use the words Duff House not in connection with this chloroform. It is not the fact that I asked him whether it was in the house. I asked him whether there was any chloroform with him. Although in my statement to the police of the 28th October I used the word house, I meant in his room. I may have used the word "House". I asked him what was the

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purpose in getting chloroform, and he said it was to amputate the leg of a buffalo and it was in the house. He led me into his room smelt several bottles and said it was not there. If it is in the record I will admit it. If I have not said one word about his going to the room and searching for any chloroform in his room, it may have escaped my memory. Although he searched his room perhaps it never occurred to me it was important. All I wanted to do was to get the police to unravel the mysterious death of my sister. I never went through these statements with my elders. I never discussed my statement with my elders. None of my elders advised me to make a statement. Before going to the police I may have discussed the mysterious death of my sister with them. To the best of my recollection I did not tell the police that I discussed the matter with my elders. I discussed the death but not my going to the police. I discussed my doubts but it does not mean that I went to them about my statement. (The Deputy Solicitor-General objects to the statement being used in evidence. Mr. Pereira states that he was using the witness's statement for contradictory purposes. Court overrules the objection.)

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10 *Q.* You realise the important departure from your present evidence. Originally you said Duff House or Estate, later his room or estate?—*A.* I meant that it was in his room. If I have not said so it must have escaped my memory. I do not think I am shrewd. It must be so to a legal mind.

*Q.* I put it to you that you would have promptly told him what is the meaning of this. You must have asked.—*A.* I did not ask him why it was on the estate.

*Q.* Did you not think his version was meaningless?—*A.* I was only anxious to find out the cause of death and I thought it was impossible to ask him whether the death was under suspicious circumstances. I thought it was strongly probable. He apparently did not know where it was; when it was not found in his room he said it was on the estate.

30 *Q.* What he did say was what Dr. Paul said that he had given it to his wife and that it may have been sent to Chilaw?—*A.* I learned about the ampule when Charles Seneviratne brought the green bottle. I think Dr. Paul was making a mistake. I know an ampule is a sealed glass bottle and it must have been decanted into something else. An ampule cannot be stoppered after it is broken. He only smelt at several bottles. It struck me that it was already decanted into something else. I did not say so to the police. It may have escaped my memory. I did tell the police that he searched for the bottle. I cannot tell exactly what had happened, whether to satisfy his uncle he went round to his room again.

40 (The Deputy Solicitor-General consents to put his statement to the police in evidence.)

*Q.* Your recollection of what the accused said is at fault, that he handed it to his wife for safe keeping?—*A.* Absolutely not.

*Q.* It was due to his ignorance that it was not Duff House or on the estate?—*A.* I cannot agree with you that if the chloroform was not in Duff House or on the estate it was not in his keeping?—*A.* He did not know where it was.

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*Q.* That means that if an ampule or bottle was not with him, it may be with somebody else. If he had it he cannot forget it.—*A.* The impression created in my mind was that it was in the room or not in the room and if it could not be found he never had the chloroform.

*Q.* You admit that when he said it was Duff House or Estate he did not know where it was?—*A.* Yes.

*Q.* If he had brought it in his own hands or kept it in some particular place or took it to Chilaw he could not forget that fact.—*A.* If it was true he could not forget it.

*Q.* He may have handed it to some third person?—*A.* I cannot think so. I know and it is true that he went into the room because he went through the house. I have read Mr. Charles Seneviratne's evidence in the papers yesterday. I am unable to express an opinion. 10

*Q.* If that story is true Mr. Seneviratne could not know where it was?—*A.* If so it is true. He knew it was not in his room or at Chilaw.

*Q.* Do you admit his wife may have kept it in her room in the iron safe, anywhere?—*A.* Yes.

*Q.* Even if he did not look into his room there is nothing extraordinary?—*A.* I cannot express an opinion. (To COURT: The first I heard about the ampule was from Charlie Seneviratne. After reading his evidence yesterday it was the first time I heard about it.) 20

*Q.* Are you aware that Dr. Paul has given evidence about the ampule of chloroform?—*A.* Yes.

*Q.* Are you aware that he said you came on the 16th morning?—*A.* I am not aware.

*Q.* That you said there was unpleasantness between husband and wife and you asked him if she had taken poison?—*A.* He is mistaken.

*Q.* He never asked you whether there was chloroform in the house?—*A.* Yes.

*Q.* So that Dr. Paul is inventing something?—*A.* I cannot recollect. 30  
I never went to him on the 16th. 16th evening was the evening of the funeral so I could not see him. I saw Dr. Paul on the 15th and 27th. I told the police that Dr. Paul told me that somebody had held a big quantity of cotton wool soaked in chloroform until she died, in other words murdered her. He used the word homicide. I am aware that Dr. Paul contradicts me. My statement was that Dr. Paul told me that it was homicide, and that it was impossible for my sister to commit suicide. He said it was a case of homicide. He said it cannot be suicide it must be homicide. (To COURT: On the 27th evening I went to Dr. Paul and he asked me whether I was still racking my brain to find out the cause of death and I told him it was so. I went in the company of my wife and Mrs. Charlie Seneviratne. He told me it was suicide and it cannot be anything else but homicide. I told him I was going to the Police. He said he had done his duty and that I could do just as I like. So I decided the following morning to go to the Police. My wife and Mrs. Charlie Seneviratne would testify to that, that I came back to the car and told them what the conversation I had with Dr. Paul was. (P.C. Evidence read: Two or three days . . . informed 40

the Police.) (To COURT: That is what he told me. It is very strange why he said so. I supported Colonel Jayawardene in his election. What he wanted was my car. If Dr. Paul asks me I might help him.) Mr. Dassanaïke is not a kinsman. The other Dassanaïkes are. Mr. Seneviratne helped Mr. Dassanayake. I cannot help it. What I say is the truth. There would be nothing to prevent my coming home the very night of the election but if I preferred to enjoy the evening with Colonel Jayawardene his son and nephews, I would have stayed. There was no reason why Dr. Paul should seek to befriend the accused. I do not think I said yesterday that the handkerchief P.13 was found by a servant girl was told by the accused. Nobody asked me I do not know that the other evidence is that it was found by the accused himself. If I did not mention it to the enquirer or the Police or the Magistrate it was perhaps that they did not ask me. I have not added to my story earlier, I may have forgotten the details.

Q. Do you know that the whole case is that two handkerchiefs were found, one by the accused and one by the servant.—A. I have no recollection. I only read and re-read my evidence. If you say so I do not deny it, but I did not read about two handkerchiefs. I now remember that Alpina said two handkerchiefs were found and that one had been given to the dhoby. I have no recollection of having said so to the Magistrate. (P.C. Evidence read P.42 “Mr. Seneviratne told me . . . torn.” If it is in the record I go by that. I am not developing a story. Perhaps he said so and I forgot it at the time. A. You told the enquirer on the 8th November that your brother-in-law gave you a handkerchief saying he had found it on your sister’s bed that morning. If it is in the record I may have said so. I have forgotten all about it to-day. I am not twisting evidence. Perhaps he made several statements and when I made my statement I embodied all his statements. I said he also found a caustic soda stick. I do not think it was along with the handkerchief. I think he said it was under the bed. That is the recollection I have of it. I did not mean that the handkerchief and the caustic were together. It was separate. What the accused made me understand was that the caustic and a handkerchief were found. He said that under the bed he found the handkerchief. (To COURT: It was on the floor. That is what I understood him to say.) He gave me two versions. I have never cast my eyes on caustic. I have a bit of soap made by Terence. Some itinerating soap-maker showed him how to make soap. My sister gave a piece of soap made by him to my wife. I said yesterday that Charlie Seneviratne said that P.4 was found inside a magazine. I do not think I said one word about this being found inside a magazine. (To COURT: I said that Charlie Seneviratne brought this phial to me and told me it was found on a teapoy. He said it was found inside a magazine by my sister’s bed. Little details escape one’s attention unless one is pointedly asked. To the best of my recollection I told the Magistrate that when I went to the room I could find no phials at all. I remember that many witnesses including Dr. Paul found Aspirin Pancreasal and a smelling salts bottle without a stopper.

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I said that there was no bottle whatever on the teapoy. It was not by divine inspiration. As I went into the room I did not see. It may have been placed afterwards.

*Q.* Do you assert that no aspirin bottle was found, because you did not see it.—*A.* No.

*Q.* How and why are you able to say the bottle was not there.—*A.* I did not see. I deny having seen the bottle. (To COURT: I have no recollection that the bottle was on the dressing table or on the teapoy. I did not see it.)

*Q.* You told us yesterday that the accused gave you two versions as to what he did after he got up.—*A.* I do not think so. I said so in the minor court. 10

*Q.* You do not expect a man when his wife is dead to give a coherent story of all details.—*A.* No, I do not think.

*Q.* You went to the Police and made a statement on this point?—*A.* Yes.

*Q.* Did you tell the Police you said you questioned Mr. Seneviratne the first time on the 15th afternoon.—*A.* If I have said so it is not correct. If you show me the statement . . . (stop).

*Q.* When somebody else who is equally distressed or more distressed says what you think were contradictory statements you think he was lying?—*A.* No. 20

*Q.* You told the Police that the accused got up at 5.30 and went to the front verandah about two papers?—*A.* Yes.

*Q.* In the second statement you said that accused had come about 7 a.m.—*A.* I admit it. I did not say in the Police Court that Mr. Seneviratne had gone back to the rear of the house when he heard a groan. I told you I gave two statements; in one statement I may have said 6.30 and in the other I said 7. I was seated by Mr. Seneviratne when he was making his statement to Mr. Gibson. I was very anxious to have an inquest. Then I was stopped and as I came out, the inspector mistook me for Mr. Seneviratne. The inspector was kept waiting. I sat near Mr. Seneviratne. The statement was made in my presence but I never followed him. It did not interest me. I never followed the statement. I could remember certain parts. I said nothing in connection with the death to the inspector. Perhaps he did I could not hear. I did not follow. I was too excited. 30

*Q.* Did you not hope as a result of this inquiry to get the police to hold an inquest.—*A.* No.

*Q.* Did you think that in the light of Mr. Gibson's report to Dr. Paul that an inquest would be necessary.—*A.* No. 40

*Q.* Did you ask Mr. Gibson to let you know the result. *A.* I simply asked him to let me know early so that I may make the necessary arrangements for the funeral. Mr. Felix Jaywardene was not egging me on to have an inquest but he said if the police wanted an inquest held to welcome it. I did not tell Mr. Gibson that. At this time I think I questioned Alpina. I was satisfied that the accused's version varied from Alpina's story. I did not ask that Alpina's statement also be taken. I can give no reason. I can

give no reason why statements from the other servants were not taken. To COURT : I heard patches of it here and there. I admit that I was seated close to him but I never followed the whole of his statement. After I heard the differences in his version it must have struck me. I really did not hear or follow Mr. Seneviratne's story to inspector Gibson. He had already given me his version. That version was contradicted by Alpina. It did not occur to me to ask the inspector to record Alpina's story. I was suspicious from the outset. I did not believe her when she told me that Mrs. Seneviratne had an overdose of aspirin. I did not believe the chloroform was in the iron safe. (To COURT : I did not tell inspector Gibson that there were marks. It was weighing in my mind between the two whether it was homicide or suicide.) I was desirous of having an inquest. The only way to secure an inquest was to put before the Police these contradictory stories. Another way would have been to draw his attention that I had suspicions as to the marks but I did not. I cannot give a good reason. It did not occur to me. I thought there was still time to take action and that it may be done later. (To COURT : The embalming was done at my instance.) The accused acquiesced in it, and the funeral was fixed for Monday.

Q. You and Mrs. Bandaranayake got the coffin lidded in the morning because of the numerous enquiries?—A. At Mr. Seneviratne's request. My uncle phoned me up to Mt. Lavinia and said it was the wish of the accused. I am not showing any venom. It is the first time I say it. I had no occasion to say it. I do not know why my uncle said so.

Q. (To COURT : You had your doubts and allowed the funeral and afterwards wanted the body exhumed?—A. I thought it improper, but when I was examining this question, the more I thought about it. I did make an attempt on the day of the death. I had 36 hours from Sunday morning till Monday evening. It was generally agreed that I should give the order for the coffin. (Inquest proceedings P.44 read :—"The funeral arrangements were in my hands . . . . . we cannot go on giving explanations." It perhaps never occurred to me to mention Mr. Seneviratne's name. At the time I was speaking the truth.

Q. That was the reason for lidding the coffin?—A. I did not say anything about it till now. At the inquest I said my sister was worth two lakhs. I gave a rough valuation. I have no recollection, perhaps she did leave two lakhs. I do not know if she left a last will. As things are now the property is worth one lakh on account of the depreciated value of land. I have no recollection that when I gave evidence in the Police Court and at the inquest I did not come out with the important passage in the accused's statement that as he entered the room Alpina entered by the other door. (Coroner's and P.C. Evidence read). I may have said that my brother-in-law told me when I questioned him shortly after I went there that Alpina came just after he went there. If I have said so it is correct.

Q. You told the police on the 28th October that at the time the accused entered the room Alpina entered the room in the company of a servant boy. A. If it is in the statement, but I have no recollection of saying so. The embalming took two hours from 5.30 to 7.30, the best part by lamplight.

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mination—  
*continued.*

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mination—  
*continued.*

Charlie Seneviratne improvised the light for the purpose. Dr. Milroy Paul found considerable difficulty. I think he injected both sides. He took a very long time. I did not speak to Dr. Milroy Paul about it. I was there one hour and in the company of Mr. Dias Abeysinghe we went to get a burial certificate. I did not ask him what the marks were. I did not ask him whether an inquest was desirable. I have no recollection but if it is in my statement I admit that I told the Police that Charlie Seneviratne visited me a day or two after the burial. I have no recollection that his story is 3 or 4 days after. I may have told the Police it was a day or two after. Mr. Charlie Seneviratne told me that accused had opened the iron safe and found the chloroform inside it. Things that impress me I remember. 10

*Q.* Did you tell the police one word about Alpina having told you that Mr. Seneviratne had tried to revive her?—*A.* I have no recollection of the story unless I read through my statement. I cannot admit or deny it.

*Q.* Did Alpina ever tell you that as she entered the room the accused stood up?—*A.* She did. I have a recollection that she said so. I have no recollection that I told the Magistrate or the Coroner. Alpina did not tell me but it is a surmise that he must have ordered the hot water bottles standing.

*Q.* Did you tell the police this; that Alpina told me that when she entered the room he stood up?—*A.* I have no recollection of this statement. If you will allow me to read my statement I will admit. (To COURT: I could not say that Alpina said that in giving the order he stood up. It is only an inference of mine. It never impressed me that he was frightened when Alpina came into the room.) You can get very good information from Kusu Kusu Kootams some times. (To JURY: *Q.* Can you remember the last time your relatives discussed the matter with you in connection with your sister's death?—*A.* On the date of the almsgiving, seven days after her death. 20

(Mr. Obeysekera objects to the Deputy Solicitor-General putting the statement in evidence. He said that if the prosecution intended putting it in evidence the defence should have an opportunity of meeting the statement. It should have been included on the back of the indictment. The Court rules that only relevant passages could be put in.) 30

Re-exa-  
mination.

RE-EXAMINED: In the course of my examination I was asked about my statement to the Police. In the course of my examination I was questioned as to the conversation which took place between the accused and his wife about the visit to a certain house, Mrs. Francis Seneviratne's. I can say to the best of my recollection that in my statement I referred to the accused making a statement with regard to my sister's flying into a temper on that occasion. I think he came in the afternoon and said he was going to Veyangoda. So my sister asked him not to go to that particular house and if he did go she would make a will disinheriting him from all her possessions. It is in my statement I have said so. The accused did not say but I gathered from the conversation that accused was to be disinherited. 40

Q. Did you mention in your statement what Dr. Paul said. Have you any doubt as to what he told you.—A. I have told exactly what he told me. I have no doubt. (To COURT: Q. You made the statement to the Police on the 28th and you spoke to Dr. Paul on the 27th?—A. What I said was exactly what was in my mind.)

Q. And your impression was that he was definitely of opinion that it was a case of homicide?—A. Yes.

Q. Is this your signature. (Shown statement to the police.)—A. That is my signature.

10 Q. With regard to your sister not liking accused to visit certain houses. Did you say definitely that you personally had no knowledge of it?—A. I have no knowledge of it. As a matter of fact I personally had no definite knowledge of it.

Adjourned for lunch.

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*continued.*

LEO DE ALWIS.—RE-EXAMINATION (continued).

I made that statement to the Police with the object of getting them to investigate into the circumstances of my sister's death. In that statement I said what I thought was sufficient for the Police to take up the investigation. That was my object in making the statement. In that statement  
20 I said that I had consulted some of my elders. It was the final opinion of Dr. Paul on the 27th that induced me to go to the Police. If he had deliberately given me an opinion against homicide I would not have gone to the Police. (To COURT: I not only said that but I mentioned Dr. Paul's name to the Police.) My sister had jewellery worth about Rs. 15,000/-. I presume that she had it all along with her. I remember inspector Gibson coming. Just before that I had been discussing the question of an inquest. I doubted this death; that is why I spoke about an inquest and when my relatives were against it I dropped it for the moment. Subsequently  
30 I thought an inquest was necessary. At the moment Inspector Gibson came I had made up my mind not to ask for an inquest. The first time I saw the bottle of aspirin was when Mr. Seneviratne showed it to me. It was in his hands—not in the room. I cannot remember where he showed it to me. I think somewhere in one of the halls. As far as I could recollect he had it in his hand. This was after I got out of the room. I have no recollection of having seen it on any table. I have no recollection of Chas. Seneviratne saying that he did not see P.4 in the room, or of Alpina saying that she did not see it till the day of the funeral. He did not mention an ampule but a bottle. It is quite possible that accused might have forgotten where he had kept it, or somebody else might have taken and kept  
40 in another place. On no occasion did accused tell me that he had handed it to his wife for safe keeping. He went and searched with me in the room on the 15th. By that I may have gathered that he expected it to be in the room. To my knowledge he did not search anywhere else except the room. He did not search in the safe to my knowledge. The suggestion that I stopped at Yakgalla on my way from Horagalla and posted these postcards

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is absolutely false. I have never posted any anonymous postcards in my life. Before income tax is paid deductions have to be made from the gross income. Income is payable on the assessable income and not on the gross income. Rs. 1,000 is allowed to my wife, for each child 1,000/- and an allowance of 2000/- for me. It was suggested to me that I had to pay 50,000/- to my sister on the distribution of our estate. This distribution took place in 1923 as far as my recollection goes, thereafter no demand has been made from me, and there was no such agreement whatever. Accused did not demand any money from me at any time. During the last five years up to my sister's death I was not angry with accused, but I did not like the way he was treating my sister, but I was visiting them and they visited me. I had at no time any idea of improving my story. In the Police Court I was not cross-examined at all. (To COURT: I did not suggest to Inspector Gibson to have an inquest but what I meant in the Police Court was that I made that suggestion to my wife having spoken to Felix Jayawardene.)

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No. 29.  
E. Dasa-  
nayake,  
23rd May,  
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Examina-  
tion.

## No. 29.

## Evidence of E. Dasanayake.

EDMUND DASANAYAKE—affirmed.

EXAMINED: I am a Government pensioner. Before I retired from service I was an extra assistant Conservator of Forests. I am the father of Mrs. Harry Dias Bandaranayake. I am an uncle of Mrs. Chas. Seneviratne. Deceased is my 2nd cousin. I am not related to accused. I live at Bambalapitiya with Mrs. Harry Dias Bandaranayake. I remember the 15th October the day on which Mrs. Seneviratne died. On that day I got a message about 8.30 a.m. The message came with the driver asking me to come. My daughter had already gone there. She sent the car back to me asking me to come. I went in the car. I started between 8.30 and 9 a.m. I must have reached there about 9 a.m. This is all guess time. I did not see a watch. By the time I went there I was aware that Mrs. Seneviratne had died. The driver had told me that. I went there and sat on the verandah as there was nobody seen in the house at that time. My daughter came some time after and asked me "Don't you like to go and see Mrs. Seneviratne?" Then I went in and saw the dead body. I saw some reddish brown marks on either side of the cheeks, chin, tip of nose and on the eyelids, and there may be others, but I did not scrutinise very much. After that I saw lot of ladies and gentlemen there. I think Mr. and Mrs. Alwis were there by that time but I am not positive. The body was lying lengthwise on the bed. There were my sister-in-law, Mrs. Dassanayake, Mrs. Seneviratne and my daughter. These are the persons I remember. I did not meet the accused just then but some time after I met him. I cannot say the time I went home for breakfast. I met accused before I went for breakfast. I saw him near

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the body and we both stood side by side and asked him "Stephen, what has happened?" I asked him about the marks on the face. Then he told me that some froth came out from her mouth and nostrils and he wiped it out. I cannot remember whether he said how he wiped it out. He said with a handkerchief. He may have said something else but I cannot remember. If I said anything else in the Police Court it is correct because this was fresh in my memory then. I did not ask him how she died. Did he say how she died? He said "By an over-dose of aspirin." I cannot say the actual words he used. I cannot remember whether he said

10 how she got the aspirin. One of the ladies who were there questioned Alpina. I cannot remember which one. I heard what the girl said. She said she left the room about 5.30 and went to the kitchen to do some work, and after some time as she was there she heard 2 noises and then she heard her name called out Alpina. Then the chauffeur and another boy came rushing and told her that she was wanted in the room. She came hurrying there and found Mrs. Seneviratne laid across the bed. She said that Mr. Seneviratne was seated on the bed at that time. I spoke to Miss Mabel Joseph. She told me that she left early to church and before going she saw Mrs. Seneviratne lying on the bed with her hand resting on her face quietly

20 sleeping. After she spoke to me she showed me an aspirin bottle. I told her "This bottle may be required because I had heard that deceased had taken an overdose of aspirin and I asked her to keep it safely. I do not know where she kept it. It is not correct when Mabel Joseph says that I gave her the bottle of aspirin. She showed it to me in one of the rooms, the room adjoining where Mrs. Seneviratne was lying. I took the bottle into my hand. (To COURT: I think it was in the child's nursery that she showed it to me. I did not give that bottle to her but she showed it to me. I do not know from where she took it. I have never been to these rooms before. She showed me that after I had spoken to the accused.) There

30 was some talk about an inquest late in the evening, but not earlier. When Inspector Gibson came, I was there. He took a statement from the accused. He did not take down any other statement at the time to my knowledge. I am 70 years old.

CROSS-EXAMINED: I am distantly related to Mrs. Seneviratne. I live with my daughter Mrs. Harry Dias Bandaranayake. Another daughter of mine and I are living there and we share the expenses out of my pension. I get Rs. 336/- a month as pension after 36 years' service. I went to Duff House little before 9 with my sister-in-law Mrs. John Dassanayake and her daughter Roxina Seneviratne. The three of us went together. After I got

40 there as there was none to talk to I did not want to enter the house. So I sat in the front verandah. There after my daughter Rene Bandaranayake asked me whether I would like to have a look at the body and I went in and looked. I gave evidence in the Police Court on this point. What I said there was that if the palm had been left on the face and the furrows had not been covered but the other portions have been marked by some fluid—some reddish substance and I place my palm on my face and showed it. When

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I placed the hand on my face the fingers touch the eyelids. (Witness shows by placing his hand on the face.) The tip of my middle finger is on the forehead. In the Police Court I mentioned about the marks of the cheeks, tip of nose and chin and both eyelids. I do not know whether I mentioned in words but I demonstrated with my palm. I cannot exactly remember what I told the magistrate. I do not know why it is not recorded. The Magistrate may have omitted it. When I demonstrated to the Magistrate I took it for granted that he understood it. I have been discussing this with my daughter and Leo de Alwis and others. I did not ask them where the marks were. From the papers I could have read the evidence they have given and they talked at home. I thought the Magistrate understood what I wished to say when I demonstrated. 10

*Q.* What you told the Magistrate was this "I went to the room; she was dead; she had marks on the face as if a hand had been kept on the face above the mouth"?—*A.* He may have heard me like that but I showed like this (witness shows) with the base of my palm on the chin. Anybody viewing that face could have seen these marks without any trouble—no magnifying glass be used to see them. My daughter is young and she got sight. If the magistrate had asked me the question when I demonstrated I would have answered. I think Mr. Pereira was present in court when I gave evidence. The magistrate may have misunderstood me. (To COURT: Mr. Pereira could have very well seen me demonstrating with my hand on the chin.) 20

*Q.* Will you explain how doing that will give marks on the cheeks?—*A.* Spreading the fingers like this (shows) it can be done. I said there were no marks on the hollow of the face. The area round the mouth—round the lips—was what I meant by hollows. The portions under the eyes are the first hollows one would speak of. To the Magistrate I said "hollows" but I meant "furrows." I know what a furrow is—the depression caused by dragging a plough along the ground is also a furrow. What I meant was places below the level of the face—above the lip is below the level of the cheek bone. Ordinarily a man will say the hollow parts of the face are the two eyes. They are below the rest of the face. What I meant to the magistrate was all the places which are below the raised portions of the face. Between the chin and lower lip, between the nose and upper lip, and on either side of the nose are such places. Deceased was quite a full faced lady. By "hollow," I meant the whole area round the mouth. What I meant was the depressed parts of the face were not affected. Alpina was not questioned by me. I cannot remember who questioned her. I came by myself to Duff House. I think my sister-in-law and niece had gone ahead. The car may have gone up and down twice but I did not enquire. My house is in between my sister-in-law's house and Duff House. That car could accommodate 3 persons easily, but I do not know why they did not call for me. They live at Dehiwala and I at Bambalapitiya. I think I got to Duff House after they got there. Those two ladies and my daughter were in the house when I went. I think Mrs. Alwis must have been there. There may have been more ladies, but I cannot remember anybody else who was there. 30 40

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I cannot remember which one of those ladies questioned Alpina. It did not strike me to make out the person who was questioning Alpina. It may not appear now to be a satisfactory explanation but that did not strike me then. We were not on either side of a screen. They were all together. My daughter, niece, sister-in-law and I were all there together. It may have been that one put the question and others were listening. Who knows what they were doing. I have no recollection whether they were listening to this talk or what they were doing at that time, but I only saw their presence. When I questioned accused he said she died of an overdose of aspirin. Next  
10 we were anxious to find out what had happened from deceased's personal servant Alpina. I did not register in my mind word to word what was being spoken but this is what I remember. This talk interested me and so I gave ear to it, but the others did not interest me. So what happened I did not register in my mind. I cannot remember who questioned Alpina. It did not strike me to find out. (To COURT: Alpina was giving a reply to a question. One of the ladies questioned her. It did not strike me to notice all these things. I did not make a note of what Alpina said. When I heard what she said it made an impression on my mind.) If there was only one other person there besides myself I am bound to have remembered  
20 it, but I cannot remember who questioned Alpina because there were a number of them there. Mrs. Dasanayake, my daughter, Mrs. Seneviratne and Mrs. Alwis were all there. Therefore I cannot say which one questioned Alpina. I am stating what I bear in mind. Alpina said that she heard 2 noises. So far as I can recollect the Singhalese word she said for a noise was "Sabtha" (sound). I think she used the word "keheganawa" (Shout) not "Sabtha." She said "Deserayak keheganawa; Ithakotama Alpina kiyala keheganawa" (2 screams and a cry of Alpina or Alpino). I cannot remember whether it "Alpino" or "Alpina." Even if she had told me what kind of cries they were it has escaped my mind now and I  
30 have not been able to register it in my mind. I may have stated in the Police Court that I heard Alpina say she heard a suffocated voice twice and then a voice calling Alpina. (To COURT: I cannot remember the Singhalese word for "suffocating voice," but it may be something equal or close to it, but I cannot exactly remember it—"Amaruwen keheganawa" (crying out with difficulty) may be close to "suffocating voice." I am aware that my daughter has given evidence in this court. I am aware that she has said here that Alpina told her she heard the lady scream. I did not ask Alpina whether she responded to the cries. The impression on my mind is that she said she went into the room in response to those  
40 cries. She said that just then 2 servants also came and told her that the lady was calling her. I also heard Alpina say that she took no notice of these cries because she thought the little boy was playing. I did not read that in the newspapers. If you read my evidence to the Police I think you will find it there. I cannot locate where I said it but I remember I said it somewhere. She said she went in and found Mr. Seneviratne seated on the bed and the lady lying across the bed. I am sure she said that Mr. Seneviratne was seated on the bed. The Singhalese words she used

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were "Enda uda undagana hitiya" (seated on the bed). If it is reclining it will be "hansiwela." It may be either reclining or seated.

Q. You told the Magistrate that she said she found the accused in the room occupied by the lady?—A. What I meant was she was on the bed. When we hear these things we give very little attention and when we are examined so closely as Mr. Pereira is doing now . . . When I said that she said she saw the accused in the room I did not say that he was actually standing in the room, but I meant he was seated on the bed. I was not precise. I remember Mr. Bantock and Mr. Stuart seated on either side of the Crown Counsel in the Police Court, but I cannot remember a big book before him. I cannot remember whether the only question Mr. Pereira put to me in the Police Court was whether I made a statement to the Police. As Assistant Conservator of Forests I have been holding numerous enquiries into thefts of Crown timber and I interest myself in Mr. Abeygoonesekera's case. When I went to Mr. Seneviratne's house that day I never knew that I would have to come to Court. (To COURT: There is a difference between "in the room" and "seated on the bed.") Miss Mabel Joseph showed me a bottle of aspirin but I do not know why I showed it. I asked her how Mrs. Seneviratne died, but I did not ask her where is the aspirin that she is supposed to have taken. It did not strike me to ask that. When I was standing near the almirah she came and showed me this bottle. At the time people were looking for the aspirin there she gave me the bottle without my asking her. I cannot remember to have asked her for the bottle. There was a talk of aspirin poisoning. So she must have showed it to me. I cannot suggest anything against Miss Mabel Joseph. She gave me the aspirin bottle long after she returned from Church. Then I told her "This might be wanted; keep it safe." There was an almirah there where we were talking and she put it into that. I think that was Terence's room. The upper portion of that almirah was glass and the lower portion was wood I think.

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Re-exa-  
mination.

RE-EXAMINED. I do not think that anybody asked Miss Joseph to show this bottle to me. (To COURT: I knew her very well and she was very familiar with me and used to come to our place almost every day and so she simply showed it to me.) I have no doubt. I cannot remember whether Alpina said she found the accused seated or reclining. But I have no doubt that she said accused was on the bed. She said: "Enda uda hitiya or hethuwela." It did not strike me to tell the Magistrate that accused was on the bed.

## No. 30.

## Evidence of E. F. J. Jayawardena.

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Supreme  
Court.*

EDMUND FELIX JAYASINGHE JAYAWARDENA—sworn.

Evidence  
for  
Prosecution.

EXAMINED: I am a Proctor of the Supreme Court practising at Dandegamuwa. I know the accused and his wife the deceased. I am not related to them in any way. My wife is connected to Mrs. Seneviratne. The two families were on friendly terms. Accused and his wife used to visit us and we also used to visit them now and then. My family resides at Colpetty. On the 14th October last I was at home at Colpetty having  
10 come for the week-end. At about 6.30 p.m. that day deceased paid us a visit. The others who accompanied her were Mrs. Chas. Seneviratne and her child, Mrs. Harry Dias Bandaranayake and her children and Miss Mabel Joseph. I did not notice anything strange or unusual in Mrs. Seneviratne that day. She was in her usual spirits. I talked to her. She wanted me to send the lady who was teaching music to my children to her place to teach Terence. I undertook to do it. They left past 7.30 p.m. I think they all left together. Mr. Chas. Seneviratne also came. I cannot say whether they came in one car or two because they came by the back entrance. On the 15th I got the news of Mrs. Seneviratne's death at about  
20 5 to 9. My son delivered the message to me. I went first to Duff House. I must have gone there by about 9.10 a.m. Mr. and Mrs. Alwis, Mrs. Harry Dias Bandaranayake and Mr. Edmund Dassanayake were there when I went. Mr. and Mrs. Chas. Seneviratne came afterwards. I saw the accused. I was taken into the room by Mr. Leo de Alwis and I had a look at the dead body. I noticed marks on the face, brownish marks like finger impressions. There were marks on the eye lids, cheeks, chin and I believe on the forehead also. There were burns—reddish marks—at the tip of the nose. It struck me as not a natural death, and I suggested an inquest. I do not think the others took that suggestion kindly—particularly the ladies. The  
30 general talk was that she had died by taking an overdose of aspirin or some other medicine that was on the table. I did not question the accused on that point. That day I spoke to accused. He told me that Mrs. Seneviratne had taken an overdose of aspirin and that in the morning when he came out of his room into the western side of the verandah just near the fowl house (he showed me the place) he heard a girgling sound (he said "goragora sabtha") inside the room. He thought that his son had got his head between the rails of the bed and went into his son's room and found nothing the matter there—that his son was fast asleep—and he then walked into his wife's room and found her in a faint. He tried to revive her by giving  
40 her some brandy. He spoke in English as well as in Singhalese. (Witness marks in red pencil on the plan the spot from where accused said he heard the sound). That spot is where the verandah comes from his room and where the main verandah meets. That is about the corner of the front verandah where the western verandah meets it. We were seated quite close to that spot. He showed me the spot. It was near the chicken run.

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E. F. J. Jayawardena,  
23rd May,  
1934.  
Examination.

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tion—*con-  
tinued.*

(To COURT: I am a Proctor of 19 years standing.) (Witness marks in blue pencil on the plan where that chicken run is—that is where it is marked poultry run.) I told the Magistrate also that accused was standing in the western corner of the verandah. If I remember right accused said he found his wife lying across the bed and he tried to revive her by giving some brandy. He said that he wiped some froth from the face. I cannot remember whether he said with what he wiped it. Accused said that that night Mrs. Seneviratne had taken water 3 times to take aspirin pills. (To COURT: I remember he said that he had given her an aspirin bottle.) I believe he said that he had given that bottle to her before she retired to bed. He 10 said that when he gave the bottle there was a large number of pills but only a few left in the morning. (To COURT: I must have been having this conversation with him at about 9.30 a.m. the same day.) He said he poured down the brandy into her mouth. He said that he got hot water bottles also. I went into the room alone and looked, I did not go round the room but close to the bed there was a dressing table and on the table there were two bottles of medicine. (Shown P.8 and P.3). These are the two bottles I found (Shown photograph P.19). If I remember right this is what I call the dressing table (meaning the table shown in this photo.) These are the only two bottles I handled, but there were other 20 things on that table. I cannot remember seeing any other bottle. (Shown P.4.) I cannot remember seeing a bottle like this. I would not have looked at it because I went in only for those two bottles because he had mentioned both those. I did not go in and bring them at once, but later at about 10 or little later I went in and brought them and showed them to the gentlemen who were looking about for the medicines she had taken. There were a few aspirin tablets left in the bottle. There was a teapoy near the bed in the room. Mr. Seneviratne told me that on that day (Sunday) he and his wife and child were to have gone to Kottawa. I do not know for what purpose. I do not remember what they were going to take there 30 whether they were going to take chickens. (To COURT: Accused did not tell me in so many words that she must have died by an overdose of aspirin but that is the inference I drew. I did not ask him what the marks were. I did not give evidence before the Coroner but only before the Magistrate.) I remember speaking to Mr. Leo de Alwis. It was he who took me in and asked me to see what had happened. He said that his sister had threatened to commit suicide very often. He told me that she lead a very unhappy life and threatened to commit suicide very often. I did not go into details at all because I was an absolute outsider.

Cross-exa-  
mination.

CROSS-EXAMINED: Mr. Leo de Alwis took me in and drew my attention 40 to the marks on the face. He said "Look at those marks: see what has happened to my sister." The impression he created in my mind was that he was satisfied that she had committed suicide. There was no suspicion at the time about foul play. I suggested to Mr. Alwis himself that there should be an inquest. Whether it was suicide or a sudden death, I thought it was the duty to hold an inquest. The general talk at the time was

that she had taken an overdose of aspirin. Accused himself said that it was very likely she had taken an overdose of aspirin. He did not know it himself. His was also a guess. He drew my attention that the bottle was empty. He said there was much in the bottle at the time he handed it but that there was only a few left in the morning. I looked at the bottle myself and I thought there were about 10 tablets. At my bungalow on the 14th evening, I told Miss Mabel Joseph that I would be calling at 11 after service the next day to see Mr. Seneviratne and get some eggs. Next day was a Sunday. I knew eggs were available. Then Miss Mabel Joseph told me that they will not be at home as they were going to Kottawa. Mrs. Seneviratne was there then but she did not give that reply. My conversation was with Miss Mabel Joseph. It is a mistake if the Police Court record shows that Mrs. Seneviratne said they will not be at home as they were going to Kottawa. It was Miss Joseph who told me that. I am sure. Accused told me on the 15th morning at his house that that day he and his wife were to have gone to Kottawa. Sale of eggs and poultry was done by Mr. Seneviratne. (To COURT: Accused did not point out the route he had taken to get to the child's room.) Accused breeds poultry on a large scale at his bungalow and on his estate. I know that when he was at White House he used to hatch chickens on the premises and send them to his various properties. He had 3 incubators for that. I do not know whether he did that at Duff House. That was a hobby of his. He had mostly good fowls—not the country breeds. That day I saw the back verandah of Duff House. I cannot say whether there were a large number of chicken coops on the back verandah on that day but he used to have them there. He said he was close to the chicken run when he heard the sound. He pointed out the direction and I took it to be the fowl run just outside the verandah. I cannot remember the fowl runs on the right hand side of the plan, but I remember those on the left. He had some turkeys and some chickens about that place. On that day I did not see chicken coops on the back verandah but I have seen them there before. (Witness marks with a green pencil an asterisk to indicate the spot where they were seated.) Seated there accused indicated towards the western verandah and said "Where the chickens were." The distance from where we were seated to the spot from where he is said to have heard the cry is as from the witness box up to the dock. I did not ask for the aspirin bottle when accused mentioned to me that she must have died by an overdose of aspirin. Among the visitors someone wanted to see the bottle and I went in and brought it. (Witness P.C. Evidence read: I searched the room later in the day. I went to get at the bottle of aspirin. I found it on the toilet table (meaning dressing table). It had about 10 tablets. I also found a bottle of Pancreas salts.") That is correct.

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Court.*

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No. 30.  
E.F.J. Jayawardena,  
23rd May,  
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Cross-examination—  
*continued.*

*In the  
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**No. 31.**

**Evidence of T. A. Pate.**

Evidence  
for  
Prosecution.

**T. A. PATE—sworn.**

No. 31.  
T. A. Pate,  
23rd May,  
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Examina-  
tion—

**EXAMINED :** 58, Veterinary Surgeon, practising for about 35 years. I get a good practice. I have known the accused for many years. I have been doing work for him. I have been treating his cattle and dogs. The last occasion I treated any animal for him was about 3 years ago. That was a cow with a prolapsed uterus. I put the uterus right. I did not employ chloroform for that. I remember reading about the death of Mrs. Seneviratne and I know that an inquest was held about the 7th November. I remember the accused coming to see me. I cannot remember exactly on what date, but I think it was the first day of the inquest proceedings. He asked me if I remember treating his cattle. I told him I remember it. He asked me if I used chloroform. I said No. I did not use chloroform. Then he wanted to know if it was not diluted chloroform that I gave the animal as a draught. I said it was not. Then he wanted to know what it was. I did not know what he was after. I thought he was after a prescription free and I said: "If you want another bottle of medicine I can give it to you but I am not prepared to disclose the prescription." I asked him if he had a similar case but he said No. It was a hypnotic that I gave the animal so that it may not feel the pain. It was a medicine given internally. Chloroform is given as an inhalation but I have not given once during my practice. It is not usual. I use chloroform for operations on cats and dogs, but not in the case of cattle; there is no reason for it. If it is a very serious case they usually destroy the animal. For any minor operation I use cocaine. (To COURT: I will not amputate a buffalo's leg. It will be absolutely useless. I will destroy the animal. Supposing if I want to amputate I will have to use chloroform. Then it would be a serious operation and I would need chloroform.

**Q.** What quantity of chloroform is required to chloroform a buffalo?—

**A.** It can be done with 2 or 3 ounces. Buffaloes struggle hard at the commencement when you start chloroforming them. All animals do that.

Cross-exa-  
mination.

**CROSS-EXAMINED :** I have not passed any examination to call myself a Veterinary Surgeon. I practice as such for the last 35 years describing myself as a Veterinary Surgeon without passing a single examination.

**Q.** You commenced to dub yourself as a Veterinary Surgeon when you were 23?—**A.** Yes. I call myself a Veterinary Surgeon as I have got the experience. There are one or two who call themselves Veterinary Surgeons without passing any examinations. There is Mr. Baptist of Kandy who calls himself a Veterinary Surgeon. He is not a qualified man. He was employed under me in Kandy and he gets a good practice there now. There is also Mr. Fernando who calls himself a Veterinary Surgeon and practices largely in Kandy. I know that there are various books on Veterinary matters for sale in Ceylon. I admit that in every one of them chloroform is

given as an anæsthetic to animals. I have got books myself. I believe I got the book called "Veterinary Counter Practice." I also got the 12th volume of the book called "The Horse its treatment in health and disease" by Professor J. Wortley. I do not think I got the book called "The Stable Manual and Horse Doctor." Chloroform is used on cattle and dogs and I suppose fowls. I have not used it on fowls, but it is used on all animals. Books relating to animals refer chloroform being administered to all animals. I know that accused kept good cattle. I operated on a she buffalo of his. I performed 2 operations—on a cow and on a buffalo. I drenched them to  
 10 relieve them of the pain incidental to the operation. That drenching is made in my place of business. It is intended to have a similar effect like chloroform to kill pain. My subordinates do not call it chloroform mixture but I call it chloral. The day accused visited me he asked me whether there was chloroform in that mixture which I had given to his cattle. If he learnt that there had been chloroform in that I would have been a useful witness to support his suggestion that chloroform is used for cattle. He did not ask me if chloroform is used for cattle but asked me whether there was chloroform in that mixture. He did not leave the place immediately after I told him that. I did not ask him to send the animal to me but I said I would give  
 20 him the mixture if he paid for it. He did not want it but went away. He did not suggest that I should give false evidence. (To COURT: I thought he was trying to get at my prescription.)

Adjourned for the day.

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No. 32.

Evidence of Alice de Alwis.

24th May, 1934. Accused present—Same Counsel as before.

ALICE DE ALWIS—sworn.

EXAMINED: I am the wife of Mr. Leo de Alwis. I am a daughter of Sir Solomon Dias Bandaranayake. I know the accused Mr. Seneviratne.  
 30 I know his wife too. I was on friendly terms with Mr. and Mrs. Seneviratne.

Q. On the 15th October last did you get any message about Mr. or Mrs. Seneviratne?—A. Yes.

Q. What was the message?—A. The message we received was that something serious had happened at Duff House. We immediately left for Duff House. I and my husband. We reached there at about 8 or before. I am not quite certain of the time. The accused was there. When we alighted from the car he was on the front verandah. I did not speak to him. My husband spoke to him. He did not say very much. My husband asked him where Lilian was and he said in her room. That is what I think.  
 40 I know that Lilian had died because as soon as we get down from the car Mrs. Bandaranaike told us she was dead. We went into the room where

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the deceased lay. I saw the dead body and I noticed that she had a number of marks all over the face. There were marks on either cheek, there was another on the nose, there were two on the eyelids. That is all I can remember. (To COURT: I felt the body. It was quite warm.) I do not think there were any marks on the cheek. I felt the body. I looked all over the room for anything which the deceased might have left. (To COURT: I looked for a letter left by the deceased. I found nothing.) I looked under the bed, under the pillows, on the teapoy, by the bed and under the mattress. I looked on the dressing table or the toilet table. I found nothing. I looked at the teapoy near the bed. When I was looking at the teapoy I did not see a bottle like P.4. I have never seen that bottle. As far as I can remember there were only a few magazines and books on the teapoy. (To COURT: I looked for a letter because there was a talk of suicide in the house and I felt that if my sister-in-law had committed suicide that she would have left a letter.) When I went Charlie Seneviratne was not there. On that day I did not discuss that it was a case of suicide with Mr. Charlie Seneviratne. I never had any such conversation that he had a discussion with me and that I said that it was a clear case of suicide and that I gave two reasons. I never told him at any time that it was a case of suicide. I cannot remember having done so on that day, giving him two reasons. I cannot remember having discussion with him on any other day. I have seen the bottle P.3. Mr. Seneviratne showed us that bottle and said that Mrs. Seneviratne had asked him for aspirin and he had sent her the bottle. (To COURT: I think that is what he said.) He told me that on the day of her death on the\* 16th. I also asked him about the marks. He said that when he went into the room on the morning of her death she was frothing at the mouth and that he wiped the stuff away and that it might have stained her face. He said he wiped her face with pieces of rag and he also said he applied brandy. He said he was on the front verandah before he went to his wife's room. He said he came out very early in the morning to get the papers. While he was there a Tamil man complained to him regarding a loan of Rs. 10/- and about a typist. He heard a shriek from his wife's wing of the house. He said that he thought it may be that the child had put his head through the railings of the cot and so he ran to the child's room to see if it was so. He found his child alright and asleep and from there he went into his wife's room. He said she was lying across the bed in a fit of collapse and frothing from the mouth and he did everything possible to revive her. I know Alpina. I questioned her as to what had happened. Alpina said that very early that morning she went to the kitchen to attend to some work and when she was there the driver came running and said the lady is shouting for you, go and see what is the matter. She ran into the room and Seelas went with her. She said when she went into the room Mr. Seneviratne was trying to revive the lady and that he asked her what happened. "Did the lady have a fall?" She said she did not know, and that she had only just come. She was asked to bring hot water bottles, brandy and other things. I knew Mrs. Seneviratne fairly well. I have not seen P.4. I have not seen Mrs. Seneviratne using it.

\* *sic.*

I have not seen her using any smelling salts. I did not by any chance see a handkerchief. I think that if there had been any handkerchief on the bed I should have seen it. I looked under the bed but found nothing under. The bedsheet looked rather dirty and crumpled. It was not a fresh sheet. It looked dirty as though it had been used a great deal. It was crumpling that comes by use. (To COURT: It looked as if it had been slept upon.) The marks were of a dark brown colour. It looked just a stain patch. I did not know what to think. As far as I can remember the bedsheet was not wet. Mr. Seneviratne was in the front verandah when he talked  
 10 to me. It was the higher broad verandah. I do not think he pointed out where he was. He usually talks to me in Sinhalese. I think he spoke to me in Sinhalese. He said "Issaraha Istoppu." He did not actually show me. Between the lavatory and the bathroom there is a dressing room. I was only looking for letters in the dressing room. In the Police Court I said I looked into the pan in the water closet. The pan had not been flushed out. I noticed that the drawers of the dressing table were left open. (To COURT: It was the dressing table in the dressing room. (Shown P.19.) The dressing table was in the corner of the room at the foot of the bed. I saw that the drawers in the dressing table were pulled out. I noticed that the things  
 20 were pulled about and the drawers were left open. I did not ask Mr. Seneviratne about the drawers but I heard my husband question him. He replied and said that his wife was in the habit of leaving valuable jewellery about and that he collected them and locked it up. I believe he said it that very morning. (To COURT: He did not say where he locked it up.)

CROSS-EXAMINED: I have known the Seneviratnes ever since my own marriage 10½ years ago. For about 5 or 6 years the husband and wife did not pull on well. Quite trifling matters used to make them flare up and have rows. I believe the husband sold White House towards the end of 1932. That house belonged to Mr. Seneviratne. That gave rise  
 30 to considerable trouble. I heard after that, not at the time that she went on hunger strike and the relatives used to intervene. She also objected to the sale of Nawala property. I am not quite sure that this took place somewhere about April or May 1933. I did not know that Nawala and White House were sold to buy an estate. It is a large estate.

Q. He sold White House and Nawala and borrowed some money to pay for this estate?—A. I did not know Nawala was sold for this purpose. He borrowed money from the State Mortgage Bank.

Q. As a matter of fact Mrs. Seneviratne had often threatened to commit suicide?—A. I heard from her relatives. I am quite sure I did not hear  
 40 from her.

Q. Did you tell her husband that she threatened to commit suicide?—A. She has never told me such a thing.

Q. This is what your husband has told the Police: "There has been for the last 6 years a good deal of unpleasantness between my brother-in-law and sister and that fact was known to his wife, his two uncles, his grandmother, his aunt, daughter that his sister had more than once

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*continued.*

informed the relatives that sooner or later she would put an end to her life by taking poison".—*A.* I was never told. It is a mistake. Whose mistake it is I do not know, but I do not know as she never told me. I say that my sister-in-law may have threatened to commit suicide to her relatives who have told me, but never had I heard it from her own lips. I never asked her. We were very good friends. I never did it. Mr. and Mrs. Bandaranayake were the only two persons who told me so far as I know. I had no reason to disbelieve them. I never asked her although she had told others of the threat to commit suicide. I knew that I could never remove the cause. There is no use trying if it was impossible. (To COURT: I thought that by interfering the matter would be made worse). She had been displeased by her husband visiting certain of her relatives. The deceased told me that she did not like him visiting certain houses. They were Freddie Dias Bandaranayake's house, Mrs. Francis Seneviratne's house and Mrs. P. S. P. Jayatilleke's house. I know she did not like him going to those places. I do not think she cared for those ladies. I thought they were not fit company for her husband. I do not know in what way. She never told me.

*Q.* Did you ask her why she was displeased?—*A.* No.

*Q.* Had you personally any reason to believe that there was anything wrong with them morally?—*A.* I have no reason to believe that.

*Q.* Mrs. P. S. P. Jayatilleke was a daughter of Walter de Livera, my father's sister's daughter.

*Q.* As a matter of fact you are not on the best of terms with them?—*A.* I have nothing against her. I did not attend her wedding. She is my first cousin. I am not angry with Mrs. Francis Seneviratne. I did not try to prevent Mr. Francis Seneviratne marrying her. Why should I. His wife's sister was no particular friend but I know her. I am on talking terms. I did not warn the deceased not to let the accused go to Mrs. Francis Seneviratne's house. I know a man called Simon Tillekeratne, a servant. I cannot remember having conveyed to Mrs. Seneviratne anything Simon Tillekeratne told me. Mrs. Seneviratne never told her that she had conveyed to her husband what she had said and that there was going to be trouble. She never said such a thing.

*Q.* Mr. Freddie Dias Bandaranayake is a hot tempered fellow?—*A.* I know nothing about them. I just meet him as an ordinary acquaintance. He has never tried his temper on me.

*Q.* Do you remember he has stated that he will horsewhip you?—*A.* No.

*Q.* For spreading stories about his daughter?—*A.* No I do not suppose so.

*Q.* You are more than a match for him?—*A.* I daresay. It did not alarm me. I am not able to say that it did alarm Mrs. Seneviratne.

*Q.* Had your husband told you that his sister threatened to commit suicide?—*A.* No. He never asked me to take her away from her moodiness. I have taken Mrs. Seneviratne to pictures very often. I have never taken

her alone to the pictures. My husband never let me go alone. I have never gone with Mrs. Seneviratne alone.

10 *Q.* Mr. Charlie Seneviratne told me yesterday that you told me that you were satisfied that it was a case of suicide for two reasons, firstly that Mr. Seneviratne used to visit Mrs. P. S. P. Jayatilleke's house and secondly Mrs. Francis Seneviratne's house?—*A.* I never told him that. I would not like to say that it was an invention but as far as I can remember I did not say it. I may be the only one who knew that Charlie Seneviratne knew very well that Mrs. Seneviratne did not like Mr. Seneviratne going there. Mrs. P. S. P. Jayatilleke and Mrs. Seneviratne are first cousins daughters of two sisters. Mrs. Seneviratne's mother is the sister of my father. I got the message from Dr. Paul sometime after 7.30. I can not be sure of the exact time. I and my husband promptly went.

*Q.* And you told us that you spoke to Mr. Seneviratne and Mr. Seneviratne said that Mrs. Seneviratne was lying in the room?—*A.* I spoke to him afterwards. I did not speak to him when we first got there. Mr. Seneviratne said that she was in her room.

*Q.* In the Police Court you said that it was 8.45 when you got this message?—*A.* I did not say so. That is a mistake.

20 *Q.* Did you say this in the Police Court:—"As we went in Mrs. Harry Dias Bandaranayake said that Mrs. Seneviratne was dead. My husband spoke to Mr. Seneviratne. He did not speak"?—*A.* I do not think I could have said that. I remember the accused was crying in the verandah. Mr. Seneviratne led the way and we followed him. I never said cross wise. (To COURT: I said the body was lying in the normal position lengthwise. I felt her and the body was quite warm. I cannot understand why the Magistrate said that. I learned a little later that she had originally been seen cross wise. It may be a mistake of the Magistrate.) I knew that she had been shifted to a normal position on the bed and the sheet had been arranged. Her position on the bed had not been what it was even when 30 Dr. Paul arrived. I promptly set about looking for letters, nothing else but letters. I said so to the Magistrate. I looked in the lavatory because some others who were there asked me to come and because it was not flushed. I looked only for letters. Someone there drew my attention to the urinal either my husband or Mrs. Bandaranayake. I found diabetic urine in the pan, because there was a thin white film on the top.

40 *Q.* Are you aware that Dr. Paul said that there was nothing in it, that no one had urinated?—*A.* I looked at it close enough. I saw nothing under the bed. There was a blank space. I did not notice anything. I saw a trunk under the bed. (Shown Photograph P.1.) I am not aware that the best sarees are put in the trunk under the bed. Had the handkerchief been already removed by somebody I would not expect to find a handkerchief a second time. I asked no one whether they had seen a handkerchief. I lifted the four corners to find anything. The bedsheet was dirty and crumpled. I may have, but I cannot remember now that I discussed this with my husband but all of us. In the Police Court my memory was fresh. I said I discussed it with my husband. I may have

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but I cannot remember that I said I discussed it with the people at home. When the Police recorded my statement I said nothing about the bed sheets being dirty and crumpled because I was not asked. I did not know that Mrs. Roxina Seneviratne stated that the bed sheets were clean and tidy. I did not discuss the condition of the bed sheets with Mrs. Bandaranayake or Mrs. Roxina Seneviratne. I do not know that Mrs. Bandaranayake said that they were not disarranged and were clean. I did not tell the Coroner and Mr. Tennison that they were crumpled and dirty because I was not questioned.

*Q.* What made the Coroner ask you about the condition of the bed sheets?—*A.* That I am not able to tell you. It was the first time I was asked. I have read the papers. 10

*Q.* You and your husband made up your mind to contradict Dr. Paul and the others?—*A.* I did nothing of the kind. What I say is how I can remember. I told people that the body was quite warm when I got there. I saw a number of hot water bottles in the room. About the aspirin, I cannot remember his actual words, but he said that he gave or sent a phial of aspirin to his wife. I am not quite certain whether it was sent or given and the suggestion with regard to her death was probably due to aspirin.

*Q.* Regarding these marks you only questioned Mr. Seneviratne with regard to them after 10 o'clock?—*A.* Later in the day, it must be somewhere about that time. (Coroner's evidence page 45 read.) I did not say what kind of tablets. I said the marks were due to the combined circumstances. Then I asked him about what he himself knew about what preceded. 20

*Q.* Then it was he told you that he heard shrieks coming from the direction of Mrs. Seneviratne's room?—*A.* I think we were talking in Sinhalese. He would have said "Saddeac" (one cry). My recollection is one cry. Then he went into the boy's room and found the boy was sleeping soundly. He saw the body lying across the bed in an unnatural position, with the legs almost touching the ground, and her head towards the wall. That is all he said about the condition of his wife at the time. He may have but I am not quite sure whether he did not say that a servant girl and a boy came up themselves. Alpina told me that Mr. Seneviratne asked her whether she fell down and that she replied that she had just come in. She also said that he did all in his power to revive her, by rubbing her down with brandy and hot water bottles. I questioned Alpina thereafter. I am not quite sure whether Mrs. Bandaranayake was there when I questioned Alpina. It was before Mrs. Dassanayake came. Mrs. Charlie Seneviratne had not come either. I questioned Alpina about half a dozen times, a good number of times, jointly and individually, about 3 or 4 times. She repeated the same story more or less. Mrs. Harry Dias Bandaranayake was the only one who I can remember was present. As far as I can remember, Alpina did not say anything about her hearing the cry independently of what Seelas and the driver told her. 30

*Q.* And that is Mrs. Harry Dias Bandaranayake's version that Alpina said that she also heard as if the mistress was calling her?—*A.* I have no recollection. 40

Q. Your evidence was that when she was in the kitchen the driver said he heard a cry and came running to her. Are you aware that he was washing his face at a stand pipe right opposite the kitchen?—A. No.

Q. There was no scope for running there.—A. I do not know the kitchen or the back compound very well. There was a narrow verandah. There was no room to run. Alpina said that he came running. She said that “the driver came running and told me that the mistress was calling for me.” (To COURT: What I told the Coroner is correct). Alpina said that when she got there Mr. Seneviratne was in the room trying to revive her.

Q. According to Mrs. Harry Dias Bandaranayake nothing was said about Mr. Seneviratne trying to revive her or any speaking?—A. May be.

Q. The recollection of the two of you are rather different?—A. In being questioned Alpina could have told us two versions. Mrs. Harry Dias Bandaranayake was in the room, but I could not be certain I was present, but substantially her stories were more or less correct. We all have to be careful on account of the depression. We depend on coconuts. (To COURT: I remember Alpina said Mr. Seneviratne was in the room. I remember I gave evidence before the Coroner. (Statement

20 read). If the record says that it must be correct. I see the passage.

Q. Did you realise then that there was a conflict between what Mr. Seneviratne told you and Alpina’s statements?—A. I did not realise it at the time. I knew that there were two different versions. It did not strike me that there was something wrong. I did not want to have an inquest because I did not want my sister-in-law cut up.

Q. But your husband did originate these proceedings?—A. Yes.

Q. He decided that there should be an inquest?—A. Yes. He told me afterwards that he might go to the Police, but I do not know exactly what he was going to do. I knew he was very worried.

30 Q. What made you agree to the body being exhumed. That is more than an inquest: to dig up a body that had gone into the dust and cut it up?—A. My wishes were not consulted in the matter. I did not aid and abet my husband in this. I acted independently. I do not remember having told my husband anything on the 15th. I remember the Police came there and Inspector Gibson took down a statement from Mr. Seneviratne. I was against an inquest all the time.

Q. Because you were morally satisfied that she had committed suicide? —A. I was not sure that it was. I saw there was a possibility of it being suicide but I was not sure. I did not think there was a probability.

40 Q. I put it to you that that was what you told Charlie Seneviratne.—A. And I put it to you that I did no such thing.

Q. Charlie Seneviratne invented it?—A. Yes, or he may have dreamt it.

Q. You know that Mrs. Seneviratne wanted to abandon her husband and go away?—A. I was told so by Mr. Charles Seneviratne later that she tried to get a written permission to go away and that her husband said no permission was wanted. I did not advise her about it. She did not consult me about it at all. He spoke to me long after the thing happened. I never

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mination—  
*continued.*

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*continued.*

spoke to Lilian about it, not even on the way to the pictures. I was never trying to drive the wife and husband apart. I had the unfortunate experience of husband and wife living apart.

Q. And you were urging Mrs. Seneviratne to separate from her husband ?

—A. No, never once. I was never the President of the Mount Lavinia Maha Jana Sabha. I was on the Committee of the James Pieris Convalescent Home. I have presided at Political Meetings. I never thought that if husband and wife were not getting on well together that it was the best thing to part. I did not think that separation would be a good alternative to the cat and dog life they were leading. Before the funeral when I was going home I asked the accused whether he would mind if I took the little boy for a few days. I have two children of my own and I thought that he would have company. He refused. I believe my husband called on the 17th. I am not aware of the fact that he tried to get the custody of the child. My husband did not move in the matter. He asked me to move in the matter. I did not see the sisters at St. Margaret's Home. I told Dr. Ekanayake that he should inform the sisters that Mrs. Seneviratne was dead and that Mabel Joseph was alone in the house. My object was that she should be removed. I heard that she was removed. My object was because I thought it was not the right and proper thing for a young girl to be alone in a house with a gentleman. I did not know there was another girl of her own age, nor did I know there was an old woman called Podina. I was not aware that there was Jane, Alpina and Mabel. The child was attached to Mabel Joseph. I know Mabel Joseph was looking after the boy. Mrs. Seneviratne's personal servant was Alpina. The boy was assisted in his studies by his mother. I knew that Mr. Seneviratne was visiting estates on behalf of the Public Trustee and the State Mortgage Bank. Mr. Seneviratne was engaged in looking after several of the properties of my grandfather. I was only concerned about what was the right thing to do. My concern was what my dead sister-in-law wishes would have been when she was no longer there. I heard that he got an elderly lady named Mrs. Harris. I did not hear that Mrs. Harris was induced to leave when he was on an estate and thereafter he got another. She was there when the inquest was held. I visit my father very frequently. I cannot remember a visit on the 24th. My husband did not tell me and the first time I knew about it was from the papers that he had broken a record by doing the trip in 40 minutes. I heard some postcards had been received by him. We did nothing of the kind. As far as I can remember we never stopped when coming back. Mr. Abeysinghe may have mentioned to me that my husband made a long statement to the Police.

Q. Then did you not swear on the head of your children that the Police came there and wanted him to make a concise statement?—A. I cannot remember what I said. I know that he did not make the statement that you asked me. Mr. Abeysinghe said he suspected that your husband had made a statement. I remember that there was a diary. I do not remember that I said that the police questioned my husband and that he made a concise statement. Others told me that he made a long statement.

(To COURT: The Statement was made on the 28th October, I believe. I remember going to Dr. Paul's that evening. Mr. Charlie Seneviratne and myself. I did not follow. We waited in the car at the gate. About fifteen or twenty minutes later he came back. He said "Now look here, Dr. Paul says that my sister could not have committed suicide. The only thing now left to me is to go to the Police." I agreed that it was the only thing to do. My objection to the cutting did not vanish but on the fact of that I could not help it. He said he had no alternative but to go to the Police but he did not say actually that he was going. I knew he was  
 10 worried and when he had done so he never said so. He did not say that time and again she had threatened to commit suicide. If he had said that she threatened to me I would have corrected him. It was only known to me through relatives.

Q. Your annoyance and ill-will towards the accused is of long standing?  
 —A. No, I have nothing against him.

Q. Is it not a fact that your elder sister was proposed in marriage to him. You remember your sister going to London in the company of Miss Church?—A. Yes. I did not know that the visit was for that purpose. I remember the accused graduating with honours at Cambridge. My  
 20 sister was taken to be presented at Court. It may be but I never heard of it that a presentation at Court precedes announcement of an engagement. I do not know that there was to be a big wedding which was fixed at Westminster Abbey. It is the first time I hear of it that the location of the wedding was even fixed. It is so absurd. My sister came back unattached. She is married to a Clerk in the Nuwara Eliya Kachcheri, a distant relative of Mr. Leo de Alwis. My husband comes from Salpiti Korale. Abraham de Livera and I were brought up together. It may be true that he is still a Rs. 50/- Clerk. My husband acted for one month at the Kachcheri for Mr. Roland Dias Bandaranayaka. My sister separated from her husband.  
 30 She is a little eccentric. She is in England. She is not in Italy not so far as I know.

Q. You and your husband got up a seventh day almsgiving?—A. Yes seven days after, I cannot remember the date. Only food was distributed. I did not invite Mr. Seneviratne and his child. I do not know whether he was invited. I cannot speak for my husband. I never invited. We never expected him. I would not have shown him the gate if he had come. I never show any one the gate who enter my house. I was not a bit annoyed. I heard much later that he went to Mrs. Francis Seneviratne's. I did not try to prevent it. I was not concerned. I was concerned about the respectability  
 40 of the child. My father has three living sisters. They have all visited me except one who is too ill to move about. This is the first time that I heard they dislike me. I remember one sister Mrs. Walter de Livera came about two or three days before my sister-in-law's death. I believe the deceased had small bits of cocoanut land in Kawdana. My husband started a copra drying shed not less than 6 or 7 years ago and gave it up. I do not know why he gave it up. I have two children as boarders: one is eleven years and

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continued.*

the other twelve years old. They were sent to college as they were neglecting their homework.

*Q.* You were desirous of getting boarders and supplementing your income?—*A.* No. Mr. Martin is a friend of my father and as a special favour I took him. Mr. Aelian Ebert is a good friend of my husband. Mr. N. J. Martin of Chilaw is not blessed with a single child but this is Mr. Schrader's son whom he is adopting. The child's name is Nat Martin.

*Q.* You wanted boarders of a better class?—*A.* It is because they wished it I took them. They were paying very little, especially Mr. Ebert. I took them to please them. St. Thomas' College is quite close by; it is 100 yards off. It is not the truth that I had been looking out for boarders.

*Q.* (TO JURY): When you were looking for the letter did you search the teapoy by the side of the bed?—*A.* I looked over it but I did not discover any letter.

*Q.* Did you lift up any books or magazines?—*A.* No I do not think I lifted.

*Q.* Do you think the green bottle could have been there? *A.* I do not think there was a possibility of the green bottle being there.

*Re-exa-  
mination.*

RE-EXAMINED: I heard from my relatives about her threat to commit suicide at White House about 3 or 4 years ago. (TO COURT: I cannot remember whether there was any talk of chloroform on that day.)

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D. E. A.  
Pandi-  
taratne.  
24th May,  
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Examina-  
tion.*

**No. 33.**

**Evidence of D. E. A. Panditaratne.**

**D. E. A. PANDITARATNE—sworn.**

EXAMINED: I am a clerk in the Ceylon Government Railway. On the 12th July I was acting as Station Master Chilaw. I keep the goods Railway Book. I remember getting a consignment of cattle. (Shown P.48 Register.) The buffaloes were addressed to S. Davith. There were 6 buffaloes. They were direct to the consignee. They were delivered on the 12th July 1933. I also produce a Way Bill in respect of the cattle. They were sent by one Mr. Stephen Seneviratne. They were sent from Kalutara South. No complaint was made of any damage.

*Cross-exa-  
mination.*

CROSS-EXAMINED: I did not see them at all.

## No. 34.

## Evidence of Henry Perera.

## HENRY PERERA—affirmed.

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tion.

EXAMINED : I am 64 years of age. I am an estate conductor at Chilaw. I am employed under Mr. Stephen Seneviratne, Advocate, the accused in this case. I am on an estate called Panankudawa, Chilaw. I am employed there for one year and eight months. I remember some buffaloes being sent. There were six. I cannot remember when they were sent. Davith accompanied the cattle. I went to the station myself and received the animals. 10 One he-buffalo had broken its leg. I had to put the animal into a cart. It was a bad injury. (To COURT : I did not claim damages from the Railway. I got down a vedarala and got it treated. The vedarala was from Munneswaram named Gooneratnahamy. He treated the buffalo. He could not cure it. I got down another vedarala. (To COURT : He treated it for 6 days.) His name is Mathes. He also applied medicines and the leg of the animal got decayed. Then he suggested an amputation and that it cannot be cured. The leg was amputated about fifteen or twenty days after. After the animals were received the accused came to the Estate about 3 or 4 days after. He saw the lame buffalo. He said he could not 20 cure the animal without amputating. He told me nothing else. He did not tell me he would send any medicines from Colombo. (To COURT : Then I got Mathes.) I told the accused that I am getting the animal treated by the vedarala but I was doubtful about it. The accused did not send me any medicine. The accused did not ask me to keep him informed of the progress of the animal. If any medicines were sent it would have been sent on to me. I know that Mrs. Seneviratne died. He sent medicines for fowls and cattle before. The medicines were kept in an almirah in my quarters. I have separate house. There was another bungalow. I do not know whether there is an almirah. I do not know what is kept there. There is another 30 person in charge of the bungalow. When medicines are sent it is kept in my almirah. I knew about Mrs. Seneviratne's death. After the death the accused visited the estate. About 4 or 5 days after. His younger brother Mr. Chas. Seneviratne also came. I did not see Mr. Charles Seneviratne on any previous occasion. Mr. Seneviratne came to take the valuation of a tobacco plantation. He did not get the money that day. He did not ask about any medicines. (To COURT : He did not search my almirah. (Shown P.20.) I have never seen this before.) When the accused and the brother came nobody brought any medicines. There is a boy coming from the estate taking eggs, but no medicines were sent through the boy. Mrs. Seneviratne 40 has visited the estate about 1½ or 2 months before her death. (To COURT : The animal is still there. There are 31 buffaloes now. In those days there were about 40 buffaloes. Mrs. Seneviratne came 1½ or 2 months ago. She came with Mr. Seneviratne. When she came the leg was cut off. It was 10 or 15 days after. Mr. Seneviratne questioned me about it and I said Yes. On this visit he came with Mrs. Seneviratne. This is the only buffalo with

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a leg cut. In my almira there were medicines for cattle such as quinine, Jeyes fluid, Condyl's Fluid, Margosa oil, Coconut oil, etc.

CROSS-EXAMINED: Panankudawa is a big estate of 240 odd acres, 120 acres bearing coconut, 30 acres paddy and the rest young coconut. (To COURT: It is at Chilaw. It is a very valuable estate.) There are two bungalows, one where I live and the other for the proprietor when he comes. In my bungalow there are only two or three ingredients for medicinal purposes, Jeyes fluid, Condyl's fluid, Margosa oil, Quinine. There is a large number of poultry, imported fowls. 400 or 500 eggs are sent to Colombo every week by Themis. The Condyl's fluid is for mixing up with water for the poultry. For ordinary bruises Jeyes fluid, Margosa oil, etc., are used. I cannot remember whether it was in the month of April that Mr. and Mrs. Seneviratne, John Dassanaik, Mabel Joseph and Terence came there. There is a tank on the estate. Mr. Dassanayake gave me advice on the proper irrigation of the fields. That was about the time of the harvesting. The harvesting time is April, so that they may have come in April. (To COURT: They did not come after that.) Their first visit was when they bought the estate and another was with Mr. and Mrs. George de Saram shortly after the Estate was bought. This property was bought in October 1932. I have been there since it was bought. I now remember that Mrs. Seneviratne paid two visits the last in the company of John Dassanaik when advice was given in regard to the irrigation of the paddy lands. I made a mistake about the date as I am not sure. I am 64 years of age. I remember I was questioned whether Mr. Seneviratne came to the Estate after his wife's death. He came with his brother on the 22nd. Mrs. Seneviratne may have come 6 months before. He went there with Mr. John Dassanayake at the reaping time. (To COURT: Mr. Seneviratne does not visit the estate very frequently.) I showed Mr. Seneviratne that the leg had been cut. I cannot remember for certain whether Mrs. Seneviratne was there. I do not know what is in the almira in the big room. The two bungalows are about 100 fathoms or  $\frac{1}{3}$  of a mile away from each other. There are two roads to the bungalow. Whenever Thomisa brings anything he used to give it to me. If anything is sent to me he would give it to me, if it is meant for me. Near the bungalow there are birds. Thomisa brings food for the birds from Colombo. He brings to me what is meant for me. What is meant for the master's bungalow he leaves there. I remember that Mr. Seneviratne came there 3 or 4 days after the buffalo was brought. In the Police Court I remember I said a day or two after. These buffaloes are Scind buffaloes. They are valuable animals. I am not aware that they were brought there so as to get young ones. They came from Kalutara. The buffalo broke its leg not through any fault of the railway authorities, but when they were taken out of the yard they had a fight and one broke the right hind leg near the knee. Mr. Seneviratne came and saw it and said it could not be cured, and told me that the leg would have to be amputated. It is all he told me. When he came there 4 or 5 days after his wife's death he spoke to me about some

tobacco growers and he went to his own bungalow. Then he and his brother went back home. I stayed in my bungalow when they sent to the proprietor's bungalow.

Adjourned for lunch.

**HENRY PERERA—CROSS-EXAMINATION (continued).**

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Cross-exa-  
mination—  
*continued.*

I have been in the employ of the Seneviratnes from the time of accused's father. When his father was Muhamdiram of Salpiti Korale I was employed under them and they were then living in the house now occupied by Mr. Chas. Seneviratne. That house belongs to Albert Alwis and I know the Alwises well. Mr. Albert Alwis has a brother called Seebert Alwis who is a proctor. He was mad. I have not seen another brother called "John Bappa." I was the marriage broker for Mr. Albert Alwis' wedding. He had little property but he inherited wealth from an aunt of his. He had no occupation himself. (To COURT: Mr. Albert Alwis is the father of Mr. Leo de Alwis. (To JURY: It was finally decided that the buffalo's leg should be amputated. That was the decision of the vedaralas. Mr. Seneviratne was not aware that the vedaralas had decided that the leg should be amputated. (To COURT: I remember I gave evidence before the Magistrate. (P.C. evidence on this point read: "About a day or two after the buffaloes arrived Mr. Stephen Seneviratne came. He said that nothing could be done to the leg and asked me to leave the animal alone.") I did not tell the Magistrate that accused said nothing could be done to the leg, nor did accused tell me that, but he said that the leg will have to be amputated.

RE-EXAMINED: I am the chief person in charge of this estate. The cattle and cattle food, etc., are in my charge. Anything sent out of the estate has to be seen to by me. If anything is received on the estate I have to account for it. All the medicines for cattle and the cattle food are in my charge. For a year there is only one harvesting season in Chilaw. That is "Yala." No Maha season. When Mr. Seneviratne saw the buffalo's leg he said it will have to be amputated—that is all he said. In spite of that I got vedaralas to cure it, but they could not cure it and the leg was amputated without any further reference to Mr. Seneviratne.

Re-exa-  
mination.

No. 35.

Evidence of G. S. Marthelis.

G. S. MARTHELIS—affirmed.

No. 35.

G. S.  
Marthelis,  
24th May,  
1934.

Examina-  
tion.

EXAMINED: 30, cultivator and Native Medical Practitioner living at Inigodawala. I treat cattle. I went to the fishmarket one day to get some fish. There I met the conductor of Pamankudawa estate (last witness) and he called me to go to the Chilaw railway Station to see a buffalo which

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Marthelis,  
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tion—con-  
tinued.

had a broken leg. I did not know him very well. I have some paddy fields close to Pamankudawa estate. (To COURT: I do not remember the date I saw the animal—must have been last year.) I cannot remember the month. I did not tell the Magistrate that it was in July. I told him I could not remember the date. I remember seeing the buffalo with a broken leg at the Railway Station. The conductor asked me to treat the animal. I said I could not treat it in setting the broken leg; then he asked me to find another vedarala. I got one from Muneseram—that is Gunaratnahamy. He treated the animal for about 8 or 4 days. He treated for about 4 days. Then he said he could not cure the animal. By that time the leg was rotten. The conductor then asked me if I could cure it. I undertook it and treated the animal for one month and 15 days. Then as I could not cure it I cut the leg. I was not told at any time that any medicines will be sent from Colombo. I saw Mr. Seneviratne on the estate once. I do not go to the estate very often. He did not tell me anything about the buffalo. 10

Cross-exa-  
mination.

CROSS-EXAMINED: I have never spoken to Mr. Seneviratne therefore he could not have told me anything. I treated the animal for one month and 15 days. When I began treating the animal's leg had already got rotten. As I started treating the rotten leg got dried up and it was hanging by two tendants only and I had only to cut the two tendants. That was all the amputation I had to do. If I waited for another week the leg would have dropped by itself. 20

No. 36.  
P. K.  
Gunaratna-  
hamy,  
24th May,  
1934.  
Examina-  
tion.

No. 36.

Evidence of P. K. Gunaratnahamy.

P. K. GUNARATNAHAMY—affirmed.

EXAMINED: 40, carpenter and Cattle Doctor. I know Panankudawa estate in Chilaw. I remember treating a buffalo which had a broken leg on that estate. The last witness brought me there in July I think, but I do not remember the date. I treated for about a week but could not cure it. There was no talk about cutting the leg or about medicines being brought from Colombo. 30

Cross-exa-  
mination.

CROSS-EXAMINED: Nil.

No. 37.

## Evidence of Dr. G. Cook.

DR. GUNARATNAM COOK—sworn.

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Court.*Evidence  
for  
Prosecution.No. 37.  
Dr. G. Cook,  
24th May,  
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Examina-  
tion.

EXAMINED : I know the accused Mr. Seneviratne. I know there was a confinement of Mrs. Seneviratne about 8 years ago, but I cannot remember the year. I acted as anæsthetist and my father-in-law Dr. S. C. Paul was the obstetrician. I administered to Mrs. Seneviratne the chloroform. I cannot remember who supplied the chloroform. There would have been some left after the operation because I know we need not use very much.

10 Invariably in maternity cases the chloroform is taken fairly easily by the patient and we do not give the full amount. (To COURT : Usually in maternity cases we take  $2\frac{1}{2}$  to 4 ounces—about one bottle (witness shows a bottle). This is the ordinary size bottle supplied by chemists; another way they supply chloroform is in a bottle like this (shows another bottle) with an ordinary rubber cork and a string across it to keep the cork in. (Witness shows an ampule also). This is an ampule we speak about which is the best way to procure. This is a 2 oz. ampule. The blue bottle is a 4 oz bottle. Usually I take one of those or an ampule in my bag and if the patient supplies the chloroform we use that. You feel chloroform on the

20 hand. As a medical man I would not mind but to one who has a sensitive skin it stings a little. (Witness pours some chloroform on his own hand from a bottle brought by him and shows it to the Court.) It evaporates at once in the open air. If you soak it on a piece of cotton wool or a sponge and keep it on the skin it hurts that is when you prevent evaporation. By pressure it stings a little. I do not know how much chloroform was used in this particular case. Sometimes we use our own chloroform. If I have in my bag some chloroform that had been used recently I would use that and if the patient supplies an ampule which I can keep for some time I would take the ampule for the chloroform that I used. I cannot say what

30 happened in this particular case. If I had been given chloroform that had been kept in the house for some time I would not use it for anæsthetic purposes. Even with a glass stopper if there was air in the bottle the chloroform would undergo decomposition. The makers advise us to put chloroform in a dark place. If chloroform had been left over after the last confinement, in 8 years it would be useless. In Police Court I said that in 5 years chloroform will be absolutely dead. This is correct. I cannot say whether in this particular case they supplied the chloroform. If an ampule was supplied to me I would break the glass stopper and use it. If anything was left I would leave it behind. In an ampule like this—2 ounces—nothing

40 practically would have been left.

Cross-exa-  
mination.

CROSS-EXAMINED : The probability of how long chloroform could be kept depended on what sort of bottle it was kept in. If it was corked I would expect it to be completely dead even in 5 years. If it was a close-fitting round glass stopper it would last a little longer. I would never keep chloroform in a bottle like C2. It must be either in a glass stopper bottle or an ampule and also it must not be a whitish bottle. The stopper in this

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mination—  
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bottle C2 is not airtight. This stopper has got a cork lining on the inside, and round the metal which fits over the bottle some endeavour has been made to compress the cork portion by striking it and preventing something in the bottle from evaporating : another possibility is that to open it it might have been held tight and these marks caused by that. These marks on the stopper have been put on after it was sent from the factory, but not by the manufacturers. There are 6 depressions in this stopper. If pincers had been used to pull it out I would find the marks on two opposite sides. No two marks are opposite to each other in this. Three marks on one side are a little deeper than on the other side. The stopper could be tightened up with a pincer. These marks could be caused with the teeth. The smaller marks could be caused by the lower teeth and the bigger marks by the upper teeth. The marks are bigger on one half and on the opposite half they are smaller. Somebody might have pulled it out by the mouth. The space between two sets of marks are not equal. 10

Q. You cannot get 3 teeth marks on the bottle?—A. It depends on the arrangement of the teeth. The teeth are arranged in a curve. The upper teeth will fall on this cover very nicely. (To COURT : If I found a bottle of chloroform with dent marks on the stopper I would not use it. It is dangerous to pull the cover of a chloroform bottle like that.) In chloroform there are poisonous gases. It is not stocked in white bottles ; therefore it has to be left in a dark place or in a bottle that is coloured to prevent the rays of the sun getting at the chloroform. Even 2 months is too long a period to keep chloroform in this bottle C2. I will allow a week for a bottle like that, but I will not use it for anæsthetic purposes. Even if there was no air entering it would be useless because the air inside the bottle will act on the chloroform. It does not evaporate so quickly. One would actually have to try experiments before one could say definitely on the point. If this bottle was in a cupboard and if that was dark the chloroform would keep better than if it was kept outside. The letters "A.F.D." on bottle C2 stand for Anglo-French Drug Company. This bottle contains tablets. There is a label on this bottle bearing Mrs. Seneviratne's name. Apparently this bottle had been issued to her on a prescription. The date on the label is 1st December 1932. Various forms of medicines are prescribed for diabetes. (To COURT : Bottle P4 would contain an ounce of chloroform. That is enough to anæsthetise a person.) (To JURY : It is pure chloroform that I used on my hand. This is about a week old. For inhalation you want 2 per cent. with air.) 20 30

CROSS-EXAMINED (with permission) : In the case of Mrs. Seneviratne a very little chloroform was used. She was susceptible to chloroform—that does not mean that she was in the habit of taking chloroform—in maternity cases they only want a whiff or two. I said in the Police Court that in this particular instance only very little chloroform was used—not more than an ounce ; that is correct. 40

Re-exa-  
mination.

RE-EXAMINED : In that condition any lady will take only very little chloroform. Can you make this bottle C2 air-tight by denting it on sides ?

—A. Unless you dent it on all sides. It is possible that those marks might be caused by the teeth taking out the cover several times by the teeth. (Witness is informed that C2 is 16 cubic centimetres.) 28 point something cubic centimetres make an ounce. If it is 16 cubic centimetres it will be  $\frac{4}{7}$ ths of an ounce. That is rather too little to anaesthetise a person.

CROSS-EXAMINED (with permission):  $\frac{3}{4}$ ths of an ounce is sufficient in some cases to anaesthetise. That would suffice in Mrs. Seneviratne's case.

10 RE-EXAMINED: In the condition in which she was at the confinement that would be sufficient, but not in a normal condition.

*In the  
Supreme  
Court.*

Evidence  
for  
Prosecution.

No. 37.  
Dr. G. Cook,  
24th May,  
1934.  
Further  
cross-exa-  
mination.

Further  
re-exa-  
mination.

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No. 38.

Evidence of Miss F. M. Ohlmus.

MISS F. M. OHLMUS—sworn.

EXAMINED: I am a maternity nurse. I remember attending on the accused's wife Mrs. Seneviratne in July 1927. That was a maternity case. She was chloroformed on that occasion by Dr. Gunaratnam Cook. I do not remember who supplied the chloroform on that occasion. There was no chloroform left behind. I remained there altogether for 56 days.  
20 The child was born on Thursday about 2 a.m. and died at 12 or 1 on Saturday morning.

CROSS-EXAMINED: I had a diary at that time but I tore it up. I am not sure whether an ampule or a bottle of chloroform was used. I do not know whether the chloroform was supplied by the Doctor or by Mr. Seneviratne. Ordinarily the doctor takes the balance chloroform. In that case there was no chloroform left—not in the room. I do not know whether in this case the doctor took the balance.

No. 38.  
Miss F. M.  
Ohlmus,  
24th May,  
1934.  
Examina-  
tion.

Cross-exa-  
mination.

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No. 39.

Evidence of R. Gibson.

R. GIBSON—sworn.

EXAMINED: On the 15th October last I was sub-inspector of Police, I am now sub-inspector of Police Colpetty, S.P.C.A. On the 15th October at 8/23 a.m. a message was received from Dr. Paul that Mrs. Stephen Seneviratne of Duff House expired suddenly and that she must have taken an overdose of aspirin. I went to Duff House. I got there shortly after 9. First person I met was Mr. Leo de Alwis who was on the verandah. I

No. 39.  
R. Gibson,  
24th May,  
1934.  
Examina-  
tion.

*In the  
Supreme  
Court.*

*Evidence  
for  
Prosecution.*

*No. 39.  
R. Gibson,  
24th May,  
1934.  
Examina-  
tion—con-  
tinued.*

mistook him for Mr. Seneviratne and I asked him for Mr. Seneviratne the accused and he showed him to me. (To COURT: I went there regarding the death of Mrs. Seneviratne to question the husband. I was going to find out the cause of death. I went to question deceased's husband regarding deceased's death. My object in going there was to find out if it was correct that she died of an overdose of aspirin by recording the evidence of deceased's husband and the other people who were there). I recorded Mr. Seneviratne's statement. Thereafter I went to Dr. Paul's bungalow. Before I went there I did not look at the deceased's body. I did not go into the room. A bottle of aspirin was produced by the accused. I did not take charge of it. Accused had it. He showed it to me but I did not take charge of it. It contained about half a dozen tablets. I did not count the number of tablets in it. Then I went and recorded Dr. Paul's statement. (To COURT: This is the first time I had a case like this.) After recording Dr. Paul's statement I went to the Enquirers bungalow and informed him of what Dr. Paul and accused had stated. He informed me that if there was no foul play suspected by the relatives and if Dr. Paul was prepared to issue a death certificate as to the cause of death no inquest was necessary. (To COURT: I got information from Dr. Paul that she had taken an overdose of aspirin. Therefore it was a case of suicide. I got information that she had died suddenly.) 10 20

*Q.* Why did you not point section 362 of the Criminal Procedure Code to the Inquirer?—(no answer.)

*Q.* It was his duty to go there at once?—*A.* Yes. From the Inquirer's place I went back to the accused's bungalow and informed the accused what the doctor and the Coroner had stated; thereafter I took no action. (To COURT: The Assistant Superintendent of Police for my area is Mr. Ismail and the Suptd. of Police is the Superintendent for Colombo.)

*Q.* Is there any rule to report matters like this to the superior officers? —*A.* There is. 30

*Q.* Did you report?—*A.* I did not. When I went to accused's bungalow a 2nd time I did not go into the room, but stood by the doorway. (To COURT: When I went there first I was not told that they were not anxious to have an inquest). I was not told about the marks on the face. I did not go and look at the body at any time. (To COURT: Dr. Paul told me that he could give a death certificate saying she had died suddenly by an overdose of aspirin. I did not ask him whether he had examined the body carefully to see whether he had any internal injuries. He made a statement to me. I was satisfied with his statement.)

*Cross-exa-  
mination.*

**CROSS-EXAMINED:** The message was that Mrs. Seneviratne had died suddenly and that she appeared to have taken an overdose of aspirin. So I set out to ascertain whether an inquest was necessary or not. That was the object with which I went to the house. I went to get some preliminary data to go and ask the Inquirer to come and hold an inquest. When I went there the first person I saw was Mr. Leo de Alwis. I did not wish to take a statement from him but I asked him for Mr. Seneviratne and 40

he referred me to Mr. Seneviratne from whom I took a statement. This was on the verandah. While he was making that statement Mr. Leo de Alwis was close by. There were a number of other people on the verandah as well. If Mr. Alwis was so minded he could have corrected anything which Mr. Seneviratne said, but nobody did correct him and nobody wanted to say anything further. Mr. Alwis did not tell me to let him know in time to make the funeral arrangements if an inquest was going to be held. I am quite certain of that. If he had told me that it would have created the impression in my mind that somebody there desired to have inquest, but no reference was made to an inquest by anybody there. (To COURT: I took down accused's statement in my notebook.) I went away satisfied that nobody there wanted an inquest. Then I went to Dr. Paul (His Lordship asks witness to read Dr. Paul's statement recorded in his notebook—witness reads it.)\* (To COURT: He did not tell me he saw marks on her face.) He told me that accused told him that when he came into the room he found his wife lying in the same position as she was when Dr. Paul came in. He also told me that she had a peaceful look on her face and that there was a bottle of aspirin and pancreasal on the toilet table. Dr. Paul said he was prepared to give a death certificate to the effect that she had died of sudden heart failure. I saw Mr. Bartholomeusz thereafter. He told me that if nobody suspected foul play there was no need for an inquest. (To COURT: I do not know that there is a post depression rule to the effect that the Inquirer should hold an inquest only if he suspects foul play). I went back to Duff House and told them that there was not going to be an inquest. I walked up to the room where the lady was. I did not see any part of her face at all. There were several people in the room at the time.

*In the  
Supreme  
Court.*

Evidence  
for  
Prosecution.

No. 39.  
R. Gibson,  
24th May,  
1934.

Cross-exa-  
mination—  
*continued.*

\*(See No. 71,  
page 311.)

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No. 40.

Evidence of R. L. Bartholomeusz.

30 R. L. BARTHOLOMEUSZ—sworn.

EXAMINED: I am the Inquirer for the City of Colombo. I am a Justice of the Peace and an Unofficial Police Magistrate. On the 15th October last between 7 and 8 a.m. I got a telephone message from Dr. Paul to the effect that he had been called in to see a patient—Mrs. Seneviratne of Bagatelle Road—and that when he went in he found her dead. He wanted to know what he was to do under the circumstances. I asked him whether he had seen the patient. He said she was an old patient of his. I asked him whether he was prepared to give a death certificate. He was prepared to do so. I said that if he had any suspicion that death was due to causes other than natural causes to inform the nearest Police station who would in turn

No. 40.

R. L.  
Bartholo-  
meusz,  
24th May,  
1934.

Examina-  
tion.

*In the  
Supreme  
Court.*  
—  
Evidence  
for  
Prosecution.  
—  
No. 40.  
R. L.  
Bartholo-  
meusz,  
24th May,  
1934.  
Examina-  
tion—con-  
tinued.

inform me. (To COURT: This conversation was on the telephone.) In-  
spector Gibson came to my bungalow later that morning between 10 and 11  
and asked me whether Dr. Paul had telephoned to me and I said Yes. I  
asked him whether Dr. Paul was prepared to issue a death certificate. (To  
COURT: I do not think Inspector Gibson read out to me the statements of  
Dr. Paul and the accused. I cannot recall, but I would not say that he did  
not.) He got into telephone communication with Dr. Paul in my presence at  
my bungalow and the result of that was that Dr. Paul was prepared to issue  
a certificate, and I said under the circumstances an inquest would not be  
necessary. (To COURT: I know the section of the Criminal Procedure Code 10  
referring to inquests—Chapter 32. That is the chapter under which I act. It  
requires me to hold an inquest when there is a sudden death or a suicide  
or death from a cause not known. Apparently there was no suspicions of  
suicide. This is a sudden death. I was not made aware of the circumstances  
under which she died. I was told that it was an overdose of aspirin. That  
can be due to suicide. (Witness is asked to read section 362 of the Criminal  
Procedure Code.) If I had gone there I would have seen the marks on the  
face. I believe Dr. Paul mentioned that it was due to cardiac syncope as a  
result of an overdose of aspirin. I spoke to Dr. Paul over the telephone early  
morning. I left it to Dr. Paul whether an inquest should be held. I did not 20  
hold an inquest because there was no suspicion of foul play. That is what  
I wanted Dr. Paul to make sure. I am wrong according to the Code.  
There is no depression rule asking me to restrict my holding inquests.  
Section 362 has not been over-ruled by any subsequent law to my knowledge.  
I did not enquire from Dr. Paul or from Inspector Gibson for any marks  
on the body.

Cross-exa-  
mination.

CROSS-EXAMINED: I am not prohibited from holding an inquest when a  
Doctor is able to testify to the cause of death. If the Police have any reason  
to suspect that the Doctor's certificate is not correct, then they request me  
to hold an inquest. (To COURT: That is how I have been acting so far. 30  
I read the rule now differently.) The Hospital authorities do not request  
me to hold an inquest when the doctor certifies the cause of death. I am  
not given a regular salary. I am paid per inquest, and my instructions are  
not to hold an inquest when the doctor is able to certify the cause of death  
unless the police suspect that the certificate is not reliable. There was a  
general order at the General Hospital that where a death takes place of a  
patient in less than 48 hours after admission to hospital, an inquest must  
be asked for by the Hospital authorities if death takes place after 48 hours  
of admission the Doctors were considered to be in a position to have diagnosed  
the case and certify correctly the cause of death. That is the rule which 40  
existed till 2 or 3 years ago. That has been amended and I am only called  
upon to hold an inquest at the hospital where the hospital doctors cannot  
diagnose the cause of death. There is no other amended rule to my know-  
ledge regarding deaths outside hospital. I specially directed Dr. Paul's  
attention to his being satisfied that death was due to purely natural causes.  
(To COURT: Dr. Paul said that when he went the lady was dead and from

the history given he was of opinion that death was due to cardiac syncope as a result of an overdose of aspirin. I would not accept the statement of a doctor who had not seen a patient before, but Dr. Paul told me that he had been in constant attendance on her right through her life. I would accept that statement because Dr. Paul has been treating the patient regularly. He told me that she was a patient of his and I was under the impression that he had been treating her, but now I find that I was mistaken. If Dr. Paul had the slightest suspicion of it being suicide he would have communicated with the police and an inquest held. As he did not suspect suicide

10 I did not hold an inquest. I am only to ascertain the cause of death.

*In the  
Supreme  
Court.*

*Evidence  
for  
Prosecution.*

*No. 40.  
continued.*

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**No. 41.**

**Evidence of S. R. Raymond.**

S. R. RAYMOND—sworn.

*No. 41.  
S. R. Ray-  
mond,  
24th May,  
1934.  
Examin-  
tion*

EXAMINED : I am a partner of Raymond & Co., They are Undertakers. I was informed of the death of Mrs. Seneviratne by Mr. Leo de Alwis on the telephone and I was given charge of the funeral arrangements. I went to Duff House about 11.30 a.m. Mr. Seneviratne was not there. I first spoke to Mr. Alwis and he asked me who I was. I said I am Mr. Raymond come to make arrangements. He asked me to carry on with the arrangements.

20 I asked what arrangements he would like to have. Then he took me to Mr. Seneviratne who was in his room. I was in charge of the funeral arrangements. I saw the body at about 11/30 on Sunday morning. When taking the measurements I saw marks—the left cheek had a bluish brown colour and also on the tip of the nose and right round the mouth and on chin. I did not notice marks on the eyelids at that time. In the evening I went there with the coffin and I noticed a blister on the right hand, pinkish colour. The mark was above the wrist. It was a little bigger than an old 5 cent piece. It looked like a burn. It was a blister. When you get a burn you get a blister, a swelling—a bump. I was a bit far off and I did not go

30 close by to see whether there was water in that blister. I took the attendants to wash the body, but they said they will do the washing themselves. I carried out the funeral arrangements.

CROSS-EXAMINED : (Witness is told that he said in the Police Court that the blister was on the round of the hand near the interior side of the wrist.) It was extending from the wrist upwards. When I went there to take the measurements I saw only the brownish mark on the left cheek. When I came back after the embalming to put a shroud on the body the ladies washed the body. They did everything. Then I saw a mark on the right side of the face, small mark on the right cheek, marks on the chin,

40 but nothing on the nose and eyelids. (To COURT : There was a big area on the left cheek.) On the right side there were a few spots.

RE-EXAMINED : There was an electric light in the room but it was not quite distinct. I stood near the coffin and saw these marks.

*Re-exa-  
mination.*

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*In the  
Supreme  
Court.*

Evidence  
for  
Prosecution.

No. 42.  
Simon,  
24th May,  
1934.  
Examina-  
tion.

No. 42.

Evidence of Simon.

SIMON—affirmed.

EXAMINED : I sell newspapers. I am employed under one Meera Saibo. I take newspapers and deliver them at bungalows. Sometimes payment is made at time of delivery and sometimes asked to come later. I know Duff House. I delivered papers at that bungalow to Mr. Seneviratne. I have seen him previously. I deliver the paper to that house on Sundays also. I remember the Sunday 15th October last year. I do not remember the day the lady there died. During those days practically every Sunday I delivered the paper at that bungalow at about 7 or 7.30 a.m. The servant boy used to take charge of the paper. I do not know his name. Every day the same boy takes charge of the paper. (To COURT : I do not remember a big funeral there one day.) 10

Cross-exa-  
mination.

CROSS-EXAMINED : I take the paper there only on Sundays. I do not know who takes the paper there on week days. Even on Sundays they do not buy the paper regularly. Sometimes I am told the gentleman is out. If the gentleman is out the paper is not bought. Ordinarily I go to the bungalow to deliver the paper at about 7 a.m. Sometimes I go there earlier. On other days I used to take the paper much earlier. I do not remember the funeral at Duff House. Later I heard of it. I am not sure whether I took the paper there that Sunday or not, but practically every Sunday I deliver the paper there. So far as I remember I took the "Times" and the "Observer" papers there that Sunday. 20

No. 43.  
C. V. Gooneratne,  
24th May,  
1934.  
Examina-  
tion.

No. 43.

Evidence of C. V. Gooneratne.

C. V. GOONERATNE—sworn.

EXAMINED : I am an Assistant Superintendent of Police of the Criminal Investigation Department. I made some enquiries in connection with this case. Accused handed me certain letters. (Shown P.6 to P.9.) 30 These are the letters. (Witness reads P.6 to P.9.) He also handed me four postcards marked P.28 to P.31 at the same time.

Adjourned for the day.

25th May,  
1934.

25th May, 1934. Accused present. Same Counsel as before.

C. V. GOONERATNE—sworn (continued).

Cross-exa-  
mination.

CROSS-EXAMINED : Accused suspected Mr. Leo de Alwis of having sent the postcards he handed to me. He told me he met Mr. Alwis on the Colombo Kandy Road on the 24th October evening.

(Deputy Solicitor General objects to asking this witness anything which accused told him unless accused is giving evidence.)

P.29, P.30 and \*P.41 are 3 postcards addressed as follows:—P.29 to Mr. Stephen Seneviratne, Bagatelle Road, Colombo. P.30 to Mr. Stephen Seneviratne, State Mortgage Bank, Secretariat, Colombo. Then it has been deleted and over that written “Try Duff House, Bagatelle Road, Colombo.” P.31 is addressed to Stephen Seneviratne, Public Trustee Office, Fort Colombo. P.29 says “Murder will out.” P.30 and P.31 say “Murder will out some day.” All three postcards bear Yakkala postmark and date 25th October 1933. P.28 is addressed to Mr. Stephen Seneviratne, Duff House, Colombo. It is written in ink. P.29 in blue pencil and P.30 and P.31 in ink. Ink looks similar and writing somewhat similar. In P.28 the address is given as “14, Ambakithula”—it is the transposition of syllables in Singhalese. P.28 reads as follows:—“Sir, re your ad. in the morning papers about a nurse, is it a bed nurse or a day nurse that you want. I understand that the present bed nurse is leaving. If you send me your private dimensions I will meet you at Jessie Nona’s.”

*In the  
Supreme  
Court.*

Evidence  
for  
Prosecution.

No. 43.  
C. V. Goo-  
neratne,  
25th May,  
1934.

Cross-exa-  
mination—  
*continued.*

\* *sic.*

**No. 44.**

**Evidence of J. V. Collins.**

**J. V. COLLINS—sworn.**

No. 44.  
J. V. Collins,  
25th May,  
1934.  
Examina-  
tion.

EXAMINED: I am the Deputy Government Analyst. I know about this case. The Judicial Medical Officer sent me the deceased lady’s stomach and some of intestines and liver and kidney and later on I received the tongue and a piece of the palate and also some urine. They were examined by me for organic poisoning, metallic poisoning, for chloroform and for aspirin. I found no poison at all. I tested for prussic acid, antimony, mercury, arsenic and chloroform. The organs were divided and some tested for some and some for others. For chloroform I tested the liver and the urine. Chloroform is a very volatile substance.

Q. If chloroform had been inhaled within what period would you expect definite signs of it in the body? A. I am afraid I cannot say that. I did not find any trace of chloroform in the urine or in the liver. Chloroform might be broken up in the system and might give you formic acids as one of the products and it produces substances in the urine which are not very well known. The chief substance to which the chemical change when it took place, would reduce chloroform would probably be formic acid. You are liable to get formic acid in the presence of formalin. In the urine which I tested there was sugar present. The quantity was not estimated but it was not very large. There was sufficient there to identify the fact that it was sugar and it was glucose. I also carried out an experiment with regard to certain urine given to me by Dr. Milroy Paul. In the tested sample of the deceased’s urine I did not find any compounds of aspirin.

*In the  
Supreme  
Court.*

Evidence  
for  
Prosecution.

No. 44.  
J. V. Collins,  
25th May,  
1934.  
Examina-  
tion—con-  
tinued.

Aspirin is acitile salicylic acid. I did not find that in the urine or any product of any decomposition. I can say definitely that there was no trace of salicylic acid in the urine which would be present if aspirin had been taken. It depends on the time when aspirin had been taken.

*Q.* In what period of time would salicylic acid be excreted from the body if it had been taken? *A.* I cannot say definitely. It depends on the dose. (To COURT: The Judicial Medical Officer sent me 24 grams of urine.) I divided the urine sent by Dr. Milroy Paul into 3 portions and carried out tests. Into one portion I did not add anything at all. Into the 2nd portion I added a little formalin and to the 3rd portion I added some formalin and glucose. I received the sample on the 25th November and I finished my last examination on the 11th January. They were examined at intervals during that period. I kept those three portions of urine for about 30 days I think. Salicylic acid was found in all three. 10

*Q.* Does that lead you to draw any inference that salicylic acid is not affected by formalin or glucose or both combined? *A.* Under the conditions under which this experiment was carried out salicylic acid did not appear to be affected by those conditions. The urine was kept at ordinary room temperature in a cork stoppered flask. (To COURT: As an anæsthetist I am not familiar with affects of chloroform, but I have chloroformed a certain number of animals at various intervals.) I chloroformed a cat by taking a cotton wool pad and soaking it in chloroform and keeping it on top of the cat's nose. It became unconscious in about 30 seconds to a minute. That is the ordinary pure chloroform. It is not very easy to say in what time it actually died, but I should say in about ten minutes or so. I did not notice particularly what time the breathing ceased. If I said in the Police Court that it ceased breathing in 5 or 6 minutes that would be correct. After some time had elapsed I analysed the liver of the cat and I found chloroform in it. I found the chloroform by decomposition products by a process known as Ragisky process for the identification of chloroform. There was no smell. (To COURT: The cat died on the 8th December and the test was done on the 3rd January—an interval of 33 days. The cat in the meanwhile had been injected with formalin.) About 3 hours after the death formalin was injected by Professor Hill, but I cannot say what quantity of formalin was used because that was done by him. I also examined the part of the heart and lungs of the cat afterwards. I found traces of chloroform in both. That also was from decomposition product—same process exactly used. I applied the same process in the case of the deceased's lady's liver. I found no trace of chloroform in the deceased's liver. It is a process of distillation. I did not use the whole liver of the lady but about 300 grams. It is the general working quantity. The cat died about 10 minutes after chloroform and during the whole period chloroform was administered. The pad was kept wet with chloroform the whole time. In the case of the lady she might have collapsed by a sudden collapse of the heart and the amount of chloroform applied might be very little indeed. I also examined bottle P.4. I tested it to see if there was any trace of chloroform but I found no trace. The cubical content of this bottle is 16 cubic centimetres : 28 point 30 40

something cubic centimetres goes to make an oz., therefore 16 cubic centimetres will be between  $\frac{1}{2}$  and  $\frac{1}{3}$ —about  $\frac{4}{7}$ th ounce. In the case of the cat I do not know how much chloroform went into the air and how much to the cat, I cannot say how many ounces were used for the cat. I also examined two bottles C.1 and C.2. I found no trace of chloroform in both. (To COURT: One might keep chloroform in bottle C.2 for some time but I am not sure.) If the bottle is air tight and there is no leakage of vapour you can keep it indefinitely. If there is a leakage in the cork the period would depend on the size of the leakage. You can fill the bottle with chloroform and weigh it every morning to see what loss of weight there is. I can test that and say. Chloroform does deteriorate if there is much air above and if there is light. I cannot say in what time it will deteriorate. It depends to a certain extent what chloroform is in there. If it is pure chloroform it will deteriorate rapidly, but if there is 1% alcohol in that the deterioration will not be rapid. You cannot say definitely how long it will take. I also tested handkerchief P.13—no actual test was carried out but I only smelt that handkerchief. That is all. I found no smell of chloroform. I was sent a bottle of skin food. P.27. It was tested merely for an irritant by applying it on my own skin—on my hand. It did not irritate my skin.

10 The face is more sensitive than the hand.

20

Q. If you saturate a handkerchief with chloroform and leave it in the air in the open, how long will the smell last?—A. It depends to a certain extent on the temperature and how much breeze is going round, but would not last much more than 10 minutes. After 10 minutes I would not expect very much of smell on the handkerchief unless it was covered or free evaporation was stopped.

Q. Once the smell is not there is there any known test by which you can trace chloroform on the handkerchief?—A. I think it is very improbable that if you cannot smell it you will find a chemical test sufficient to detect it.

30 Q. Supposing a handkerchief is soaked in  $\frac{3}{4}$  oz. chloroform and if one door and a window was open, in what time will you notice the smell?—A. I cannot say.

Q. If it is noticeable, is it noticeable to a great extent, will it strike anybody? What is the smell like?—A. It is a pleasant sweetish smell. The sense of smell varies in the individual to a certain extent.

Q. To a person who smokes the smell will be affected?—A. Generally it is not so keen as to a person who does not smoke, but then I do not know very much about it. I measured the cubicle contents of the bottle C.2 in the Police Court and if there I have stated that it was 78 cubic centimetres, that is correct. That is about  $2\frac{3}{4}$  ounces.

40

CROSS-EXAMINED: What were the tests you applied for chloroform in the case of the lady?—A. The test for the liver was the distillation test of Ragsky, where the material is cut up and distilled and the product of distillation is passed through a hot tube and it depends on the breakdown of chloroform giving various products and the recognition of the free chlorine and hydro-chloric acid. The urine was tested by Fujiwara test which is a colour

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test which is said to be very delicate indeed, but it gave a negative result. C.H.C.L.3 is the chemical for chloroform. There is chlorin in it. I found no trace whatever of chloroform. In the case of the cat I examined the liver contents after 33 days. The cat was kept in the anatomy school of the Medical College, but it was not buried. I found traces of chloroform in the lungs and heart which were examined together as they were not very large, and the liver was examined separately. Both of them by this process gave indications of chloroform. That is a well known test for chloroform. Professor Hill injected the cat with formalin. I did not see it actually being done, but about 4 hours after the cat was dead. I do not know the quantity of chloroform that was administered to the cat. It was chloroformed by keeping a cotton wool pad of chloroform on the nose of the cat in the open air. I was not present when the monkey was chloroformed. (To COURT : In the case of the cat the pad was held down tight over the nose. It is very difficult to say whether the skin was affected as it has got a hairy face, but I did not notice anything.) The cat struggled for about half a minute. It was wrapped up but still it struggled. The breathing went on and gradually subsided in about 7 minutes. I did not notice whether the heart actually stopped beating before the breathing was finished. I was not watching for that at all.

Q. In the administration of chloroform frequently the heart stops before the breathing actually stops?—A. I have read so.

Q. Neither Professor Hill nor you tested to find out whether the heart stopped beating before the breathing stopped?—A. Professor Hill was not there. I did it myself. I was not interested in that side of the question at all. (To COURT : The cat was dead in about 10 minutes. There was no breathing. I did not notice the heart particularly but it did not move at all and there is another fact. When an animal is chloroformed in that way as soon as death definitely appears the hair of the animal starts to rise automatically from the hind quarters of the animal which is a sign that death has taken place.) I do not know that in the case of asphyxia by hanging the heart beat continues for some minutes even after the breathing stops. (To COURT : I am not a doctor.) I examined the urine for aspirin or salicylic acid. I was present at the post mortem examination of Mrs. Seneviratne's body.

Q. In opening the stomach the bladder was accidentally cut?—A. I did not actually see that.

Q. You are aware that urine escaped into the pelvic cavity?—A. I am not aware of that : I was not present when this was done. The Judicial Medical Officer handed me the liver, etc., at the post mortem. I was watching a bit but I did not see the urine escaping. I think I left before the post mortem was completed. I did not take the urine with me, but that was sent to me by a messenger on the next day or the day after with the tongue and a piece of the palate. The liver and main organ I removed myself. (To COURT : The tongue and palate were sent to me for examination of bluish dis-colouration but I found nothing.) Urine is rapidly absorbed into the system and rapidly eliminated.

Q. From 10 to 15 minutes of one taking a 5 gram tablet you will find salicylic acid in the urine?—A. I do not know it is so quick as that, but it is very quick. (Mr. Pereira reads a passage from a book called “applied Pharmacology” by A. G. Clark—“When a single dose of sodium salicylic is given by the mouth the excretion in the urine commences in about 15 minutes.”) A. That is sodium salicylic. (Mr. Pereira also reads a passage from a book called “Materia Medica” by Hall White where it says that salicylic acid appears in the urine in from 10 to 30 minutes.) A. That is correct. It is eliminated fairly rapidly. Part of it is absorbed by the blood system. I found no trace in the urine that was sent to me. It gave a fairly light reaction—slightly on the salicylic side showing that the urine was salicylic. Dr. Milroy Paul gave me the urine of a patient to whom he had administered 10 grains aspirin at 10 and 10 grains at 3, and then collected the urine. I do not know whether all the urine was sent to me, but he brought something over 170 cubic centimetres. That is about  $2\frac{1}{2}$  times the bottle C.2. It was either the entirety of the urine or a sample of urine passed by that patient since the administration of aspirin without the elimination of the earlier urine I believe. 24 gram of urine were sent to me from this deceased lady. It is very much about the same—that is about 23 cubic centimetres. I do not know how many times Mrs. Seneviratne urinated in the night. This particular specimen sent to me was split up into three portions. One was put back as a control. Another was mixed with formalin and the 3rd was mixed with formalin and glucose.

Q. Formalin in that shape will not find its way into the human blood if it is injected into an artery?—A. That I do not know.

Q. Formalin might get into the veins through the arteries and capillaries?—A. There was formalin present in the deceased’s urine sent to me; whether the formalin came from the pelvis cavity or how it got there I do not know. The test I carried out was not in a sterilised glass vessel but in a clean glass vessel.

Q. Ordinarily for a scientific test no scientist will base an opinion on an isolated test?—A. No.

Q. It has to be repeated many times before any definite conclusion can be drawn from it?—A. If the conditions are varying, Yes.

Q. The conditions under which you kept the sample of urine are different from the conditions inside the human system?—A. Certainly, conditions are quite different.

Q. It by no means follow that the reaction that will occur in the human system is the same as that in the glass vessel?—A. You got an indication from the glass as to what you might expect, but it is dangerous to say that you will get that result in the human system.

Q. If chloroform is kept in a round glass stoppered bottle in the dark it can be kept indefinitely?—A. Then you can keep it for a long time.

Q. The ordinary commercial chloroform consists of 19 parts alcohol and one part chloroform?—A. I do not know what the proportion is but generally there is 1 or 2 %. It varies in the different preparations that are put up for sale. There is a small percentage of alcohol. It is 5% alcohol and 95%

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chloroform. The ordinary anaesthetic chloroform is not pure chloroform. I did not think it contains a smaller percentage of chloroform than alcohol, but I thought it contains a large percentage of chloroform.

*Q.* The presence of alcohol definitely helps to preserve chloroform?—

*A.* It helps to stabilise it? (To COURT: (Shown a tablet from bottle of aspirin P.3.) This tablet is of the size of an ordinary 5 grain tablet I do not know how many tablets there are in this bottle ordinarily, but I think about 25.) Chloroform on a handkerchief will evaporate, if there is any draught about the place, in about 10 minutes and in half an hour I think the smell would have all gone. The test for the handkerchief was futile 10 even if it contained chloroform, because it was sent to me about a month later. If P.4 was left unstoppered for some time, even if it contained chloroform, I would expect the chloroform to have evaporated by the time it came to me. Bottle C.2 was sent to me on the 10th November. I do not know how many times it had been opened and shut during the interval. Even if there was any chloroform in it, it would have evaporated in opening and closing the bottle. I said that chloroform left in bottle C.2 could be left for some time because the stopper feels fitted reasonably tight. There are marks on the stopper indicating that it had been hit. That might be the effect of tightening it, but it might also effect the other way—to open out 20 on some sides and allow the chloroform to evaporate. The stopper feels as if it is fitted closely. The skin food was sent to me to find out whether it contains any irritant. Ordinarily I would not expect skin food to contain irritant, but it is ordinarily expected to soothe the skin. I did not see what effect it might have with other substances—something like chloroform vapour or brandy. I believe the skin food P.27 is a patent medicine.

*Q.* The effect of chloroform depends on the individual—depends on the particular skin?—*A.* I do not really know anything about that, but my own skin is not very sensitive. I do not know whether it might cause burns on a delicate skin by mere application. 30

*Q.* You know that the tendency to burn is really caused by the prevention of the evaporation by having a pad on the top?—*A.* Yes. It prevents the chloroform getting away and that causes the burns; it stings on most skins. It starts stinging very rapidly.

*Q.* It is not necessary that it should cause a blister or burn?—*A.* Oh no. If the skin is delicate it might cause a burn or blister, but I do not know. (To COURT: Dehydration of the skin causes the stinging? I do not know what the actual action is. Chloroform will not hold much water. It is not a very powerful dehydrating agent.) By dehydration is meant the taking away of the water by evaporation. That will happen 40 if the skin got burnt by hot water bottles or by acid or by something. There would not be burns if there is any preventive between the skin and chloroform. It stings through perspiration. Chloroform being a fluid substance, perspiration might slightly dilute the chloroform, but it would not do anything else more than that.

*Re-exa-  
mination.*

RE-EXAMINED: I do not know how the marks on the stopper of C.2 were caused. (Shown an ampule of chloroform marked P.20.) I am afraid

I cannot say what percentage of pure chloroform and what percentage of alcohol there is in this. Ordinarily this is what is called pure chloroform. The ordinary chloroform—if it is chemically pure chloroform—it is chloroform and nothing else—100% or 99·8%. What is sold as pure chloroform might be pure chloroform for anæsthetic purposes and probably it has 1 or 2% of alcohol and the rest being pure chloroform (shown a bottle of chloroform). This kind of chloroform is also sold. I cannot say whether this is pure chloroform or put up with alcohol. Ampules of pure chloroform can be bought in the market and contains in all probability 98 or 99% pure chloroform. Aspirin is absorbed very rapidly and I believe it is also eliminated very rapidly. I cannot say what percentage will be eliminated within the first 24 hours. I found Formalin in the deceased's urine which I examined.

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10 *Q.* Formic acid is one of the component parts of chloroform?—*A.* You may get a trace of formic acid if chloroform decomposes in the system. Where there is formalin there is a trace of formic acid. In this urine formic acid was not specifically identified, but if there was formalin in the urine the chances are that there were traces of formic acid. The only thing I can say is that this urine did not contain chloroform as such. I do not know Dudley Wilmot Buxton, the writer of a book of anæsthetics. (Deputy Solicitor General reads out a passage from a book "Anæsthetics" by Dudley Wilmot Buxton, M.D., B.S.C., 5th ed., 1914, page 464—it runs thus:—"Detection of chloroform: The odour very soon passes off. Dr. Taylor failed to detect any in the blood half an hour after administration. Analysis of the blood also fails to reveal any evidence after half an hour")?—*A.* I will not accept that in view of the other authorities. According to the Authorities I have read any organ that is largely supplied with blood is the best place to look for chloroform. (D.S.G. reads another passage from the same book—

20 same page—"The substance supposed to contain chloroform is placed in a flask, one end of which is in a hot water bath, the other communicating with a nibulure which is heated by a flame. The bath is raised to 160° F. while the tube is heated to redness. Chloroform vapour driven off by the heat of the water bath is split up as it traverses the tube, hydrochloric acid and chlorine being set free. The vapour reddens blue litmus, precipitates solutions of nitrate of silver and liberates iodine from iodine of potassium and this is tested in the usual way with starch paper. The most accurate method of obtaining a scientific analysis is that of Mr. A. Vernon Harcourt. (Witness says that is the Ragski process.)

30 *Q.* Though that is possible you will not expect to find chloroform in every case of death by chloroform?—*A.* It depends on how much chloroform had been taken.

*Q.* If a sufficient quantity had not been absorbed into the liver, you will not find to expect it in the liver?—*A.* Certainly not.

*Q.* Could you say that a person could die of chloroform before the liver gets affected by chloroform?—*A.* I cannot say that. I am not an expert on that side of the matter at all.

(This witness was recalled. See No. 63 p. 285.)

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E. A. Koel-  
meyer,  
25th May,  
1934.  
Examina-  
tion.

No. 45.

Evidence of E. A. Koelmeyer.

E. A. KOELMEYER—sworn.

EXAMINED: I am an Inspector of Police, C.I.D. I made certain investigations into this case. On certain information received from the accused I made enquiries in medical stores in the Pettah—at the central medical stores, Norris Road, I.C. Drug Stores, Bambalapitiya M. P. Gomez & Co., Pettah. Central Medical Stores and M. P. Gomez stock chloroform in bottles—not in ampules. (Shown P.20 and P.21 with the cases P.22 & P.23) These are ampules of chloroform with their cases. 10 I got them as samples from Hansiatic Trading Co. They are wholesale dealers. They do not sell retail. I did not find any chemist who stocks them as retail dealers. One of the Fort firms showed me an ampule of chloroform, but not the same kind. Millers stock ampules of chloroform. I enquired from Cargils also. They also stock chloroform, but in bottles. I did not find a record of a purchaser of chloroform by this accused in any of those places. (TO COURT: There is a register kept for poisons and the purchasers have to sign their names. Some chemists treat chloroform as a poison). They do not always enter chloroform purchases in their registers. 20

Q. M. P. Gomez & Co., and Central Medical Stores have registers where they enter sales of chloroform?—A. I remember seeing a register where they had mentioned the sale of chloroform. The register showed accused's name. It might have been bought by him or by his chauffeur in his name. (Shown P.3.) This is a bottle of aspirin. I believe there was another empty bottle C.1 of the same kind which shows that it contains 25 of 5 grain tablets. I searched the accused's house on the 31st October and found P.3 inside a small bookcase which was on the top of an iron safe in Mrs. Seneviratne's room. P.3 now contains 9 tablets. It is now in the same condition as I found it. I did not put any more 30 tablets into it nor did I take any out of it. P.4 was found alongside P.3 in the book shelf at the same time as P.3. The stopper was on when I found P.4. I also produce P.15. This was handed to me by Alpina at the bungalow when I asked her for the empty bottle that contained the brandy that was used that morning. I do not know what the red mark on the label of the bottle is. There was no brandy at all when I found the bottle. (Shown P.17.) This is a vow. I found this inside a jewel box which was found inside the safe. (TO COURT: I found jewellery inside the safe. There was a box full of jewellery but there was no money.) 40 I also produce P.16, a piece of blue cloth handed to me by Miss Mabel Joseph as indicating the colour of the night dress which deceased was wearing. I also produce P.18 a bottle of Pancreas salts. I found it on the toilet table in the deceased's room. It is a medicine for diabetes. I also produce

C.1 and C.2, empty bottles which were found at the bottom of the washstand table in the deceased's room. I found X.3 and X.4 on the dressing table in the lady's bedroom—they were kept where the toilet requisites were placed. I also produce P.27, a bottle of Tokalan cream found on the dressing table in the deceased's room. (To COURT: I searched the whole room but did not find any glass stoppered bottle like this. (Shown white bottle.) I found no medicine bottle like that—no ampules were found—not even broken parts of an ampule.) I also found a letter P.10 written in ink in a book on the book shelf which was on the top of the iron safe where I found the 2 bottles. (Witness reads P.10). There is no signature to this letter. I also found P.11 and P.12 at my search in a book in a drawer of the dressing table in the room where the lady dressed, that is the room between the lavatory and the bedroom.

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CROSS-EXAMINED. I found P.11 and P.12 in a book in the dressing table drawer at the bottom. They were in a book called "Enduring Passion" by Marie Stopes. P.10 was inside a book in the bookcase on the top of the iron safe. Hansiatic Trading Co., deals in ampules and they are distributors to retail dealers. Under the Government notification it is not essential that every sale of chloroform should be entered up in a poison register. There is no proclamation by the Governor which makes it incumbent on them to keep a record of chloroform sold. I found a bottle of corrosive sublimate in the lady's bath room and a liniment bottle and several other empty bottles. C.2 was found by me in the little cupboard in the washstand. The stopper was on when I found bottle C.2. That washstand cupboard contains a number of bottles but I removed only some. C.2 was one of those. I saw a prescription on it and I wanted to find out what was the medicine that was dispensed. C.2 was produced at the inquest proceedings by Mr. Bantock at the request of the defence, and it was opened and handled by Mr. Pereira and several others. I did not get any smell from that bottle. I believe it was after I gave evidence at the inquest proceedings that it was sent to the analyst. At the outset it was thought that P.3 originally contained 50 tablets and on that footing the inquest proceedings went on for some time. Then Bottle C.1 of the same size was produced and there is a label on C.1 to show that it contains only 25 tablets and it was produced to show that P.3 also must have contained only 25 and not 50 tablets. P.17 is a "Vow to St. Antony for White House not to be sold; 1000 candles; Rs. 100/- and feed 100 beggars, ten at a time." She had been preserving that long after White House had been sold. I do not know that deceased was anxious that her husband should buy back White House. I found that some chemists kept a register of chloroform sold, and others did not. I did a part of the search for sales of chloroform and another officer also searched. The police were trying to trace chloroform to accused. M. P. Gomez & Co.'s register before 5th October was not forthcoming. I have not recorded the explanation of G. L. Fernandez (M. P. Gomez' man) for the loss of the register prior to 5th October. I went to the Central Medical Stores and M. P. Gomez & Co ,

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on information given to me by the accused. I was present when the witnesses pointed out the spots on the plan to Mr. Jayasinghe the artist. I recorded the statements of certain witnesses in this case. The evidence of Alpina and Miss Mabel Joseph was recorded by me on the 31st October. On the 1st November I got statements of Seelas, Simon the cook and of Martin. On the 2nd November I got the statements of Simon the driver and Peera the rickshaw cooly. I recorded the statements of the bungalow servants. I do not know who recorded Dr. Paul's statement. I never saw any statement from Dr. Milroy Paul. He and Doctors Spittell, Joseph Silva, S. C. Paul and Karunaratne were called at the inquest and also the evidence of the witnesses of the household. I do not know whether it was after consideration of all that material that an enquiry was asked for. That was not my business. 10

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A. P. Goo-  
neratna,  
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Examina-  
tion.**

**No. 46.**

**Evidence of A. P. Gooneratna.**

**A. P. GOONERATNA—affirmed.**

**EXAMINED :** I am the Chief Inspector of Police, Crimes. I made certain investigations in connection with this case. I produce P.13 handkerchief. It was handed to me by Mr. Leo de Alwis saying that accused gave it to him. It bears the initials of Mrs. Seneviratne. I also produce the handbags P.32 to P.37. P.32 was found in the safe and the rest in the dressing table—some in the drawer of the dressing table in the bedroom. I made enquiries regarding sales of chloroform. I recorded statements from Mr. G. L. Fernandez in charge of the Medicines Department of Central Medical Stores and from Mathespulle the pharmacist of M. P. Gomez & Co. I made enquiries at the City Dispensary, Union Place, Galle Face Pharmacy Colpetty Medical Stores, Victoria Stores, Colpetty, Cinnamon Gardens Pharmacy, Germania Pharmacy and I. C. Drug Stores. In all these places I did not find any sale of chloroform in the name of Mr. Seneviratne. (To COURT: None of those places stock chloroform in 20 ampules.)

**Cross-exa-  
mination.**

**CROSS-EXAMINED :** I did not make enquiries at the Hansiatic Trading Co. They may be selling chloroform to dealers in wholesale. I do not know whether Central Medical Stores got their supplies from the Hansiatic Trading Co. Even now I do not know that. The Superintendent of Police, Crimes, gave me instructions to go and look up all these places. I and other inspectors were engaged in visiting chemists' shops for sale of chloroform. We made enquiries to find out whether Mr. or Mrs. Seneviratne had bought chloroform. In all the places I visited they all had registers of poisons and

they made an entry when there was any sale. They have to keep a register of poisons they sell. I do not know whether there was any obligation to keep a register of chloroform sold. I do not know whether even when there is a legal obligation they are somewhat lax. I did not try to find out where Mrs. Seneviratne bought her supply of drugs, etc. I also made enquiries for smelling salts bottles on the orders of the superintendent. I looked for places where smelling salts are sold in green bottles like P.4. I remember the big kettle at Duff House. It held 10 bottles of water and the small kettle held 5 bottles. I went to 7 or 8 dispensaries and made enquiries from them whether they have ampules of chloroform, and I accepted what they told me as correct. They showed me bottles of chloroform. I did not find ampules. I do not know what they had hidden. Ampule is something like a small bottle. It is a miniature bottle in shape with a glass cover hermetically sealed. I had that definitely in my mind when I went in search of ampules. On the 28th October I took down a statement from Mr. Leo de Alwis. (The Deputy Solicitor General wants witness to read in evidence the whole of Mr. Alwis' statement to this witness. Court rules that the witness can be asked to read only the passages put to Mr. Alwis and not the whole statement.)

20

Adjourned for lunch.

## A. P. GOONERATNA—CROSS-EXAMINATION continued.

To COURT: When any serious crime is reported only in Colombo, I would make investigations. I am not in charge of a Police Station. We have reserve sergeants also. I recorded Leo de Alwis' statement. He had no notes, he made a statement which I read out to him. It consisted of 15 sheets of paper, 30 pages of manuscript.

Q. Did he state "There has been for the last 5 or 6 years a lot of unpleasantness between my sister and brother-in-law and this fact is known to my wife my two uncles Harry Dias Bandaranayake and E. R. Dias Bandaranayake, my grandmother, my aunt Mrs. Dassanayake and her daughter. At one time or other either individually or collectively the above-named people have pacified my sister"?—A. Yes.

Q. And that "my sister has more than once informed the above-named relatives that sooner or later she would put an end to her life by taking poison"?—A. Yes.

Q. And that "On Saturday afternoon the 14th my brother-in-law informed my sister that he was going to Veyangoda. I have got grounds to show that my brother-in-law used to misbehave in this house. On the following day . . . she simply flew up into a temper"?—A. Yes.

Q. And "16th after she was buried ever since I have cause as to my sister's death"?—A. Yes, I have.

Q. "I have discussed with my relatives and elders and decided I would give the matter over to the Criminal Investigation Department"?—A. Yes.

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Q. "Last evening I told Dr. Paul . . . He now believes and very firmly too that somebody had held a rag of cotton wool and until she became lifeless and he is now prepared to make a statement to the Police"—A. Yes.

Q. He goes on to say "I asked him what was the occasion to get chloroform into the house. He said that he got it about two months ago for amputating . . . but it was not used"—A. Yes.

Q. "Then I called him to show me the phial"—A. Yes.

Q. "He said he was not sure whether it was at Duff House or the estate at Chilaw, but promised to let me know by the twentieth whether it was there or not"—A. Yes.

Q. He did not mention about a search?—A. No.

Q. "In the room he found the baby alright and asleep . . . Alpina"—A. Yes.

Q. "From here there is a door leading to my sister's and through which he saw my sister in a state of collapse on the bed. She saw my sister's bedroom girl. She was in the company of a servant boy, then my brother questioned the servant girl and asked her whether she had a fall or what had happened to her"—A. Yes.

Q. And with reference to Dr. Paul: "Apropos what I said to Dr. Paul he says that a person cannot kill himself not unless it is done by some other person"—A. Yes.

Q. Did he say this: "When I questioned him on some time on Sunday the 15th afternoon how first he saw my sister in a state of collapse at about 6.30 a.m. he said that he came to buy two morning papers. . . . Then he said that about 7 a.m. he came to the very corner of his verandah"—A. Yes.

*Re-exa-  
mination.*

RE-EXAMINED: When he spoke of the above-mentioned relatives, I think he meant his own relatives. I do not think his wife is a relative. After stating to me what the accused said Mr. Leo de Alwis went on to say what Alpina said, "neither the servant and the boy say . . . came quickly to the room where my sister was. Mr. Seneviratne was lying down by my sister and as Alpina stepped in he stood up."

Q. In the afternoon he said he was going to Veyangoda and that she blew up into a temper. That sentence does not end there . . . "that she would make a will at once disinheriting the boy and my brother-in-law from all her possessions. What I have stated I vouch to the truth of it. The house referred to is Mr. Francis Seneviratne's a brother of my brother-in-law"—A. Yes.

TO COURT: Mr. Alwis told me that this accused mentioned to him that he was talking to a Tamil man.

Q. "When I questioned him some time on Sunday afternoon the 15th how first he saw my sister in a state of collapse he said he came out of his room close to the verandah to give cash to a servant boy to bring him the two morning papers from this corner he heard a shriek and rushed to my

sister's room. His second statement was that at 7 a.m. he came towards the portico, he saw a Tamil cooly . . . This cooly was making a complaint about a sum of money he had given an old typist. While he there a servant started sweeping the verandah. . . bedroom or hall" ?—A. Yes.

Q. Did he also say that he heard from the accused's brother for the first time about an ampule of chloroform being handed to his sister. He sent word by Mr. Charlie Seneviratne that chloroform was not found on the estate. . . to be kept in the iron safe after my sister's death?—A. Yes.

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**No. 47.**

**Evidence of M. C. S. Mohamed.**

M. C. S. MOHAMED—affirmed.

EXAMINED : I am an Inspector of Police, Crimes. I produce certified copy of death. (P.45). I also produce the copy of a death certificate marked (P.44). It gives the name of the doctor who attended the last illness as Dr. Paul. Both documents give Cardiac Syncope as cause of death. I also make some investigations at the house. I examined an almirah in which certain medicine bottles were kept. They were kept in a room attached to a suite of rooms occupied by the accused. I found some bottles of medicine in that almirah. (TO COURT : I found no chloroform. I found a bottle containing arsenic. I found corrosive sublimate. I later found that the tubes of lysol were empty. I was suddenly called upon to do some other work and inspector Van Cuylenberg carried on the further enumeration of the articles. I removed some of the bottles. They were the tin box containing the lysol tablets, the bottle containing the arsenic also the corrosive sublimate. I also examined Mr. Seneviratne's bathroom. I found nothing.

CROSS-EXAMINED : I found a large number of various preparations for cattle and poultry in the medicine almirah. There were poultry medicines of all kinds, Singhalese medicine for cattle, Hooper's cattle Dip, Oils, Boric, various things of that sort and Litho Arsenic for analysis. The bottles contained what it professed to contain. The Lysol tubes were empty. There were four tubes of tablets but the tubes happened to be empty. There was soda bicarbonate. I questioned the nurse Mrs. Ohlmus. She said that she had no recollection that any chloroform was left over at the last confinement.

RE-EXAMINED : I also made investigations as to the sales of chloroform. I made enquiries from the Colonial Medical Stores, M.P. Gomes, Central Medical Stores, J. B. Pinto—not the City Dispensary. I found no record of a sale to Mr. Seneviratne.

CROSS-EXAMINED (with permission) : There is no obligation to keep a record of sales. It comes under a different schedule in the ordinance and it is not necessary. Only two companies keep records the others do not. (TO COURT : I did not make enquiries at the Government Stores.)

No. 47.  
M. C. S.  
Mohamed,  
25th May,  
1934.  
Examina-  
tion.

Cross-exa-  
mination.

Re-exa-  
mination.

Further  
cross-exa-  
mination.

*In the  
Supreme  
Court.*

Evidence  
for  
Prosecution.

No. 48.  
J. R.  
Stewart,  
25th May,  
1934.  
Examina-  
tion.

Cross-exa-  
mination.

**No. 48.**

**Evidence of J. R. Stewart.**

**J. R. STEWART—sworn.**

**EXAMINED :** I am an Inspector of Police. I recorded the evidence of certain witnesses in this case. I also examined certain drug stores with regard to the sale of chloroform. Jansz' Drug Stores, Wellawatta I. C. Drug Stores, Ideal Stores, Paiva, M. P. Gomesz. They do not keep registers of sales of chloroform. I could not find any sale to Mr. Seneviratne or Mrs. Seneviratne. (To COURT : They do not keep registers of sales of chloroform. They could not say whether they sold chloroform to Mr. Seneviratne. 10

**CROSS-EXAMINED :** I took down a statement of Leo de Alwis on the 30th October. On the 5th November I went to Chilaw to Panakudawa estate. I saw the buffalo with leg amputated. It was a scind buffalo. It is a valuable one.

No. 49  
R. G. H.  
Van Cuy-  
lenberg,  
25th May,  
1934.  
Examina-  
tion

Cross-exa-  
mination.

**No. 49.**

**Evidence of R. G. H. Van Cuylenberg.**

**R. G. H. VAN CUYLENBERG—sworn.**

**EXAMINED :** I am an Inspector of Police, Crimes. I assisted in the investigations in this case. I remember I went to Duff House. Inspector Mohamed also went. I was making a list of articles in the almira in the accused's room. I was called away. I was called upon to enumerate the articles. I found a small bottle of smelling salts and a bottle of fruit mixture. My impression was that it was a green round stoppered bottle. There was a lock in the almira but it was not locked at the time. There was no key as far as I can remember. The lock was in working order. My office key fitted the lock. I also made investigations as to the doctors living close to Duff House. They were Dr. C. J. D. de Silva living at Windermere living about 100 yards away. He was a private practitioner. He is within easy access to this house. Dr. Gordon Chissell on Bagatelle Road about 70 yards away, one but the next house. I do not remember having mentioned Dr. Dorai. (To COURT : Dr. Chissell is a well-known doctor.) There are den- 30  
tists, but I do not know whether they are called by patients.

**CROSS-EXAMINED :** Dr. C. J. C. de Silva lives off the main road, you have to go along the main Galle Road and drive down a lane. This is not between Dr. Paul's and Duff House. I did not give evidence at the inquest. I do not know that Dr. C. J. C. de Silva is more interested in labour than doctoring. He may be an officer of the Labour Union. Dr. Chissell is a well known European Doctor. I cannot tell whether a dozen Ceylonese call upon him. I do not know any Ceylonese upon whom Dr. Chissell attend. I do not know Dr. Dorai. (To COURT : As far as I can remember 40

I cannot recollect having mentioned his name at all. I never mentioned his name at all. I was asked about the green smelling salts bottle in the accused's medicine chest. I cannot say from the witness box like which of those it was. My impression was that it was a round-stoppered bottle. (Shown P.4.) I do not think that whatever was in Mr. Seneviratne's cupboard this was not the one. P.46 is very much like P.4. I recorded the statement of Charles Seneviratne on the 31st October. I must refer to find out if he stated to me that he had a conversation with Mrs. Seneviratne about the use of chloroform. (To COURT: He made a long statement at 3.30 p.m.

10 He said "Lilian asked me what are the properties of chloroform and caustic soda, and if I had known of any kinds of suicide by either of these two methods . . . . . Lilian asked me. That was recorded on the 31st October a week before the inquest. My enquiries began on that date. Mr. A. P. Gooneratne and a number of them recorded statements before the 31st. Inspectors were jointly engaged in recording statements. (To COURT: Charlie Seneviratne told me about the ampule of chloroform: "When on the 18th morning . . . . . gave it to Lilian for safe keeping some months ago. He did not tell me how Lilian came to have it for safe keeping. The 28th October was a Saturday. Five of us with Mr. Bantock went and began

20 recording the statements of these people all morning to prevent any co-ordination of the stories. I do not know the reason why Mr. Van Cuylenberg was removed. On the 7th December I removed 31 sarees and other articles belonging to the deceased. Some of the 31 sarees looked expensive. Some were in the trunk and some in the steel trunk under the bed. I cannot remember whether they were in the trunk under the bed. I removed the trunk and a suit case. I do not know the object but I got instructions to do so. I removed them on the 7th and returned a number of things on the 11th. I did not return everything. Some of them are still in the Crimes office. They were retained in connection with the case, but I do not know

30 why. I do not know whether a single thing has been produced in the case. There must have been a reason. I do not know.

RE-EXAMINED: I made a list of the articles I removed, which was signed by Mr. Abeysinghe, Proctor. It shows where the articles were taken. There is nothing to show they were taken from the trunk. No application has been made to return the other articles. I do not know whether the estate is administered.

*In the  
Supreme  
Court.*

Evidence  
for  
Prosecution.

No. 49.  
R. G. H.  
Van Cuy-  
lenberg,  
25th May,  
1934.  
Cross-exa-  
mination—  
*continued.*

Re-exa-  
mination.

*In the  
Supreme  
Court.*

**No. 50.****Evidence of J. H. M. Toussaint.**

Evidence  
for  
Prosecution.

**J. H. M. TOUSSAINT—sworn.**

No. 50.  
J. H. M.  
Toussaint,  
25th May,  
1934.  
Examina-  
tion.

**EXAMINED :** I am an Inspector of Police. Crimes. I made certain investigations with regard to the sale of chloroform from some dispensaries, the Borella Stores, Ward Place Dispensary, Panchikawatta Dispensary, the New Dispensary, Public Dispensary, Cotta Road. There was no chloroform except what is used by dispensers for dispensing purposes. The chloroform was not for sale. (To COURT : I enquired from the dispensers and the doctors. The chloroform was not for sale.

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Cross-exa-  
mination.

**CROSS-EXAMINED :** I took somebody's word that there was no chloroform for sale. I did not go round and look whether there was any chloroform or not.

No. 51.  
W. J. E.  
Ekanayake,  
25th May,  
1934.  
Examina-  
tion.

**No. 51.****Evidence of W. J. E. Ekanayake.****W. J. E. EKANAYAKE—sworn.**

**EXAMINED :** I am a sub-inspector of Police, Crimes. I made certain enquiries about the sale of chloroform at Victoria Stores, Dr. Allen Rutnam's dispensary J. B. Pinto, Thark, Bambalapitiya, Brittainia Medical Stores. I found no ampules.

20

Cross-exa-  
mination.

**CROSS-EXAMINED :** I did not go to the large number of dispensaries outside Colombo. I made enquiries only at Wellawatta and Bambalapitiya.

No. 52.  
M. T. Pieris,  
25th May,  
1934.  
Examina-  
tion.

**No. 52.****Evidence of M. T. Pieris.****M. T. PIERIS—sworn.**

**EXAMINED :** I am an Inspector of Police. I enquired at the Colonial Medical Stores and referred to their bills. I have submitted a list of the number of pounds of chloroform they have sold. I found they had sold 4½ lbs. and searched for entries to find to whom they had been sold. Their balance in stock was ½ ounce. There was no sale for the whole of last year at the Bengal Chemical Store in Main Street. I also inspected R. Cathiravel and Carvalio and Urban Stores. The total sales at Kapadia were 13½ lbs. Their books show a balance of 11½ lbs. (To COURT : The books did not

30

show to whom they were sold. Last year City Dispensary sold twenty two pounds. There were no sales to Mr. and Mrs. Seneviratne. (To COURT: I found no ampules of chloroform.) I also visited Dr. David, Dr. Hasari and Dr. Naganathan and found no chloroform for sale.

CROSS-EXAMINED. I checked their books. I asked them whether they sold chloroform. They said Yes. Some of them said in bottles and some in ampules. I did not check whether all were in bottles or in ampules. (To COURT: It is possible there were ampules.)

*In the  
Supreme  
Court.*

Evidence  
for  
Prosecution.

No. 52.  
M. T. Pieris,  
25th May,  
1934.  
Cross-exa-  
mination.

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No. 53.

Evidence of M. S. N. Pillai.

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M. S. NATESAN PILLAI—affirmed.

EXAMINED: I am a pharmacist employed at M. P. Gomez & Co., for two years and nine months. The company is in Main Street in Pettah. We do not stock chloroform in Ampules, only in bottles of  $\frac{1}{4}$ ,  $\frac{1}{2}$  and 1 lb. bottles manufactured by Burgoyne and Stafford Allen. We have a register in which we mark the sales (shown P.26). (To COURT: We do not sell chloroform without a doctor's prescription, according to the medical Ordinance. We sell chloroform only to medical men, chemists and maternity nurses. I have no record of a sale to Mr. or Mrs. Seneviratne.)

No. 53.  
M. S.  
Natesan  
Pillai,  
25th May,  
1934.  
Examina-  
tion.

20 CROSS-EXAMINED: Nil.

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No. 54.

Evidence of G. L. Fernandez.

GEORGE L. FERDINANDEZ—sworn.

30 EXAMINED: I am a Pharmacist at the Central Medical Stores. We sell chloroform. For some time past we have stocked chloroform in 1 lb. bottles. There are so many poisons we have to handle daily. Quite a long time ago we had cartons of 1 oz. phials. I do not know whether there are ampules in wooden cases. I cannot remember when it was disposed of. (To COURT: I cannot remember.) When I make a sale to anybody other than a doctor or dispenser we make an entry in the poison register. I produce a Poison Register from 5th October. (To COURT: We had books before this. I gave evidence in the Police Court as well as the inquest. I lost one in July. I kept the slips in the hope of finding the register. I lost the register one book from July to September. (To COURT: In July I lost the register and kept the slips. I hoped to find it. Then in October I started a new book. As a matter of fact this incident occurred on the 15th October but this is started on the 5th October.) From the

No. 54.  
G. L. Ferdi-  
nandez,  
25th May,  
1934.  
Examina-  
tion.

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G. L. Ferdin-  
andez,  
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Cross-exa-  
mination.

sheets and from the register I cannot tell of any sale to the deceased or the accused.

CROSS-EXAMINED : At the inquest proceedings I said Mr. Seneviratne was a customer for cash as he has no account. If a person is very well known we would sell chloroform. I do not recollect it. An ampule is a glass bottle sealed of itself. I know it. To the coroner I said that an ampule was sealed at both ends. I have seen an ampule of chloroform. We buy our stocks from Hansiatic Trading Co. We have received bottles like P.25 for a number of years. We do not necessarily buy all our stock from Hansiatic Trading Co. Ordinarily we buy from the Hansiatic Trading Co. 10

Q. Up to date you have never opened a single bottle of chloroform till this case to find out whether they were in ampule or other form?—A. No. We now stock 1 lb. bottles only. (To COURT : We gave up 1 oz. bottles. We have got no bottles now.) At the inquest I said that we have records of sales of poison till July. We had a book. Now the police check the liniment sold. I do not know that in July Mr. Seneviratne bought the chloroform in some one of the two shops. We have three dispensers at the Central Medical Stores. The dispensers would sell chloroform when they see a respectable looking man come in a car. We are there to make money, but poisons they generally refer to me. Dispensers do not get commission on sales. I know corrosive sublimate. They would have a chit filed whether it is poison, toilet soap or tooth brush. It would be entered on a chit. The file was produced at the inquest proceedings and rejected. It has been with me for the last few months. I was asked by the Police to bring all the books and the file. I cannot remember whether Mr. Seneviratne was a customer. I was asked if I could have known Mr. Seneviratne, if he was a cash or casual customer. (To COURT : I have not seen him.) 20

Q. You repeated very much the same thing to the Magistrate, Mr. C. B. P. Perera, "The accused is not a regular customer, he has no account."—A. I have not seen him. 30

Q. Do you know the difference between a regular customer and a man who comes in casually?—A. (To COURT : I did not say it.) If the person is very well known we would sell chloroform but not otherwise. He is not a regular customer. (To COURT : The paper cartons of chloroform were sold at Rs. 1/-. They had dark coloured paper covers.)

Re-exa-  
mination.

RE-EXAMINED : The 1 lb. bottles are regularly stocked throughout the year for a number of years. We buy it from the Hansiatic Trading Co. I kept the chits of the sale of chloroform from July to open a new book. (Mr. Pereira admits that the chloroform was bought from the witness's shop.) 40

No. 55.

Evidence of Dr. S. C. Paul.

DR. S. C. PAUL—affirmed.

*In the  
Supreme  
Court.*Evidence  
for  
Prosecution.No. 55.  
Dr. S. C.  
Paul,  
25th May,  
1934.  
Examina-  
tion.

EXAMINED : I am now doing private practice since my retirement. I am an Honorary Consulting surgeon to the General Hospital, Colombo. I am an F.R.C.S. and Doctor of Medicines, Madras. During the time I was Senior Surgeon I was in and out of the Pathological Section but never in charge of it. I have never been a J.M.O. The Pathological Department is in charge of post mortems and things of that kind. (To COURT : I have

10 often given evidence as expert. When I was in hospital I went to see post mortems of interesting cases. I have been in practice since 1897. I think I have one of the best practices in the Island. I was the family medical attendant for many years, from the time they were married. I attended on her two confinements. She had some symptoms of diabetes. She used to consult me now and then. Her last confinement was in 1927, the first one 5 or 6 years before that, somewhere about 1924. At the first confinement there was a good deal of trouble. We used chloroform and instruments and on the second occasion also chloroform was used.

20 The child died two or three days afterwards. I could not say whether any chloroform was left on that occasion but I ordered the chloroform for her along with other medicines. Dr. Gunam Cooke was the anæsthetist. I was also treating her for diabetes, for about 3 or 4 years. It was not a very bad type. She never lost weight. It is called glæcosuria, presence of sugar in the urine. I treated her for I think two months before her death as a patient. I think she had an injury on her knee or foot, I forget which, as a result of a fall. It was not a disease of the body. I also treated her for a skin trouble. She had Tina Nigrantes. Aluhung is the yellow variety, but this is fairly dark, sort of fungus on the face, neck and body.

30 They were at White House. The trouble is very difficult to treat and I said it was very difficult to get rid of it. On the 15th I was summoned to Duff House. Mrs. Harry Dias Bandaranayake came to take me. She must have come about 7.10 and then I started about 10 minutes after that. Only the driver, Mrs. Bandaranayake and myself were in the car. We reached Duff House at 7.30. When I got down I was directed to the room where the lady was; I am not sure whether Mrs. Bandaranayake preceded me. I cannot remember whether she went in and came out again to take me. There was a girl and Mr. Seneviratne lying alongside the wife across the bed. He was on the right side. She was lying on her back with the legs hanging down. It was not touching the floor, about 3 or 4 inches

40 above. The knees were almost touching the bed. (To COURT : This was an uncomfortable position especially for a fainting person). She was lying across and her head was on a pillow. Accused was on the right side. He had hot water bottles on the bed and one with him and I was not sure he had a handkerchief. He got down from the bed and asked

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tinued.

me to examine the patient and left the room. He left by the same door he came in, through the nurses room. He was on the right side of the body. I think he did speak to me. My impression was that he was outside. At that time there was a confusion of sequence. I spoke to him after the examination in the hall. At the time he was in the hall. (To COURT: That was due to an impression of my mind. I recalled the fact that he was on the bed. In the Police Court I said "As I walked in he got out of the bed. I have no recollection of the accused speaking to me". My impression is that he would have asked me to do so. I cannot recollect the conversation at this stage. I think he had a broad red striped pyjama. I cannot say whether he was barefooted. He may have been barefooted or worn sandals. I examined the body. It was warm. (To COURT: The signs of death are no pulse no heart sound, no respiration. There was no material before me but I could have said that within an hour she was dead). I do not remember anyone asking me to give artificial respiration. Mrs. Bandaranayake did not speak to me at all. I am positive that I did not say she had passed off at 5.) I would not contradict Mrs. Bandaranayake if she says that when I came he got up and went away. In the tropics the cooling of the body was slower than in temperate climates, and if she died about an hour before one would expect a certain amount of cooling. Death could have taken place within an hour. Hot water bottles would keep the part warm where the bottles were kept but other parts would not get affected by it. I examined the wrists, face and chest. There was slight discolouration of the face, little darker than the face, of a brownish tint. I do not remember whitish marks as stated by Mrs. Dias Bandaranayake. I saw a discolouration on the right side of the face including the lips, tip of the nose and the eyelids, just below the lips but not on the chin itself. Both the eyelids were partially closed. There was nothing on the forehead. The hands were by the side of the body. She was dressed in a night gown slightly blue. I cannot remember how long it was, but it was below the knees. I said she was dead. The women folk began to scream and howl and there was nobody to give me any information. I looked on the dressing table. (To COURT: That was a sudden death. Sometimes people die suddenly naturally of heart attacks.) There was nobody to give me any information. Mrs. Bandaranayake was wailing. She might have had an anginal attack, that is a natural death. Sometimes as a result of colic, the heart might stop, but in other cases like pneumonia. I knew her before and she never complained of heart symptoms. (To COURT: The thought struck me that she might have taken something.) I would have known that there would be a disease to account for the death. On the dressing table was a Pancreasal bottle which I had prescribed for diabetes. (Shown P.18.) This is the bottle. I also found an aspirin bottle. (To COURT: It was screwed on.) It was on the dressing table. I think I saw a green smelling salts bottle. I cannot remember where it was, but I saw it. The green bottle was open. There was no cork on it. There was no smell and nothing inside. My impression was that

it was on the dressing table but I would not swear to it. I went into the bathroom to see if there was anything there. There were no bottles or anything. Between the lavatory and the bathroom there was a small dressing table. I thought the dressing table was in the room. But I do not think I saw anything in the other room, but I cannot recollect at the moment that there was a table in it. I do not remember seeing a handkerchief on the bed. (To COURT: I saw a teapoy near the lady's bed. There was some books on it. I cannot say whether the green bottle was on that.) There was nothing within easy reach of her, nor on the teapoy, I cannot recollect. The suggestion of chloroform never occurred to me at that moment.

30th May 1934. Accused present—Same Counsel.

DR. S. C. PAUL.—EXAMINATION continued.

Q. You are the first person to make observations to determine the cause of death of this lady. After this, is it the case that before you gave evidence at the inquest or at the preliminary enquiry you had several consultations with several people about the incident. For instance, you had talks with Leo de Alwis?—A. I had seen him several times.

Q. Anyone else?—A. The Police Officers.

20 Q. Apart from them?—A. My son, Dr. Milroy Paul and Sir Solomon Dias Bandaranayake. I saw him 4 or 5 times.

Q. Apart from Sir Solomon Dias Bandaranayake did you see anybody else?—A. I may have discussed it with a good number of people. I saw Mr. Charlie Seneviratne probably once or twice. I cannot definitely fix the date some of them after, but I cannot be definite.

30 Q. Was it before you made the statement to the Police the second time?—A. After the statement to the Police. I saw him on two occasions to the best of my recollection. I do not think I saw the accused as far as I remember may be, but I cannot swear. (To COURT: It was apart from the first day.)

Q. Was the bottle P.4 referred to at any of these occasions?—A. I do not remember. As far as I remember, I think I said I saw it on the dressing table. I did not smell it or touch it.

Q. Last Friday you said you smelt it?—A. In the Police Court I said I neither touched it or smelt it. I said I saw it.

Q. This is rather important because you remember you made the statement to Mr. Gibson on the 15th itself?—A. Yes.

Q. In that statement do you remember whether you mentioned this bottle at all?—A. I do not think I mentioned the bottle.

40 Q. As a matter of fact, I was asking you whether in your statement to Mr. Gibson you were referring to a green bottle.—A. To the best of my recollection I did not.

Q. Did you refer to a Pancreatic and smelling salts bottle.—A. Because I attached importance to the aspirin bottle. I just saw the empty bottle but I did not take the trouble of smelling it. I cannot remember whether

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I looked into the teapoy. (To COURT: I glanced round and saw nothing. There was nothing like a bottle, nothing to attract my attention.) It was a smelling salts bottle. I would not have paid attention to it. I would not swear to it that the smelling salts bottle was there. I cannot recollect whether the bottle was mentioned. I said I tried to discover the cause of death. I looked at the body carefully. I noticed marks on the face. I noticed marks on the eyelids, cheeks, below the lips and on the chin. I did not notice at the time anything on the right eyebrow but later on, I made a careful examination of them, I remember there were marks on the face.

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Q. You said in the Police Court there was a little discolouration. There were marks on the face, a dry dehydrated condition on the right side eyebrow, cheek, chin and on the lips?

Q. (To COURT: Did you make this statement?—A. It ought to be right eyebrow.

Q. Did you examine the other parts of the body of the deceased lady?  
—A. No I did not.

Q. Did you come to any conclusion with regard to the marks before you discussed the matter with the accused?—A. I noticed the marks, I was wondering what it was due to. I thought it may be some sort of irritation, some sort of dehydration, anything that might cause irritation. I would have looked for an irritant and if there was an empty bottle. I would have examined it to see if there was anything. The bottle P.4 was empty.

20

Q. Then thereafter you examined the room and where did you meet the accused?—A. In the adjoining room leading from this bedroom to the hall. (To COURT: Before I went to the telephone I met the accused.) I met the accused in the hall to the best of my recollection. I asked him what happened before going to the telephone. (To COURT: I was going in search of the accused.) Then I met the accused coming towards the room while I was at the door. My object was to finish the examination and just as I was walking across I saw him coming to me. He was closer to my door, coming from that bedroom. I think he had changed and put on another pair of pyjamas. I cannot remember the colour of the second pair of pyjamas. That was my impression. I cannot remember. (To COURT: I spoke to the accused first. I told him his wife is dead and then I asked him what really happened. I have no recollection whether he asked me what happened. I asked him what really happened in the morning.) He gave me an account that he was standing in the verandah that morning. He said he was feeding the chickens. I cannot remember I think he said verandah. He said he was in the verandah feeding the chickens or supervising the feeding of the chickens. He said he was waiting for the Sunday morning papers. Then he heard a scream coming from the direction of his wife's apartments. He rushed up. He thought his son had put his head in between the railings of the bed and probably could not get it out. He ran up to see if that was so. When he went into his son's room he saw his son sleeping. Then he ran into his wife's room where

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he saw her across the bed and then he told me that he called for the servants. He tried to revive her. He sent for some brandy and wiped the face and applied hot water bottles. He wiped the face as well as the body with brandy. Then I asked him whether she had taken anything before. All that he could remember was that in the night she asked him for aspirin and that he had given her the bottle of aspirin. When I asked him what the aspirin was for he said she complained of a headache and he gave her the aspirin. That is all the information he gave me at the time. I asked him what the marks were due to. He did not say it was due to overdose of aspirin. I cannot quite remember. He may have said that. I told him I found an aspirin bottle. My next step was about the marks and he gave an explanation. He said that he rubbed some brandy on the face to revive her and also applied hot water bottles on her face. At this stage I took it for granted that it was quite possible. I did not take the responsibility. I phoned up the Coroner at once. The aspirin bottle was on the table. I saw the bottle, it was on the table. I told him I saw the bottle. He said he had given the bottle the previous night. He said the bottle was nearly full. I saw about half a dozen or so. I did not actually count but there were about half a dozen tablets in the bottle. I asked him about the quantity. He told me that it was nearly full. Then he thought she had probably taken the balance of it. The effect of an overdose of aspirin salicylic acid causes depression of the heart. It may lead to death; in some cases large doses have led persons to be desperately ill, to have cold hands and feet and they have recovered after that. I had a case sometime ago. They would not become senseless, they became cold and clammy, not so much difficulty in breathing. The pulse is very feeble, they are not senseless, quite alive in other respects and they would not always recover. If the heart is peculiarly susceptible they will die from heart failure, gradually the heart stops and ends in a sudden death. In other cases they recover if proper remedies are applied. In some cases they get a rash. The aspirin will be absorbed from the stomach into the tissues and excreted into the urine. You will be able to find the aspirin in the urine. If they die within a few minutes of taking the aspirin before the urine is excreted there will be no effect in the urine, but you will find it in some other organs.

Q. Can a person die of an overdose of aspirin after he has excreted all the urine?—A. There have been cases where a person has died after 4 days. The aspirin would still be in the body if not excreted. In that case there must have been evidence of aspirin in the kidneys. The kidneys may not be able to excrete the matter. In 15 or 20 minutes you will be able to find aspirin at least a portion. I would have expected to find aspirin in the body because it was a sudden stoppage of the heart. Syncope is collapse of the heart. She had a very peaceful look not like asphyxiation, the eyes were not staring, the body was lying perfectly quietly.

Q. I am very interested on this point as to what he said as to his position when he heard the shriek. You have given evidence on several occasions and also made a statement to the Police. Can you give us from your memory where he was when he heard the shriek?—A. He said in the

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verandah. He said he was either feeding the chickens or supervising the feeding of the chickens. I made the statement that "he told me that between 5.30 and 6 he was waiting for the paper"

Q. Can you recollect whether you mentioned that he was feeding the chickens?—A. I cannot recollect.

Q. In any case you recollect distinctly that you did not mention it to the Coroner or the Police Magistrate?—A. Yes.

Q. If you had recollected it you would have mentioned it?—A. It depends on the questions asked. (To COURT: My recollection is that I was not asked.) It is possible I have had so many conversations it is quite possible it may have come to my mind afterwards. He said he was waiting for the Sunday papers. I did not ask him which way he took to the deceased's room. He said he went to the son's room and then to his wife's room. On the 15th I remember Leo de Alwis came twice. Once before the certificate was given. He came for the certificate before 3 o'clock. He came about 10 o'clock. He wanted to know what his sister died of. I telephoned to Leo de Alwis before this. I said his sister was seriously ill. I did not want to shock him. Leo de Alwis came and asked me about the death. I gave him the explanation given by his brother-in-law. I thought it was probably due to aspirin. I issued a certificate of death at 3 o'clock. I believe P.45 is a copy of the certificate issued by me. (P.45 read.) (To COURT: I cannot recollect whether I said that I attended her last illness. This is the usual form in which we sign.) I issued that certificate after the police and coroner told me. I first dropped in at the Cinnamon Gardens Police Station. They told me that it was not within their division. Then I went on and 'phoned the Colpetty Police. I wanted them to investigate. This is what usually happens in a case like this. I only issued a certificate after the police information. (To COURT: After the Coroner and the Police were satisfied the certificate would be issued.) I spoke of Cardiac Syncope and that I attended her last illness. (To COURT: If she had not taken it with the idea of suicide it would be an accidental death. It would not be a death due to natural causes.) When the police 'phoned me up and said they were quite satisfied there was no foul play I said I could only say what the probable cause of death was and they said that it would do. I would issue it on the terms that she died from an overdose of aspirin, and for the purpose of burial it was necessary that some certificate should be issued. (To COURT: If I had a case like this I would rather leave it to the Coroner.) Before the certificate was issued I remember Mr. Leo de Alwis asked me to embalm the body. I wanted to get my son to embalm it after the inquest. I contemplated that there would be an inquest. (To COURT: I thought the Coroner would want an inquest.) I was not prepared to embalm the body till the Police were satisfied. I thought that the superior officers of the Police would see me and then have an inquest. In my previous experience I always 'phoned the Coroner first and he always arranged with the Police to hold the inquest. I thought in the circumstances there would be an inquest. Subsequently I said Leo de Alwis came to get a certificate. He asked me whether I was satisfied. (To

COURT: The embalming was to keep the body for the next day for the relatives to come. I thought there would be an inquest.) At 3 o'clock Mr. Leo de Alwis wanted me to make sure she had not taken corrosive poisoning. From the appearance I noticed it was not corrosive poisoning. I went round and examined the lips and inside the lips and found no corrosive poisoning. I told Mr. Leo de Alwis that there were no signs of poisoning and that rigor mortis had set in. The marks became a little more prominent. Even then there was a process of dehydration and this becomes more and more marked as days go by. The epidermis was dry. (To

10 COURT: There was no reason to change my opinion that it was caused by hot water bottles.) Dehydration is escaping water. As long as the epidermis is alive dehydration does not take place but if the epidermis is dead or injured dehydration takes place. The skin consists of several layers. The top layer is called the epidermis, the other layer is the true dermis. (To COURT: There are several layers of dermis. The follicles open through the epidermis. When there is any discolouration of the top layer it is called a burn of the first degree. The redness depends in some cases, in some cases it does not. For mild heat there is reddening of the tissues. When you get redness it is called Erythina. A burn of the third degree

20 goes deeper. The dehydration burn of liquids such as alcohol or chloroform is one in which the epidermis is practically destroyed, not completely destroyed but vitality can be gone. It was a burn of the second degree. There was no redness. There was darkening. A first degree burn will not appear till 24 hours later. There would be inflammation. I do not think it was a serious burn. (To COURT: I thought it was a burn of the second degree.) Just on the tip of the nose there was a small patch, on the face there was a small patch and on the side. Hot water bottles would produce more extensive burns than this. (To COURT: I do not know why he applied hot water bottles, but I suppose he wanted to revive her. Generally

30 cold water is used for the purpose. An ignorant man would do anything.) Tepid water will not burn, boiling water will. It depends, some people whose epidermis is thick can carry hot water. I know people who carry very hot water bottles which we cannot hold. Cooks have thorny hands. At that time I thought brandy and hot water bottles might have produced these burns. (To COURT: At 3 o'clock there was no suggestion of chloroform. I am not sure whether he suggested it might be an irritant poison.) At that time there was no question of chloroform at all. I attended the funeral on the 16th. I had no conversation at the funeral house. The first suggestion of chloroform was on the day following the

40 funeral. My son first raised the question of chloroform. He went to embalm the body. (To COURT: He went about 5.30 he could not get the materials. He went about 7.30.) Although Leo de Alwis said he raised this question on the 15th, I do not think so. He saw me on the day following the funeral. I do not think it was a long conversation but it may have been a conversation with regard to the sickness. If he mentioned it at any time, I would have withdrawn the certificate. It is for this reason I say that if it was suggested that it was chloroform on the 15th, I would have withdrawn

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my certificate. (To COURT : Chloroform and aspirin do not go naturally together.) Mr. Leo de Alwis saw me on the 27th. He gave me certain points which he thought had a bearing on the case. At that time he had been of opinion that it was not a case of suicide but homicide and gave me stories of family squabbles and for that reason and other reasons he thought he must have done her to death. I told him to inform the Police. I said if he had other evidence and is sure that it was homicide he ought to inform the police. I discussed the pros and cons and the reasons for and certain reasons against. If his mind is set on homicide he would have taken the reasons for homicide as more cogent than the others. I was present at the inquest and gave evidence and said that a post mortem would be helpful for the case. I saw the post mortem report. When Dr. Milroy Paul went there to embalm the body, he came back and discussed the matter with me. It was about 9 p.m. on the 15th. He thought it looked very much like chloroform burns. We discussed the matter and said there was no evidence of chloroform in this case and may have been due to the explanation offered by Mr. Seneviratne. I did not think the explanation given by the accused were necessarily erroneous. It was an academical discussion as to the effect of chloroform along with hot water bottles on the skin. (To COURT : I had seen the body at 4 o'clock and saw no reason to change my mind. It was consistent with the explanation. If he had informed me that there was chloroform in the house I would have promptly gone and investigated the matter. I was present at the post mortem of the body. It was held at the General Hospital Mortuary. I think it was in the afternoon after 3 o'clock. I cannot recollect. (Copy of Post Mortem Report read page 41.) I agree with the report. I read through the whole report. I agree except on one point where the trachea contains mucous which was slightly coagulated. I do not think it was abnormal. (Shown cast of heart.) The right ventricle was full of blood and distended. The valves were normal. The pulmonary artery is blue. The red one is the aorta which presses oxygenated blood which feeds the body. The blood goes from the left auricle to the left ventricle and through that it is pumped for the use of the body. The post mortem showed that the right side was distended to the maximum and the left side there were very little clots. The left side contained blood clots. It means that the right side contained more blood. The conclusions are quite different according to circumstances. There was a marked difference between the left and right ventricle. The left ventricle was more or less empty. There was more blood in the right than in the left ventricle. When I saw the dead body on the table I did not doubt it was due to chloroform because it was a marked case of dehydration. Parts were depressed.

Q. Have you any doubt that it was not caused by natural causes by disease?—A. No, not by any kind of disease. There was no organised disease at all. (To COURT : Taking the condition of the skin as having been due to chloroform I had no doubt that death was due to chloroform.) Chloroform is a poison. It is called a protoplasmic poison. Most poisons are. It is a poison which enters into an organic combination with the flesh of the body

and forms an integral part. It could be caused by swallowing or inhalation. Chloroform depends on how much is given for inhalation. For anæsthetic purposes we give less than 2% and 98% air. (To COURT: Chloroform is not brought into contact with the skin, but in some cases it had dropped and burned the skin. Only the vapour is used. We use a mask or a tumbler.) The burn depends on the skin. Out of 1,000 cases in 999 it does not cause discomfort. (Shown a bottle of chloroform.) This is fairly good chloroform. Chloroform does not leave marks and leaves no colouration. It evaporates without colouration. It does not leave white colouration. What chloroform

10 does is to dissolve the fat. In some cases it burns. In 999 cases it does not. If you apply it with pressure a large percentage does not burn. It does not matter how long. Every text book varies as regards discolouration and description. Some text books describe chloroform as leaving burns on the skin, some say that pressure must be used and evaporation prevented and it will then burn. In a very small percentage chloroform burns, but to a large number it leaves no marks. It depends on the peculiar idiosyncracies of the individual. To people with idiosyncracies chloroform would burn. I have noticed in a few cases burns after two or three days. I noticed the marks were caused by just dripping without pressure being used. Oilskin

20 prevents evaporation and produces the whole dehydration effect. The prevention of evaporation can be done by impermeable material. If you put use impermeable material then it would burn so would alcohol. As a matter of fact authorities say that chloroform burns under pressure, in some cases. It all depends on the experience of each individual writer. In my experience there have been cases where without any pressure marks have been formed. If evaporation is prevented by impermeable material it will certainly burn. It will not burn in a general case. (To COURT: I have put it on my own hand. I found no mark at all. I do not get a pain at all.) I have had on an average 2,000 cases per year at the Hospital. Chloroform

30 burns in 5 or 6 cases every year. The chloroform used in anæsthesia is the same. For dilation, alcohol is added, 2% is chloroform vapour and 98% air is used for inhalation. Pure chloroform if it is anything over 2% produces irritation. The patient holds her breath and the normal respiration is suspended. When a deep breath is taken respiration increases at that stage and the heart may stop. But if it goes on asphyxiation follows; it usually affects the respiration. Later authorities say that the first effect is in the heart. Over 4% has a distinct effect on the heart either directly on the heart either through the vagus nerve or directly on the heart muscle itself. The vagus nerve controls the action of the heart. The heart stops altogether

40 and does not beat again. That is not the ultimate stage. Where irritation is marked the heart stops altogether. If there is a partial administration of chloroform with air coming in there are two possible causes of death. One is when chloroform is first inhaled it gets through the lungs and reaches the heart. As a rule in the first stage they hold their breath and chloroform goes into the heart. The patient breathes deep, a quantity gets into the lungs and the heart at once stops in a condition of diastole. The heart stops as a result of syncopal death. If it occurred post mortem both

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ventricles would be dilated at the time of death. There will be no cyanosis in the mucus of the trachea, not necessarily. There will be no congestion in plain syncope and both sides of the heart will contain blood at the time of death. When the vagus nerve is stimulated, it will be equally engorged in blood. In syncopal death the symptoms are no congestion of the veins of the neck, both sides of the heart distended and full of blood. There will be no cyanosis on the eyes and the face which is of normal appearance. There will be no froth. The blood will be normal in colour. Syncopal death brought about by chloroform brings about certain other complications. Asphyxia literally means lifelessness and pulselessness wherever there is obstruction to respiration. If you shut the nose or mouth or throat the death will be by asphyxia, so would drowning, hanging, smoking or gases where you cannot breathe. There is also the spasm of the glottis which will prevent breathing. In pure asphyxia the right side of the heart is extended to the maximum at the death, the right side more than the left and the great veins will be distended. There will be cyanosis of the face and finger nails. The lungs would not necessarily be congested, either the brain or the lung may be congested. In rapid asphyxia the lungs would not be affected. The signs of asphyxia are blood would be dark due to the presence of chloroform and the amount of carbon dioxide. It may happen that both syncope and asphyxia can take place with chloroform and the heart may cease first or breathing may cease first. As far as my recollection goes there were no signs of asphyxia in the neck. I am afraid I cannot agree with the observations because I did not notice them. If it was so I would have noticed it myself. Suppose it was there it was not necessarily a sign of asphyxia. Distention of veins may be present in asphyxia, but distension of veins need not necessarily mean asphyxia. I was quite certain that this was a case of death by chloroform. The reason is that it was admitted that there was chloroform. She had no organic disease at all, therefore she might have died of anything that may cause asphyxia. Aspirin is a trade name of acetyl salicylic acid, which acts in a much more intensive and exacting manner than any other therapeutic. It relieves pain more quickly in cases of rheumatism or headache. Aspirin is less harmful than salicylic acid. It does not depress the heart. (Counsel cites Whitla and Webster.) If a person took aspirin in a large quantity say between 10 and 12 in the evening, if the kidneys were normal I would expect to find aspirin in the morning. In this particular case I would expect to see symptoms of that when she was examined. There are cases of idiosyncracies to aspirin. I have already described the symptoms of aspirin poison. You get Aerticaria similar to when a person eats prawns—swelling in patches, face gets raised from the surrounding tissue, sometimes the eyes are so swollen that you can hardly open the eyes. You may not know what it is. If for instance it was aerticaria I might have put it down to food poisoning but if I knew she had taken aspirin I would at once connect it with aspirin. In a person with idiosyncracies he would get the signs. Sometimes idiosyncracies vary and he may not get it a second time. (Counsel cites British Medical Journal April, 1934.) One of the signs is pus in the head and also vomiting. The toxic dose is

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anything over 10 grains. I had a case where 10 or 15 tablets had been used and the person got extremely bad. I go by experience. (Counsel cites Webster.) I had a case of 15 or 20 grains, the heart practically stopped. If injections had not been given she would have died. Small doses may produce serious symptoms. I have no doubt whatever that death was not due to asphyxia. If a person with idiosyncracies takes aspirin the heart could stop. I am convinced that the marks on the face were due to chloroform. (To COURT: I say that death was not due to aspirin. It was not a natural death. The marks on the face, eyelids and cheeks are so characteristic of chloroform

10 when I saw the body at the post mortem. Ordinary alcohol or hot water bottles will not produce marks without depression. I saw a marked depression. The surrounding parts were raised. It meant that the underlying water had evaporated very quickly. The area affected by the chloroform drips had so damaged the skin that the underlying water had evaporated and the tissue had shrunk to a leathery appearance. The burns were of 2 degrees. The definition of the edges and the distribution of the marks were more in conformity with chloroform inhalation. On the right side along the margin which was depressed it looked as if it had gone a little outside. Portion of the cheeks sloped downwards and there is a general outline beyond the

20 edges of which it had dripped down. (To COURT: The mark shows that some liquid had dripped down; it could be hot water. But the hot water was inside the bottle so that you would not get a drip mark and if the water was poured on the skin it might have raised a blister. The outline would correspond to the use of chloroform on the face. There was nothing regular or symmetrical about the marks. The marks were on both sides of the face, round the chin, tip of the nose, two eyelids and the right eyebrow. (To COURT: These could not have been due to haphazard application of hot water bottles. It would be very difficult to produce it by indiscriminate use of hot water bottles.) In my explanation the heart

30 and the lungs will have to go together. The right lung was distended, the right auricle was distended with blood, the left lung softer than the right the pulmonary veins were full of blood. The dark clots show that the veins were full of blood when the patient died. On the right side of the heart the pulmonary artery that carries the blood from the right ventricle was empty. On the other hand the veins which brought the blood from the left side of the heart was empty. If a post mortem is made within an hour or two of the death then from the conditions of the heart one will be able to draw definite conclusion. After two hours no definite conclusions can be drawn. We will have to take other collateral evidence, everything has to be taken

40 into consideration, the condition of the face, tongue, eyes. If, on the other hand, the signs were negative and the right side was full after two hours one cannot draw conclusions, but if the face was purplish it would be one consistent with asphyxia. The whole thing must be taken into consideration and one can draw conclusions, piecing them one by one. In the case of chloroform where the chloroform vapour is anything more than 4% the first inhalation would cause death in a minute. That death would be caused by intensive irritation of the vagal nerve and all the cavities of the heart

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would be relaxed. The vagus nerve stops and the muscles of the heart become relaxed and blood would be found going into the heart and whatever blood there is flowing into the heart. Rigor mortis may set in any time after 2 hours. The blood is still fluid in the body, right side contracted. If the heart stops in diastole as the result of the action on the vagus nerve the patient would continue to breathe inspiratorily. The circulation would be entirely dependent on the patient. When you do an expiratory movement the pressure outside the air acting on the blood vessels, is the same or nearly the same outside the face, but where the pressure inside the chest is far lower so that the blood is pumped into the lung, the circulation practically depends on the negative condition. Whatever blood is not in the lungs would be drawn from the arteries into the lungs. The pulmonary veins would become cool at this stage. That is why I based my conclusions, and said that death was due to the vagal irritation of the heart which stopped in diastole. The patient must have continued to breathe for a few minutes. (To COURT : The heart must have stopped and breathing must have gone on for a few minutes. The pulmonary veins would have been empty and the veins on the outside would be full of blood.) The fluidity of the blood and the dark colour may be due to chloroform. It may also be due to carbon dioxide. (To COURT : I never made any observation, but formalin certainly causes certain amount of clotting in the blood. The injection of formalin does not affect it. The death may have occurred instantly.) She must have been seated on the bed and collapsed the chloroform may have been applied by means of a cloth or cotton wool, and it must have been a direct application not through an inhaler. The cloth must have been saturated with chloroform. An ordinary lady's handkerchief will hold 2 drams. 1/8th of an ounce would be sufficient to saturate. A gentleman's handkerchief is about 4 times in area. A gentleman's handkerchief would be saturated in half an ounce. P.13 being a thin handkerchief 2 or 3 drams would be enough. It is 1/4 of an ounce. P.4 will take about 4 drams about 1/2 an ounce. (To COURT : Supposing a lady screamed it would be the inspiration state of breathing. All depends if the lady did it herself it must be on her face unless it had fallen back when they went in. In 10 or 15 minutes the chloroform in the handkerchief would evaporate.)

Adjourned for lunch.

DR. S. C. PAUL—continued.

To COURT : If concentrated chloroform was applied on the handkerchief to the lady's nose, the heart must have stopped within one minute. The respiration must have gone on for a minute or two. Supposing the chloroform was taken off from her after the heart stopped, is there a possibility of her living?—A. Once the heart stops in such cases there is no chance of living unless a doctor has been standing by and did some resuscitation.

Q. If the heart stopped, take it for granted that the lady committed suicide, then respiration would automatically have stopped within a few minutes?—A. A patient does not go under chloroform at once. It depends on the type of patient. Some people get under chloroform easily and some

people do not get under chloroform at all. During the operation the doctor has to keep on regularly applying anæsthetic to keep him under.

Q. If this is a case of suicide, whether the handkerchief was on her face or not, she would have died within 2 or 3 minutes?—A. Yes. No chances of recovery after that unless the doctor had immediately tried to revive the heart. In a closed room there will be the smell of chloroform.

Q. Alpina said that when she came she noticed a faint smell.—A. That is consistent with the chloroform being smelling at the time. After the heart stops and the breathing stops there is no hope at all. Even hot water bottles would not do anything.

Q. Supposing this is a case of murder. It is serious for the murderer if the woman had suddenly come back to her senses?—A. That is if she was unconscious. If she was merely unconscious she would revive. The whole thing could not have taken more than a minute. Chloroform could have been applied when she was sleeping or even without sleeping it could have been applied suddenly. That is provided the concentration of the vapour is anything more than 4%. When you are applying it, if it is at a distance the vapour gets mixed up with air. It is only in one in a 1000 cases that you get stoppage of the heart. If you apply it on a sleeping woman and the chloroform is not sufficiently concentrated in a large number of cases they get up and throw off the thing and get away from the bed. Her powers of resistance is half gone in concentrated chloroform.

Q. She may have got up and sat there and then the heart stopped?—A. That would be delayed chloroform.

EXAMINATION BY D. S. G. (continued): How long must chloroform be in contact with the face to cause burns?—A. Even a minute would have been sufficient. Even if it was applied on a handkerchief. Chloroform is a very volatile substance.

Q. If chloroform has been inhaled and taken into the lungs then you will be able to find it in the heart and lungs in a minute or two after death?—A. This chloroform enters into combination with the protoplasm of the cells and that does not evaporate there. You can always find chloroform whatever the time may be. (To COURT: If chloroform had been inhaled and there was sufficient time for the blood to carry it to the liver, then you will find it in the liver cells. If death had taken place instantaneously and no chloroform had got into the blood you would not find it. There are various tests for it. I am not conversant with Ragski, but I know they have found it. (D. S. G. cites Taylor, p. 611, Vol. 2, 8th Edn. 1928. "Chloroform if not eliminated or lost by its volatility, may have been converted in the blood into formic acid and thus removed from the ordinary process of chemistry.") You can examine it for formic acid.

Formic acid might be present from other causes as well?—A. Very rarely. If formalin had been injected you will get it. (To COURT: Traces of chloroform can be found as formic acid. There have been cases in which it has been recovered in other forms, but I am not conversant.) (D. S. G. cites a passage from Webster, p. 710: "Elimination of chloroform is mainly through the lungs, but might escape through the urine, perspiration

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. . . Course of elimination is quite rapid. . . . Analysis should be started as soon as possible.”) I agree with that. It is really a question for the analyst and not for me to answer. I have not done any chemical test in chloroform for tissues and I am not in a position to express an opinion. (To COURT: When that drip mark on the face began she must have been in a reclining position.) Formalin itself is formic acid. The deceased’s was a mild case of diabetes—no complications—not a case which would have brought about diabetic coma. Diabetes primarily affects the pancreas. In this case the pancreas was normal from a point of view of external examination, but not a histological examination. This is not a case of coma. (To COURT: I have examined deceased’s urine from time to time and before coma sets in there will be other signs. She never had asatone or diacetic acid in her urine. I last attended on her 3 months before her death. If she was ill after that she would have sent for me. I was their family doctor.) Diabetic coma could come on at any time. It takes a number of hours before a person dies. It may take a day or two before the patient dies, during that period of coma the patient is partially conscious at first. You may be able to rouse her from time to time until the coma deepens. In coma a patient would not cry when dying and would not move. She would be lifeless and unconscious for the time being. 10

Cross-exa-  
mination.

CROSS-EXAMINED: A person can die as a result of administration of chloroform in concentrated form inside a minute. I believe there are cases on record where so small a dose of 15 or 20 drops have proved speedily fatal. (Mr. Pereira cites Taylor p. 606 Vol. 2. 8th Edn. 1928—“In some instances death has taken place within two minutes from concentrated chloroform from inhalation. In one of these only 30 drops had been taken in vapour. (That will be 1/16th oz.,) but the patient died in one minute and in another so small a quantity as 15 to 20 drops proved speedily fatal. (To COURT: That kind of sudden death depends on the proportion of vapour inhaled. Anything over 4% is liable to cause death, even in a normal person) (Mr. Pereira reads from p. 606 Taylor—“As regards the method of occurrence of chloroform poisoning probably over 99% of the cases are due to misadventure in its use as an anæsthetic”) I agree with that. (To COURT: These cases are very rare whether suicide or homicide. The ordinary person does not know how to administer chloroform in a way to kill. You want an expert anæsthetist to chloroform a person; otherwise the moment you chloroform the victim will get up and give you a clout.) 30

Chloroform is a drug that has to be administered by a skilled person. That is why there is an anæsthetist at the General Hospital. Dr. J. S. de Silva has been anæsthetist for 23 years. That is for purpose of operations. An anæsthetist is there for two reasons—(1) To see that the patient does not die under chloroform and (2) to keep the patient rightly under chloroform. The primary reason is to see that the patient does not die under the effects of chloroform. It is considered 40

so dangerous in America they do not use chloroform. In India and Ceylon we use chloroform. Chloroform here evaporates more quickly so there is less chance of concentrating of vapour. Here the operating rooms are not so closed whereas in England and America vapour is in the room. They use ether instead of chloroform in England and America.

10 Q. Keeping a patient under chloroform can be attended to by the doctor handing the diluted chloroform?—A. That is also equally necessary, that is relatively less important than seeing to the fact that the patient does not die under chloroform, but it is equally imperative that the patient is under chloroform. (Mr. Pereira reads passage from Taylor—"The vapour when respired in a concentrated form is speedily fatal to life . . . Sudden administration of anything over 2% of chloroform vapour in the air breathed may lead to persistent inhibition of the heart, by its action on the vagal centre or it may lead to a fatal fibrillation. Fibrillation means that instead of normal concentration it begins to flutter. With 2% chloroform you might get it. It is like the wobbling of a motor car tyre. (To COURT: In fibrillation the heart beats 150 to 200 times and the individual beats will not be of the same quantity.) Excitement increases chances of death whether the chloroform is administered by oneself or by another. (Counsel cites Clarke, p. 157, in support of that.) I agree with that. Excitement also causes secretion of adrenalin. (Counsel reads a passage on Post Mortem appearances from Taylor—"On opening the corpse there is very likely to be a smell of chloroform and even though certain signs might be noticeable and only a critical analysis will reveal the cause of death")

20 Q. Nowhere does Taylor say that chloroform leaves any definite signs internally?—A. Nothing; unless you can find the aspirin or chloroform by chemical methods; by ordinary method you will not be able to say that chloroform is the cause of death.

30 Q. This question whether as a result of administration of chloroform asphyxia sets in first or syncope sets in first is a matter that has been debated for a long time?—A. Yes. The opinion of the Commission appointed in India is now reserved. Later that was attacked by the Western savants. The Indian Commission thought that asphyxia was the primary cause of death by chloroform, but in the more recent books the opinion is the other way—that the heart stops first and the breathing stops next in majority of cases. The term asphyxia is used to mean cessation of the breathing. That could be caused by any condition that deprives the lungs of oxygen.

40 Q. As a matter of fact it is a cardinal sign in deaths by asphyxia that the pulmonary artery should be full of blood?—A. There also I think it depends on how the asphyxia is produced. If it is rapid asphyxia the pulmonary vessels are not empty, but if it is slow asphyxia it is usually empty. If it is rapid you will find the lungs anæmic but the right ventricle and aortic will be full. If it is slow asphyxia the lungs will be congested and the heart will be equally full. Taking the amount of blood that goes to the lungs it would not be full as in the other case. In the case of asphyxia there are certain external and internal signs.

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Q. These signs are in the main to be observed only if a post mortem is performed within 2 or 3 hours of death?—A. These are the internal signs. The external signs themselves tend to disappear with passage of time.

Q. Externally a good deal of lividity or dark colour is to be seen on the face and the extremities generally on the fingers, toes, etc.?—A. Yes. that is the obstruction to the venous circulation. The blood is ordinarily red in the arteries and capularies. The venous blood is dark. When you shut out the oxygen it becomes darker and darker. In my opinion death had occurred within an hour of my coming there. I came there about 7/30 a.m. (TO COURT: I could not have expressed the view to Mrs. 10  
Bandaranayake that Mrs. Seneviratne died at 5, nor was there any material neither was it possible for her to have asked me that question.) I only told her that she was dead and she started crying and there was no further conversation between me and her. (Mr. Pereira cites Taylor, p. 608 Vol. I re signs in asphyxia. The eyes are usually prominent in asphyxia. The tongue is in the majority of cases protruded between the teeth and occasion- 20  
ally bitten owing to the convulsive contraction of the jaws. Rigor mortis is slow as a rule.") In this case rigor mortis had set in when I went between 3 and 4 p.m. There was no particular delay in setting of rigor mortis. I found no injuries to tongue, no protruding eyes, no paleness, no lividity of nails, finger tips and lips. I found the face placid and calm. That will be the opposite of what one would expect in cases of asphyxia. (Passage from Taylor read again "internally the blood is found fluid for an unusually long time after death . . . and is very dark in colour"). In chloro-  
form you get fluidity of blood; so that does not help one way or the other.

Q. In most of these cases of death by chloroform although syncope or heart failure supervenes first, it is followed immediately by asphyxia?—  
A. That will depend on which stage the chloroform will be killed. In the early stage of vagus inhibition of heart there will be no asphyxia and if death occurs at that stage there will be no asphyxia; on the other hand 30  
if the patient is able to overcome that condition and the glottis gets closed, then asphyxia may set in and later when the tongue falls back it will get choked and bring asphyxia. Vagus is the nerve from the heart to the brain where the brain controls the heart. That causes paralysis of the heart in the early stages of chloroform. Death could also be caused by fibrillation of the heart when chloroform is taken from the lung into the heart and it is a direct poison to the heart muscle and death may occur as a result of such syncope. Spasm of the glottis means that the two vocal cords come together. That will cause asphyxia. If it is paralysis it will dilate. Asphyxia will be produced by action of chloroform on the respiratory centre. 40  
(Mr. Pereira reads from Taylor, Vol. I page 608—"The veins of the viscera are engorged with dark coloured blood but the meninges or membrane of the brain and the lungs and heart present such diversities in different cases that each must be mentioned separately.") I agree with that. I have also expressed that view. The right side of the heart being full by itself is not a *prima facie* evidence of asphyxia. (Passage from Taylor read—"If death has occurred slowly the lungs are found intensely engorged; if death has

occurred very rapidly the lungs may be quite anæmic.") That is if death has occurred as a result of asphyxia—not of syncope. (Passage from Taylor read. Their condition varying inversely with that of the right side of the heart which in the first case is only moderately distended with blood but in the latter it is so distended as to seem almost on the point of bursting. Besides these conditions the only other noteworthy feature in the presence of small petechial (that is extravasation of blood into the tissues) beneath the serous covering of various viscera sub-pleural, sub-pericardial and meningeal bleedings are all moderately common.—A. None of those conditions were found in this case. Those conditions do not appear in every case when death has taken place from asphyxia. (Passage from Taylor read—"These are more likely to appear the more rapidly asphyxia has supervened . . . when they are present death has almost certainly taken place from asphyxia.")—A. Yes. That is the one sign he expresses as being certainly present, provided the patient was not suffering from certain diseases due to phosphorus and arsenic. "It is not a necessary sign of asphyxia, but if they are present it is conclusive. (Taylor—"Such is the picture of experimental death by asphyxia. It cannot however be too strongly insisted upon that they are present immediately rigor mortis sets in; therefore one has to be very cautious in drawing conclusions as to whether death was result of asphyxia or not?)"—A. It is a difficult matter to decide. (Taylor, p. 239 read—"The point is of importance with regard to deductions made. . . heart is relaxed and full of blood.")—A relaxed heart is a heart that is full of blood. The heart contracts and expels the blood out. Both sides contract. The left side drives the blood through the aorta into the whole body. It comes back and then it goes through the arteries into the toes and arms, then through the capillaries, then into the veins and then it comes back into the right oricle in a vitiated condition deprived of its oxygen and then enters into the right ventricle and is driven from the right ventricle through pulmonary artery into the lungs. Vitiating blood from the right ventricle, still being venous blood, is driven through the pulmonary artery into the lungs to get re-oxygenated; then the blood gets purified and it comes back through the pulmonary veins into the left oricle and then through the artery into the arterial system. This circle keeps going on that is how life is maintained. The beating of the heart and the breathing of the lungs must harmonise with the balance work of the system. To drive the blood from the ventricle into the lungs the muscles of the heart contract and relax again like the filling up of a motor horn bulb and then the blood gets drawn and there are certain valves which prevent the blood going back into the oricle and drives it through the ventricle into the aorta but when it relaxes the blood in the artery cannot come back. The contracting is the process which drives the blood as the case might be into the pulmonary artery or the aorta. The relaxation is where the ventricle gets filled up with blood from the oricle. Relaxation and fullness of the ventricle are synonymous terms.

Q. Taylor says that the condition of the heart can be entirely ignored?  
—A. I agree with that. The body contains a certain quantity of blood. The division may vary from time to time; at one time there may be a large

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quantity in the lung; at another time in the brain, so that you cannot draw any conclusion from the quantity of blood individually present in particular area of distribution. Taylor is the standard text book on Medical Jurisprudence. (Mr. Pereira reads a passage on Death by suffocation at p. 616 of Taylor. Again at p. 618 where it states "Homicide by suffocation is not likely to be attempted on a healthy adult person unless under intoxication?"—A. I agree with that.

Q. Assuming there was no sudden death by vagus inhibition of the heart, if there was any endeavour made to chloroform a person against her will would you expect that person to struggle violently?—A. Yes. 10

Q. You would expect to find the burns more extensive and less intensive?—A. If a person attempted to take a handkerchief saturated with chloroform and put it on the face of the victim, the victim would naturally move the face about with the result that the chloroform marks will be extensive from side to side and from above downwards and the action of chloroform will be less intensive because it is not so concentrated. It is wiped over the face, being not in one place and there will not be that distinct mark. In this case I found a definite outline.

Q. What Dr. Nair says is that there were two finger-like projections on the right side coming towards the ear and one on the left jaw coming downwards which were clearly in the opinion of Dr. Milroy Paul and others due to the dripping of chloroform?—A. Yes. Different skins act differently to chloroform. As a rule female skins re-act more readily than male skins, because that is more delicate. 20

Q. If these marks were caused by chloroform, certain portions of the face which were not covered by any cloth also exhibited signs of chloroform showing that the skin was sensitive and delicate to chloroform?—A. Yes. She was suffering from skin disease called Tinianigrans which is not the ordinary "Aluhang," but something darker.

Q. If a person did not die of syncope, knowing Mrs. Seneviratne as you do, you would expect her to struggle?—A. Yes. 30

Q. She was a robust well-built woman?—A. Yes. (To COURT: I saw the deceased's face at the exhumation. It was not bloated. P.40 shows a bloated appearance of the face. She was short and plumpy.)

Q. Taylor at page 618 Vol. 1 says "It is certain that most individuals would have it in their power, unless greatly incapacitated by disease or intoxication, to offer such a degree of resistance as would leave upon their bodies indubitable evidence of murderous violence." (Mr. Pereira says this refers to ordinary suffocation and not to chloroform.) Do you agree with that passage?—A. Yes. (To COURT: (Shown P.42.) The drip on the face shows as if the fluid had dropped—not the cloth. The question whether it would drop here and there depends on the saturation of the cloth. It would pass from the edge of the cloth to the skin.) 40

Q. In every case of alleged rape the doctors are advised by the authorities on Medical Jurisprudence to examine both parties for scratches and bruises and in the absence of these the presumption in favour of its being a voluntary act arises?—A. Yes.

Q. Assuming that death was not more or less instantaneous from syncope, that chloroform was being administered for some little time, you would expect the person to resist?—A. Yes. I know that Dolphin went into a series of cases of experiments to ascertain whether it was possible to administer chloroform to a human being while at sleep, and he records that except in the case of children or invalids it was almost impossible to bring a person under the effects of chloroform if that person was a normal healthy adult.

Q. He says in few cases he did succeed but for purposes of drawing any inferences you can eliminate the possibility of an adult being chloroformed without that person's consent?—A. Even there you want a skilled anaesthetist to administer the chloroform so slowly as not to rouse the sleeping person that is inhalation of vapour. If an ordinary man gives chloroform to a person who is sleeping that person will get up at once and either hit you or run away. Some people like the smell of chloroform so much that they use it regularly.

Q. With a concentrated solution of chloroform it is a violent irritant. It irritates the membrane leading from the nostrils into the lungs?—A. Yes. (Mr. Pereira reads from passage 706 of Webster—"Although rarely used for purposes of homicide, chloroform has been credited with causing homicide; death in a few cases by any of those to anaesthetics appears to have been administered by force; while there is much discussion as to the possibility of chloroforming a person while at sleep there are found to be reliable cases where sleeping adults have been induced to awake although as a rule the person awakes before its effects began. It is probable however that no authentic case is on record in which chloroform has been successfully used on a sleeping person for criminal purposes. Cases of suicide by inhalation are rare although some are reported. There is however rather a class of cases in which persons in the habit of self administration of chloroform by inhalation either to induce sleep or for some enjoyment have been found dead under circumstances which have left the question of intent." I agree with that. That is death by misadventure. There are a few cases of death by inhalation of chloroform misadventure. It is very difficult to say whether it was suicide or misadventure. There are some people who have a pleasing sensation when they take chloroform either on a handkerchief or handkerchief put into a tumbler. (TO COURT: There are number of cases in the hospitals where the faces were burnt. Ordinary anaesthetic given with the mask produces burns which appear in 2 or 3 days and as days go they become more marked. In Ceylon we have no cases of death by misadventure. There will be definite burns on the face in those cases. I read in the newspapers of an American tourist who died in the Colombo Harbour by taking chloroform about a year ago, and where an inquest was held. I do not know that of my personal knowledge. (TO COURT: Do you know personally of death by misadventure where there were burns on the face?—A. I have read in text books, but there was no mention of marks definitely.) I do not know of a case where a woman died by an overdose of dial. Death by inhibition of the heart is not a recent one, but known for a long time.

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*Q.* Wilcox says in the issue of 20th January 1934 of the British Medical Journal, at page 105 that if there was 6% chloroform vapour in the air inhaled a few breaths might kill, whereas one might go breathing 2% chloroform vapour for days without danger?—*A.* That is my opinion also. (To COURT: The drip character shows that the handkerchief was saturated.) (Mr. Pereira quotes a passage from the British Medical Journal, 1897.)—*A.* That is the same thing I speak of as syncope. Medi is a well known text book on Medical Jurisprudence used in India. (Mr. Pereira read from Medi, 1924 Edn. P. 97—"Post mortem appearance of death by asphyxia.") Frothy and bloody mucus are signs you will expect if asphyxia was induced by any endeavour to cause a cessation of the breathing?—*A.* Yes, but it must be fairly sudden. 10

*Q.* You will expect to find bloody mucus throughout the section of the windpipe?—*A.* It will be in the smaller branches of the bronchial tubes. In this case the post mortem report says the trachia contained coagulated mucus. It was one lump of mucus. There was no blood. In asphyxia I would expect to find bloody mucus. In slow asphyxia there may be mucus without blood, but in this case the quantity of mucus was so small that I still say it was not due to asphyxia. In this country people suffer from chronic catarrh. This is the dropping of mucus from the nose into the trachial region. Number of people suffer from catarrh in the trachia itself without dropping from above. There was not such a quantity of mucus as due to irritation caused by inhalation of chloroform. In my time I have been operating in about 1,000 cases for the last 25 years. Some people under chloroform make shouts which are meaningless. (To COURT: In the early stages they scream out. If it is a groan will it be loud? It depends on what stage. She might have screamed first, but as she fell back and took a deep inspiration there might have been a girgling sound, but not loud enough to be heard. I know what a groan is. Once the heart stops there would be no groaning but only girgling. It is consistent with a case of suicide for this lady to be taken by surprise on the first application of chloroform and she might have screamed. It is too dangerous to base an opinion on that one thing alone.) 20 30

*Q.* After chloroform has been administered for some time is there any exudation of frothy substance from the mouth?—*A.* There is.

*Q.* That is a sign after the chloroform has been administered at least for 4 or 5 minutes?—*A.* Yes: It takes a little time for froth to come out of the mouth.

*Q.* In the interval of time a cloth left on the face would have quite enough time to burn the area round the mouth?—*A.* Once it is burnt the saliva cannot wipe it off. 40

*Q.* It has been suggested by Dr. Spittel that saliva may have prevented the burns of the mouth. Saliva does not occur till the patient is well under the influence of chloroform for some minutes at least; that is the after effect of inhalation of chloroform and cannot occur till the irritation in the trachia results in froth coming out of the mouth?—*A.* Yes.

Q. Long before that occurs you would expect the concentrated chloroform on the handkerchief to burn the whole of the mouth area?—A. It will be a very good treatment for burns if saliva could remove the burns. That is the irritation of the chloroform on the secretion of the mouth. It cannot happen after death. It is vital secretion and can only occur in life, but after death it cannot come out under any circumstances unless the froth had been collected in the respiratory passages and then come out. I know the deceased from the time of her marriage. She had rather a snub nose.

10 Q. If chloroform had been applied round the mouth with any pressure you would expect to find burns round mouth.—A. If she herself was applying it she would naturally put the handkerchief over the face and there would not be concentrated pressure over the area of the mouth, but if somebody was applying it the natural impulse would be to close the mouth to prevent screaming and the whole effect would be more on the lips—in the region of the mouth—than elsewhere. Even with a tall nose the tendency would be to close the mouth to prevent her from screaming. The usual procedure would be, if another person was applying it to put it over the mouth and prevent the victim from screaming; if she screamed it will naturally be found out.) I did not find reddish condition of the trachea. (Mr. Pereira cites Modi—P. 604—“Chloroform inhalation is occasionally used for suicidal purposes but more often such deaths are accidental owing to it being inhaled to release pain or produce sleep. Chloroform inhalation is very rarely used as a suicidal agent.”—A. I agree with that. Both cases refer to dentists. Dixon Mann is used at the Medical College. (Mr. Pereira cites a passage at p. 457.—“Occasionally the vapour of chloroform is inhaled for the purposes of committing suicide.” passage *re post mortem* appearance —p. 459—“Unless the chloroform in the body can be ascertained there is no characteristic indication of the cause of death.”

20 30 Q. Referring to death by chloroform Dixon Mann says that the blood is frequently fluid and dark in colour.

Q. Acetylsalicylic acid is eliminated from the system very rapidly?  
A. Certain portions are rapidly eliminated. It takes about 2 days for the whole of it to be eliminated. It is eliminated earliest via the kidneys and urine. It is absorbed into the tissues and also eliminated from the skin through sweat. Ordinarily I would expect this lady to go to the lavatory once or twice a night being diabetic. Therefore aspirin in the early urine would have disappeared in that way. The injection of formalin in her arteries displaces a certain amount of the other fluids. Formalin preserves the tissues. It is very difficult to say what chemical action is going on in the bladder between formalin and aspirin. I agree with Mr. Collins that it is dangerous to draw any conclusion. From that fact that after 34 days aspirin was found in the urine. We were all agreed that this was a case of death by chloroform. If death occurred instantaneously I would not expect to find chloroform in the tissue. (Witness is referred to the post mortem report.) The skin peeling off the fingers and hands is only a post mortem change. That was also prevalent on the feet. The epidermis had

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peeled off and there was a white skin underneath visible looking like leucoderma on the parts of the legs and hands. The left arm had a dark leathery area extending from about 4" above the elbow right down to the wrist, extending to about 16". According to Dr. Nair himself the skin on the outer part of the left arm from above down to the wrist was rough and leathery. On the left arm it was the outside that was leathery and on the right arm it was the inner side that was rough and leathery. I noticed the elongated leathery area on the outer side of the left thigh. The leathery areas on the two arms and the leg I think are post mortem conditions where in the handling of the body the epidermis had been removed. Then that leads to dehydration again. Sometimes the pressure might cause it. It is rather difficult to explain. The leathery condition is always due to removal of the epidermis whether ante mortem or post mortem. If it was ante mortem removal the Pathologist would have noticed it. (Mr. Pereira reads Pathologist's report p.43, where he says that the injury had occurred while the tissues were alive, but he says that this does not definitely indicate ante mortem, but does not exclude post mortem injury.) I am afraid I do not agree with his opinion. 10

*Q.* I wonder whether they were not post mortem changes induced by formalin, especially the one on left thigh? *A.* If it was a hypothelic condition you would not get the leathery condition unless the epidermis was removed. As regards the right shoulder Dr. Karunaratne says that it is denuded in patches. That is not evidence of any ante mortem injury. If there were blood cells, I can say definitely that it was ante mortem. That is consistent with the fact that she had that skin disease and when you get that disease you get infiltration of cells. If it was due to injury there might be blood cells in the deeper layer of the skin especially if it was ante mortem; the blood had escaped from the blood cells into the tissues. I did not assist in shifting the body to its normal position. I saw the body lying across the bed but I did not see it after that. When the injection was given there was cardiac rigidity well marked and the body had to be moved to various directions and in that action it is quite possible that some of the epithelia may have been removed. My opinion is that they are post mortem signs. Infiltration is ante mortem but not due to any injury. There was exudation from the elbows—that is, flow of thick fluid from both elbows. The deceased was resting in the coffin in close fit and the shroud was adherent to the skin of the elbow. Injuries to the elbow is definitely post mortem. I do not know whether Dr. Nair had any grounds for basing his opinion that these marks were ante mortem. I do not agree with him. Exudation simply means the flowing out of the serum. 30 40

Adjourned for the day.

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31st May 1934. Accused present. Same Counsel as before.

DR. S. C. PAUL (CROSS-EXAMINATION continued).

Chloroform by itself can cause death by asphyxiation.

*Q.* Quite irrespective of suffocation and things of that kind?—I do not quite follow you.

Q. Ordinarily asphyxiation can be caused by drowning or by the shutting out of oxygen?—A. Yes.

Q. Can chloroform cause paralysis of the respiratory centre?—A. Yes by direct action on the respiratory centre, and thereby producing an asphyxiating condition.

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Q. (To COURT: Can chloroform itself without any pressure cause asphyxia or syncope?—A. Yes more by syncope than by asphyxia. Thirty years ago the Hyderabad Commission decided that death was due to asphyxia rather than by syncope and it was more or less accepted but as years  
10 progressed it was decided otherwise. My son mentioned to me the fact that there was an oval burn on the inside of the left thigh. It was an elongated oval. That is referred to in the post mortem report as well. This had been noticed by my son when he was preparing the body for formalin. In his opinion it was a blister. I saw it at the post mortem. He saw it at the embalming and mentioned it to me. He stated that it was caused by the dropping of chloroform or by boiling hot water. (To COURT: According to my son it was a blister, it was pyriform shaped, broader on the top and tapering down at the bottom as if it dripped when she was sitting. It is quite possible to soak through the night dress and  
20 gain contact with the skin.) That would happen if a person held a handkerchief before he applied it to her face. It is quite likely it could have dripped. (To COURT: There is only one drip. It could not have been caused by boiling water.) The shape of it precluded a hot water bottle. A hot water bottle would leave a cylindrical burn. Apart from that there were two burns on the inside of the right wrist. This was observed by Mr. S. R. Raymond (Mr. Raymond's evidence read). It is possible that the marks were caused by chloroform. (To COURT: Shown P. 42, the upper one was not noticed by my son. It looked like a post mortem mark.)

Q. Suppose she had the handkerchief in the right hand and as a result  
30 of syncope she fell back and that the handkerchief was close to her arm and if the handkerchief rested on her arm, would you expect a burn?—A. I would expect a burn on the hand.

Q. With regard to Mr. Seneviratne speaking to you you stated in your evidence that so far as you recollect he said "Go in and examine her"?—A. Yes.

Q. As a matter of fact you said that you have not said anything to the point in the Police Court, but you have said this at the inquest (page 2) "Mr. Seneviratne was there he asked me to go in and see his wife." When you went in you found him lying on the bed and he got out of the  
40 room and asked you to go and see his wife?—A. Yes. Mrs. Bandaranaike and the female servant were there at the time. As a rule the husband leaves the room. Doctors say "Would you mind leaving the room?" I found the body definitely warm. I found a number of hot water bottles, some on the chest, abdomen, neck and sides. A certain amount of damage to the epidermis may be caused by contact with hot water bottles I do not know whether any endeavour was made for artificial respiration. I was not aware of it. It might cause a certain amount of bruising of the

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*continued.*

epidermis. The post mortem changes occur later. It would not be apparent at the time. When I went there was no disarrangement of the bed in any way. It is quite possible for the bed to have been arranged. In my experience the psychology of people differs very greatly. One man will do one thing and another will do another. The body was found in the same position as when I went there. As soon as I tested the heart I found she was dead. I looked for any signs of things she may have taken to induce this condition. Then I found the aspirin bottle, the Pancreas bottle and an empty smelling salts bottle. I said this on the 7th November at the inquest proceedings (P.3 inquest proceedings read). I found those things myself without anybody drawing my attention to it. (To COURT: That is my recollection.) After that I went to the other dressing room, bathroom lavatory and looked under the bed. I have no recollection of finding an empty glass. My attention was drawn to finding some bottle of medicine. If it had been there I would not have noticed it). I notice a bath stand near the bed. I have no clear recollection (shown P.19). There is a bed on the left edge and a table with a cupboard. In that cupboard various bottles were found by the police and among other bottles they removed was C.2. There is nothing to prevent a person going up to that cupboard taking anything she wanted and come back to the bed. (To COURT: I did not examine it.) There is one point I would like to mention about the blister on the thigh. It would take one or two minutes to form because it is a vital act. Inflammation must have taken place during life. It would have dripped at least 2 minutes before she died. It cannot take place after the death. It is a vital act. The contents of that are produced by inflammation. Two minutes may be more not less. (To COURT: I call it vital, because while the heart is acting if the circulation stops the blister will not form.) Blisters forming immediately after death have air. Fluid in a blister is a characteristic of the heart beating at the time. (To COURT: It must have occurred when the heart was beating.) I should have said that the blister must have been caused at an earlier stage, before the chloroform was even smelt. (To COURT: So far as the post mortem evidence goes, if the heart stopped as a result of vagal irritation it would have been a minute or so, this blister would have formed at least two minutes before. If there was a struggle it may have been earlier.) Mr. Seneviratne told me that when he went into the room he poured brandy down the mouth and applied hot water bottles. This would be the first thing generally people do, shout for brandy and put it down the throat, but if a person is dead the brandy will come out of the mouth, he cannot swallow it. Brandy is used to revive the circulation, very often Eau-de-cologne is used. Mr. Seneviratne told me that when he handed the bottle of aspirin to his wife it was nearly full. I said so at the inquest proceedings. I found half a dozen when I looked at it. (To COURT: The bottle contained about 6 but as a matter of fact there were 9. The bottle contains a good deal of cotton wool to prevent moisture getting in.) 50 grains is an abnormal dose. 5 to 10 grains is the usual dose, 1 or 2 tablets is the usual dose. (To COURT:

I spoke to Mr. Seneviratne in the hall. He did not come into the room. Alpina's statement that she saw the accused in the room when I was there is not correct. If she had taken 10 tablets she would have taken them for headache to relieve the pain. It will relieve the headache. She may have passed a good portion of the salicylic acid in 3 hours but it takes 24 hours to pass out completely. It is a slow process. If Mr. Collins found no salicylic acid it is very unlikely that such an amount could have been taken. If the urine was examined immediately after it is quite possible to find salicylic acid. I would not like to say  
 10 what changes might have taken place where the body has been buried and injected with formalin. I am speaking of conditions where aspirin is taken and the urine is examined in 3 hours. It is impossible to say what will happen without a whole series of experiments. Mr. Leo de Alwis' first visit to me was in the forenoon of the 15th itself. Then he came later in the day and wanted me to come and examine her mouth for corrosive poisoning like lysol. I went there and found nothing inside the mouth or lips. Rigor mortis had set in. The lips and inside of the mouth were alright. I said she could not have taken any corrosive poisoning internally. Mr. Alwis' third visit was the day after the funeral. (To COURT: It was  
 20 at my house.) He suggested that some chloroform may have been left over after the confinement. I suggested that he should go and ask his brother-in-law. He went and came back the same day or the next day. 4 visits were already made. In the Police Court I said it was quite possible it was the same evening that he said his brother-in-law said he handed the chloroform to his wife for safe keeping. (To COURT: I remember that and he mentioned an ampule.) He made 4 visits. Till he came on the 27th he said nothing to doubt the theory of suicide. I do not know whether he had definitely concluded that it was not suicide  
 30 on that day. He said there might have been a possibility that his brother-in-law may have given the bottle of chloroform. Mr. Leo de Alwis was not definite on the 27th and he mentioned a number of facts to me. I said that if he had anything definite to say, go and inform the police. I did not at any time tell him that I thought it was a case of homicide. In fact I had balanced the facts and I said I was not in a position to say whether it was homicide or suicide. I said if he has further  
 40 facts he might inform the police. (To COURT: He was so carried away with the idea of homicide that he must have worked on that theory. At the inquest I said that I discussed the matter but I did not say it was homicide. If Mr. Alwis says that I said it was definitely homicide I think he must have been carried away by his own conclusions rather than by what I said. (To COURT: At the time it was just a discolouration. It was unmistakable. But the marks developed gradually when I went at 3 o'clock it was distinct. It was quite a depressed area. The first time there were no depressions, when I viewed the body. At the inquest there was a marked depression. I asked him about the marks. He said they may have been caused by brandy and hot water bottles. (To COURT: Mr. Seneviratne did not ask me what she died of, as a matter of fact I

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Cross-exa-  
mination—  
*continued.*

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Cross-exa-  
mination—  
*continued.*

asked him the question. I remember my conversation with him. It is very difficult to recollect, but I distinctly recollect my conversation. I wanted to find out the history of the case. I was not sure of the cause of death that is why I 'phoned the coroner to make the necessary investigations.) I 'phoned the Coroner and called at the Cinnamon Gardens Police Station and then I 'phoned the Colpetty Police Station. After the police told me that they did not suspect foul play, I issued the certificate. As a matter of fact they asked me to issue a certificate. In the Police Court I gave my reasons definitely for asserting that respiration must have ceased sometime after the heart stopped. The main reason was that the pulmonary veins were full of blood and the pulmonary artery empty. The circulation in the lung is due to pressure caused by inspiration. A certain amount of distension must take place. The depression inside the chest cavity is subject to pressure. The pulmonary veins would dilate and draw the blood through the pulmonary arteries during the time. The blood is drawn away from it and if the heart was still continuing to act the action of the heart would contract and dilate. When it dilates it draws more blood from the veins. If the heart was working the blood will be drawn into the left auricle, and the blood would be pumped into the left ventricle. In a case of death by asphyxia the heart would continue to beat although the breathing is stopped, whereas the pulmonary veins are empty. If the heart fails first the pulmonary veins are full. The conditions at the inquest definitely support syncope as the cause of death and not asphyxia. In the Police Court I definitely ruled out asphyxia as the cause of death. (To COURT: I do not know what the views of my son are. It is possible for the heart and respiration to fail together.) I remember the small pox epidemic about 3 years ago, about December 1932. I was called in to vaccinate the household. Mrs. Seneviratne wanted chloroform before vaccination. She is sensitive to pain. (To COURT: I did not give her chloroform. I explained that it was a simple thing. She screamed when she was vaccinated. Although she was diabetic it was merely Glæcosuria. She did not lose weight. She was a robust woman. I seldom see her. I would not like to say whether she was.

Re-exa-  
mination.

RE-EXAMINED: I said in the Police Court that I will not definitely exclude incipient asphyxia. Incipient asphyxia is a very early stage. I did not change my opinion. It was not referred to. What is known as incipient asphyxia is the very first stage due to sudden stoppage of respiration for a moment, then all the symptoms would disappear. Incipient asphyxia is an early stage and would go on to a full stage . . . It is quite possible that a man might come in for asphyxia and then develop syncope. I think the patient died of syncope and not asphyxia. She might have had incipient asphyxia and the symptoms might have passed off. Chloroform brings asphyxia and syncope. Syncope might set in at some stage and leave no symptoms of asphyxia at the time of death. (To COURT: Death was caused by syncope and not by asphyxia and it is quite possible that asphyxia began and disappeared.)

Q. If the exclusion of the air is sudden and complete the signs of asphyxia are more marked than otherwise?—A. No. As I said yesterday the external signs are more marked and the internal marks less marked. A post mortem blister may include a very small quantity of fluid but much less than in life. In life there is chloride and more albumen, but a post mortem blister contains little fluid. I did not use the word ampule for some reason or other. What I implied at the inquest proceedings was that Mr. Seneviratne was outside and spoke to me. I explained it to the Police Magistrate at the time, that when I gave evidence at the inquest that part was not clear to me, but when I had read Mrs. Bandaranaike's evidence, I recalled that Mr. Seneviratne was on the bed and I modified that. He was not outside but in the room. (To COURT: My evidence at the Police Court was not correct. I do not think I was asked. It is very difficult to remember. Only the important things were fixed on my mind. He may have asked but I could not swear to it. It is likely he would have asked. (To COURT: Seeing the urgency of the case she appeared in a swoon, my mind was concentrated on the illness. I am prepared to accept that if Mrs. Bandaranaike had said it.) About the marks on the wrist I had not seen it at the time. I saw it at the post mortem examination. It was on the inner part of the right wrist, towards the little finger. I mentioned at the inquest that there were pigmented patches on the chest and ears. They were not the same as the right eyebrow. There was a patch on the forehead. It was not depressed. (To COURT: I did not notice, neither was there any evidence of burns when my son saw it.) It was a post mortem change. The description my son gave about the mark on the wrist that it was from above downwards. I have no knowledge. He will have a better knowledge. I saw this only at the post mortem but the original blister was not seen by me. There was a good deal of post mortem change, but it was a pigmented area. It is a correct description. If that was a correct description of the position of the blister it cannot be a drip falling on a seated person. If it falls on the bare skin, the main drip will be downwards and would be absorbed by the cloth. It may or may not cause a burn. I could not say that it would take any particular shape. It must have been an ante mortem burn. Molecular death takes place two or three hours after the death of the body, even longer. If the blister was full it would be quite conclusive. You can make it out. It would be full of air. I am basing my observations on my son's statement. He said it was a full blister. Nobody asked me about it before. I spoke of this lady suffering from a skin disease. She had it on the face, neck, body and generally on the thighs. You find infiltration of cells spoken of by Dr. Karunaratne in every place that there was disease. He has not made a complete section of the whole skin, only affected areas. According to his report infiltration was found in one section and not in another. Degeneration of the epidermis may be a natural condition in one part and not in another. The effect of formalin on the urine if directly applied it will be more than if it is indirectly applied. That is so far as the reaction is concerned between urine and salicylic acid. In an ordinary person with

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mination—  
*continued.*

an ideal state of health, you find mucus ordinarily at an autopsy. In a slow stage of asphyxia not a rapid one, there may not necessarily be dark mucus in the trachea. The anæsthatizing of persons by chloroform with particular reference to crimes will be found in a Medical Jurist's book. It is not ordinarily found in text books. When you try to chloroform anybody without consent, the person will get up at once or he will die. You cannot without his consent bring him on to an anæsthetic stage. I spoke of certain processes of dripping on the face. It is indicative according to my opinion that chloroform dripped and burnt the skin. They are not big enough to be consistent with finger marks pressed. There are two marks close to each other. In certain skins chloroform burns, but such burns will be more extensive than otherwise. A relaxed heart indicates a heart where the process of contraction has ceased. It does not necessarily mean a full heart. A relaxed heart must be full of blood. As it relaxed the blood also comes at the same time. Ordinarily a muscle which is relaxed is still in a state of contraction, but in paralytic heart it is relaxed to the fullest extent until it cannot relax any more. The muscle of a boxer although relaxed is not fully relaxed. So also in the heart during the ordinary act of relaxation. It cannot relax further if there was paralysis. Chloroform makes the heart completely distended. Some writers may say that the heart is fully distended, some would say relaxed. It may mean relaxation of the muscle tissue itself. The heart must be filled up with blood. Rigor mortis would dry the blood from the left ventricle but not the left auricle. The blood itself is deprived of oxygen in asphyxia, and has a darker tint. There is no reason why chloroform should not get into the blood in a minute. I cannot say whether it would affect the colour of the blood or not. Chloroform acts on the vagal centre of the heart and might stop the heart and affect the muscular tissue of the heart. It paralyzes the heart and brings about death. Also it might bring about asphyxia and bring about death. In the case of fibrillation the chloroform must have been in the blood for a longer time. If it affects the vagal centre it would be a matter of another minute. This generally happens in light anæsthesia. It is very difficult to say whether there is fibrillation after death. Rigor mortis setting in depends on various conditions, on the constitution, nature and the death. At 3 o'clock it had set in, fairly a good deal. (To COURT: I said that death must have taken place within the hour.) We cannot definitely say the time of death, but the body was warm. If I was asked whether death took place two hours before, I might have said it did. (To COURT: No question arose. I do not think Mrs. Bandaranayake asked me. As the body was very warm I said it might be. It is very difficult with the material before us to say it was within an hour. As the body was very warm, I said it was within the hour. There was no time limit by which we can definitely say. I also mentioned that a dram of chloroform might have been sufficient. (P.C. Evidence P.119 read.) It was in answer to a question whether an ounce will do. A smaller quantity is sufficient. 2 drams would be necessary, this is  $\frac{1}{2}$  ounce. As the chloroform is highly volatile, the handkerchief

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would have been well saturated. (To COURT: The chloroform must have been poured in the room itself.) (To JURY: When I examined the deceased for the first time I certainly do not remember whether any part of the body was covered by a sheet.)

CROSS-EXAMINED (with permission): The first inhalation of chloroform leads to the heart. The blood is pumped out into the aorta to feed the heart muscles. Fibrillation can take place quite early. Light anæsthesia could occur, not in deep anæsthesia.

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cross-exa-  
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No. 56.

Evidence of Dr. T. S. Nair.

DR. T. S. NAIR—affirmed.

EXAMINED: On the 6th November, I was J.M.O. of Colombo. I have been in Government service since 1912. During this period I have been at outstations. I have had a large number of post mortems, considerable number I should say. I am an L.R.C.P. & S. (Edinburgh) Faculty of Physicians (Glasgow). Till the end of March 1934, I held post mortems but I cannot give the number. I cannot remember, it is a large number. I remember the post mortem on the body of Mrs. Seneviratne on the 7th November. In addition to myself there were several other doctors present. They were Dr. Sinnetaamby, Dr. Karunaratne, Pathologist, Dr. Milroy Paul, Dr. S. C. Paul, Dr. Spittel, Dr. Joseph de Silva, Mr. Collins. The room was crowded. The body was identified by Mr. Leo de Alwis, C. R. Seneviratne, Mrs. L. G. de Alwis, sister-in-law of the deceased.

*(This witness was recalled. See No. 58 page 206).*

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Dr. T. S.  
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tion.

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No. 57.

Further evidence of C. E. Seneviratne.

CHARLES E. SENEVIRATNE—sworn.

EXAMINED: I identified the body at the inquest.

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viratne  
(recalled),  
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tion.

## No. 58.

## Evidence of Dr. T. S. Nair (continued).

## DR. T. S. NAIR—EXAMINATION continued.

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tion—con-  
tinued.

She was 38 years old, height 5' 3". I described certain injuries. I produce certain diagrams of the injuries on the body. P.41 is my report and P.42 is my diagram. I also sent certain parts of the body to the Government Analyst for report. They were portion of the tongue to see if there was any poison. There were some blue marks on the cheek, tongue. They were sent to eliminate any poison. I also sent the urine. When making a cut on the body, the bladder was completely cut to open it. Some urine escaped. It was not scooped out. I sent other organs, lungs, liver, the stomach to the Analyst; bowels cut out with contents, kidneys and urine. I gave some sections to the pathologist, sections of the skin on the face, arms, muscle and pancreas. I noticed certain dark reddish brown marks with well defined edges and a slightly depressed portion of the lip. The diagram shows the position of the marks. The lower lip was dark in colour but not hard to the touch. On the tip of the nose was a triangular mark with a long fungoid growth. On the outer surface the left upper eyelid there was a similar mark, also on the outer surface of the left lower eyelid. On the right upper eyelid was a streak. On the neck there was no mark. For the left there are two diagrams. (To COURT: I did not actually draw the diagrams. I did not know that Dr. Milroy Paul made a sketch at all, but it corresponds exactly with the drawing this is produced. I have put the marks on my book. I remember the condition of the heart. (To COURT: I found no condition of disease. The condition of all the organs was normal.) My opinion was that death was due to asphyxia. I examined all the vital organs before I expressed an opinion regarding the death. I said the right ventricle was engorged with blood. There was no blood in the pulmonary artery valves. The right auricle greatly distended with hard clots. The wall of aorta was normal. There was no evidence of disease tricuspid valve. There was nothing very serious in the atheroma. The right side was distended to the maximum. The left ventricle contained very little clots and was practically empty. At the time of death the left auricle contained dark hard clots. The pulmonary veins had dark hard clots. I do not know whether the left auricle was distended to the same extent as the right. From that I deduced that the condition of the heart was consistent with death from asphyxia and taking the whole condition of the heart I will say so. It need not necessarily be so in asphyxia for the pulmonary veins would be empty and the arteries empty. According to my own personal experience it is never full. I have never seen pulmonary arteries full as described in books in cases of asphyxia I do not think it is a negative sign of asphyxia, I have always found pulmonary veins having blood. (To COURT: The fact that the pulmonary artery did not contain blood is not inconsistent with asphyxia. Even Taylor says that the signs vary.) In cases of asphyxia the right side of the heart is distended. I must have held a considerable number of post

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mortems on deaths by asphyxia. Since this case he had two cases of hanging at Kottawa and Dedigama. All cases of drowning and hanging are cases of asphyxia. The two cases he referred to are cases of hanging. I examined the lung and found no traces of disease. The section of the lung was reddish. The normal colour was slatey grey colour. This indicates congestion of the lungs. The laryngx was normal. The trachea contained mucus. This was noticeable to everyone and all the people saw that there was a good quantity. I found a good quantity of mucus. In normal cases there would be no mucus, but in asphyxia there is an excess of mucus. I have not described the colour, it was a purple brownish tint. I could not say anything about the colour. There was nothing abnormal about the gullet and the abdominal cavity. From the condition of the stomach the last meal would have been taken 4 or 6 hours earlier as it takes about that time to empty its contents. It also depends on the quality of the food, but generally six hours. (To COURT: It may be more.) There was no abnormality in the kidneys. A section was handed to the analyst. There was no abnormality in the bladder. The bladder was fairly full. The veins contained clots. The veins on the neck were particularly distended and were a noticeable feature. This is an indication of asphyxia.

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Adjourned for lunch.

## DR. T. S. NAIR—EXAMINATION (continued).

I have seen these marks on deceased's face. They could have been caused by pressure. My opinion is that they are quite consistent with chloroform. Drip marks indicate some fluid had been used. My opinion is that some fluid irritant had been applied to the face with pressure. My reason for saying that pressure had been used is because it is depressed below the general surface. I say it is fluid because of the drip marks. It looks as if something had been dribbling down. I say irritant because the skin looks damaged. It is very difficult to get marks like that if you merely put the hand and press there. (To COURT: There was no corrosion.) Though it is an irritant it cannot be a corrosive poisoning. Chloroform is an irritant to the skin. Some lint or cotton wool or a piece of cloth saturated with chloroform and pressed to the face might have caused those marks. Chloroform produces anæsthesia if inhaled. If concentrated vapour of chloroform is inhaled by a person the first feeling would be a feeling of suffocation. It is inhaled and it goes into the lungs and from the lungs into the blood and it affects the central nervous system. If you want to kill a person by applying chloroform you can do it. (To COURT: I will not say exactly what those marks were but they are consistent with some volatile substance being used. They may be burn marks.) Burns are possible in various ways—by application of flames or liquid or hot water or by an irritant. My opinion is that those marks are consistent with application of a volatile liquid or an irritant. Chloroform when inhaled brings about asphyxia. (To COURT: I say it is volatile because

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of the lack of greater signs of dribbling than found on the face.) I did not find any signs of disease to account for this death.

*Q.* Could you find any cause of natural death?—*A.* No. Taking the signs on the face I would say that death was due to asphyxia. Those marks suggested obstruction to breathing being caused by something held against the nose and mouth. (To COURT: Dribbling suggests volatile fluid which is an irritant used with some pressure. I cannot think of anything other than chloroform.)

*Q.* Supposing it is chloroform as you think, were the internal marks consistent with chloroform?—*A.* Consistent with asphyxia. I cannot say exactly that chloroform is the cause of death. Chloroform can bring about asphyxia. Chloroform can cause asphyxia and can cause death. Asphyxia can be brought about by obstruction to breathing and also by chloroform.

*Q.* The internal signs are consistent with either obstruction to breathing or application of chloroform?—*A.* With obstruction to breathing brought on with the aid of chloroform. That is all I can say. (To COURT: I do not think an overdose of aspirin can cause death because I learnt that the Analyst did not detect aspirin.)

*Q.* Supposing you know nothing, about the signs you found what would you say?—*A.* The case not being a natural death it must be either poisoning or some violence—one or the other. When doing a post mortem I looked for natural causes. If I do not find that I look for unnatural causes—that is poison and violence. If I suspect any poison my duty is to depend on the Analyst and if it is not poisoning I have to come to violence. I do not think the marks on the face could be caused by aspirin. I have heard that aspirin causes a rash called irithematis rash, but I have not seen a case of that kind. Irithematis rash means raised red skin. I did not find any rash on this body. One of the signs of aspirin poisoning was not present. I have read in a medical book by Waddel which refers to a case where the lower 5 feet of the bowel had been in a congested condition with mucus membrane. In this case there was nothing of that kind seen. It is said that aspirin changes into salicylic acid in the lower bowel, not in the stomach but outside. Poisoning by salicylic acid might be caused, but that is an irritant. Nothing was found here. So I do not think that aspirin has caused this death. Aspirin cannot account for the marks on the face. Lyons Medical Jurisprudence for India by Waddel is a book well known in Madras. It is an authority. (D. S. G. reads a passage from page 676 of that book—8th edn. 1928, about aspirin—acytile salicylic acid and about aspirin poisoning.) In that case there were distinct signs in the alium. In this case I did not find such signs. That was a large dose.

*Q.* Are you aware what kind of dose is necessary in the case of aspirin to bring about a fatal result?—*A.* That depends on individuals. I may take 5 grains of aspirin but I may have poisonous signs but another may take 15 or 20 grains and not have anything. That is in the case of idiosyncrasy. I have read that some men had taken 400 to 500 grains of aspirin and did not die. I have not seen a case of aspirin poisoning myself. I do not think aspirin could bring about asphyxia. (To COURT: Death

will be caused by heart failure which is called syncope.) I do not think it will be a sudden heart failure. The person will live for some time. If you accept that authority (Lyons Medical Jurisprudence) aspirin passes unchanged to the lower bowel and it must take time to take fatal effect. I do not think it would be instantaneous death. (To COURT: The internal signs do not point to syncope of the heart.)

10 *Q.* Why do you say that?—*A.* Because I found signs of asphyxia. I do not think that in a case of syncope you will find asphyxia signs. The reasons which make me think that cause of death is asphyxia are (1) the condition of the right heart being markedly distended (2) fullness of the veins particularly on the neck (3) mucus in the trachia and (4) congestion of the lungs. One has to go into other facts as well. So the mark on the face is an important sign. That shows that there was obstruction to breathing. The external classical signs of asphyxia were not there. I think injection of formalin had made it to disappear. They will disappear even otherwise in lapse of time.) I know that formalin was injected by Dr. Milroy Paul for embalming the body.

20 *Q.* Are you aware that when the body was opened there was dark fluid blood?—*A.* That was put to me in the lower court and that is another point that has been in my mind when I put down the cause of death as asphyxia. Dr. Milroy Paul's very expression if I remember right was "Copious flow of dark venous blood." That means that the blood was deprived of oxygen. That is also one reason which made me think it was asphyxia. That is another addition to the facts already mentioned. I know that Taylor says that the heart is not to be taken into account. I will not entirely agree with him in every respect. In my personal opinion I have never found such marked disproportion between the right and left side of the heart excepting in cases of asphyxia. (To COURT: Not a single person would have held a post mortem within a couple of hours time at all. These

30 books are probably written from an experimental knowledge. In actual practice nobody will see that, but I have seen one body, but it is not asphyxia. I cut up a body under two hours after death. I saw the heart in rigor at the time. Scarcely anyone will get an opportunity like that. I do not think anybody had an opportunity to cut up within an hour or two, to have noticed all the asphyxia signs. In ordinary practice the post mortem is held at least 24 hours afterwards. In practice a post mortem is never held within 2 hours. I have not been supplied with a copy of the Pathologist's report in connection with these marks, except what I read in the newspapers (shown Pathologist's report P.43).

40 *Q.* Taking your description and his report what do you say was the time those marks were caused in your opinion?—*A.* I will not express an opinion. The Pathologist would be able to speak to that as he cuttings of the sections and he can say whether the skin was living or dead at the time. The blister on the left thigh could be caused by a hot fluid or by a drop of chloroform. It must be boiling hot to blister. It was in a small area 2" by 1"—oblong mark. If you keep a hot water bottle a small area like this cannot be blistered—it would be a more extensive area. Even if the boiling hot

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water fell over the cloth, not on the naked skin, it can cause the blister. Chloroform falling over the cloth also could cause a blister. Generally for chloroform to cause a blister you must have a preventive—evaporation must be prevented.

*Q.* Could a blister be caused by simply dropping chloroform on the body?—*A.* Very unlikely. You cannot keep it on the body pressed. It is very irritating. I have brought a bottle of pure chloroform in which there is only 1 or 2% alcohol. I have been pouring chloroform on the body and watching the time. In 10 seconds it begins to irritate. (Witness pours some pure chloroform on his hand and after a few seconds says he has that feeling.) Here it is not unbearable but it smarts. On the face it will be much more. (Witness pours some pure chloroform on his handkerchief and presses it hard to his cheek. He says it smarts more and more; and that a red mark will be found on his cheek and he shows it to the Jury.) The pain will become severer as the burn extends. If you drop it on the arm or legs it will burn, and cause a blister, even if it is allowed to evaporate. I put the handkerchief in my upper coat pocket and it smarts there.

To COURT : *Q.* If you put a drop of chloroform on your trousers on the thigh do you think it will bring a blister? *A.* I believe it will. It requires a great deal of fortitude if it is suicide. I will say that the smarting is unbearable and the longer you keep it with chloroform the greater the pain will be.

*Q.* Supposing a woman was sleeping and somebody takes a handkerchief saturated with chloroform and presses it. The first thing is the woman will take a deep breath? *A.* Yes.

*Q.* What will be the effect of that deep breath? *A.* A sort of suffocation will be caused but anæsthesia will not be caused. The direction of the injury on the thigh was dripping down.

*Q.* If a person was seated and something dropped on that person's leg, is the direction of the wound as it was or is it a contrary direction? *A.* That will depend on the position of the thigh. If the thigh is in a straight position it will drip down but if the thigh is slanting down it might go straight down. This injury is in the direction of the long axis of the limb. It is difficult to cause it if the lady was standing. (Witness shows a diagram of that injury made in his notebook.) I am sure it was directly downwards. My recollection is that the injury was directly along the axis and not diagonal. In my opinion the injuries on the right arm are due to some kind of violence applied to the arm. My opinion is they are ante mortem. I am not changing my opinion. I stick to that. This is not a bruise. A bruise otherwise called a contusion is effusion of blood into the tissues as a result of some force or violence which causes rupture of blood vessels. I did not find that here. This is some disturbance of the skin which does not necessarily mean a bruise. That does not answer all the tests of a bruise. I believe it is an ante mortem injury. I have always seen in post mortem rooms that where there is any pressure applied there is a leathery mark where injury is caused by some violence. Although it has not got the classical marks of a bruise

in my experience I have found similar leathery marks where injuries have been caused before death. I have to depend on the Pathologist's report also. Tests are only for bruises. In my experience I have found that where violence has been used ante mortem similar marks have been found post mortem without any bruises. It is not strictly speaking a bruise but only a disturbance of the superficial layer of the skin.

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Q. Why could they not be caused by the coffin after death? A. How do you get that in front of the arm. The mark is on the inner side. If she was suffering from a skin disease why only in this place. There must be  
10 elsewhere also. I found 2 marks on the left thigh—one was  $1\frac{1}{2}$ " by 1" and the other on the outer side was 3" by 1". They are isolated ones. On the right arm there was a big mark. The face was depressed below the general surface. These three were also depressed below the general surface. One of the injuries on the wrist was leathery and one was not. I cannot account for that. (P.C. evidence *re* these marks are read out.) Marks on the face were dripping down. Marks on the left arm I think were ante mortem. There was exudation from elbows. That suggests that it is an ante mortem injury. There must have been some injury which led to the exudation. Serum can occur after post mortem. It may be  
20 immediately before or after death but I cannot be positive. My opinion is that it is ante mortem. It is not an injury caused by the sides of the coffin. There would not be exudation unless there is a swelling of the skin. Some diseased condition must have been present to have a flow like this. Swelling will not take place after death. It must be ante mortem.

Q. Your reason for saying that this is ante mortem is that exudation could only come from a swelling? A. There must have been edima or some diseased condition.

CROSS-EXAMINED: I will not place myself above the Pathologist. He has his duty and I have mine. I do not encroach on his duty. I believe this  
30 is downright suffocation. I do not care whether the Crown accepts my view or not. I joined the Medical Department in 1912. I do not think my qualifications are high. I have not got a London degree, but only the Edinburgh and Glasgow qualifications. That can be obtained by a Ceylon or Indian student in 3 months. The London degree takes a long time. I am not frightened by the degrees of the other doctors, but I have to express my opinion. I am the least qualified out of all the doctors giving evidence in this case. I went to the 1st grade in 1922, but I do not know when I went to the 2nd grade. I never acted, but as soon as I joined the department I was fixed. My first appointment as D.M.O. was much earlier than 1921. From  
40 1912 for a little time I was at the General Hospital and I was at Ratnapura for 5 or 6 years as District Medical Assistant. 1917 or 1918 I was District Medical Officer. I went to Udapussellawa as D.M.O. and then to Neboda. I was D.M.O. Ratnapura in 1928. In 1925 on 2 different occasions I acted as Provincial Registrar, Ratnapura. At that time I was D.M.O. Ratnapura. At the end of 1928 I came down to Colombo as Assistant Port Surgeon. Then I was Port Surgeon attached to the Head Office, then as D.M.O. Matura for 2 months; then as Officer-in-

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charge of Government Departments and then J.M.O. Colombo for 14½ months, then acted as Medical Superintendent of the Leper Asylum for a little time and now I am in charge of Infection Diseases Hospital. I do not claim to be an expert in Infections Diseases. As J.M.O. Colombo I think I would have done a few hundreds of postmortems, not under 500. It was not only during that period that I held postmortems but even as D.M.O. My opinion is that exudation on the elbow is indicative of ante mortem injury. My opinion is not based on any microscopic examination of the skin. I expressed my opinion. I had the Pathologist to help me and I would give weight to his opinion to sections examined by him, but I can express my opinion. My opinion that it is ante mortem is an observation, because there was exudate and that was sticking to the shroud and the skin and that is suggestive of ante mortem injury. That is the reason. The shroud was adherent to the skin and the exudate was visible on the sides of the coffin. 10

*Q.* Will not an ordinary person conclude that the coffin was tight fit or the body expanded and the elbows came in contact with the sides and got the elbow injuries? *A.* I do not know about that. I do not think so. That is not my opinion.

(Mr. Pereira reads Pathologist's report where he says that the injuries on elbows were post mortem.) *A.* My opinion is different. It was in contact with the sides of the skin and it was touching. Exudate was on the sides of the coffin. Unless there was some edima of the skin, I do not think a mere touching of the coffin would cause exudate to come like that. In my opinion the whole of the injury on the left arm is due to some kind of violence. The area covered is from middle of left arm down to the wrist, about 16". I suggest there was violence all down that area. Similarly there was violence on the right arm from near the armpit extending down to near the wrist. (To COURT: Violence can be caused by a stick, but this is not that. This is some injury to skin brought on by some force.) 30

*Q.* The seat of the violence was on the inner side of the arm—don't forget that. How do you explain this extraordinary violence on the inner side of the arm? *A.* I can definitely say it was not a post mortem injury. There was some violence applied to the face. There are some disturbances to the skin. That suggests some injury to the parts, probably by pressure or something like that.

*Q.* How was the pressure applied on the inside of the arm from the armpit to near the wrist? *A.* It could be caused by holding down the arm. If it is post mortem it will be in different parts, but this is not so. Normally when you hold a person by his arms your thumb comes on the inside and 40 fingers on the outside.

*Q.* Then you will expect the violence to be shown on the outside of the arm?—*A.* Yes. It is not a post mortem change. There is some application of violence to the arm. There are some leathery areas due to pressure—holding down will cause pressure. The leathery marks on the arms are continuous. I am aware that Dr. Karunaratne examined sections of the skin supplied by me from the right and left arms. If he says they are post mortem I will agree. I will agree with whatever he says after examination of

the sections. I do not contradict him if he says they are post mortem injuries. I will have to agree with him because he has scientific data for his opinion although mine is only a personal expression of opinion.

Q. Violence must cause a bruise in order to leave that leathery appearance?—A. It did not amount to a bruise.

Q. A mark on the body must be due to a bruise or some serious injury or to post mortem stain?—A. It need not be a bruise. Holding the arms does not cause a bruise. Bruise is a contusion. A contusion may be of different degrees. I will define a bruise like a contusion. It is one and the same. Bruise may be a degree. Bruise itself is a contusion. I do not say that a contusion is a bruise of a greater degree. I say that bruise and contusion are identical. I will not use the word bruise for a contusion of a considerable degree.

Q. Injury on a body could only be caused by the bruising of the body or by a post mortem development.—A. I do not subscribe to that. In this it was only the superficial skin that was affected but not the deeper skin. There is no evidence to show that there was hæmorrhage under that. In a bruise you will find hæmorrhage under the skins. You will find effusion of blood beneath the skin. Any ordinary book will tell you that. A mere handling might have caused the injury on the arm. Prior to November 1933 I had no experience of formalin injected corpses. Since this case I have gone to the theatre to look for bodies injected with formalin, but I did not find any body showing marks like this. I went 2 or 3 times and saw 2 or 3 bodies in the dissecting room of the Medical College. Those bodies may be washed twice a day. I do not know whether they are left in the open. I cannot express an opinion because I have no practical experience. I do not know whether formalin and other things also have been injected to those bodies, but I did not see any marks like these on those bodies. Up to date I have not seen a body injected with formalin pure and simple and buried thereafter for 3 weeks. I do not know that Dr. Spittel has said that it is not possible to offer any explanation for these marks. He may have said that. He is an F.R.C.S. I admit that those marks are unusual. I can merely express a haphazard opinion that these marks are post mortem. When I speak of an elongated leathery area on the left thigh I do not mean a very long area but 3" by 1". I cannot say how that is caused. I found a depressed leathery area on the face. On the left arm also there was a leathery area.

Q. Mark on the thigh was red and fresh looking—no leathery look about it?—A. I would not say it was red.

Q. Don't you recall that oval area was light red and soft to the touch?—A. I do not recall that.

Q. Do you recall that one of the doctors wiped over it with cotton wool soaked in some spirits and it became brighter red?—A. I did not see anything of that kind. I have not noted it and I cannot recall that. I remember there were 2 marks on the inside of the thigh. I do not think the thighs had to be separated to see the lower mark. I have no note of it and I have no recollection. The marks were one below the other. I do not

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think the diagram in my notebook shows that the lower mark was slightly diagonal. My recollection is that it was running down. (Shown diagram by Dr. Paul.) The first mark is on the inner side of the front of thigh and the 2nd mark is below that, but it is a bit diagonal. It is just as it is shown on this diagram. I gave four grounds for saying that this is a case of asphyxia. I gave evidence before the Police Magistrate. In the Police Court I only answered questions. I am sure it is a mistake if I have omitted to mention the fact that the veins of the neck were distended. It is surprising to me if no doctor noticed that. It is mentioned in my post mortem report. I was never called to a conference in the Attorney General's Department before I gave evidence at the inquest and after the post mortem. I am sure I will not be asked because I am the J.M.O. The Attorney General cannot ask me. I never attended any conference in Mr. J. E. M. Obeysekera's room. I do not know where his room is. I heard that some doctors had been summoned.

*Q.* Did you mention to the other doctors the fact that the distended veins of the neck was indicative of asphyxia?—*A.* I have no recollection of having spoken to anybody about that particularly. If I remember that I would have come out with it myself in the Police Court. The veins of the neck were particularly distended.

*Q.* Did you find they were more distended than other parts of the body?—*A.* They were very noticeable.

*Q.* Can you point to any single authority which says that the veins of the neck are distended in cases of asphyxia?—*A.* It is a sign of asphyxia.

*Q.* Is it not the fact that all what the books say is that the venous system is found full in cases of asphyxia?—*A.* The veins of the neck will come under that.

*Q.* Did you find the veins elsewhere than on the neck distended?—*A.* Yes—where you can see.

*Q.* In what part of the body did you find the veins distended like the veins of the neck?—*A.* Veins of the neck were more noticeable. All the veins were full with blood—dark clots—they were as distended as the veins of the neck.

*Q.* Then if there is nothing distinctive in the veins of the neck you should have said "I found the veins in the whole system over full. Therefore I say it is a sign of Asphyxia"?—*A.* The venous system was full.

*Q.* Can you produce any single authority which says that the veins of the neck are more distended than the veins anywhere else in case of asphyxia?—*A.* I think I will be able to find authority for that. I found no marks on the neck externally. (D. S. G. hands the book by Dixon Mann to the witness.) (Witness reads page 26 *re* post mortem appearances.) There he says that the right side of the heart, pulmonary artery, veins of the neck are engorged with dark venous blood and left side is empty. Those are cases of undoubted asphyxia. I agree that in cases of death by chloroform poisoning you will find the blood fluid and dark colour. Both in asphyxia and chloroform you will find the same fluid condition and same dark colour of the blood. Before the D. S. G. pointed out the passage in Dixon Mann I was aware that the veins of the neck are engorged in cases

of asphyxia. That is because of the engorgement of the right side of the heart. Dixon Mann is dealing there with general signs of asphyxia. The whole venous system should be full in cases of asphyxia.

Q. There is no reason why the veins of the neck should be distended more than the veins of the legs or arms except for the fact that it is due to strangulation of hanging or application of some external agent round the neck to cause asphyxia?—A. It is not so. In asphyxia the right side of the heart is full. Venous system is full. The right heart gets its blood from the venous system below and above. The blood from above cannot  
10 come; it is all engorged. On account of that this becomes prominent. Because the veins of the neck are so close to the heart they become more prominent. When one looks at the body he sees the veins full and he mentions that as a reason. The veins nearer the heart need not necessarily be distended. The venous system is full. I have mentioned in my report that the veins contained clots. Venæ Cavie is the name given to the main vessels that bring venous blood to the right oracle. The arterial blood goes into the capillaries and veins and come back to the right oracle. There the veins of the human system join the heart and that is the venæ vaie. I have not made any special mention of the venai cavie in my report.  
20 I have not mentioned the quantity of mucus in the trachia in my report but I have in my evidence stated that there was a good quantity. One of the reasons that I put down this for asphyxia is that there was an abnormal quantity of mucus in the trachia. I did not find extravasation of blood in the lung, liver and brain or pericardium.

Q. Is it not the fact that the other sign of yours—the right ventricle being distended—is only of any guide that death took place from asphyxia if it occurred in conjunction with blood extravasation outside?—A. It need not be in conjunction with the other things you mentioned.

Q. Does not Taylor definitely state that the fullness of the right  
30 ventricle can be ignored if you do not find extravasation of blood?—A. He does not lay down like that. (Counsel cites passage from Taylor.) He warns against making inferences from post mortem conditions of the heart. Immediately after the heart he says “The heart will be found contracted.” One would mistake it for hytraphia of the heart. So you cannot go only by the heart, but in this case I should say the heart was not in a relaxed condition. I think the heart was in rigor when formalin was injected and it remained as it was, and this disproportion between the left and right cannot be ignored. Taylor has written that 2nd paragraph in connection with making mistakes. I will not say that a heart that is  
40 full of blood is a heart that is described in the books as relaxed. That is not the meaning of relax in a post mortem.

Q. Do you admit that the contraction of the heart as opposed to relaxed is when the muscles squeeze the blood out of the heart or left ventricle?—A. Yes.

Q. And that the heart relaxes directly the blood is driven out and draws the blood from the oricle?—A. Yes.

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*Q.* And that until the point when the heart begins to contract again the heart remains relaxed?—*A.* I cannot say Yes or No to that, but I will have to explain. Do you speak of a living or dead body. I must know that. Even a dead heart contracts because there is rigor mortis in the heart itself.

*Q.* A heart that is dead does not contract voluntarily. Rigor mortis induces the contraction of the left ventricle of the heart and stops there?—

*A.* It affects the right ventricle to the heart also.

*Q.* A heart that is dead does not continue to function?—*A.* Yes.

*Q.* Will you admit that once the heart has contracted and driven the blood out the heart is described as being relaxed till the next contractive efforts begin?—*A.* Yes.

*Q.* And when the heart relaxes the blood is drawn from the auricle into the ventricle and the ventricle gets full with blood again?—*A.* Yes.

*Q.* That being so, the fact that a ventricle was found full of blood is perfectly consistent with its being in a relaxed condition?—*A.* In that sense, Yes. At the inquest I said that the heart was full and not relaxed. There is a distinct meaning in that. I do not say that a relaxed heart must necessarily be full of blood.

*Q.* I am speaking of the living human being?—*A.* It may be full of blood. A relaxed heart is not bound to have full of blood. It means that it has finished its contraction and the muscle is resting. It need not have blood at all. The heart contracts and relaxes 72 times in one minute in the average person. That is a quick action.

*Q.* When the heart is relaxed it is full. No doubt at the end of contraction it is empty?—*A.* Yes.

*Q.* The interval of time it being filled is so short that for practical purposes you will say that a relaxed heart is full?—*A.* I will not say that; it is wrong to say so. I cannot agree with that.

Adjourned for the day.

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1st June, 1934. Accused present. Same Counsel as before.

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CROSS-EXAMINATION continued: I said that a relaxed heart does not mean a heart full of blood. When we talk of contracted heart we refer to the heart muscle, just as the muscle of the arms or legs we talk of contracting or relaxing. Speaking of the heart it is the same, but if you want to speak of what it contains it is a different thing. (To COURT: I refer to the muscles, that is what relaxed means.) It does not follow that unless the muscles are relaxed the heart cannot be full. The word relaxed only means the muscle. It is essential for the heart to be full of blood the muscles should be relaxed. It is only when the muscles are relaxed that the heart can get distended. With considerable thought and correctly too I said at the inquest proceedings that the heart was full and not relaxed. I will explain that. The muscles did not lose its tone, its tenacity as it is called. Relaxed heart means flabby, flacid muscle. There

was tone, the tenacity of the muscle was not lost. The words are used in a different sense. (To COURT: I meant that the heart was not relaxed, that the muscle of the heart was not in a flabby, flacid condition.) I said that the lungs were reddish brown. I did not state in the postmortem that it was congested. I described the condition as I saw it. I said the left lung was softer than the right, cut section reddish tint. I did not use the word "congested" in the report. I drew the inference that as the muscle had a reddish tint that the lung was congested. I did not mean that formalin may have caused it. When I said "no evidence of disease

10 in the lung, left lung was softer than the right cut section showed reddish tint," I think that answer was probably in reply to a question which had been asked about the left lung and I answered that I drew no inference from it. (To COURT: My recollection was that I was asked about the condition of the reddish tint. I have a recollection of having answered a question about the left lung. I think that it was an answer to a question that had reference to the softness of the lung.) The lungs were congested. It was abnormally congested. The engorged condition of the lungs is abnormal. I would not say that in cases of asphyxia where the lung is engorged the right ventricle is not found full, and that if the right ventricle

20 of the heart was full the lungs must be anæmic. There was varying conditions where the lung and right ventricle must be full in cases of asphyxia. I agree with Taylor that if death has occurred slowly the lungs are found intensely engorged, and that if rapidly, the lungs may be quite anæmic. Their conditions vary. Taylor says that if death had occurred very rapidly the lungs may be quite anæmic, their conditions vary inversely with that of the right side of the heart, which in the first case must only be moderately distended but in the case of the latter to seem almost to the point of bursting. I would not subscribe to that. There are varying conditions, and I cannot entirely agree with it. Taylor is an authority. Immediately

30 after death one must do a post mortem to find the conditions. Rapid breathing must be respiratory. Where death occurs in the inspiratory breathing stage, the blood in the right side will be sucked up in the lung. I do not mean to say that Taylor is wrong. There are varying conditions. I cannot answer. (To COURT: In my evidence I have stated that the lungs were congested. I described the condition as it was. I did not say it was full of blood. I did not say so because it was a long time after and where formalin had been injected. What I saw I described. Reddish tint means congestion. I found it was engorged. I will not withdraw the word. I would certainly say that in this case I found congestion. I was told to

40 hold a post mortem. The matter was of considerable importance. I did not say it was congested. I said smothering which means obstruction to breathing by putting something against the face to prevent breathing, that is, the person died because of the deprivation of oxygen from the lungs by reason of the mouth and nose being closed and not by chloroform. I did not mention chloroform. My theory was that death was due to asphyxia. (To COURT: The signs pointed to smothering.) I could only say that the marks were consistent with chloroform. Because there are

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marks one has got to go by conjecture. (P.C. evidence, page 125, read.) In my opinion death was due to asphyxia pure and simple, caused by obstruction of breathing. The marks on the face suggest that something had been applied on the face to prevent breathing. That was my reason I do not think that death was due to chloroform. The circumstances suggested asphyxia. So far as the evidence I had I could only say so. Asphyxia brought on by impediment to respiration. (To COURT : There are other marks which count.) Smothering is not ordinarily attempted on feeble and children or on healthy persons unless they are defenceless. I do not say that congestion of the lungs is a necessary feature in a death by asphyxia, there are cases where congestion has not been found. I do not say that fullness can be caused by asphyxia. The four cavities of the heart may be found empty in smothering. There is no particular congestion of the blood in the lungs or heart if the death took place suddenly. In a case of suffocation it does not necessarily follow that in all cases you might find the four cavities empty. Although the right ventricle was full all medical men are warned not to draw any definite inference. Extravisation need not necessarily occur. It has been said by Taylor himself. It does not necessarily follow that if extravisation was absent no inference could be drawn that death was due to asphyxia. I do not say that if the lungs were full death must have been rapid. I do not agree that asphyxia sets in rapidly. Any physiologist will say that when the heart stops, respiration also stops. (To COURT : I have had no evidence of chloroform.) I have stated my reasons for saying that the cause of death was asphyxia. (To COURT : There were no signs of organic disease. Those are the reasons which made me say so.) Everything I have brought out in the report is important. I depend on that. I would say there was fullness of the heart. It is not the only ground. The distension of the right ventricle of the heart did not lead me to the inference that it was asphyxia. It was one of the most important points as I had no evidence of organic disease, the marked distension with clots in the heart suggested asphyxia. I may say it was not the sole ground. In my report I said it was the main ground for death by asphyxia. The post mortem report does not show it definitely, but I am now of opinion that it is so. It was one of the main reasons. I said there was no evidence of cardiac disease from the distension of the right side of the heart. This must be correct. This is one of the main reasons. I do not say it is the main reason. I have given my reasons in my evidence. Although I said so in the Police Court and at the inquest. I will not deny that. I have reasons. It looks like that. I have given my reasons in my evidence. When I wrote the post mortem report I mentioned as my reasons mucus in the trachea, congestion of the lungs, and fullness of the veins. The condition of the lungs is one of the symptoms suggesting asphyxia. I do not say that the condition of the lungs is enough, it has to be read with the others. I looked for signs of struggle put up by a person who is being suffocated. One looks for bruises, I would expect to find them on a person who was being suffocated as well as on the person who was suffocating. I also looked for marks of violence. There were no

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signs of bruises observed on this lady. All books say so without exception and I agree that it is a well-known fact that asphyxia results from the administration of chloroform. There is a difference of opinion whether the syncope or asphyxia occurs first as a result of the administration of chloroform. I have read Kushney for the purpose of the case. I have read certain portions dealing with death by chloroform. I have not read the whole book, I have glanced here and there. I have read the portion dealing with chloroform. I do not know that I agree with the main statements of fact. I have not studied it. (To COURT: I have glanced here and there after this case was started.) (Kushney read.) (To COURT: Nobody is infallible. I said so in the Police Court as well that the marks on the thigh were probably due to chloroform dripping. They were not like the marks on the arms. The outline of the marks on the face was fairly clear. Within that outline the degree to which the skin was affected varied. They were particularly dry and looked to me all alike. The area on the cheek was dehydrated, it was not different to the ears. I do not think the whole outline appeared to be alike. I have not differentiated, so I cannot say.

10 *Q.* Does your recollection help you to say whether the drip had a finger-like effect on the right side of the face was as dry looking as the top of the cheek?—*A.* They were.

20 *Q.* You said they were probably caused by chloroform flowing downwards from the face?—*A.* Yes. There were two on the right and two on the left.

*Q.* So far as you can recollect where the chloroform had dripped so as to burn the face did it differ from the place where the pressure was brought on the face?—*A.* Yes.

*Q.* It is not possible to say whether any pressure was necessary at all?—*A.* I would state that some pressure had been used. I found projections which showed a burnt area similar to the rest of the face.

30 *Q.* Then it follows that where the finger marks were, there was no pressure?—*A.* These areas were depressed below the general surface, that includes all the areas I have marked out on the picture.

40 *Q.* If these finger marks as you said presented the same appearance as the rest of the burns on the face does it not follow that pressure or no pressure her skin was so sensitive that the mere flow of chloroform on the skin was enough to cause the burn?—*A.* I cannot say that on account of these depressions some pressure had been used. My opinion is that pressure had been used. (To COURT: I cannot say that they are caused by a drip from a fluid, that the lady's skin was sensitive to chloroform.) I found the marks were depressed below the chin. It had the same appearance as the rest of the face. Pressure or no pressure I cannot say that the skin was so sensitive that the flow of chloroform was sufficient to cause burns. I am not frightened. I can say that some pressure had been used. The marks that I have described were below the general surface of the skin. Pressure was used.

*Q.* If there was depression where the finger like projection occurred as a result of chloroform dripping when there was pressure, does it not

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account for the depression?—*A.* I do not know. I cannot say that pressure had not been applied.

*Q.* If the chloroform flowed beyond the part of the handkerchief that was being held there could have been no pressure where the chloroform flowed?—*A.* That is so.

*Q.* And those parts showed a depression?—*A.* Yes.

*Q.* So that pressure or absence of pressure does not have any bearing on the burns on the face?—*A.* Yes.

*Q.* In fact you found the leathery portion of the arms also depressed.  
—*A.* Yes.

*Q.* Nobody suggested that this was due to chloroform?—*A.* Yes.

*Q.* Can you give any reason why pressure was applied.—*A.* I cannot.

*Q.* I put it to you beyond the little triangular mark there was no other mark on the tip of the nose.—*A.* No. I found no burn on the side of the nose. I found a linear burn on the upper right eye. The pad extended up to the eye. I cannot say whether pressure was applied on the nose. That can be the case if there was no chloroform on the nose. It would suggest that whoever was trying to chloroform himself or somebody else had not a supply of chloroform or it was inadequate. I would expect the middle of the handkerchief to be saturated. In fact the drips suggest that the handkerchief was saturated to a point that it could not contain any more chloroform. The drips suggest that the handkerchief was saturated with chloroform. So that if it was saturated one would expect to find marks on the nose. Around the mouth chin and lower lips there was no blister or burn. There was no trace of burns on the lips. In giving evidence yesterday I stated that I have seen leathery marks in the case of bodies where there is violence used. In cases of motor accident I have found leathery marks where some pressure had been made before death: there were no external injuries. I have seen about 2 or 3 cases. I have no recollection at all. I have found these marks after death, about 24 hours after death in small patches without external signs of bruises. I did not note the fact in the post mortem report. (To COURT: I have to look it up; if there is anything I will bring it later.) I made no mention of it in the post mortem report, I thought it was due to pressure. In the thigh there was just a little pressure not in the other cases. I did not find extravasation of blood. This takes place on the lower parts of the body. I find the skin was peeling off. That is a post mortem change. I had not noticed these marks in cases other than motor accidents. If there is sufficient pressure to rupture the blood vessels you would find extravasation of blood. I would not call it a contusion. I did not notice any rupture. The marks were not due to a rupture of blood vessels on the surface of the skin. (To COURT: There is a third variety not due to post mortem change without bruises. I cannot find it in Taylor. Hypostasis occurs in dependent parts. I do not know whether it occurs in other parts. I put it in a third class because they were not in a dependent part. I agree with Moody. If the body had been lying on the face it would be on this part before the blood coagulated.

Adjourned for lunch.

DR. T. S. NAIR—continued.

RE-EXAMINED: I was questioned about contusions and bruises in cross-examination. They are synonymous terms. Every text book deals with contused parts (bruises) showing it is the same. Bruise is a layman's word. Waddell, Sidney Smith and Modie speak of contusions or bruises. There is no difference between a contusion and a bruise. Epidermis is the outer skin. There are no blood cells in the epidermis.

Q. If there was any injury to the epidermis alone there will not be extravasation of blood?—A. I should think you can have an injury to  
10 the epidermis without extravasation of blood.

Q. Are the injuries on the arms of the same character throughout or is there any difference in appearance?—A. Practically all are the same. I have the external examination report and the diagram. I have described them as dark reddish brown leathery areas. (Witness is asked to look at the diagram.) On the left upper limb there were reddish brown leathery areas. On the right arm it was leathery, but not reddish brown. Above that I have described as very leathery, and the portions over that as slightly leathery. The leathery appearance itself is of varying degrees. The colour too is slightly different. On the left arm, the first part near the  
20 wrist is an area leathery to feel but not reddish brown in colour. Wrist was reddish brown and leathery. The diagram is not made by me. From my own recollection I can say that they were not consistent throughout—they were in varying degrees.

Q. You were referred to Taylor about the appearance of asphyxia—page 608, Vol. 1. In giving the external and internal appearances it starts by saying "Post mortem appearances of asphyxia thus experimentally produced in animals are very striking provided the examination be held at once, but with each hour's delay they became less and less marked?—  
A. They are.

Q. These signs are those found in case of experiments on animals but  
30 not on post mortem on human beings?—A. Yes.

Q. At page 609 Taylor warns in drawing conclusions regarding deaths due to asphyxia. In coming to the conclusion whether this was asphyxia or not did you take into consideration this warning by Taylor?—A. Yes. After taking into consideration that warning I concluded that it is asphyxia. If I have stated in the Police Court (P.125 of record) that there was congestion of the lungs, larynx and trachea that is correct. The pink colouration of the cut sections of the lungs were in my opinion due to congestion.

Q. The fact that chloroform may have been used in the handkerchief  
40 is not inconsistent with the appearances of asphyxia which you noticed?  
—A. Yes. The heart does not draw blood by suction. The actual filling of the heart is by systole. By that it sets the blood out of the aorta and pulmonary artery. The muscle contracts and sends the blood out; at the end of the systole the muscle relaxes.

Q. If you open a vein out and blood flows out, can it result in the relaxed heart not being full?—A. No.

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*Q.* In a case of severe hæmorrhage outside will you find the heart full ?  
—*A.* Then the heart would not have so much blood and it may be relaxed.

*Q.* If there is severe hæmorrhage and the man dies of heart failure in diastole, will the heart contain any quantity of blood ?—*A.* I do not think so. Still the heart will be relaxed. A relaxed heart and an engorged heart are different things. The warning given by Taylor refers to a relaxed heart, not to the condition of the heart that I observed. What I observed was not a relaxed heart but a distended heart. Distended means full with blood. When the heart is relaxed there may not be any blood at all. I based my opinion that it was full of blood and muscle not relaxed. The 10 distension was the maximum distension of the heart.

*Q.* You referred to the appearance of marks and projections and told my learned friend that they may have been caused by dribbling. Could you say definitely that it was dribbling of chloroform ?—*A.* I cannot say. It may be caused by other ways. The fingers themselves pressed may have caused them. I would not definitely say that it is by dribbling of chloroform.

*Q.* Would you say that these projections like marks on the left side are signs of dribbling ?—*A.* I would not say definitely but look like dribbling. In the Police Court I said that they were finger-like processes which looked 20 as if some fluid had dribbled down. I did not say in the Police Court at any time that they were actually caused by dribbling. On the right side there are 2 definite projections like marks.

(Witness is asked to look at Dr. Paul's diagram.) How far do the burns below the lip extend ?—*A.* Just touching the lower lip—up to the mark of the lower lip. The lower lip itself was dark coloured. (Witness shows the exact appearance of the lower lip in a diagram made in his notebook made at the spot.) Because the lower lip itself was dark in colour I marked it black in my notebook. There were no burns on the lower lip itself. There were no marks on the upper lip. The lower lip was dark in colour, 30 but the upper lip was not. There was a difference in colour between the lower and upper lip.

(This Witness was recalled, see No. 70, page 310.)

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**Evidence of Dr. Milroy Paul.**

**DR. MILROY PAUL—sworn.**

**EXAMINED :** I am a son of Dr. S. C. Paul who has given evidence earlier. I am a Master of Surgery of London, F.R.C.S. (England) M.R.C.P. (London) M.B. (London). I am now employed under Government as Senior Clinical Tutor, General Hospital. I was appointed to that post in 40

1931. Before that I was surgeon at the Jaffna Hospital. Before that I was surgical Registrar of the General Hospital from end of 1927 to 1930. (To COURT: I am 34 years old. I have conducted post mortem examinations. When I was Surgical Registrar it was part of my duty to attend to every surgical post mortem. For a month I used to get about 6 or 7 such cases. It varies. As surgeon in Jaffna I always made it a point to attend post mortems in cases under my charge. I have experience of post mortems. I was acting Professor of Anatomy at the Medical College for one term. I remember the post mortem on Mrs. Seneviratne. (To COURT: I have given  
 10 expert evidence in the Valli murder case.) Whenever I appear in a case it is generally as an expert because when a surgeon is called in to a case his position is that of an expert. In Jaffna in every case of any complexity coming to the Supreme Court I have given evidence. Besides the Vallai murder case I have given evidence in court. I was asked by my father to embalm Mrs. Seneviratne's body and I did so on the 15th October last. I went there at 5/30 p.m. to embalm it. Then I noticed reddish brown marks depressed below the surface on the tip of the nose, on the cheeks, and on the chin—a continuous mark surrounding the cheeks and chin. At that time I could not correct the marks on the eyes, but I verified that at the post  
 20 mortem and there were marks on the eyelid also. I also saw a mark on the thigh. At that time I was unable to recollect which thigh it was and at the post mortem there was a corresponding mark on the left thigh. I made a sketch of these marks from memory before the exhumation. I produce it marked P.5. It was made in court. The one on the thigh is also shown there. I gave evidence before and after the exhumation. Before the exhumation my opinion was that death was due to chloroform. (To COURT: I did not examine the marks on the face. I had no idea that there were marks on the face before I went there, nor did I know the cause of death. I merely went there to embalm the body and my impression at the time was that it was  
 30 a caustic poison which had been taken and which had burnt the face. Then I did the embalming. I made no careful examination of the marks to see whether they were burns. Yet I thought they were due to caustic poisoning. I thought it was a case of suicide.) I had to open the femoral arteries to inject the formalin. I engaged 20% of formalin in six barrels each barrel containing 16 ounces, coloured with cosine. On cutting down to expose the femoral artery there was profuse hæmorrhage which gave me considerable trouble in exposing the femoral artery. The blood was fluid and dark in colour. I knew the time of death roughly. At the time it did not strike me that it was a peculiarity that the blood should be fluid. Embalming generally  
 40 takes an hour, but this took me about 1½ hours. That was partly due to the copious flow of blood and to the fact we were working on a very low couch and the difficulty in getting utensils in a private house. (To COURT: During the time you were there was there any talk in the house of chloroform? A. I spoke to no-one in the house on the subject.) After I went home my father and I were resting in the verandah and I mentioned the marks to him. I said I thought it was a case of corrosive poisoning. He said it could not be corrosive poisoning because the lips were not burnt. At that time

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I knew that he had examined the lips, but he did not mention the time he examined them, I said that if it was not corrosive poisoning, chloroform was the most likely thing that caused those burns. That was my opinion then and even still. (To COURT: I did not go and examine the burns again. I said chloroform because the burns were surrounding the orifice of the nose and mouth and there is no point in placing something round the orifice of the nose and mouth. This is not taken internally if it was not in the nature of an anaesthetic.)

Q. Did you consider the appearance of the marks themselves the con-  
junction of the marks? A. There were two processes on the right cheek 10  
like the shape of a drip which were quite visible to me because there was an  
electric bulb which was used to assist me to see the body and I saw these  
marks as the bulb was quite close to the face. Although I made no special  
examination of the marks these two processes were quite clear. I made sketch  
at the exhumation. (Witness shows those marks on the diagram.) You  
find a line-like thing and circular patch and the 2nd one is more or less an  
elongated process like the tip of a finger. I now know that on the left side  
there were 2 small projections. I cannot recollect having noticed them at  
that time. When I told my father that the marks were due to chloroform 20  
he said it was not chloroform, but that he was told that brandy and hot  
water bottles had been applied to the face and marks were due to that.  
I noticed the marks at that time as depressed marks. Personally I could  
not think of anything else except chloroform which caused these marks.  
(To COURT: I know nothing of the death certificate given by my father.  
I did not discuss with my father at all. I was not aware of what had  
happened. My opinion at that stage was on those marks and on the fact  
that the lady had died suddenly.) I was present at the post mortem ex-  
amination and I have gone through the post mortem report. The external  
appearances of the body are described there. I have gone through the external 30  
inspection. I agree with the description given there of the external appear-  
ances. I have read through the various particulars and I agree with the  
description given there. I was present right through the post mortem. We  
were there for several hours. I agree with the post mortem report re the  
condition of blood vessels—namely, that the veins contained clots and then  
the veins of the neck were particularly found distended. I have a faint  
recollection of the trachia. It contained lumps of coagulated mucus. That  
was definitely in excess of the normal quantity I would expect. On that  
point I wished to satisfy myself that a body which had been given a formalin  
injection would not as a result of the injection have an excess of mucus, and 40  
I made a special examination of all the bodies for 2 terms in the anatomy  
section, and in not a single body was that quantity of mucus found. I  
noticed the condition of the deceased's heart. The right side of heart was  
markedly distended.

Q. In the post mortem report it is said that the right ventricle con-  
tained blood clots—distended to its maximum?—A. That is a correct  
description.

Q. Report says:—

Pulmonary artery—no blood clots.  
 Right ventricle—greatly distended to its maximum  
 Left ventricle contained very little clots  
 Muscular showed no evidence of disease  
 Aorta contained clots.

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A. I saw the other vital organs of the body. There was no trace of organic disease which would account for a sudden death. I am aware that she was slightly diabetic.

10 Q. Do the post mortem signs definitely exclude diabetic coma? A. Not the post mortem signs. Death from diabetic coma may occur without leaving any obvious signs in the post mortem, but there are factors which will enable us to arrive at a conclusion. I would exclude diabetic coma in this case. A person in diabetic coma would be unconscious for some time—generally for several hours. A person in diabetic coma could not make a loud sound just before death. She would be altogether unconscious. If she had died of diabetic coma she would not be found in the cross-bed position. That shows she rose from her bed and fell.

20 Q. Or she may have fallen as she sat there?—A. An unconscious patient would not sit. The examination of the urine showed sugar but not acetile and in a diabetic case you will find diabetic acid and acytone. Dr. Karunaratne reports the pancreas to be normal. In diabetic coma there would be no change. If there was any severe diabetic I would expect the pancreas to be affected. A person can die of diabetic coma without the pancreas showing signs of disease. Diabetic coma may leave no post mortem signs, but if it does leave it will be congestion of the brain. Congestion of the brain could not possibly have been seen even if it was present because the injection would have washed it off. There were no signs of any organic disease which would account for a sudden death. Therefore I would exclude  
 30 diabetic coma. Aspirin is acytile salicylic acid. It is a common drug taken frequently for headache and things like that. If it is taken in a small dose it relieves headaches, it is not so effective for pain as morphia, but it reduces pain and tends to sleep.

Q. How does it effect on the human system?—A. That has not been fully worked out.

Q. To be tocsic poisoning would you expect a very large dose of aspirin to be taken apart from the case of idiosyncrasy?—A. In a normal case you have to take a large dose. One can refer to some of the fatal cases. There was one case where 200 grains had been taken and the same book refers to a  
 40 fatal case of 40 grains. I am speaking from memory and I would like to verify it. Webster refers to a case of 185 to 200 grains of acytile acid and 83 to 100 grains of salycilic acid are tocsic cases. In a tocsic dose the patient has severe hæmorrhages from the nose, intestines, mouth and the patient becomes delirious and finally unconscious. I am not sure whether he will vomit. Intestines will show signs of severe hæmorrhage and ulceration. Idema of the face is a very rare sign which has been noted on a few occasions

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only. That is a case of idiosyncrasy. In a toxic dose there would be signs of aspirin in the tests—here there were no signs. There was no hæmorrhage on the nose and mouth. After a formalin injection slight hæmorrhage might be washed away. Before the patient dies there would be a noticeable quantity of blood if that happened.

Q. Urine will show signs of aspirin?—A. The test for taking aspirin in the urine is delicate. Even if one or two tablets are taken you can detect the presence quite easily. If there was no trace of aspirin in the deceased's urine, it is clear that no aspirin has been taken in this case. I would definitely exclude death by aspirin because the test is so delicate. In the urine stomach and intestines there was no salicylic acid. If that acid had not been absorbed from the stomach it would be dead, but if it was absorbed it must be detected in the urine. The stomach was also examined by the Analyst. I am aware that he examined the whole of the stomach. If a test is made 30 minutes after the aspirin had been taken you would find traces of it in the urine. If you take a tablet of aspirin it begins to excrete in 30 minutes. If a longer period than 30 minutes had elapsed after taking the aspirin you ought to find traces of that in the urine. To my own personal knowledge aspirin will be found in the urine in 7 hours, but books give a longer period. I would agree with Clarke that 50% is eliminated within 24 hours. That is sodium salicylic. It is a closely allied body to aspirin. Action of aspirin and sodium salicylic are very similar in the body. Aspirin contains sodium salicylic. Aspirin is acetylsalicylic. (Deputy Solicitor General cites "Materia Medica" by Hale White, (11th Edition 1927) page 198:—"Acetylsalicylic or aspirin acts in the body as salicylic acid into which it is slowly decomposed in the intestines.") That is so. It would take at least 2 days before aspirin is totally eliminated from the body. (TO COURT: If an overdose of aspirin causes death will it stop the heart?—A. It is considered to be a cardiac depression. Supposing an overdose of aspirin causes death it acts partly on the nervous system, makes the person delirious and keeps him in a state of coma, and then stops the heart. It is an action on several vital organs of the body.

Q. How long would an overdose of aspirin take to kill?—A. In one case it took 24 hours. It cannot kill within half an hour. It would be unlikely.

Q. From 3 a.m. to 6.30 a.m. could it kill that person?—A. In most of the fatal cases it is a much longer period but I do not like to give an opinion on that. It would lead to coma before it leads to death. (D.S.G. cites Lyon's Medical Jurisprudence by Waddell—p. 676—"It acts as an irritant and cerebral poison . . . converted into salicylic acid in the small intestines.") This is the case I was referring to. If it is a cerebral poisoning then the terminal stage of poisoning will be coma.

Q. You cannot have a death by aspirin poisoning without coma?—A. One cannot say as there are so few cases. In recorded cases coma has set in. If coma set in, this lady could not have cried out or made a loud groan just before death. (D.S.G. reads a passage from "Pharmacology," by Clarke, "Dangerous toxic symptoms which are very rare are unconsciousness. Salicylic is supposed to have a dangerous depressing action upon the

heart, but there is no evidence that the drug has a direct action on the heart.") There are cases of idiosyncrasy in aspirin. By that you mean that a person gets affected by a small dose.

Q. What are the signs of such idiosyncrasy?—A. These cases are few and when you get them you get . . . rash—a swelling of the tissues under the skin all over the body. They are commonly called wheels.

Q. If a person is subject to idiosyncrasy every time he takes this drug he will get the same signs?—A. I would not expect such a man to take aspirin.

10 Q. A man subject to getting a rash when he takes pineapple will get it every time he takes it?—A. I cannot say that.

Q. Where by a mistake a doctor has prescribed aspirin to a person subject to idiosyncrasy same symptoms have recurred?—A. That is so.

(TO COURT: You know the urine you have analysed and no trace of salycilic acid was found days afterwards. Is that a conclusive test in your opinion in the circumstances of this case?—A. In answering that question you must take these facts—this urine was perfectly sweet at the time it was taken from the body. I mean it was not putrified. It was fresh urine—no smell whatever. I was there. Further, the delicate acid re-  
20 action of urine has been unchanged. If you allow urine to stand in a glass the re-action becomes alkaline, but here it has been preserved unchanged. That was the Analyst's report. Further, the delicate sugar which is a compound easily broken up on standing was preserved unchanged; therefore salycilic acid, a compound which is less liable to be broken up, if it was present, should have been easily detected. Formalin does not affect it because we have actually tested. Glucose does not affect the test.

Q. Supposing this lady had evacuated all the salycilic acid the whole night?—A. She could not have done that because the time was too short. This death could not be attributed in any way to aspirin. I have seen the  
30 body subsequently and also seen the marks. I am definitely of opinion that the marks were due to chloroform. (TO COURT: I examined these marks. They looked like burns. All over the face, in the areas shown in the diagram. They were burns of the second degree at least, but without a microscopic examination it is not possible to say. (Shown p. 43—Pathologist's report.) That shows a burn of the 3rd degree. The 1st degree is redness; 2nd degree is a blister in the skin; 3rd degree is a burn right through to the dermis or the deeper layer of the skin. The Pathologist's report shows that the epidermis and superficial dermis of the layer are destroyed. The burn had gone up to the last layer. There is a superficial layer called the epi-  
40 dermis and a deeper layer called the dermis, and this burn had extended to the deeper layer, and if it goes to the deeper layer it is a burn of the 3rd degree.) The drip-like character of the edges of these burns suggest a liquid.

Q. It is a corrosive substance or irritant poison?—A. I would make no distinction between that.

Q. In this case because there were no signs of corrosion inside the mouth would you make any conclusion?—A. One can definitely exclude

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corrosive poisoning because there were no burns on the mouth, throat, lips, gullet, and therefore corrosive poison could not have passed the lips of that person. It is difficult to conceive of the idea of applying corrosive to a face. A volatile substance like chloroform could cause these marks. To the naked eye the burns were all of the same type—reddish brown marks. I would not take the Pathologist's report and say that all the burns were of the 3rd degree, but I would say 2nd or 3rd degree.

Q. Taking into consideration the distension of the right heart, mucus in the trachia, veins of the neck being engorged, blood vessels being full and lung being congested to a certain extent, what would you think this death was due to?—A. These internal signs you have mentioned are signs of asphyxia. In a case of undoubted asphyxia you may have no external and internal signs, but on the other hand you may have very external and internal signs mentioned in text books. In cases of asphyxia if you have some of the signs of asphyxia one would be justified in assuming that asphyxia was the probable element, but the absence of all the signs does not mean that this is not a case of asphyxia. Therefore I would say that this death was asphyxial in its nature. External signs of asphyxia are lividity, protrusion of tongue at times, congestion of conjunctive. Those signs were absent. There again it depends on the times of the examination. With every hour the lividity will get less and less. If you see the patient immediately after death the lividity will be obvious. I saw the body about 11½ hours after. That is a long time. Lividity was not present when I went and saw the body. Chloroform brings about death in various ways—by respiratory failure or by circulatory failure or by the combination of both. It might be brought about by inhibition of the heart, by the vagal centre or the action on the respiratory centre itself. In this case my opinion is that death was due to chloroform. My reason is mainly the marks on the face. Chloroform was not detected on analysis of the body, but in most of the recorded cases of homicide, chloroform has not been detected. The one case in which special mention is made of chloroform is the case quoted in the text book. In that case chloroform was detected. In all the other cases, as far as I am aware, no mention is made; in cases of undoubted chloroform, chloroform may not be detected. That is inhalation. The fact that no chloroform was detected is no argument that it was not chloroform. Had it been present it would have been more undoubted proof it was. If chloroform was present it would have been present as chloroform, not vapour; but combined with the tissues of the body quite capable of separating out, but that was not found in this case. That is no reason to suppose it was not a case of chloroform. In cases where chloroform was undoubtedly the cause of death, chloroform was not found. (D.S.G. cites Taylor, Vol. 2, 1928 Edn.—p. 611—“Chloroform, if not eliminated or lost by its volatility, may have been converted in the blood into formic acid, and thus removed from the ordinary processes of chemistry.”) Even he agrees with me that it is difficult to detect.

Q. Could you tell us from all the symptoms in this case whether the chloroform brought about death by asphyxia or failure of heart or

combination of both?—A. One can say in this case this thing with certainty—that this is not a death by syncope pure and simple. Death by syncope is death from failure of heart and one passes from life to death in a flash and you could not get the symptoms that were observed here. Coagulated mucus, dark fluid blood, heart filled to its maximum on the right side, congestion of lungs—all these are processes which take time and would be inconsistent with diagnosis of syncope where death occurs in a flash. A patient who is asphyxiated may die at any time. If you like to call it syncope nobody can quarrel or you can call it asphyxia. It is possible that both occurred at the same time. I carried out some tests myself for urine. One experiment was to give a patient 10 grains of aspirin at 10 p.m. and 10 grains at 4 in the morning and the urine was collected at 6 a.m. In the morning the patient was asked to pass urine into a glass. That urine was divided into three parts. To one part no preservative was added. The urine was merely allowed to remain as it was for three weeks and despite that fact it gave a test for salicylic acid. To the second part formalin was added to see if formalin would modify the test. At the end of three weeks the test was again positive. To the third part we added sugar and formalin to try and reproduce the condition of the patient's urine. There again salicylic acid was found at the end of three weeks. (To COURT: This was the first evacuation in the morning. Supposing it was the second or the third?—A. I do not think it will make any difference in the test. The purpose of this test was to show whether the test for aspirin is affected by keeping the urine under those conditions. The authorities show that all the aspirin cannot be evacuated in 24 hours.) The urine in the bladder was unchanged because there was no smell—because the acid re-action was still present. If you keep urine without any preservative for a few hours it becomes alkaline. That is a sign of putrefaction. Here it was acid and that shows that it was preserved without any putrefaction. I was present at all those tests. I took specimens of my experiments to the Analyst. The experiment on the aspirin is mine. I examined 3 different patients on the lines I have already gone into. I gave them 10 grains of aspirin, asked them to empty the bladder completely after 7 hours and collected the urine at the end of 10 hours. The bladder was completely emptied after the end of 7 hours. After 10 hours it was again collected, and this was urine between 7 and 10 hours. In every specimen the test was obvious. I myself did it and I took 2 specimens to the Analyst and he examined them in my presence and it gave a re-action for salicylic acid. At the post mortem I made a sketch of the mark on the left thigh of deceased. That correctly represents the position at the post mortem. The mark was a little oval mark. The rectangle represents an area which was leathery to feel as if you let in a piece of leather into the skin. The oval represents nothing but a line inside it. It was a brown line—quite distinct, but no difference in feel. There were 2 marks on the thigh, I saw them myself. They were vertical lines one below the other, not diagonal. There was a same kind of mark on the outer side of the thigh. I made a sketch of the same thing from memory before I saw the body at the post

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mortem. It was on the front of the right thigh towards the inner side. The sharp point was up. It was vertical. The 3 projections at the bottom were a little extension of the leathery mark beyond the rectangle. The sketch I made from memory is not quite the same as the one I made at the post mortem. What I remember from memory was that it was definitely a blister. There was no blister on the other marks, but this is a blister. I do not actually rely on the sketch P.5 for the actual position because I did not know which thigh and I was not making a special observation then. I touched the blister and it appeared to be full of fluid. I cannot be positive but I expect it was full of fluid. The two marks on the inner side of the thigh and the mark on the outer side of the thigh were similar in character. All three marks on the left thigh were of the same character. 10

Q. In your opinion how do you think these marks were caused?—A. I will have to explain how leathery marks are produced. They are produced after death if the outer layer of the skin is rubbed off. If you rub off the outer layer, whether before or after death, when the patient dies that area dries and becomes leathery, so that if for any reason the outer layer was rubbed off that became leathery after death. You may rub off the outer layer before death, but the production of the leathery mark is after death. You could produce leathery marks on a dead body. The rubbing could have taken place before or after death. After death it is within the limits of the body being decomposed, normally in the tropics it would be 19 hours. The cause of the leathery marks may have been before or after death, but the production is several hours after death. It takes a long time to dry up. A blister produced during life contains liquid which is rich in albumen. A blister caused shortly after death—within a short time of death—may contain liquid which contains very little albumen. Not having done the test I am not in a position to say. The blister may have been caused in one of two ways. 20

Q. Supposing a drop of chloroform had dropped on the bare skin of the thigh?—A. That is a point which I am not fully aware of because I have not made any actual tests for burns, but subsequent to that I have made several tests. If you pour chloroform on the bare skin in normal cases no burn results. If you take a thin piece of cloth—a handkerchief—and soak it with chloroform and rest it on the skin as long as you like, the chloroform evaporates so quickly that no burn results. If you take a pad and press it hard some will run down and will cause a burn. It is very difficult to explain how that is caused. I have read of an actual case. It is very difficult to explain in the light of what we find when we try to reproduce it. If you take a handkerchief and soak it with chloroform and press it on the skin, within a few seconds you will get a severe pain. If you allow the handkerchief to be there in spite of the pain and remove it soon a little redness will develop and after some time whiteness, and after some time it will become a brown mark. If you keep it long enough it will cause a blister. If you keep it long enough it might burn right through and cause a wound. With regard to this question whether a drop of chloroform dropping on a nightdress and that wet nightdress resting on the 40

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thigh would cause a blister, in view of the handkerchief experiment one would say No, but in view of the case where chloroform trickled, if this lady was specially susceptible, I would say Yes. That is one possibility. The other possibility is that it was produced by a hot water bottle applied—so hot that it blistered the skin although the patient was dead. It is very difficult to produce blisters. You must have the bottle very hot. A blister could be caused even on a dead body. It might be a blister in which there is not very much albumen. On the outer side of the thigh there was a long thin mark—that might have been caused by another hot water bottle.

- 10 Supposing you place hot water bottle on a dead body, it might produce a blister; on the other hand, the bottle might destroy the outer layer of the skin and after several hours produce a leathery mark. One of the two things may occur. (At the request of His Lordship the witness goes quite close to the Jury and pours some chloroform on a handkerchief and presses it on the bare skin of his arm. After a few seconds he says it begins to pain; then he says it is really unpleasant as it is hurting him very considerably. He says that anybody trying it will have no doubt. Then he takes off the handkerchief.) In my experiments I have applied the chloroform for 3 minutes. The patients were under anæsthetic and there was no question
- 20 of pain. (Witness says that the handkerchief which he used now on his hand is still wet.) It takes 10 to 15 minutes to evaporate. There were extensive marks on the arms. On the left hand the marks were on the front of the elbow and back of the forearm. These marks were uniformly leathery. The whole mark was leathery, but different in colour. On the right arm the marks started from the front of the inner side and on front of elbow and front of forearm same uniform leathery appearance. The area on the front of the elbow (at the bend of the elbow) was very leathery and the front of the forearm slightly leathery. It is possible to get a leathery mark if the epidermis had been injured somewhere without the dermis being damaged or without a bruise. The only evidence we have is that of
- 30 Dr. Karunaratne who found in one section several living cells outside the blood vessels; these living cells do not go outside the blood vessels unless there is inflammation of skin. The skin cannot inflame after death, except in a very short period after death where tissues are alive. All tissues do not die at the same time. Therefore my opinion is that only so far as the special section which Dr. Karunaratne examined is concerned, in that area the epidermis was rubbed off either before death or short time after death. From the description of Dr. Karunaratne in P.43 regarding the marks on the right arm, that would be the upper part of the right arm. That may
- 40 have been caused just after death.

Q. What inference will you draw from the fact that the colgent fibres of the left forearm were closely set?—A. I will not draw any inference from that. It may be that after death the cells got decomposed. I cannot say whether it was due to squeezing of the arm. Those injuries might have been caused after death. I have no reason to think that they were caused before death except when you analyse what would have caused you may not ask for what purpose the epidermis was rubbed over such a

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long area. A large number of bodies do not show this change. This is the most unusual change. One has to go into possibilities. One possibility is the hot water bottles, but then, would they have covered such a wide area. The other possibility is lifting into the coffin, but you would not lift the body by the front of the arms, but from behind. The skin disease known as Tinianigrams is a fungus growing on the skin. I would not expect that to cause leathery marks.

Q. When you inject formalin into the body would that enter the bladder?—A. When you inject formalin you do not get liquid into the cavities of the body. The stomach or intestines did not contain liquid and there is no reason to suppose that the bladder will behave differently. There was no actual leakage of formalin into the tissues.

CROSS-EXAMINED: My arm does not show a white mark as yet. This is the early stage of irritation; just a fluid under the skin. I would not expect this mark to turn white at any time. Whiteness is not due to any greasiness of the skin. The reason why the mark did not become white on my hand is because it was not applied long enough. The finger like marks on the face were produced by the dripping of chloroform.

Q. That is to say, chloroform getting outside the area covered by the handkerchief saturated with chloroform?—A. Not necessarily outside the area, but lying as a free drop. You might have a saturated handkerchief and you might have areas not under your hand under which a drop lies. It does not necessarily mean freely exposed to the air, but outside the area covered by the hand. The marks were clearly defined. The marks on the face appear to be same as elsewhere. I may have stated to the Coroner that the burns on the face were of a primary degree, that the skin was intact, and that there was a depression below the surface—continuous. A burn of a primary degree is a burn of the 1st degree. I gave evidence twice, before and after the exhumation. Before I saw the body at the post mortem I was of opinion that it was a burn of the first degree. The skin appeared to be intact. I saw this under the glare of a very bright bulb which was specially brought and fitted on to a cane to examine the body. The mark on the inside of the thigh presented the same drip appearance. Marks on the face had the same drip appearance. After the post mortem when I gave evidence I was still of the opinion that they were drips.

Q. You said this in the Police Court—"There were two finger like marks on the side of the face—those drip marks were produced while patient was lying on her back."?—A. Yes.

Q. You added "This subject I think was unduly susceptible to chloroform."?—A. Yes.

Q. That is proved by the fact that where there was no pressure there were burns?—A. Yes. I am aware that hot water bottles were applied to the face and also some brandy. I am aware that some lady who came there tried to wash off those marks.

Q. All that can have the effect of damaging the epidermis and dermis, in addition to the damage already caused by chloroform?—A. It could

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not have been. It requires too long a period to get the leathery marks. These marks were seen much earlier. You require several hours to produce leathery marks—drying is a slow process. It would damage the skin further. That might account for the partial damage to the dermis. I have not seen the condition of arms such as this in any case I have had before. I have not seen marks in any case before as extensive as I found on this lady. So far as the Pathologist's report goes the only area where the epidermis might be said to have been damaged whilst the tissues were alive was the inside of the right upper arm, and the left arm showed no such signs and it may not. Even on the inside of the right arm, according to the Pathologist, it might have taken place at any time within 4 hours after death. I would not expect injury to the skin on the front of the arm in shifting about the body. If you were lifting a body you would hardly lift it from the front or the arms. Then the arm would come up. If you hold the arms from inside the arm the pressure would be on the inside. I am not aware that the arms were moved up and down for respiration. For artificial respiration I would expect the arms to be held inside.

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Q. The extensive nature of the damage is accounted for partially at any rate by employment of artificial respiration?—A. That might have been. There was an exudate issuing from the elbows. The shroud was in close contact with the skin and the 2 sides of the coffin showed exudate on the sides as well. The corpse was a close fit where the arms and chest were concerned. That contact might account for that exudate. It may have been a post mortem damage—probably it may be a post mortem damage. I cannot say whether I could go so far as to say “Probably caused post mortem.” The fact that Dr. Karunaratne did not find any damage does not mean that there was no damage. The actual microscopic examination did not disclose any damage. Where damage has been done you might not get cells migrating out. These cells may or may not migrate out. I cannot be certain on this particular point. The damage to the left arm may have been post mortem. I cannot agree with Dr. Karunaratne in everything. He is a Pathologist. The mark on the thigh may have been caused by a drop of chloroform falling on the night dress—particularly the shape indicates chloroform dropping. I saw definite blister. (TO COURT: A blister may be formed within a few minutes—perhaps 2 or 3 minutes—not in anything shorter than that unless it was a very intense irritant. It depends on the time it acts and the intensity of the stimulus.

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Q. You said this at the inquest—“The mark on the thigh had a blister—indicates ante mortem.”?—A. If I made that remark it has to be qualified. One cannot make so dogmatic a statement. The subsequent sentence shows clearly that I considered the possibility whether it was caused after death by a hot water bottle. A hot water bottle may have caused it.

Q. People came there and found what they thought she was in a faint and applied hot water bottles. We do not know whether she was dead or not?—A. As a medical man my opinion is she was dead. That sentence represents my opinion at the time.

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*Q.* You said in the Police Court—"The mark on the thigh was a raised blister—a burn mark due to chloroform dropping or application of hot water bottles."—*A.* Yes, it was a raised blister. It might have been due to chloroform dropping or application of hot water bottles—one or the other. Even to-day I am not in a position to differentiate whether it was ante or post mortem. My opinion still is that the hot water bottles were applied after death. The marks on the arms were depressed. I do not think there was very much difference between the face and arms so far as the depressions were concerned. Injury on the thigh was straight down—not somewhat diagonal. I am quite certain. When I see a body I try to reproduce as accurately as I can. I am not an artist. I could draw a diagram accurately. P.5 is definitely diagonal regarding that mark. Diagram P.42 which I made looking at the body shows the mark vertical. The lower mark is near the inside of the leg and if you take a line down the middle of the leg even the upper one is slightly diagonal by about a degree. I would not quarrel if you say "by 5°." I found the marks one below the other. At the time I injected the formalin I did not notice the 2nd mark. I had to separate the legs to give the injection. I had to separate the legs in order to get the leg in position. I have a faint recollection that this particular mark was wiped over the cotton wool soaked in something. 10

*Q.* Result was to produce a reddish tinge on it?—*A.* It may have made the mark more obvious. I cannot recollect that that area became more distinct.

*Q.* At the post mortem the area on the inside of the thigh was not so leathery as the outside of the thigh?—*A.* I cannot remember. That night I had a discussion with my father. He thought the marks were due to hot water bottles and I thought they were due to chloroform and as there was nothing further to go upon we left it there. Before the exhumation, at the inquest I said "If you roll hot water bottles round the face such burns could be caused but very improbable." The area round the mouth was quite clear. At one spot near the lower lip the burn mark came near the edge of the lower lip, but the rest of it was clear—so were the nostrils—because chloroform does not burn readily. Every point that is touched by chloroform will not be burnt. In some cases it requires pressure and in some cases it depends on the susceptibility. The eyelids would burn more readily than the skin of the face. The skin of the face being exposed to sun and air is more resistant than the covered parts of the face. You can burn the skin of the abdomen more easily than the skin on the face. If you apply the handkerchief on the face the pressure would not fall on the lips although the lips are covered by the handkerchief. If pressure had been used on the mouth I would have expected the mouth area to have been burnt. 30

*Q.* You said you would definitely exclude smothering in this case?—*A.* That is the reverse of what I thought. I have no recollection of what I said. At one stage of the proceedings I said that death may have been caused by smothering. 40

Q. You said this at the inquest proceedings—" In this case one has to consider the cause of death by smothering. I should say that this is not such a case. I consider the cause of death asphyxia " ?—A. This must be wrong. This is the very opposite of what I said. If I considered the cause of death asphyxia smothering how can I say that it was not smothering. I have told the Deputy Solicitor General that this is a case of asphyxia produced by chloroform. Asphyxia produced by smothering is quite different. If you take a handkerchief soaked with chloroform and apply it to the face it does not mean that it was absorbed. It might act as a smothering agent. It was I who pointed that out. I was not present when Mr. Collins examined the urine. Because he told me that he examined the deceased's stomach for aspirin I know that he did examine it. I was not present at any of the tests carried out by him on the deceased's stomach, liver and urine. The passage read out to me from the inquest proceedings *re* smothering is a mis-representation of what I said. If you apply a handkerchief to a face you partially smother that person and you partially asphyxiate that person. It can be both only if there was pressure. In this case there were no burns so far as the mouth area was concerned. If the mouth was surrounded by a circle you cannot breathe.

10 I had a case where chloroform trickled to the back of the neck. I mentioned that case of my own to the Coroner. That could not have been in answer to a question by the Crown Counsel because he did not know anything about that case. Before I gave evidence at the inquest I had no consultation with Mr. J. E. M. Obeysekera. That is an unreasonable suggestion. Before I gave evidence I never spoke to him. I am a witness of fact and it is wrong for the Crown to consult me. Dr. J. S. de Silva is not a witness of facts.

Q. You said this at the inquest proceedings—" I saw a case of a woman to-day where chloroform was used in a midwifery case. It had trickled to the back of the neck and burns were similar as in this case." A. That is so. There was no pressure in that case.

Q. You also said, " I thought the burn on the left thigh was due to drip of chloroform. I have not changed my opinion." A. I said so before the post mortem and after.

Q. You further said, " One would expect one to hold her by the arms to move her ; that may cause a certain amount of bruising." A. I said that.

Q. Then you added this, " There was a little fungus on the face ; one has to look closely to look for burns—colour different from the shape—I thought all marks look the same colour. The margin of the marks on the face was sharply defined." A. That is so. (To COURT : My opinion is that the handkerchief soaked with chloroform was applied to the face ; if the death was caused by pure smothering it will take 2 to 5 minutes to cause death. If death occurred from the combined effects of chloroform and smothering it will take less—impossible to say how long—taking into account there were certain signs of asphyxia which take time for their productions, I would say some minutes. As soon as the handkerchief was applied the patient might hold the breath or take a deep breath. If you take deep

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breath you will take a good dose of chloroform and pass on to the first stage of anæsthesia. The signs in the first stage are excitability, flushing of the face and excelleration of the pulse. In the 2nd stage anæsthesia commences; in the 3rd stage is the full surgical anæsthesia. The combined effects of smothering and chloroform may take less time to cause death. In view of several signs of asphyxia I would say that death did not occur at once from syncope.)

Adjourned for the day.

5th June 1934. Accused present—Same Counsel as before.

DR. MILROY PAUL.—Sworn.—(CROSS-EXAMINATION continued.) 10

CROSS-EXAMINATION continued: COURT. Q. I did not quite understand your evidence due to my density perhaps. Let me clarify my position. You say this lady died of asphyxia? A. Yes.

Q. Not necessarily due to chloroform?—A. Yes.

Q. This may be a simple case of smothering?—A. Yes.

Q. You say so because the signs you found, congestion of the neck veins, etc., are consistent with death by asphyxia and asphyxia alone?—A. Yes.

Q. Chloroform may cause death by asphyxia?—A. Yes.

Q. It could also cause death by syncope? A.—Yes. 20

Q. In this case if this death was caused by chloroform pure and simple due to smothering, I have to go to some length?—A. Yes. The commonest forms are the first second and third stages of asphyxia, in the third stage due to surgical anæsthesia the tongue would fall back and cause an obstruction which is partial. You get death in 2 to 5 minutes. You must have complete obstruction, partial obstruction takes a longer time. You have to get the case into the third stage of anæsthesia. It will be quite a long time. With asphyxia, syncope might set in, in about 5 minutes or longer, cannot be 2 or 3 minutes. Owing to the shortness of time I consider it unlikely. In the 2nd stage of anæsthesia, a stage of partial consciousness, 30 there is obstruction to breathing, muscles are tight and you get partial asphyxia due to limitation of the power of breathing. In the first or early stage of anæsthesia you get complete closure of the glottis, but in such a case a patient could not scream or make a loud groan, and taking the circumstances of the case into account it is an unlikely explanation. Owing to the these reasons asphyxia from chloroform pure and simple is unlikely. The more likely one is smothering. It is too strong a word, as death may occur at any moment from syncope during chloroform inhalation with partial asphyxia so you cannot tell definitely. It may be a case of pure asphyxia. But it also may be syncope intervening. That is what is called 40 secondary syncope. I did not stick to one point, that is I did not like to say it is undoubted smothering. It cannot be syncope pure and simple because syncope is sudden death and you cannot get signs found at the post mortem. You cannot change the whole blood so that it becomes fluid and you cannot produce coagulated mucus. To my mind there is no doubt. There were 2 drip marks on the right cheek.

Q. Will it help you to form an opinion if I tell you your father did not find outward signs of asphyxia, the protrusion of the tongue, lividity and the peaceful look?—A. At the moment of death the muscles relaxed and the look must disappear; lividity and other signs are not always present, they may be absent, they are not conclusive. Personally, as a result of my experiment with chloroform subsequent to my giving evidence on the drip character, it is very difficult to produce a burn merely by leaving a drop of chloroform on the face. It might burn if the chloroform accumulates. It might have been a fold of cloth which may have been in contact at that point. Two folds wetted with chloroform, taking the position of the drip, will do to cause the burn. One explanation of why it did not accumulate is that it was in a fold of the cloth. I have another copy of the drawing of the marks. On the left cheek it stopped near the lip. (Shown by witness.)

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CROSS-EXAMINED : She may have been unduly susceptible to chloroform. I am not in a position to say since my experiments on burning produced by chloroform. The experiments were made after the evidence in the police court. In scientific matters opinions must alter in the light of experience in some matters. At the inquest I was of opinion that she was unduly susceptible to chloroform. (Inquest evidence page 70 read, "This subject was unduly susceptible to chloroform.") I do not as strongly as I did hold that the blister on the thigh was due to chloroform. I said at the inquest that the mark on the thigh was a direct result of the burn, consistent with a drop of chloroform and hot water bottles. I said it was a raised blister. When I gave evidence at the inquest before the body was exhumed I was unable to say whether it was the left or the right thigh. I was unable to say before the body was exhumed whether there was any burns on the eyes. There were 2 projections on the right cheek and one on the left cheek towards the mouth, actually on the upper lip. I would not say she had an unduly prominent cheekbone. She was a stout lady and rather full. Her nose was not broad. In the photograph from that position the nose must be foreshort. I would not say the height is short. I would disagree with Dr. Spittel that the nose was snub. I do not think the photograph suggests the height is short. I found no burns on the lips except the drip on the left side and no burns on the tip of the nose. This indicates absence of pressure on these parts. When I saw the body when I went to embalm the corpse my opinion was that they were burns of the first degree. I now know they were burns of the third degree. Chloroform alone can give 3rd degree burns. I have produced 3rd degree burns by pressure without rubbing. Rubbing is more severe than pressure. I have found information in books so scanty that I tried it myself. All anæsthetists say chloroform produces vesication (blistering) blistering of the 2nd degree by itself. On a skin that is tender, when brandy is applied and rubbed over with hot water bottles, it would tend to aggravate the burn. The 3rd degree burn now noticeable might have been caused by contusions. I did not see anything. You would produce linear abrasions if you rub very softly, or grooves in a circular motion. I did not do microscopic tests. Dr. Karunaratne did all that. Dr. Spittel

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and myself got Dr. Soysa to chloroform himself but he always failed. He held the handkerchief to his face and as soon as he reached subconsciousness he removed the handkerchief. He only reached the very beginning of the second stage. He had a sound heart. The application of pressure would cause a burn on the ridge of the nose. He still carries a mark on the tip of his nose. It was the effect of application with pressure. (To COURT: I saw the burn. I was present at the experiment. It was a burn of the 2nd degree. There was a burn of the 3rd degree just below the mucus membrane on the skin, immediately outside. I do not remember whether Dr. Soysa had a blister on his stomach. He produced a brown mark not a blister. I said it was a burn of the 2nd degree although there was no blister. It was only with pressure. We did not produce a burn. May I refer to my notes on the experiment. There is no mention that Mr. Soysa pressed the handkerchief himself. 10

*Q.* Did you think it would be better if you invited Dr. S. C. Paul and Dr. Joseph de Silva to be present at the experiment?—*A.* They can do it themselves.

*Q.* Did you invite them?—*A.* It never crossed my mind that they would doubt my word or Dr. Spittel's. This was only to satisfy ourselves. When I went home I discussed the situation with my father after the embalming. I suggested the possibility of chloroform. My father said it was hot water bottles. I left it at that. I thought that if hot water bottles were rolled on the face the burns would be caused but it was very improbable. The lungs were reddish brown in colour. It means that they were congested. My position is that you cannot say that there was much or little. In a formalin injected body and where the body had dried up one could not be dogmatic. 20

*Q.* Were you of opinion that they were slightly congested?—*A.* Yes, they may have been. (Post Mortem evidence page 72 read.) I said "both lungs were slightly congested."

*Q.* You do know that Dr. Nair said both lungs were engorged with blood?—*A.* I do not know, that was not my observation. 30

*Q.* Is not the circumstance that the right ventricle was over-distended point to death having suddenly occurred?—*A.* No. I can see the point of this question. In asphyxia if the right side of the heart is distended then it points to sudden death from asphyxia. That is so. Taylor does not make a statement like that but even contradicts himself. In page 617 he says that where the heart may be fully distended and the lung engorged these are experiments on animals. You cannot transfer experiments from animals to human beings. A good deal of medical knowledge is based on observations on animals and a good deal on human beings. 40

*Q.* Taylor says that in cases of asphyxia there is no cardinal sign visible that is necessary?—*A.* No.

*Q.* So that engorgement of the heart must necessarily be present?—*A.* No.

*Q.* And that sign alone is really insufficient to arrive at a conclusion that it was asphyxia pure and simple?—*A.* It is.

Q. And Taylor emphasises that it is dangerous to come to a conclusion that death is due to asphyxia unless there was achimosis? A. Taylor does not say that. That you must have achimosis on the lungs and heart to have asphyxia. Taylor says achimosis may be absent in asphyxia. Taylor says "Thus death was caused by asphyxia because the heart is found relaxed and full of blood." I did not find the heart relaxed and full of blood at the moment of death. If the heart was absolutely distended to its very maximum it could not be said to be relaxed. The heart was full of blood. If the heart is in a state of contraction, because it cannot force the blood, it will hold the blood. It is unable to expel the blood brought to it. In asphyxia you have a strong heart. So much blood is brought to it that it is unable to expel it. The working of the lungs is concerned with taking the air in and out. In this case you may have not merely the pulmonary cavity empty but all the cavities may be empty. Why the blood in the right ventricle was not driven back into the pulmonary arteries which lead from the right ventricle into the lung was because in a case of asphyxia you may not get all parts of the right heart fully distended with blood. I said the muscles were not relaxed because they were not strong enough to drive the blood into the pulmonary artery. There is a valve in the pulmonary artery working inwards. If the muscles were not relaxed, if there was any possibility of a slow contraction of the muscles that blood could not be forced into the artery. The post mortem was held 23 days after with formalin injected. I did not see it.

Q. I put it to you that unless the heart muscles were relaxed some blood was bound to drip into the pulmonary arteries?—A. The heart may have been contracted but the feeble contraction may have been unable to draw the blood. It gets feebler and feebler and the last beat is very feeble. There are no variations in the *vinæ cavæ*. Because the contraction was so feeble it could not go beyond the *vinæ cavæ* into the pulmonary artery where there is no pressure. I am sorry I cannot agree that it can only be after the muscles were relaxed. Even if the muscle was relaxed it does not affect it. The heart was over distended with blood that if mere relaxation would fill it to the maximum everyone who dies, relaxation will fill the heart to the maximum. I personally would not say it was full to the maximum. (Taylor page 239 read to witness.) That sentence does not take into account a heart distended to its very maximum. It takes into account a heart full on the right side. Dr. Joseph de Silva has not seen a heart for a long time. He has not attended a post mortem for a long time. It is a question of size. The heart could have been held in Dr. Nair's hand. The model exaggerates the size of the human heart. No human heart can be held in a closed fist. In certain effects of disease there are hearts that get distended to its very maximum, far more than Mrs. Seneviratne's heart. In this case the distension was of normal size. It was not a diseased heart. There are recorded cases where all four cavities of the heart have been empty, so that it would be dangerous to say whether it was asphyxia or not. (Taylor page 612 read to witness.) Achimosis is a cardinal sign of asphyxia if the marks are present. In a post mortem

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held 23 days after these marks may be possibly obliterated. Extravasation is due to the bursting of the superficial capillaries and venules. If it was there we should have seen it. I think the dribblets of blood should remain there. I did not find any. I found no lividity because it was a formalin injected body. If you look two hours after death I would expect to find both ventricles distended. In rigor mortis both ventricles contract. The left ventricle is stronger and is more capable of expelling the blood. In cases of death by asphyxia the pulmonary veins are full and the arteries are empty. The right ventricle sent the blood into the lung and into the left auricle. I do not agree that if the lungs are not working the flow into the lungs would be impeded. There is less blood flowing through the lungs and the heart continues to work. The lungs do not stop working. They are working very hard but no air enters, first respiratory then expiratory. The lungs stop working and the heart goes on for a little while after. These are the final stages. The blood is driven from the right ventricle into the pulmonary arteries. The lungs are not working in the final stages. The pulmonary artery is engorged with blood. The left ventricle pumps blood into the arteries through the aorta. The left auricle is also working and draws the blood from the pulmonary vein into itself. You would ordinarily expect the pulmonary vein to be empty and the pulmonary arteries to be full. Some books do not mention the pulmonary arteries. Some books lay it down that the pulmonary veins will be found full in case of death by asphyxia as a negative proposition. No books lay it down that you will find the pulmonary artery empty. In the case of Carlo Ferrari all four cavities were empty. There was no blood in the cavity at all. The blood must be somewhere but not in the pulmonary arteries. There was no blood in the 4 cavities. The blood must be in the arteries of the body. The pulmonary artery is in the middle of the heart. I am sorry to disagree but it may have been empty. The whole heart was empty in the case of Carlo Ferrari. The venæ Cavæ begin at the heart. But the pulmonary artery is so called because it leads the blood to the lungs. I found in this case the pulmonary artery empty and the pulmonary veins full. These are signs of asphyxia. Some people may have veins in the neck not distended. I would expect the veins on the neck and brains to have been washed by formalin. I did not find the blood vessels of the brain distended.

Q. Is it the case that more deaths from chloroform are due to syncope?  
—A. Modern opinion is that there is a slight degree of asphyxia and then syncope. I have myself seen deaths from syncope. The majority of deaths are a mixture of asphyxia and syncope. There is a slight degree of asphyxia. Kushney is an authority. (Page 228 read to witness.) The most recent books on anæsthesia do not give that. I have seen at least four deaths by chloroform at various times from 1922 onwards. Post mortems were held in one certainly. I was present. I can give a further case where a post mortem was held at the General Hospital, Colombo, about 1928. The other case was also at the General Hospital about 1929. These are two cases of death by chloroform where post mortems were held. I do

not know whether it is fair to state who were the anæsthetists. One was the House Surgeon. Another was the resident anæsthetist. I cannot remember the name. It was not Dr. Joseph de Silva. He is the anæsthetist appointed by Government. He is the leading anæsthetist. He has considerable experience. He is Lecturer in Anæsthesia and Pharmacology. My recollection of the heart is that there was no great distension in either of the cases. As far as I can recollect the lungs were normal. These cases are a matter of record. If I searched for them I could have got them. It did not strike me. I did not think it worth while. I did not think it would

10 be of assistance. I do not know what Dr. Joseph de Silva has said. Kushney says that syncope contributes to the greater part of fatalities by chloroform. This is a statement of a Pharmacologist not an anæsthetist. It is a book studied by students. I do not deny his competence. An anæsthetist would be able to tell us better. Kushney is a standard book, but it is the experience of the author. The chapter on chloroform runs into many more pages than any other book. The recent opinion on chloroform is that there is a slight degree of asphyxia in the majority of cases. Kushney says that the greater part of the fatalities occur from cardiac syncope. I am not aware that Embley and Levy carried on a series of experiments. I have

20 read that death was due to fibrillation of the heart, according to Embley and vagal irritation according to Levy. That passage makes it quite clear that there was no chloroform at all. I was very hurt by the suggestion that I said something new. I did say it was smothering and the newspaper account says so. It should be quite clear that I said it was smothering. It has done me an injustice. I said it at the inquest. Immediately I saw the body at the post mortem I expressed my opinion that it may have been due to smothering. At the Police Court I did say it. Counsel (Mr. Pereira) was there. I did say it was a case of smothering. Whether it was syncope or asphyxia ordinary chloroform does cause death in both

30 ways by smothering shutting out oxygen from the lungs, by some means other than chloroform vapour. I am not aware that Dr. Karunaratne definitely stated in the Police Court that it is not such a case. (P.C. Evidence of Dr. Karunaratne page 145 read to witness.) "In this particular case I would not say that asphyxia is due to the prevention of the inhalation of oxygen from the air." I disagree with this. "Chloroform alone can produce asphyxia. Mechanical stopping of breathing is not necessary." I would say "may not be necessary." I think I have made my position clear that it may be smothering, may be chloroform. (Kushney read to witness: "Impartial anæsthesia . . . heart beat can be still felt

40 or heard." That paragraph is correct. The position is when death occurs there is a partial degree of asphyxia. When a patient dies under an operation there is usually partial asphyxia. Kushney says that the great bulk of chloroform deaths are usually due to cardiac syncope. The stronger the concentration of chloroform vapour, the greater the possibility of the heart and lungs ceasing at the same time. The absence of burns round the mouth indicates the absence of pressure.

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Q. On what then is your theory that you evolve now that this is probable . . .?—A. It is hardly fair to me. It is so unfair to say “now.”

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Q. The theory of smothering when the area round the mouth you would expect to find burns?—A. Considering the area that is burned indicates firm pressure. The area that is burnt is a continuous circle. The tip of the nose is burnt in a triangle. It clearly indicates that it was pressure. The upper lip was pressed firmly. There was the uttermost necessity to exert firm pressure because the hand was kept so firmly that it was pressed without slipping. This pressure will leave burn marks on the cheek. P.5 is the first drawing. The burns were continuous. If you press your palm firmly there is no firm pressure in the palm. An open mouth does not produce pressure. I do not think she would have stopped inert. Certainly there was no struggle. Taylor says there are often no signs. I found none of the marks described by Taylor. You have intoxication of chloroform, a handkerchief saturated with chloroform on a sleeping person taken unawares. The statement “we do not know that the chloroform did not flow but it may have left a mark” was made before I made my tests. I observed burn marks on a patient under the care of a doctor where the chloroform poured from the mask. On a sensitive skin chloroform may cause a burn. The chloroform may have a drip effect. The area round her mouth was not burnt so far as the external appearance went. If she struggled at all she may have moved from side to side. If a man was holding a handkerchief there would be no burn. (To COURT: In two to five minutes death may result.)

Q. If your theory was correct if the lady was sleeping how then was she found lying crosswise?—A. She must have got up, then forced back at a disadvantage to struggle. I do not know that she cried out or not. It is very difficult to administer chloroform when a person is asleep. I would expect a person to awake and shout out when chloroform is administered. Even under operation a patient struggles and two or three people are kept to hold him down. I found no bruises and no scratches. One of the things that every doctor is advised to look for in cases of rape is marks of violence. I saw the lady on a sofa. She had been shifted from the bed on to a sofa. So far as the post mortem report goes the trachea contained certain amount of mucus. There was no abnormality or excessiveness. I myself when I began to give my evidence I said there was coagulated mucus. Later on I said there was an abnormal quantity. As a matter of fact chloroform inhalation in itself is calculated to increase the quantity of mucus in the trachea. Cotton wool is used to wipe out excessive salivation. That sign is not definite in itself. At the inquest I said that I thought the burn on the left thigh was due to the dripping of chloroform. Hot water bottles would leave a cylindrical burn. Moving her about may have caused a certain amount of bruising of the arms. So far as my observations went the appearance of the face was same throughout with a well defined edge

*Q.* Does not the fact that you found a circular mark on the left eye and a more or less flattened out oval at the right eye indicate that the fingers were there?—*A.* No. The eyes are more easily burned, this place is very sensitive. It is more probable that the handkerchief was enough to cause the burns.

*Q.* The eyes in a normal person are below the level of the cheek?—*A.* It is due to the fact that it was a sopping wet handkerchief. The discolouration on the arms was similar to the discolouration on the face. I daresay it is correct that the left arm to just below the elbow was leathery, 10 the rest was not leathery but of the same colour. I think the right arm showed a difference. I agree with Dr. Karunaratne that with regard to the marks on the arms they could have been caused ante mortem. The colour was the same as the colour on the face. It is not likely that chloroform could have been applied on the arms. The only difference is on the face the marks appeared immediately and on the arms it did not. Such obvious marks would have been seen? I took off the nightdress and did not find the mark on the wrist. Raymond is not a trained observer. Those marks are not leathery. I cannot conceive of myself not seeing extensive marks like that. I already said that I did not notice the marks on the 20 wrist myself. There is a mark on the outside of the left eye.

*Q.* How did you think that was caused?—*A.* I can say with certainty that the outer layer of the skin was rubbed off. It might have been caused by hot water bottles, it might have been caused by someone in lifting the body. In appearance it was rough and leathery like the arms. I cannot recollect having said, that in regard to my experiment I was of the opinion that it would be possible to find traces of aspirin.

*Q.* Were you of the opinion that aspirin could be discovered in a body long buried and injected with formalin. —*A.* I cannot recollect having said it. Before the exhumation I could not say if traces of aspirin 30 could be found. I did not know that formalin would affect the test.

*Q.* Do you agree with the test carried out in a glass vessel that it would be dangerous to draw any inference that no change took place in the human system?—*A.* It would be dangerous for Mr. Collins because he is not a pharmacologist. He does not handle bodies. He is only a chemist. I would not suggest that conditions were identical. I have given reasons to say why it cannot be dangerous. I have given my reasons. I said at the inquest that if force were used the mouth would be burned. I said "If force were used the mouth would be burned." When I sought 40 to inject the formalin into the arteries, the veins were cut in the process and blood from the veins flowed. There was no blood in the arteries. It is a mistake to say that dark venous blood flowed. It took 1½ hours. Time is no object. (To COURT: it is impossible to do it in 5 minutes. It usually takes an hour.) I cut her on the right side first and during the injection the artery tore. I cut the other side because I thought it was a neater operation. The laboratory man helped me. It was not my first case. I did one in Jaffna. I assisted Dr. Cooke at Sir Christoffel Obeysekere's embalming. Mr. Collins tested the urine in the glass vessel.

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It was not in my presence. I know the tests. He told me. In two cases I did it myself. Mr. Collins did the second test in my presence. It is by the addition of perchloride which turns to a brilliant purple in the presence of salicylic acid. I rejected all the urine before 7 hours. I did the test and got it confirmed by Mr. Collins. It was kept one night till I arrived next morning. I found there was aspirin. At the end of 7 hours the patient was asked to empty the bladder and the urine between 7 and 10 hours was tested. I did not keep it for some time. I mixed it with formalin to keep it fresh, not glucose. Aspirin is absorbed into the blood first. Quite apart from the fact that she was diabetic I do not know how many times she urinated. 80% is eliminated. It is not correct that 20% is absorbed into the body. (To COURT : I would not agree that 20% remains permanently in the body.) Clarke says some part is not excreted but I cannot agree as part may be excreted through the sweat. It is not a matter of mathematics. Aspirin appears in the urine very rapidly from 10 to 30 minutes. I used Ferric chloride and the ultra violet ray, with the former you get a purple colour and with the ray you get fluorescence. The reddish brown colour of the lungs was not due to formalin. The injection flows through the pulmonary artery. Formalin permeates all the tissues of the body. Formalin reaches the lungs. Formalin was coloured with red ink. There was a difference in colour. The stomach and other organs were pink. The post mortem says reddish tint. That is not a correct description of the colour.

Re-exa-  
mination.

RE-EXAMINED. Q. You appear to have given evidence on the 15th November at the inquest. Your evidence seems to have been published on the 16th November in the newspapers. I find it is stated that "From the post mortem examination it is more a case of smothering."—A. Yes. (To COURT : I said it was a case of smothering. I confirm the report of the newspapers. No paper had the contrary.) (Page 131 of the Police Court evidence read.) I agree. I said that when chloroform drips there is generally no burn. If chloroform kept on dripping I may expect a burn. These burns on the right and left cheek may have been caused by dripping for a long time. It does not follow that it was outside the area. It may have been covered. A person could breathe only saturated chloroform vapour and not the oxygen necessary for the blood. In such a case a person can shout but it would not be audible after the application of pressure. The shout would not carry any distance. You would get a muffled sound. After the moment of shouting if you inhale you would take in chloroform. If the handkerchief was pressed down very tight I would not expect any change in the contour of the face. I also said that when the veins were opened there was dark coloured blood. (To COURT : In the 3rd stage the vocal chords are completely closed.) I agree with Kushney, page 130, where the heart is found dilated. At all times I said it could not be definitely fixed on smothering. I was referring to a passage from Taylor on a distended heart. Page 239 Taylor gives the warning that a man should not confuse relaxed heart with a heart full of blood.

An inexperienced pathologist may take a relaxed heart for a distended heart. It is quite possible for an inexperienced man to confuse a distended heart with a heart full of blood. I call it a distended heart. It may have been just beginning to contract or finishing to contract. Post mortem signs are deceptive. The heart is soft. Immediately after death the heart is relaxed, but in rigor mortis it is not relaxed. Here we are concerned with conditions after death.

Adjourned for lunch.

DR. MILROY PAUL—RE-EXAMINATION (continued).

- 10 I mentioned a case where the mouth was burnt just below the mucus membrane of the lip. In that case cotton wool was fully soaked with chloroform and pressed firmly for 5 minutes on that particular spot. The patient was anæsthesia for some other purpose. We got the patient's consent. I also mentioned the case of a patient whose neck was burnt by the dripping of chloroform. It appeared to be a 2nd degree burn. There was no blister—no brown mark, which could either have been a 1st or 2nd degree burn. That was a midwifery case of another doctor. An ordinary glass tumbler had cotton wool packed at the top and chloroform was poured till the wool was thoroughly soaked and then applied to the face.
- 20 I saw the case the next day and then there was the mark on the neck. The cotton wool was still wet with chloroform when I saw it the next day. It was sopping wet with chloroform. I cannot say how it was wet the next day. The tumbler was held over the face and mouth by the midwife. The tumbler was in the room. I cannot remember whether it was upside down. In this particular case the upper and lower lip were not burnt. The area round the mouth was not burnt. The burn extended up to the junction of the lip and mucus membrane of the lower lip—just touched the lip. It is quite clear and correct on the diagram. It comes right up to the margin of the mucus membrane up to the lip, except at the extreme right.
- 30 The mucus membrane of the lower lip was soft and blackish in colour. In making these drawings we only paid attention to the leathery areas. In the lower lip there is only that little tongue like process on the left side. It was not a leathery mark. It was a soft blackish mark. In my opinion it is not a burn. It is different from the others, not being leathery.
- Q. If anything touches the mucus portion of the lip is there any tendency for the tongue to touch that portion?—A. It is difficult to say the reaction of a person at that moment. He might do. If saliva was already there the chloroform would not be likely to burn. I mentioned certain experiments tried by Mr. Soysa himself with chloroform. He never became
- 40 completely unconscious. He reached the early part of the 2nd stage, became excitable and his hand stretched out and the handkerchief dropped. On the first occasion Dr. Spittel gave him a piece of lint soaked with chloroform and asked him to have it far from his face as we did not want to take risks and then asked him to breathe, and when we were certain there was no risk we finally asked him to press it to his face. As soon as he came

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to early part of the 2nd stage his hand dropped. It was a reflexed action, general muscular activity and the involuntary straightening of the hand. When chloroform is applied it starts paining. It is a very severe pain from my experience. There is just a faint mark on my hand as a result of application of chloroform last Friday, but not in every place. Although you may press a sopping handkerchief for a little length of time every part does not necessarily get burnt. The mark on my hand is more burnt at the upper end than at the lower end. That burn became apparent after I left Court on Friday last. A 3rd degree burn will be more painful than a burn of the 1st or 2nd degree. Dr. Karunaratne examined under microscope a portion from the depth of destruction. That portion was of the 3rd degree. If death takes place from syncope in a healthy person he will be a healthy person in one moment and the next moment a dead person. You cannot get all these conditions. At the moment of death the heart would relax like any other muscle of the body and as rigor mortis sets in it would shrink. I know the little handbook by Ross. (Deputy Solicitor General reads a passage from Ross about death from syncope and internal appearance—  
“ The state of the heart receives most attention in descriptions of this condition. The heart is usually found contracted and empty but occasionally when death is due to paralysis of the heart both sides have been found to contain blood. The condition of the heart probably depends on the time which has elapsed before the post mortem was performed. Since it has been shown that death never takes place with the heart in systole. Contraction of one or more chambers is due to rigor mortis in the cardiac muscles which comes after death and subsequently passed on.”)?—A. That is what I have been actually stating. At the moment of death the heart muscles relax. When you find the heart contracted later on you must not imagine that it was contracted at the moment of death. That is contracted because it is in rigor mortis. If you cut down a criminal when he is hung the heart is relaxed at that moment. The whole heart may be empty or contain blood, but it will not be over distended. The passage which was read out does not say anything about the distension of the heart. In my experience and knowledge of text books the heart is not distended to its maximum in syncope. If it is distended to its maximum I will infer that it was not due to syncope pure and simple, because in syncope you have sudden death and therefore the heart cannot be distended with blood to its maximum. There is no reason why the heart should be distended in a healthy person. Each side of the heart pumps equally; if it does not do so, there is a lack of balance that only occurs in certain conditions. In a healthy person the heart never gets over distended to its maximum. If that happens there is a lack of balance on the left and right. If the heart is distended to its maximum it is not a normal condition of the heart and in a case of death by syncope, I will not find that condition. Supposing the heart is beginning to beat, then it contains maximum amount of blood before it starts beating but that is not the distension we are talking of. That is the normal amount of blood in a heart which is just going to beat. When the heart begins to contract after it is full of blood

it contains a certain amount of blood, it is not distended to its maximum. To get distended to its maximum there must be some interference with the conditions of circulation. In syncope pure and simple you will not normally find that interference with the circulation, but if it is syncope mixed with asphyxia that is possible. The deceased lady's nightdress hadn't long sleeves. Whether it had short sleeves which ended up at the arm pit I cannot say. The arms were exposed. I saw no bruises or scratches on the arms. I made no examination for them. There was mucus in the trachia. It may be due to irritation by chloroform, or due to asphyxia or might  
 10 be due to both. I should expect the dead body of a lady in this position to be shifted about carefully.

CROSS-EXAMINED (with permission): *Q.* According to a newspaper report the question has been put to you by the Crown Counsel at the inquest in this form: "From the post mortem signs it is more a case of smothering than application of chloroform" and your answer was Yes?—*A.* That makes my position clear.

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No. 59.  
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Further  
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No. 60.

Evidence of Dr. J. S. de Silva.

DR. J. S. DE SILVA—sworn.

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Dr. J. S.  
de Silva,  
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tion.

20 EXAMINED: I am a Bachelor of Medicine and a Master of Surgery of the Aberdeen University. I hold a Diploma of Public Health of the Cambridge University. I am the Senior Anæsthetist at the General Hospital for nearly 25 years. I have very great experience of anæsthetics. I should think I anæsthetise more than anybody else in Ceylon. Roughly I have given anæsthetics to nearly 25,000 persons. We originally used to use chloroform but now owing to climatic conditions I use chloroform at the start to get the patient under and follow it up with ether. I have not discarded chloroform entirely. There was only one patient who died of anæsthetic because that patient was brought in a moribund condition and I  
 30 warned the surgeon. I would like to say about my record of not having a single death under chloroform and about my success, that I have never in all my life spoken about it publicly. Even in this instance it is only within recent times it was publicly spoken of by another member of the hospital staff. In the hospital there were no cases of burns by chloroform. Long ago a lady struggled a little and chloroform fell from the mask on the side of her face and there was a small streak burn. That was a case outside the hospital. A mask is a flask specially prepared for that purpose. That prevents much of the chloroform being given to the patient and regulates the vapour. I give only less than 2% of chloroform vapour.  
 40 2% is the maximum. Generally you can keep a patient little less than 2% of chloroform. I do not say that I have no experience of post mortems. I personally made post mortem examinations when I came to Ceylon first—perhaps that was 28 or 29 years ago. After that I have not done post

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mortems myself but I have seen about a dozen or 15 during the last 20 years.

*Q.* How do you find the percentage of chloroform?—*A.* By experience I can judge and regulate. You start holding the flask far away; then by the reaction of the patient you know you are on safe grounds. I was present at the post mortem of Mrs. Seneviratne. I have read the post mortem report issued by Dr. Nair. It deals with the various organs of the body as well as some external appearance of the body. I have read the portion marked external inspection. I agree with what is stated there, more or less. I think it is about right. I do not think I disagree. I would like to go through the report and see. It states that on the right side there were 2 finger-like projections. I would not describe them as finger like. They were tiny little driblets. (Shown diagram.) There is nothing like finger marks. That is not a correct expression. I would describe those projections as two small projections extending down. I agree they were extending towards the right ear and outwards. There is nothing else to which I take exception in the report re the external examination. I have read through the report re the internal examination of the body. 10

*Q.* Is there anything to which you do not fully subscribe in that?—*A.* To my mind I do not think the right ventricle was distended to its maximum capacity. I did not notice the veins of the neck particularly distended. I did not notice the veins of the neck at all. I noticed the trachia contained mucus. 20

*Q.* The right ventricle contained blood clots distended to its maximum?—*A.* I do not agree with that fully. It contained blood clots, but the distension was not to the maximum. Distension is a matter of comparison and opinion. What one says distended to the maximum may not be so to another. It was certainly distended and larger than the left ventricle, but not distended to the maximum. The heart was able to be held in the palm of the hand. There was nothing projecting out. I would not like to say definitely to what extent it was distended. It was distended to a small extent. I agree with the report about the condition of the pulmonary artery, left ventricle, aorta, etc. The only thing to which I take exception is the right ventricle and the fact that I did not notice whether the veins of the neck were distended or not. I have studied the question of chloroform very carefully and read all the authorities on it. I am aware there were two Commissions appointed by the Nizan of Hyderabad. There was a Committee appointed later by the British Medical Association which issued its report, I cannot say in which year (1910). 30

*Q.* Their final report appeared in the British Medical Journal of 9th July, 1910. Some of the members of the Committee are Dr. Buxton, Dr. Hewitt, Dr. Childs. I do not say they are authority on chloroform but they are eminent medical men. Harcourt is also a man who went into the question of chloroform. I heard that Dr. Buxton wrote a book on anæsthetics but I have not read it. (Deputy Solicitor General reads a passage from that book re the dangers of chloroform when it is used without regard to its percentage.) 40

Q. Do you agree with that?—A. If by that they mean to infer that asphyxia is the greatest danger under chloroform I disagree. I will give any number of authorities since that report which states that chloroform kills mainly by acting on the cardiac muscle, and that genuine asphyxia if present, even then it is due to blood pressure. Chloroform acts on the respiratory and circulatory centres and at times on the vagal centre; on the heart muscle, acts on the plasma of blood. I should think it is a general poison. The very first stage of anaesthesia is slightly disordered consciousness—there are 4 stages. The 2nd stage is excitement—  
 10 3rd is surgical anaesthesia and 4th stage is bulba paralysis. A person lies unconscious when he comes to the 3rd stage. He is semi-conscious in the 2nd stage and consciousness disordered in the 1st stage. Consciousness disordered means that if you talk to a person in that stage he will hear you and give an indication that he hears you, but would not give a coherent reply; that is either because he cannot utter a coherent reply or because he cannot gather his wits to give a coherent reply.

Q. If chloroform is applied to a person to cut off oxygen what would happen?—A. Many things may happen. When chloroform is given in concentrated form the patient inhales it. He may not inhale it. If you  
 20 keep his mouth and nose shut he cannot inhale it. If you hold a cloth over the mouth and nose he would inhale it. Sometimes he would hold his breath for half a minute and then take a deep breath. When chloroform gets through the nerves of the nose it reflexly stops the heart or respiration. A large inhalation of concentrated chloroform taken to the lung may get absorbed into the blood system and carried to the vagal centre or it may be carried to the cardiac muscle and paralyse it. Then the patient will die. Everybody will not die, some will escape. It oxygen was entirely cut off, the patient might die in a little while. I cannot say in what length of time. Death may take place in a minute or  $1\frac{1}{2}$  minutes. It is very difficult to say  
 30 in minutes. It depends on the chloroform inhaled by the patient plus the concentration and the patient may not breathe for  $\frac{1}{2}$  a minute and then breathe a little. It can act on the respiratory centre. It stops respiration. When it stops respiration we are able to revive, sometimes not. If the heart is still acting, by giving artificial respiration we can restore him to life, but if the heart has already stopped or too weak you cannot restore him.

Q. What is the actual sign of respiratory failure?—A. By that do you mean respiratory failure to cause death or short of causing death. If it is short of causing death lips and finger nails will get blue. If he died of asphyxia where the lung has stopped to function I would expect lot of  
 40 external signs—blueness of the lips, finger tips; then depending upon the degree you may get others—dilutiation of the pupils—eye lids—not necessarily the signs of conjunctiva. That is in case of sudden asphyxia. If he actually died of asphyxia the internal signs would be that the lungs would be congested and engorged. I am saying this on authority. I can quote a number of authorities. The other internal signs are—pulmonary artery engorged, right heart is engorged, blood would be dark—Waddel says cherry red and the others say dark blood—and engorgement of the veins.

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Pulmonary artery would be full because it is a part of the venous system. We all know that the right heart sends venous blood along the pulmonary artery into the lung. Asphyxia means that the lung ceases to function—circulation through the lung is not existent. Then the blood that comes into the lung through the pulmonary artery cannot get full. Therefore the pulmonary artery must be congested. (Witness cites authority—Guy & Perry, p. 307 (1895) *re post mortem* appearances in asphyxia.) In a case of death from asphyxia I think the pulmonary artery should be full.

Q. Does that authority say that it is an invariable sign or one of the signs which may or may not exist?—A. All authorities say not to be guided in asphyxia by these signs. If they are absent they do not mean it is not asphyxia. In this case I can say it is not asphyxia. I do not know of any authority that the venous system is engorged. They do not specify the pulmonary artery. If you show me any authority that the pulmonary artery may be empty I will accept it. (Witness cites Handbook on Forensic Medicine by Husband, 1895 edn. *re post mortem* appearance in asphyxia—engorgement of pulmonary artery: right cavity of the heart and venae cavie.) (Witness also cites Dixon Mann 1922 edn. where he says that the right side of heart and pulmonary artery and venae cavi and veins of the neck are engorged with dark venous blood.) These are the only three authorities in which I find the pulmonary artery is engorged. The others mention the venous system. Sidney Smith, Waddel, Taylor do not mention the pulmonary artery being full, but they mention the venous system being full—the veins of the neck and other blood vessels. The present day writers take for granted those things, that when they speak of the venous system and large veins, medical men would misunderstand—that includes the pulmonary artery, but the older writers thought of being precise.

Q. If you find the veins of the neck engorged and the venae cavie congested and the other blood vessels congested?—A. I do not know anything about the veins of the neck. Is difficult to understand in this case how the veins of the neck can be engorged and the brain should not be engorged. Even the post mortem report says that the brain was normal. I noticed the brain. It was not engorged. If the brain is not engorged it is curious to think how the veins of the neck could be engorged. It is curious because the veins that supplied the brain will be the internal and the vein that supplied the outside of the face is the external. They both enter the subclavian vein. If there was pressure on one there must be pressure on the other in asphyxia. That is why the veins of the neck are engorged and the brain congested in asphyxia. If the veins of the neck were engorged I cannot see how the veins of the brain could not have been engorged. I have the greatest regard for Dr. Milroy Paul, but I disagree with him. This is the first formalin injected body that I have seen. I am not an authority on that point. I do not know how the femoral could affect the veins of the neck and not the brain.

Q. Did you see haemorrhage in the meninges and outside disappear in time?—A. Perhaps they did. I am not competent to say that.

Q. You are aware that Taylor in Vol. 1 p. 608 (1928 edn.) speaks of external and internal signs in asphyxia.—A. Chloroform causes these signs. I would not say they are signs of asphyxia to cause death. When we speak of asphyxia I feel that the witnesses who have given evidence in this case I think have used the word not in the same sense. Asphyxia to cause death is one thing and asphyxia which will not cause death is another. Dark coloured blood is one of the asphyxial signs.

Q. Taylor says “about them the following facts are recognised. They do not always appear when death takes place from asphyxia. If they are absent we have no right to state that death did not take place from asphyxia.”—A. I agree with that passage to a great extent, but I cannot agree with his contradiction. Taylor at p. 615 in volume 1 says “Appearances similar to those found . . . . unless by a careful examination of the body he has ascertained that there is no other cause of death.” In this case there is another cause of death and that is chloroform. I did not find any disease to account for this lady’s death by that. I agree this is not a death by natural causes. The unnatural cause which brought about death is by inhalation of chloroform. To my mind I cannot conceive of anything else, but that chloroform caused syncope. I agree with Dr. S. C. Paul in that.

Q. You do not deny that there might be asphyxial signs of the early stage?—A. That is why I meant that chloroform cases are most complexed. In the current of asphyxia there are complications.

Q. It is a case of death by chloroform which is primarily due to syncope in which there are asphyxial signs?—A. Slight asphyxial signs. They are venosity of the blood and slight congestion in the lungs. The two things may be due to intercurrent asphyxia, but they may be produced without asphyxia by the chloroform itself because chloroform causes dark colour in the blood. It diminishes the blood uniting with oxygen and diminishes it uniting with carbonic acid. That will cause dark-coloured blood irrespective of asphyxia. I can give authority for that. Chloroform reproduces dark-coloured blood. I know Kushney on Pharmacology. I agree with the passage there that in asphyxia the blood is often dark coloured and the heart is found dilated. I do not think there was marked congestion in deceased’s lung and I do not think the Judicial Medical Officer says so in his report. I must go by his report than by his explanations given afterwards. There was a slight injected condition of the lungs. Chloroform makes the blood liquid. I disagree that when the report says that the veins of the neck are particularly distended it means that the other veins are also distended. I found the veins containing few clots here and there. I did not notice the veins of the neck particularly distended. I noticed certain burns on the face. I cannot conceive of anything else causing these burns than chloroform. (To COURT: I have no doubt that in this case death was due to chloroform.) The burns on the face were either of the 1st or 2nd degree. There is no authority that says that chloroform will burn under any circumstances beyond the 2nd degree. If any other degree is present it is due to something other than chloroform. The authorities say that only

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rubbing cause a blister. No authority says that pressing with a saturated handkerchief causes a 3rd degree burn. Chloroform is not a corrosive substance, but an irritant. Perhaps if it is pressed for a long time it might cause a burn of the 3rd degree. It depends on the skin also. If the 2nd degree has come and you press again for 4 or 5 minutes it may cause a burn of the 3rd degree. I say it cannot go beyond the 2nd degree because there is no authority. Books say that if chloroform is rubbed it may cause vesication, that is a 2nd degree. Rubbing requires a greater force. Rubbing includes pressure plus grinding. (Witness cites authority—Hail Whyte, 1927 edn. a passage on chloroform action externally) if it could produce a 3rd degree burn one of the authorities would state it. I do not know whether it is obvious that it could produce a 3rd degree burn. In the 1st degree burn there would be a dilation of the vessels which soon passes off; in the 2nd degree the epithelium rises up and fluid gathers and causes a blister: in the 3rd degree the upper part of the skin is burnt and the part of the true skin is damaged. (Witness is referred to the Pathologist's report.)

Q. Assuming that degeneration of the true skin was caused by chloroform it will be a burn of the 3rd degree?—A. I say it cannot be due to chloroform. Assuming it is caused by chloroform it will be a burn of the 3rd degree. Degeneration of the true skin may be due to something else—may be the rubbing of brandy on chloroform or the rubbing of hot water bottles. The marks on the face were not of the same degree everywhere. I saw the body after the exhumation. The burn marks seemed to be leathery and little more there than on the tip of the nose. The burn marks on the sides of the cheek and tip on nose were the same. On the eyelid and chin they were simple streaks—not of the same degree. I cannot say whether they were of the same depression because I did not examine so closely. The burn on the chin just comes near the lower lip on the left side. It comes up to the margin of the mucus membrane (shown drawing). I think this drawing is approximately right. Burns on the tip of nose and side of cheeks were more marked than the rest of the burns. I cannot say whether they were of the same degree. Looking at them I would say that they were of a lesser degree. If chloroform is poured on the skin and allowed to evaporate, if the skin is very delicate it can burn the skin. If evaporation is prevented it will cause very severe burns up to vesication. If it is pressed or rubbed also it will burn up to vesication. The burns were of the 1st and 2nd degree. Those burns can be caused with or without pressure; here they are caused without pressure.

Q. Is it consistent with chloroform being applied with pressure?—A. It is consistent with or without pressure, but there are other indications which shows that there was no pressure.

Q. If a person applied a handkerchief saturated with chloroform and used pressure?—A. They are consistent provided there are additional marks. If that was done there would be more marks. If a cloth saturated with chloroform was pressed I feel there would have been very much extensive burns all over the face indefinitely and as I always maintained,

at least the ridge of the nose will be burnt, if the thing was pressed, taking the area of these burns, taking the range of these burns, the chloroform cloth should have pressed on the ridge of the nose. In this drawing (shown) there is a subsequent addition to the original area above the tip of the nose; there is an arch over the original picture. (Mr. Pereira states that is a mark put by Dr. Spittel.) The burns will depend on where the chloroform touches. If chloroform does not touch the ridge of the nose it will not burn there. I do not see how chloroform could be applied without touching the ridge of the nose. When a person uses chloroform for  
 10 homicide or suicide it will be put in the centre of the cloth; if the centre was saturated with chloroform how it could burn the 2 sides so badly and only the tip of the nose and not the ridge of the nose it is difficult for me to understand. If it was suicide there will be no pressure. The handkerchief will be simply put on the face and the handkerchief may not come into intimate contact with the nose. If it was burnt there would be inevitable pressure. I would not say that pressure would not exist in suicide.

*Q.* Supposing you put your hand like this (with fingers touching the eyes) could it burn the ridge of the nose?—*A.* If the chloroform went up  
 20 to the upper eye and the cheeks were burnt badly, if it was pressure it must press the centre of the nose—the nose. If there was no cloth over the nose then it would not burn the upper lid of the eye; then the mouth will be burnt.

*Q.* Will you admit that you can burn the tip of the nose without burning the ridge of the nose if the mouth was burnt?—*A.* If you put a handkerchief on the face the sides of the nostrils would be burnt. There was only a triangle patch in this case. The chloroform cloth may touch the nose but if it did touch it would have burnt the ridge of the nose. If there was intense pressure as criminal would use, I would expect a burn  
 30 on the ridge of the nose. If there was no pressure on the ridge of the nose, I would like to know how the handkerchief was pressed on the face. One would put chloroform on the centre of the handkerchief and if it was pressed it has to come in contact with the ridge of the nose. Marks on the eyelids were where the chloroform touched. It may be that the chloroform touched the eye lids and not the eye brows. The ridge of the nose is on a lower level than the other parts; it is only if you are pressing that the ridge becomes the next most prominent part to the tip of the nose. If there was pressure the ridge of the nose must be burnt. Under all the circumstances there must be chloroform there. Chloroform is bound to be  
 40 on the centre of the handkerchief. The person is not going to waste chloroform by putting it elsewhere rather than put it in the most important spot. This is not medical opinion but my personal opinion.

*Q.* If a single fold of a handkerchief is saturated with chloroform and placed on the skin will it burn? *A.* If chloroform can burn when it touched a delicate skin it is possible. I can cite authority for that. (Witness cites Clarke on Applied Pharmacology (1932 edn.) page 154—action of chloroform—it says that if it falls on delicate skin it may produce burns.) That is

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the only authority I can give you for that. All the authorities say that evaporation has to be prevented. A delicate skin would be sensitive skin that will get burnt readily.

Q. Will you call a skin that is often exposed to the sun a delicate skin?  
A. That is the trouble. Ladies apply all sorts of things and in spite of the skin being exposed it is kept smooth. Chloroform has fallen on my skin and many other skins but it has not burnt. I am not aware of any case where chloroform fell on the skin and burnt.

Q. If some impermeable material is put on chloroform and evaporation is prevented, then will it burn? A. I will not go so far as impermeable. 10  
Unvapourised chloroform can remain with a cloth. The upper folds of a cloth will prevent evaporation. I cannot say whether chloroform falling on one fold of a handkerchief will burn the skin. (Shown P.13.) To saturate this handkerchief completely I think an ounce or 1½ ounces of chloroform will be sufficient. I burnt a medical student with chloroform with pressure and without pressure. I applied it for 4 minutes. Both burnt in different ways. At the end of 10 minutes we could get no smell on the handkerchief and it was not wet. That was at 1.30 on a very hot afternoon. I do not think a dram of chloroform could saturate P.13 fully. Chloroform has a 20  
sweetish smell. Some object to it and some do not. That was done in my consultation room. I did not tell the medical student to see if he would get the smell of chloroform. Some time after I applied the chloroform I asked him to tell me at once whether he got the smell of chloroform and he said No. He said he got no smell of chloroform at any time. I burnt his chin to find out whether chloroform burns over the bone. That was done in my own room. I cannot say in which direction the wind was blowing. In fact, I did not get the smell. I do not know Whitehouse on Toxicology. (Deputy Solicitor General cites a passage at page 1168 from the 1911 edn. "The presence or absence of the evidence of local action upon the face and lips 30  
is of importance in cases of alleged forcible administration.") I admit that forcible administration will leave signs. That is what I have been maintaining all the time. If a person applies without force, by himself, it will leave signs but perhaps to a lesser degree. I have never tried to get a man to chloroform himself. I think it is possible for a person to chloroform himself. It brings pain to some extent. It is a matter of temperament. Some call it pain and some would not think of pain. Some may be able to bear pain and others cannot. There is pain felt by everyone,—not necessarily intense pain. I have no experience of pain caused by chloroform because it has not burnt me. I burnt a medical student yesterday who had hardly any pain. Dr. Milroy Paul must be very sensitive to pain. Burning would in every case give 40  
pain, but some people would bear it. A person who wants to commit suicide will bear any pain. I would not burn my face with chloroform. There are 2 cases where people committed suicide with chloroform with pressure and considerable pressure. They could not release themselves of the pain. One is an American Tourist who committed suicide in the harbour. I have not seen that case. The other is the case in Lyons Medical Jurisprudence by

Waddel, page 668 (1928 edn). In that case there were marks of blisters on her lips and cheek and inside the nostrils. Blisters are of the 2nd degree.

Q. That is a case where a bottle of chloroform was kept dribbling on to the handkerchief? A. Nothing of the kind. She put chloroform on the handkerchief and the handkerchief kept dribbling owing to the saturation. There was a pillow kept over the handkerchief.

Q. When saturated with chloroform how long will it dribble? A. I cannot say that. The facts are reported very shortly in that case. I cannot say how long the pillow was kept there or how big the pillow was. I cannot  
10 say in which position her hands were.

Q. If you applied a handkerchief with chloroform to a sleeping person what will be the reaction? A. The person will awake. He might get up, especially done unwillingly. He might do a lot of things.

Q. If a person in a seated position applied chloroform to himself and died suddenly of syncope while holding the chloroform, what will happen to his hand? A. Then the hand will undoubtedly come down. I cannot say whether it will come down direct or go to a side.

Q. If that person fell backwards on the bed where will the hand be?  
A. It will be in any position. At the moment of death a person may put  
20 the hand anywhere. Even if she fell with the hand down, in the last breath she might put the hand elsewhere. After she died of syncope there could not be any movement of the hand. The person may do something just at the moment of death. Syncope of the heart takes place in a flash. Death will take place in a flash. After death there will be no movement but during death there might be any movement. In syncope a person will fall after death or fall at the moment of death and die afterwards. In a flash lot of things can happen. Fall is the result of death. Perhaps fall must take place after death. At the moment of death her head may be to a side. If the  
30 handkerchief was on the face at the moment of the fall, if the head was turned to a side the handkerchief might fall to the bed. I do not know the position of the head at the moment of death. The handkerchief may have been perhaps wet with chloroform. I do not say that in this particular case she died in a flash. As soon as the chloroform is taken to the nose if the person died in a flash there will be no burns unless there was a delicate skin. I am not aware of any skin which is so delicate as to cause burns by instantaneous application of chloroform. Even if she applied the chloroform while seated, she would have fallen back and then determined to commit suicide, she may have still kept it on her face. There is pressure when a pillow is applied and it prevents evaporation. If there was a struggle the  
40 deceased's face would have got burnt very much more irregularly and extensively. These marks are fairly regular and symmetrical and the handkerchief coming in contact with those parts burnt them. I do not know of a case where a person committed suicide by keeping a cloth saturated with chloroform on the face without keeping anything over that. The case I cited from Waddel is on a par with this case. In that case she had attempted to commit suicide by chloroform previously also.

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DR. JOSEPH DE SILVA. EXAMINATION continued.

I noticed the marks which appeared on the arms of the lady. They were leathery in appearance. It extended from the right upper part to the inner side of the arm, to about the middle of the forearm. In front of the right forearm there were two dark red areas on the inner side about the wrist and another oval shaped above it. The lower one was not leathery, the upper one was. I noted them at the post mortem and I remember well calling Dr. Milroy Paul and asking him what these were. I could not form an opinion, also about the left arm, I might make a hazardous statement but it would be a mere conjecture. I saw the mark on the thigh. I could not say it was an extraordinary thing. It was longitudinal mark and in the centre was a blister. I thought it may be due to a hot water bottle or it may be chloroform. I cannot form any definite opinion. 10

Q. Could you tell me if a handkerchief is spread over the face of a person, would it in any way interfere with his breathing?—A. To some extent, not a material extent. If it was a wet handkerchief it would interfere more than a dry one, appreciably more. It is unlikely that a man would get choked if he had a wet handkerchief placed over his face. I last saw a post mortem somewhere towards the beginning of last year. I last saw the post mortem of a person who died of asphyxia perhaps when I was a student, not after that. We seldom see it. You are right in saying that asphyxia is caused by deprivation of oxygen in the breathing. It might be caused by lessening the content of oxygen in the air itself or by actually cutting off the supply of air. 20

Q. If a person leaves a bottle of chloroform dribbling close by would that form chloroform vapour?—A. To a little extent, not to a material extent. If the air gets charged with chloroform vapour it will lessen the amount of oxygen. I could not say that in the case cited by Waddell that chloroform dribbling from the bottle would have any effect. 30

Cross-exa-  
mination.

CROSS-EXAMINED: When I was asked about my qualifications I said I was a Batchelor of Medicine and Master of Surgery of the Aberdeen University. I am also a D.P.M. (Cambridge) I went through a post graduate course at the Pasteur Institute Paris under Professor Roue for nine months. He is a world famous pathologist. Professor Roue is a disciple and successor of Pasteur at the Institute. I have seen post mortems at the Aberdeen Royal Infirmary. It is so long a time. I must have seen a couple of dozens. Yesterday I said that I myself had performed several post mortems during the early days of my stay in Ceylon. When I came back to Ceylon I was appointed without pay Director of the Bacteriological Institute. Then I got an appointment at the General Hospital. At this time an epidemic of choleric diarrhœa occurred at a place just beyond Katukurunda. Sir Allen Perry asked me to investigate. There were about 15 or 20 deaths daily. I held post mortems for about two or three days. I must have held some and my assistant 40

the others about 20 perhaps. I reported the matter to the Principal Civil Medical Officer as he was then called. I was of opinion that it was a water-borne condition, as the water was supplied by an adjacent hamlet. I did a post mortem in Ceylon. I was appointed Lecturer in Anæsthesia to the Senior students ever since December 1909. I have had 25,000 to 30,000 cases have passed through my hands, and I have not had a single case of death by chloroform. I warned the Surgeon in one case against anæsthetising and he died.

10 *Q.* Is it possible for any anæsthetist to bring all these under an æsthesia without intimate knowledge of the working of chloroform?—*A.* I should think I have knowledge.

*Q.* Apart from being a Lecturer in Anæsthesia, you are also Lecturer in Materia Medica, Pharmacology and Therapeutics?—*A.* Yes. Clarke and Kushny are authors on Anæsthesia. Kushny is a very eminent man. I am an instructor in practical anæsthesia to students. The Junior Anæsthetist also gives instruction but almost every doctor has passed through my hands during the last 25 years. Dr. Pieris himself must have had instructions from me.

20 *Q.* In view of your unique knowledge of chloroform you were asked to be present at the post mortem?—*A.* Yes, in fact I was lecturing at the Medical College when I was phoned to come.

*Q.* Did you have long interviews with the members of the Attorney General's Department?—*A.* Yes.

*Q.* Before you were called?—*A.* Yes.

30 *Q.* Including the Solicitor General himself?—*A.* Yes. Dr. Milroy Paul was not present at these consultations. I stressed that in my opinion there was no question of pressure in this case. I cited authorities on Pathology I gave them from the authorities I had. (To COURT: Those burns could be caused without any pressure. A Criminal must use pressure. (Waddell cited re Eurasian woman who committed suicide.) Dr. Paul gave me the post mortem report to read. (Waddell page 668 read to witness.) Ripe cherry is a dark colour. As a matter of fact chloroform spreads through the threads of a handkerchief when applied. It does run together. It is a volatile thin liquid.

*Q.* Is the self administration of chloroform quite a common phrase observed in midwifery cases in Europe?—*A.* I believe so, I cannot say one way or the other. I believe women do.

*Q.* You know in England the patient is asked to hold a tumbler of chloroform?—*A.* Yes.

40 *Q.* In midwifery?—*A.* In light anæsthesia. Where there is no midwife they would ask the patient to hold the chloroform. There is no necessity to experiment to find out whether a person could anæsthetise herself. (To COURT: Chloroform is used for relieving pain. A man got into the habit of using chloroform to kill pain. Once he used too much and he killed himself. It is very dangerous.) Taylor in Medical Jurisprudence 1928, Vol. 11, p. 614, shows a case of chloroform which is rare by reason of fatal results. Chloroform is a local anæsthetic. That is why after a time you

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do not feel the pain if you apply it to the skin. Webster, page 706, cites authority for the use of chloroform to allay pain. Chloroform soaked in cotton wool will allay toothache. Books say it is a local anæsthetic. I am not aware of Dr. Wood's death by chloroform. It is very difficult to anæsthetise a healthy adult. It has been the subject of experiment for a long time. (Hale White *Materia Medica* 1927 edition, page 302, cited to witness :—It may be used as a local anæsthetic for toothache by plugging it with cotton wool soaked in chloroform. A 5 per cent. solution of chloroform is used to hide the bad taste of drugs.

Q. Almost invariably according to authorities an adult person wakes up when chloroform is administered?—A. It is so. The initial effect of chloroform is to excite or stimulate same as alcohol. 10

Q. It is impossible to anæsthetise single handed?—A. Next to impossible. I would not attempt it. I daresay you may, but on an unwilling person I may never attempt it.

Q. As a homicide agent chloroform is very seldom used?—A. Yes. I can give authorities. Sydney Smith, page 487, 1931 edition, says : "Administration to sleeping person is almost universally unsuccessful owing to the intense smell of the drug." Dixon Mann is also a recognised author. I could have given him as an authority. He says "Homicide due to chloroform vapour is all but unknown. Poisoning with liquid chloroform renders it unfitted for homicidal purposes (page 604 1924 edn.) "Chloroform in some cases is used for suicidal purposes . . . more often taken accidentally. I remember Dr. Spittel experimenting as to the extent the sounds were heard. I acted as anæsthetist. There was stertorous breathing and then he asked me how far this will be heard. I told him it will be heard at a considerable distance. So he asked a student to go as far as he could hear. He went to the next ward near the theatre a distance of 25 to 30 yards. He came back and said that he had heard this. I can give authority. When there is stertorous breathing the tongue has to be watched because paralysis would result. The breathing is continuous and is audible to a distance of 25 to 30 yards. I can give authorities. Hewitt, page 53, 1912 edition, says that it always indicates exclusion of the air tract. It may be so soft as to be barely audible or so rough as to be heard to a considerable distance." Stridor is due to paralysis of the larynx. On page 54 you will find "two varieties of laryngial stridor present themselves . . . presence of mucus or adventitious circumstances." It can be caused by the presence of a certain amount of mucus. The post mortem report says that the trachea contained coagulated mucus. I read the report. Such a condition may be induced by a person inhaling chloroform. It is one of the symptoms that anæsthetists guard against and they wipe off the froth in the mouth. (To COURT: It does not necessarily mean that you have to put a gag, open the mouth and get it out.) That is where the chloroform percentage is low. If the percentage is high there is a greater tendency to form mucus. 20 30 40

Q. With regard to the condition of the heart you said your opinion was that it was not a heart distended to the maximum?—A. No.

Q. Maximum distension can cause a bulge which extends a good way?  
—A. Yes.

Q. This was in your opinion a slight distension—A. No maximum.

Q. Was that condition of the heart a heart that was relaxed and full of blood?—A. Yes.

Q. In fact was the heart held on the palm of the hand?—A. It was opened on the palm of the hand. The heart could be bigger than that. (To COURT: If both were distended it would project out of the hand.) Chloroform alone can produce that distension of the right ventricle. Hewitt  
10 in page 420 says that one of the most important phenomena of chloroform inhalation is cardiac dilatation and that this dilatation could arise independent of asphyxia. The 1915 edition of Kushny page 216 speaks of cardiac dilatation. The contraction of the heart is immaterial. Hale White page 300 refers to the depression of the cardiac and respiratory vasotor system and the heart finally stopping in diastole, the muscle tissue is depressed, and the heart protrudes like a hernia. It is like a condition present in Aneurism. These are probabilities not invariable signs of a dilated heart. The heart can stop at any stage. Taylor expressly says that the heart presents no special appearance indicative of the mode of death except  
20 small spots of ecchymosis. Buchanan page 406 "Post Mortem Appearances" says "the cavities of the heart are empty, but in some cases the right side of the heart is distended with dark coloured fluid." I did not observe the vena cavæ. I do not think I saw any reference in the post mortem report. If the right ventricle was distended to the maximum I would expect to find blood in the pulmonary arteries. If it was due to asphyxia, it was bound to be. In that case the lung stops functioning first and the circulatory system continues to function. If the heart was not functioning the blood remains in the pulmonary vein and it carries arterial blood. The pulmonary arteries though so called carries venous  
30 blood. The pulmonary arteries should be full and the pulmonary veins empty for the case to be asphyxia. I presume that medical men know that the pulmonary artery belongs to the venous system. The venous system includes the pulmonary arteries. I tried to make this clear yesterday. I tried to describe the post mortem symptoms and to find blueness of the finger tips, rigidity of the face, distended eyes. (Counsel cites Moody "Face is either calm and pale in slow asphyxia or distorted, congested and blue in cases of sudden asphyxia.") The lungs are dark and purple in colour and engorged with dark venous blood. In asphyxia the pulmonary veins and aorta are empty and the pulmonary arteries full. I gave this evidence  
40 in the Police Court. As a matter of fact there was considerable difference of opinion as to whether chloroform by itself causes death by asphyxia or by syncope in the first instance. But the trend of modern opinion is that it is due to syncope. I can give numbers of authorities. There is a fall of blood pressure, the weakening action of the heart, but the pulse does not perform its function fully. I have a large number of authorities. Hewitt in page 118 says it is the want of cardiac action that causes death under chloroform. (To COURT: Ordinary syncope of the heart means that the

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heart fails to act. As far as I am concerned whether syncope or chloroform caused death is immaterial.) Hewitt on page 126 says that chloroform is a powerful protoplasmic poison, paralyses respiration and depresses the circulation. (To COURT: It is due to a fall of blood pressure. Gwathmay, an eminent American anæsthetist supports this view.) From the post mortem signs authorities warn us not to be too sure. Hewitt page 430 on "Post Mortem Appearances." That it is any characteristic in the chloroform nor is it possible as a general rule to say what is the particular mode of death in any given case. As regards the post mortem appearance of animals killed by chloroform that the right cavities of the heart were always found full of blood. Macwilliam of the Aberdeen University says that it is impossible to say from the post mortem condition of the heart whether death takes place by cardiac failure or asphyxia. Numerous authorities accept that the post mortem appearances point to syncope rather than to asphyxia. In the case of animals immediately after death except in the left ventricle the heart cavities are found distended with blood in the left ventricle rather less than in the right though after examination the left ventricle was also found empty and contracted. Kunkel a German anæsthetist states that in chloroform the heart stops in diastole. I quote Hale White to show that the heart stops in diastole. Gwathmay supports Hewitt page 305 (Counsel reads Wilkins Manual of Toxicology page 1168.) I did not notice whether the veins in the neck were partly distended. I expect the subclavian veins full, and unless these were full there was bound to be venous congestion in the blood vessels of the face. I explained yesterday that chloroform does make the blood bluish, quite irrespective of it. The blood need not be quite blue but venous. With regard to the burns on the face I would not go to the length of saying they were regular. There were indentations here and there. A cloth or handkerchief on the face could not have been shifted. It was stationary. Marks should be looked for where a person is not chloroforming himself. I have always been of opinion that it was due to a handkerchief on the face in the absence of a struggle or resistance. Burns on a lady depend on the tenderness of the skin. Clarke says so. If there was any pressure I would expect to find the area round the mouth burnt. The nostrils and the mouth would have the greatest pressure. There must necessarily be a burn round the mouth. The cartilage of the nose can be easily damaged. If violent pressure was exerted it would break. One must find the ridge of the nose burnt too. I was not able to find any sign of any resistance offered by the deceased. Taylor advises doctors to look for signs of violence. Such marks of violence were singularly absent. I cited Hale White that the maximum burn was a burn of the 2nd degree. Vesication is a blister due to a burn of the 2nd degree. Bruce and Dilling 1926 edition page 327 says that chloroform acts as an irritant followed by vesication and then anæsthesia. A blister is a 2nd degree burn. R. Ghose in *Materia Medica and Therapeutics* page 252 says that chloroform is a local anæsthetic and if evaporation is prevented or if rubbed into the skin causes redness and vesication. Dixon in *Manual of Pharmacopia* page 52 does not speak of

vesication. He says that "if it is dropped on the skin it gives rise to burns. Chloroform produces vesication, so that if we find a burn of the 3rd degree it is probable that something else has supervened. Brandy and hot water bottles would tend to cause 3rd degree burns. I cannot conceive chloroform by itself producing 3rd degree burns. I can say why because chloroform is volatile in 3 or 4 minutes it would be off. There is another explanation possible if there was a third degree burn. Chloroform decomposes into carbon oxichloride and hydrochloric acid. If there are 3rd degree burns, it is due to something not due to chloroform. Sir William Wilcox is an authority on Anæsthesia. He says 6% chloroform would kill (British Medical Journal of January 20, 1934, page 105). In this case the edges are all definite. It means the absence of movement. I said in the Police Court the burns would be more extensive. I can give an instance where 15 drops would kill (Taylor, page 607 read to witness page 608 where a boy who swallowed one dram of chloroform died). I can give you two authorities. The 15 drops case is from "Husband," page 390, showing that 30 drops and 15 drops were speedily fatal and the other "Waddell," page 667, where in one case 30 drops and in the other 15 drops inhaled caused death. I cannot recollect any other observations that have any bearing on the post mortem. At the Duff House enquiry and at the Police Court I said that that in chloroform deaths cardiac syncope and asphyxia synchronise. Hewitt supports Kushny. (To COURT: The majority of authorities say it is due to the heart.) Hewitt, page 428, states that a patient may suddenly die and that all attempts to stimulate the heart may be futile.

To JURY. Q. Assuming that the deceased had committed suicide by way of chloroform would you expect to find any external marks other than those admitted at the post mortem.—A. I do not think so.

Q. Generally speaking if a person committed suicide with chloroform would you expect to find a bottle or vessel of some kind?—A. He may have gone some distance, put the chloroform.

Q. On the other hand is it possible for a person to go out, pour the chloroform on the handkerchief or any material come back to the bedroom and kill herself?—A. Yes. (To COURT: Chloroform is volatile. A person could have used it somewhere between the rooms. Whether it is suicide or not there might be a bottle. In a case of suicide it may or may not be in close proximity. It is possible that she would have come back to the bed and killed herself.)

RE-EXAMINED: I mentioned certain reference in Taylor, Waddell and Hewitt of persons who died with a few drops of chloroform. These were cases where chloroform was administered in surgical cases. They were not necessarily cases of idiosyncracies. There is much dispute about status lymphaticus. Persons are susceptible to chloroform. A few drops would kill. In cases of idiosyncracies a few whiffs would kill. There is a big controversy over status lymphaticus. I think they are appointing a

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commission to go into the matter. I suggested local anaesthesia in one case where the patient died on the table. It was Dr. Paul's case. In my 25,000 cases, no person died by a few drops of chloroform. There are cases where people die of fright before chloroform. People in the pre-chloroform stage have died of funk. If there was a struggle the marks would be more extensive, but if there was intense pressure other results ought to follow. If there was no movement the marks will have definite edges. (To COURT: It is an abstruse problem that there was shock in this case). Chloroform sometimes decomposes when it is exposed to light. I do not know that anaesthetists found that it decomposed near a gas flame. Evaporation should be prevented or rubbing must be done before vesication takes place. I said there was no sign of resistance. The cross-wise position on the bed does not necessarily indicate a struggle. I do not say that it was a sign of struggle that the position was changed. If the struggle caused a change of position, I would have expected more signs of struggle. Gwathemay cited Hewit he also cites Gill page 305 says, Chloroform is a powerful protoplasmic poison. It paralyzes respiration. Artificial respiration would invariably be successful. Respiratory failure may sometimes be the cause of death. The action of asphyxial conditions would be accelerated. (Hewit page 420 read to witness.) You get these conditions from spasm of the glottis. This is not a case of cardiac failure. Intercurrent asphyxia occurred with failure of the heart. I say that mucus is produced by chloroform. It occurs in the first stage of anaesthesia. I have seen it at the third stage. It is difficult to say how many minutes in a minute or two, may be ten minutes. It is very variable. Stridor is a very late stage, just before the 4th stage. Stertorous breathing is in the 3rd stage. I have to expel the mucus as the internal complications are infinite. (To COURT: If a noise was heard it may have been in the stridor stage. Gorrogorro sound is due to mucus in the throat. It is a death rattle. Stridor and death rattle may have come together. The conditions would have come together) Stertorous breathing is not all the time sometimes there is, it is not continuous, for periods. Stridor is laryngial paralysis. (To COURT: It is a death rattle. I should think an unusual noise is detected by the ear better than the usual sounds. Death rattle may be very loud. It is very difficult to administer chloroform to a person unless it is a child or intoxicated person, against his will. I will maintain that a case can die, going through all the stages and balboa paralysis in perhaps two minutes, if the chloroform is very concentrated, if the person escapes early death and you might not be able to distinguish one stage from another. Chloroform leads to dilation of the heart in the early stage. Powell says that if chloroform is inhaled in the early stage it can get absorbed in the lung alveoli. When parts are chloroformed they get paralysed, after that the nerves and then you get a burn. I cannot say if there is pain the burn lessens. The nerve is just between the dermis and the epidermis just under the germinating layer. If the epidermis is exposed it would pain. The burn is a 3rd degree burn, one of the most painful forms of burns. After the dermis is burnt it is a

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3rd degree burn. Chloroform makes the blood of a particular colour. I have authorities to give. I was willing to concede that there were asphyxial signs. It is very difficult. Shannon says light red because he must be speaking of White-skinned people. (To JURY: Q. If you pour chloroform on a handkerchief how long does it take to affect its efficiency?—A. A small amount remaining on a handkerchief if it is taken concentrated with very little air would kill.

Q. How long would the potency be affected?—A. In 5 minutes it would be nearly dry. It does not decompose. It is powerful enough to kill.) I have never heard of Shannon.

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Evidence of Dr. R. L. Spittel.

DR. R. L. SPITTEL—sworn.

EXAMINED: I am an F.R.C.S. England. I am 2nd Surgeon at the General Hospital, Colombo. I have been in practice about 25 years. I have been a Surgeon at the General Hospital for 20 years. I have had a fair amount of experience of post mortems, and a great deal of experience in the administration of chloroform. Chloroform is used in all surgical operations. All medical men must be students if you want to be up-to-date. I have written a book on surgery "The Essentials of Surgery." For the better part of a year for a short period I was in charge of the Anatomy Department. I have been keeping up my studies by reading various medical journals. I know this case of the death of Mrs. Seneviratne. I saw the post mortem report issued by Dr. Nair. I went through the report.

Adjourned for lunch.

DR. R. L. SPITTEL. EXAMINATION (continued).

I agree with the condition of the heart described in the post mortem report and also that the right ventricle contained blood clots and distended to its maximum. Trachia contained coagulated mucus. I agree with the report regarding the condition of the blood vessels, lung, left lung softer than right—cut section reddish tinge—Does that indicate anything? It suggests that it was congested. I think it was congested. I have read the rest of the description and I agree to the rest of the description. I also agree to the description of the burns on the arms and face and left thigh. I have seen the Pathologist's report P.43. I do not think there was any organic disease to account for this death. I can say definitely it was not a death by natural causes. Taking all the medical evidence into consideration I think cause of death was secondary syncope due to administration of chloroform by way of inhalation.

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*Q.* Why do you say it is secondary syncope? Was there any other complication?—*A.* Yes. Because of certain signs which indicated asphyxia; these signs found on this body are—great distension of the right side of heart, oricle and ventricle, the dark fluid blood contained in the femoral veins that Dr. Paul found when he cut down the artery. Those are the two main signs—the other which suggested it was a certain amount of coagulated mucus in the trachia which might have been due to the anæsthetic. Veins of the neck were particularly distended. That is also a sign of asphyxia. If the femoral artery in the leg was in that state one would expect the veins of the neck to be in the same state. The venæ 10  
Cavai and all the large veins were full.

*Q.* The fact that the pulmonary artery was empty and the pulmonary veins were full shows that it cannot be a case of asphyxia. What is your opinion?—*A.* I do not think that is justified on that one point at all because the symptoms of asphyxia vary.

*Q.* Can that be accounted by the fact that secondary syncope intervened?—*A.* Yes.

*Q.* What are your other reasons that secondary syncope intervened?—*A.* The fact that secondary syncope is one of the commonest ways in which a patient who has chloroform forced on her dies and the fact that 20  
there were certain signs of asphyxia and no others such as lividity and the blue marks about the finger nails and mucus membranes, etc. Taking those facts together the presence of certain amount of asphyxial signs and the absence of others the fact that that is just the death one would expect when concentrated anæsthetic is applied on the nose and mouth, are the reasons for considering that death was due to secondary syncope. I mean syncope caused by chloroform, but up to a certain point preceding the syncope was asphyxia. Both these symptoms convert together.

*Q.* How long do you think it would take for secondary syncope to intervene in a case of asphyxia?—*A.* That is difficult to say—within a few 30  
minutes. Secondary syncope means that the heart stops suddenly when the patient is asphyxiated to a certain point. It does not mean that the patient goes on breathing after the heart stops. Asphyxia as a rule as given in text books has got more or less typical signs—they being that right side of heart, oricle and ventricle and large veins are engorged and left side of the heart and arteries are empty. There is the fluidity of the blood; engorged state of the lungs and the internal and external signs of post mortem lividity; also froth about the mouth and blood stained mucus in the trachia. Those are signs as laid down in books of asphyxia, and sub-pleural and pericardial hæmorrhages in the small vessels of the covering 40  
of the brain. But the point is that all these signs are probably never present in any one case of asphyxia. They vary a great deal. A great point has been raised on the question of the emptiness of the pulmonary artery in this case. There is an explanation to it but it is difficult to explain to lay people—it is even difficult to medical men to understand. It has something to do with the failure of the heart as a pump and the stoppage of the respiration at the end of an inspiratory gasp with the heart stopping at the

same time. Taking these premises and the particular finding in this case—the emptiness of the pulmonary artery could be easily explained, and if you want that explanation Professor Karunaratne will be more competent to say than I can, but I do not think you will be able to understand him. The fact that the pulmonary artery is empty can be explained, when death occurs at the end of inspiration, the heart and respiration stops practically simultaneously. Just to take that one point and negative asphyxia is not quite correct. Fullness of the artery is not a point which all books state. Some books do not mention it and to say it is taken for granted is to beg the question. Another point is that the pulmonary artery is an artery and not a vein; definition of an artery being that it is a vein only in the sense it contains venous blood. It is an artery because it conveys blood from the heart and does not collapse when empty. I do not agree that when books mention venous system it includes the pulmonary artery. My opinion is that death was due to chloroform in the first instance—whether it syncope or asphyxia pure and simple it is the direct cause of chloroform. We are up against two important conflicting statements. One is that the appearances similar to asphyxia can be found in people who have died of accident or disease. That is granted. Another point is that the heart at necropsy need not present the same appearance as a heart immediately after death. Rigor mortis decomposition brings certain changes and we are warned by Taylor and other authorities to be very careful with what amount of dogmatism we speak of asphyxia in such cases. In this case particularly where the post mortem was done so long after and formalin injected the question of asphyxia becomes very complicated. Then there is the other group of cases where people who have undoubtedly been suffocated have shown very few of the signs of asphyxia or, if I may put it this way, there have been cases of undoubted asphyxia where most of the post mortem appearances of asphyxia are absent. If you take those two premises you can argue and argue round circles. The appearances are typical and these other statements I have made are more or less exceptions. The distension of the right side of the heart is one of the classical signs which we must accept whenever we find it and I think Dr. Nair's evidence on that point should carry far more weight than that of a person like myself because he has done so many post mortems and saw the body at the time and he could speak with authority. That is on the point of the distension of the right side of the heart in most cases of asphyxia. I had kept all these points in mind when I formed my opinion. This case is therefore a very complicated and an academic one and when we talk in a court of law we are skating on very thin ice and apt to err. Therefore I think we should not be too dogmatic as to whether death was primarily due to asphyxia or not, nor do I think it matters whether death was due to asphyxia or not. Most medical men are agreed that inhalation of chloroform caused death. Then what does it matter whether it was due to asphyxia or syncope or syncope supervened by asphyxia. My own opinion is that it is not primary syncope. By primary syncope I mean that the heart stops suddenly and the patient dies.

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*Q.* How long will the interval be in a case like this for the heart to stop?  
—*A.* Within a few minutes. It might happen in 1 to 3 or 4 minutes. My considered opinion is that probably here owing to the distension of the right side of the heart the breathing and the heart almost stopped at the same time. I think the heart stopped first. What happened was the patient was shocked the lungs were engorged and the heart muscle was poisoned by the lack of oxygen and one sudden respiratory gasp in a heart in that condition is poisonous to that heart and death is instantaneous; that is what I think happened in this case.

*Q.* Are these internal signs consistent with a case of a person applying a sop of cotton wool saturated with chloroform and preventing breathing?  
—*A.* I do not think that could have happened in this case. It is very remotely possible. 10

*Q.* Can there be partial cutting off the breathing? Are these signs consistent with that?—*A.* That particular question is better approached from another angle, but what I would say now is that if a person took an anæsthetic and clapped it to the mouth and nose it is exceedingly intolerable.

*Q.* If it is placed there by another in such a position to prevent breathing, are the signs consistent with that?—*A.* Yes, that is possible. (To COURT: The signs of asphyxia found may be consistent with the actual breathing being cut off by mechanical means.) 20

*Q.* The breathing being obstructed in some way by mechanical means?  
—*A.* That is so. The internal signs are consistent with that. (Deputy Solicitor General reads a passage from Handbook on Anæsthetics by Stuart Ross and Farely 1929, 3rd edn., page 212—"Secondary syncope.") That is what I think happened here. Synosis disappears at the moment of death. (To COURT: I know what a death rattle means.)

*Q.* Could there be a death rattle after the last respiratory gasp?—*A.* When syncope supervenes death is absolutely sudden. Supposing there was mucus in the larynx there might be a little rattling noise while respiration is going on. I think here both the heart and respiration stopped at the same time, but as a rule the respiration lasts much longer once the heart stops. Deputy Solicitor General cites another passage from Stuart Ross p. 212 where it states that secondary syncope is due to there being no free way to breathing.) A distended heart and a relaxed heart are different. Distension has got to do with the cavity and the relaxation with the muscle and to say definitely that this heart was relaxed is practically impossible because the heart muscle was stiffened with formalin and you cannot form an opinion in a case like this. 30

*Q.* Sometimes you find a relaxed heart without any blood?—*A.* Yes. 40

*Q.* That does not necessarily follow that when it is relaxed it must be full of blood?—*A.* Certainly not. (Deputy Solicitor General cites a passage from Lancet—22nd April 1893—p. 942, where mention is made of a case where at necropsy the left ventricle was firmly contracted while the right was in diastole but empty.) In diastole means in a relaxed condition. That is a case where a

heart was found relaxed but empty. That is not a peculiar thing. (Shown P.42.) I agree with this picture regarding the burns. The burns on the lips are correctly shown. This is more or less correct. On the top lip there is a mark shown. That portion was very indefinite. It was not leathery. It was different to the other mark over the upper lip—that was very evident. I think the mark stopped at the lower margin of the lower lip as indicated in this picture. I did not particularly notice the lower lip being dark coloured. The portion on the upper lip was of a different colour and it looked as if it was due to the excessive outflow of saliva in contact with that portion. The marks seem to be suggestive of a handkerchief or some such material being soaked in chloroform and clapped to the mouth and nose (witness shows how it must have been done). The chief points of pressure are on the sides of the cheek and below the chin and the tip of the nose and not the bridge of the nose which was not burnt. I cannot account for the marks on the eye lids except it was clapped there for a moment but I cannot give an explanation for that. They looked rather like those other marks. The fringe of the material might have touched there or the finger may have touched there. It is very difficult to state. (To COURT: I know that chloroform evaporates. If a handkerchief had been saturated with an ounce of chloroform before it is clapped on the mouth and nose, it would remain there at least for 5 minutes. The outer layer of the skin will go first. I would not like to say whether that accounts for the epidermis being damaged.) It is possible that it might get saturated more in some places than others. After a minute or two pressure might bring some chloroform to the\* it depends on the saturation of the article where the chloroform will come out. In the position that you show the lips will be covered but I do not think they will be pressed to that extent because the hand becomes a cone and there was a free amount of saliva thrown out. When you give a concentrated anæsthetic a person generally spits out and that is done very quickly and when the vapour is concentrated abundant salivation will occur That saliva will prevent the burning. That is what I thought happened.) I cannot speak definitely but the projections (marks) on the face might be due to points of pressure with the fingers—points of pressure depend on how the fingers were distributed over that area. (To COURT: I think all these are burns. When I say that I am going on the evidence of two doctors who saw the body in a fresh state. If you ask me to speak to them with definiteness not having that information I cannot, but having that information I come to the conclusion it must have been due to anæsthetic burns.) The Pathologist took a section only from one place. The burn of that place was certainly one of the 3rd degree. It had gone right down to the dermis. The appearance of the other portions were also the same—some were burns of the 2nd degree and some of the 3rd degree. They were all depressed below the surface of the face. I cannot say definitely whether most of the burns were of the 2nd or 3rd degree. They were deep burns such as would be caused by pressure of chloroform. (To COURT: Could they have been caused by chloroform on a handkerchief without any pressure? A. Some skins are more susceptible than others. I did a few experiments on that.

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There was a patient one Mr. Soysa who has been summoned. I kept a handkerchief for 4 minutes on his face moistened with 2 drams of chloroform without pressure and there were no burns. He could not tolerate  $\frac{1}{2}$  ounce. That was placed over the mouth and nose, but no burns at all. I applied  $\frac{1}{2}$  ounce of chloroform to a handkerchief and applied pressure over the forehead and tip of the nose for 3 minutes while I asked Dr. Paul to press another handkerchief moistened with  $\frac{1}{2}$  ounce of chloroform on his abdomen for 3 minutes and we got burns in both these cases. The other case is a very important one. There was a woman under chloroform for an operation and I placed a handkerchief soaked with  $\frac{1}{2}$  ounce of chloroform without pressure over the mouth and nose. To safeguard the life of the patient I removed it momentarily in the middle of this experiment and placed it again but I kept it for 5 minutes and got no burns at all. There was no pressure in that case. It was a handkerchief that was loosened out as it was in use—crumpled up. At the end of the 5 minutes the handkerchief was not dry—by no means. A handkerchief would take 10 minutes to dry if it is kept loose, but if it is kept in a tumbler it would take much longer. What I found with regard to the chloroform and pressure is that if for instance I put  $\frac{1}{2}$  ounce chloroform on that handkerchief and kept on my hand I could not tolerate it for more than one minute, after that the pain becomes more intolerable. The fact that I was able to keep two persons so long is because I had partially anæsthetised them. Mr. Soysa was also partially anæsthetised. When it begins to burn for a minute probably it will not leave a mark, but if you can tolerate for 2 minutes it is sure to leave some mark. There are 2 cases in which I placed  $\frac{1}{2}$  ounce of chloroform on a handkerchief on the abdomen without any pressure and I did get a certain amount of burn, but nothing like these. They were just patchy burns. I kept that for 3 to 5 minutes. Just where the points of the handkerchief rested there would be a little mark. Even without pressure it might leave marks on certain skin. The marks left there did not vesicate so quickly as marks produced by pressure and took long to develope. In this particular case the marks on the face were observed very quickly after death because Dr. Paul had seen them—he was there very shortly after death. That is why I think that the marks in this case were caused by pressure. In the cases where I had not used pressure it took much longer to develope than that. Brown staining is the sort of staining I refer to. When there is no pressure you do not get those marks, but if you use pressure you get those marks very soon after. If you simply leave the handkerchief saturated with chloroform the burns are very much less than if you applied pressure. Even in that case there are the folds of the handkerchief preventing evaporation to some extent. Pressure might have been caused in the act of suicide if there is anything to suggest in the circumstances.

*Q.* Is it possible to take a handkerchief saturated with chloroform and spread it out on your face and get these burns? *A.* In my opinion certainly not. Because chloroform will be distributed all over and rest very little and there would be no pressure at all and evaporation will be more rapid. It will not leave marks like that—not in that distribution. I did not do this

particular experiment but I do not mind doing it on myself, but I am convinced that will not leave marks like these. If a person spread out a handkerchief like that on the face it would to some extent prevent breathing but not to any material extent.

10 *Q.* If the handkerchief was saturated with chloroform would you expect sudden death from such a process? *A.* I would not, because it is not usual. Concentration of chloroform is not very great there. Most of it is spread out and most of it is exposed to the air, evaporation is quick and lot of air accessible to the patient. Air will permeate through the handkerchief and underneath its folds. I would not expect such a patient to go under chloroform under those circumstances. There is very severe pain after about a minute.

20 *Q.* Would it be possible for a person to clasp a handkerchief saturated with chloroform to his face and keep it there owing to that pain till he dies? —*A.* Personally I think that is quite impossible. It seems to me a superhuman act to saturate a handkerchief with chloroform and press it down there until you die, but there have been recorded cases where always there has been a retentive device like a pillow. There is one such case of a physician in Winter Blythe p. 148—3rd edn. (Witness reads passage in suicidal poisoning by chloroform.) The other case is in Waddell where a Eurasian woman kept a pillow over her face. (Witness reads that case.) How she was able to do that baffles me. She must have been a strong willed person or drunk or drugged. There again she had this particular device and she was found dead when this thing was over her. She had made an attempt and failed earlier. (To COURT: Ordinarily it shows a tremendous strength of mind because the impulse is to throw away the thing owing to the burning sensation. If it is suicide then you must find the person dead with the anæsthetic over the mouth and nose because if not the moment it comes away the patient recovers and if you find the person dead without anything over the nose and mouth it shows that it had fallen off after death or the hand might be over the mouth, or if the head was to a side the handkerchief and hand would be quite close up to the face and the handkerchief so apparent that it was bound to be seen by anybody going into that room.)

30 *Q.* If she sat on a bed in a crosswise position and with fortitude of mind pressed the chloroform to her nose and mouth and at the last moment she fell?—*A.* That is very improbable because if she did that then the presumption is that she took a sudden gasp and died of syncope then where does the cry come in? The death rattle is not heard from outside and it is a continuous thing not 1 or 2 abrupt shrieks. Here there were 1 or 2  
40 cries suddenly brought to an end. A groan would mean that she felt the pain. If she clapped it on and groaned and at the moment of groan she died, that is a possibility but a very remote one in my opinion because if she groaned the tendency would be to take it off even momentarily. If she died of syncope you would not find the asphyxial signs. That must have taken a little time. I gave Mr. Soysa a handkerchief saturated with  $\frac{1}{2}$  ounce of chloroform. He is quite adapted to it because I have done it several times. I have done it myself. I always used to have it myself

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and I used to go under up to a certain point and then the anæsthetist took it off my hand. In England and other countries it is a common practice that when a woman is giving birth to a child to hand to the woman a handkerchief soaked in anæsthetic. Then she would go under and the hand falls; when they recover they are given another dose. We put the anæsthetic on Mr. Soysa. He would hold it on the nose and mouth and start breathing. When he came to the 2nd stage of anæsthesia—that is the stage when they are apt to be excited and noisy and give groans, curses, swear and do anything—those sounds are heard far, but in this case it could not have been those sounds because in that stage all the muscles got rigid and incoherent movements and the patient is not conscious and therefore they cannot keep it there; the hand stiffens and the thing goes out and when he comes back after a little time he looks silly and he puts it back again. Mr. Soysa did that and he is willing to give a demonstration. Every time he attempted the hand fell off—never once did he go right up or reach the stage of surgical anæsthesia. There is a difference between a normal person and a suicidal person doing it. Mr. Soysa must have done it over half a dozen times.

*Q.* It has been said that at a certain stage in anæsthesia you get a stertorous sound and stride; would that sound be a continuous one?—*A.* That cry as described by two people—the chauffeur and Seelas—they heard a loud cry as if the lady was calling for Alpina and Alpina herself said that was what they told her. That is a definite articulate cry but not a groan. A purpose act done by a person in a conscious state because it was a definite call to a servant. It could have been done in the 2nd stage, but it suggests that it was a conscious cry and articulate call for someone. If it was an articulate sound then it could not have been when she was under the stage of anæsthesia. I place importance to the significant fact that the cry was not a continuous one, but 1 or 2 shouts. In the 2nd stage of anæsthesia they go on rambling and swearing for a long time. It is not one cry and a sudden stop, but here there was a sudden cry and a sudden stop (meaning death.) If it was in the 2nd stage when she was getting rigid; this is the only stage which she could utter a cry of that nature, a loud call for a servant—then she would have kept calling and her hand would be found rigid and she would not be found dead in that stage. Because she cried out I think the homicide element comes in there. If it was a patient who was in the 2nd stage of anæsthesia then the cry would have been repeated more frequently and the patient would not have died. In stride she would have died of asphyxia. We would expect lividity in the larynx and larynx stertorous is not a single sound but a series of sounds for some time. Stertorous breathing will also be continuous. I have not met a skin that would be susceptible to a single drop of chloroform dropping on it. That would be a very extreme delicacy of skin.

*Q.* Besides Clarke who says at page 122 that a single drop of chloroform dropping on a delicate skin may produce a burn on the skin, there are several other authorities 3 of which were cited which shows that evaporation must stop or rubbing must take place before there could be burns.

To that would you add pressure?—A. Yes. Before we leave this question of sudden death by chloroform, I would like to say that although many anæsthetists have not had deaths occurring when they administer chloroform very often in the operating theatre patients suddenly stop breathing and are revived afterwards. That must have happened to Dr. J. S. de Silva often. There is nothing dramatic about the stopping. Whether the patient stops breathing from syncope or from asphyxia by the tongue falling back. When there is mucus in the throat, sometimes there is a little stertorous breathing certainly not a sound that could be heard like this  
 10 sound and the process is a very silent one. Before we are aware we find the patient has stopped breathing. All the anæsthetists and surgeons will bear me out on that point, namely, that when a patient dies suddenly—stops breathing under an anæsthetic always, except for the little mucus rattling, it is more or less a silent process. It is sometimes thoroughly silent and sometimes you get a difficulty in breathing owing to the mucus and the tongue is pulled out and the throat cleaned. The stertorous breathing of a patient chiefly under an anæsthetic is also a continuous process, but not one sound and then a stop; what I referred to is not of that kind, but that is when a person suddenly stops breathing under anæsthetic or  
 20 when the heart suddenly goes under syncope. Under asphyxia also you realise that the patient is getting blue before you notice any sound, but sometimes when there is mucus blocking in the nose you hear that rattle but it is a continuous rattle and goes on for some time before breathing stops. That is not very loud. The stertorous breathing is louder than that. Taylor says that 15 or 20 drops of chloroform have been known to cause death. That is most exceptional. If that was common no one would dare to give an anæsthetic to a patient. There are cases where chloroform has fatal effects. These cases are very rare. It might be due if it is badly administered. If you shock a patient, even with a small  
 30 quantity—it is the concentration that matters and not the quantity. I do not know how that occurs but that is exceedingly exceptional. There is status lymphaticus which leads to death. It is doubted at present. In such a case the person will succumb the first time chloroform is applied.

Q. It cannot happen in a case where a person has gone under chloroform on a previous occasion?—A. Probably not, but I would not say that for certain. There is such a thing as status lymphaticus. If the deceased had been in the habit of taking chloroform to induce sleep she could not have had status lymphaticus. I have not come across any case where people have been habitually taking chloroform to induce sleep. They  
 40 are very rare cases.

Q. Apart from the burns on the face there were marks on the right hand, on the wrist, forearm and upper arm. Were they extensive marks?  
 —A. The one on the forearm and arm were extensive.

Q. Were they similar in colour and appearance throughout?—A. Yes, I think more or less. They also had a leathery appearance. Part of it was brownish and part of it was leathery. I cannot say whether they were ante or post mortem. There were 2 leathery marks on the left thigh and

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another long mark on the outer side of the same thigh. I cannot say how the blister on the thigh could have been caused. I do not think it could have been caused by chloroform. I do not think it is possible to cause that blister by a drop of chloroform falling on the skin or on the night dress. A hot water bottle could not cause it, but a drop of very hot water could have caused it but I would not like to give a definite opinion on that point especially as this body had formalin in the tissues. If the deceased had taken aspirin I would expect to find some trace of it particularly in the urine. Aspirin is absorbed into the body very quickly—in about 15 minutes. The excretion starts within half an hour, but I cannot speak with any authority. I know by the experiments carried out by Dr. Milroy Paul that it excreted very quickly even after taking a single tablet. Whitla is a well known authority. I agree with the passage at page 298 in Whitla (1927 edn.) that “acytile salicylic acid or aspirin acts in the body as salicylic acid into which it is slowly decomposed in the intestines.” Aspirin is acytile salicylic acid and it decomposes in the body as acytile salicylic acid. The effect of aspirin in the body will be acytile salicylic acid. (Deputy Solicitor General cites Clarke p. 351 where it is stated that salicylic acid is excreted within the first 24 hours 50% and 20% in the next 24 hours.) I have no experience of that, but we must take that great authority.

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*Q.* If that is correct would you expect to find salicylic acid in the urine which was found in the deceased's bladder?—*A.* I would.

*Q.* Supposing she had taken about 10 tablets of aspirin even if she had passed a large quantity of urine in the night would you expect to find it in the urine?—*A.* Yes. I saw the urine myself. I cannot say whether it was fresh or decomposed. I am personally aware of the experiments carried out by Dr. Milroy Paul.

*Q.* Is it likely that formalin when injected to a dead body would act in any different way than formalin added to the urine in a bottle?—*A.* I do not think so. Action of formalin which is added direct to the urine itself must be more than the effect of formalin injected into the body and even in that case it reached the urine through the tissues. When the formalin is injected I expect it to get into the urine and prevent its decomposition. I saw the urine but I did not pay very much attention. The urine was taken from the bladder. A certain amount of urine escaped when the bladder was open and some urine remained, and it was that urine that was taken. There are some persons who are susceptible to aspirin. When given aspirin people develop a skin rash and some of them get cardiac depression. I do not think here death was due to an overdose of aspirin, owing to the absence of salicylic acid in the urine and those burns and the cry. If she took it overnight and died in the morning she would have died in a state of coma and death would be a gradual one and I would not expect her to get up.

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*Q.* Suppose you apply chloroform suddenly to a sleeping person, do you think that that person will attempt to get up?—*A.* Yes. It is very difficult to chloroform a sleeping person—if you do that he will get up at once. Even doing so gradually they get up. An anæsthetist could succeed

in putting a patient under the effects of chloroform while still sleeping, but that is very seldom. Even if you give it as carefully as possible he will come to a certain stage when he awakes. The crosswise position of this body is consistent with an attempt to get up.

Q. Do you think there was any indication that this death had anything to do with the slight diabetes she was suffering from?—A. No. If she died of diabetic coma the symptoms would be that of coma and I would not expect her to get up or cry or to have those burns.

CROSS-EXAMINED: Q. You said you would expect to find lividity in some cases under certain conditions. Under what conditions?—A. If death was due to sudden syncope. I was speaking of the spasm of the glottis. Death by spasm of the glottis would I think have shown signs of lividity on the body. That is with the stridor, but not absolute spasm. If there was absolute spasm where the vocal cords come together, even then you would expect lividity because it would be the same as suffocation. In this case there were signs of lividity when Dr. S. C. Paul came there at 7.30 a.m.

Q. Why do you say that you will expect lividity only in case of spasm of glottis?—A. Because I do expect it there.

Q. In case of spasm of glottis only?—A. If you were strangled you will get.

Q. You say you expect to find lividity in the case of death by asphyxia or spasm of glottis?—A. I do.

Q. Would you expect to find lividity in any other case of death by asphyxia—in any other way?—A. You would find sometimes and sometimes not.

Q. In what cases would you expect to find lividity?—A. If the suffocation had gone on for some time you would expect to find lividity.

Q. What else?—A. That is good enough, isn't it.

Q. Do you suggest for a moment that spasm of glottis goes on for a long time?—A. Sometimes.

Q. Can you cite authority for saying that spasm of glottis takes a long time to cause death?—A. If you look up Ross and While on stridor. This idea of the spasm of glottis is not held now, but usually it is the approximation of the cords plus a certain amount of obstruction of mucus and it will take a long time. Ross & While is a book for students which summarises the best teaching of the day, especially as it is meant for students. I would not place myself above the level of Taylor. (Witness reads a passage from Ross & While p. 25 re spasm of glottis.)

Q. Where does it say that spasm of the glottis takes a long time to come? I put it that it comes on suddenly?—A. Yes. It comes on suddenly but it does not cause death suddenly. If air is passing through the approximation of cords and there is a crying noise death comes suddenly. The book just cited does not mean the complete spasm of glottis.

Q. Do you consider Kushny an old book?—A. Not a bit.

Q. In any case you say that where asphyxia has delayed, you would expect to find lividity?—A. Yes. But at the same time I would like to qualify it. Mr. Pereira is trying to fix me down to a particular symptom because

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I said I would find lividity in spasm of glottis. I would expect it, but not in absolutely every case. I would like to modify it, because the symptoms of asphyxia are varying. In certain cases there are more signs of lividity than in others. This is one. Those are cases where there is delayed asphyxia. If it is caused by spasm of glottis you will find blueness of the face.

*Q.* Dr. S. C. Paul found no such blueness. So you might eliminate the case of delayed asphyxia from spasm of glottis. I understood you to say that in case of asphyxia which is delayed you would find lividity?—*A.* Yes.

*Q.* In this case if it was asphyxia that caused death, then you have to conclude that it was not delayed because there was no lividity found by Dr. S. C. Paul?—*A.* Yes. 10

*Q.* Have you a single book which says that the fullness of the right side of the heart is a cardinal sign in asphyxia?—*A.* Every book which speaks of asphyxia speaks of the fullness of the right side of the heart. I expect Taylor Sydney Smith, Waddell, mention the engorgement of the right side of the heart as a cardinal sign of asphyxia and I like to see a book which does not mention that as a cardinal sign.

*Q.* Are you aware that Taylor lays down that one might find all four cavities of the heart empty in case of asphyxia?—*A.* Quite aware.

*Q.* If you can find all four cavities empty this is not a cardinal sign?—*A.* 20  
It is given under the heading of asphyxia as a cardinal sign. All these conditions vary. A cardinal sign need not necessarily be a constant sign. (Mr. Pereira reads p. 612 of Taylor Vol: 1—"Heart presents no special appearance indicative of the mode of death . . . in the lung.") You are not looking under the heading of asphyxia, but under suffocation. Suffocation is one of the signs of asphyxia. In case of suffocation which includes smothering the heart presents no special appearance indicative of the mode of death.

*Q.* We are aware that Taylor gives the result of experiments on animals?—*A.* Yes. Not necessarily on animals, but of experiments on human beings 30  
too. I think Taylor's description is not only founded on experiments on animals but on human beings also. (Mr. Pereira reads Taylor p.608 "The post-mortem appearance of asphyxia experimented on animals and refers to the external and internal signs (a) and (b).")

*Q.* Internally the blood is found fluid long time after death. It coagulates very slowly? That same symptom appears in case of death by chloroform?—*A.* Yes.

*Q.* He does not yet say there is any cardinal sign to be found in the heart or lungs?—*A.* Do you expect to find the words "cardinal sign." 40  
When I used those words I did not expect to find them in Taylor.

*Q.* Taylor continues: "If death has occurred slowly the lungs are found intensely engorged; if death has occurred slowly they are anæmic. Their conditions vary inversely . . . point of bursting."

*Q.* You will agree that so far Taylor does not say that a full distended right ventricle is a necessary sign in asphyxia?—*A.* There is a remarkable omission. He does not mean to imply here that the right side of the heart is not distended, but it is omitted here.

Q. What Taylor does say is that the condition of the heart varies inversely with the condition of the lungs?—A. He speaks of the right side of the heart. You (Mr. Pereira) were speaking of the heart, but not speaking of the right side of the heart; if you mean the right side of the heart you must speak of it.

Q. Will you admit now that Taylor definitely states that the right side of the heart will vary inversely with the condition of the lungs?—A. I will admit it every time.

10 Q. I thought you told me definitely earlier that Taylor lays down that the right ventricle of the heart must always be full in case of asphyxia?—A. He is putting words into my mouth which I did not mention. I said the right side would be always full. The whole discussion began by my making the statement that the distension of the right side was one of the cardinal signs of asphyxia which is found in every book.

Q. Do you admit that Taylor says here that the right side of the heart need not necessarily be distended?—A. Yes, conditions vary.

Q. Do you admit that Taylor in more than one passage attaches considerable importance to the presence of echymosis or extravasation of blood on the pleural cavity?—A. When they are present.

20 Q. When they are present and the heart is full, according to Taylor, that is practically a definite conclusion that death was due to asphyxia?—A. Yes. That is the right side of the heart.

Q. When they are absent, Taylor warns medical men against concluding that it was a case of asphyxia?—A. Yes.

Q. Taylor at p. 612 expressly lays it down that in case of death by suffocation the heart presents no special appearance indicative of suffocation. That would include smothering?—A. Yes.

30 Q. With regard to the condition of the lungs, he lays down that the slower the death has been the more likely the lungs are to be found in a congested condition?—A. Yes.

Q. In this case did you find the lungs congested?—A. Yes. They looked congested—particularly so—definitely congested.

40 Q. You said that at the inquest—lungs were fuller than they might be. That does not mean engorged. That means rather more blood than normal?—A. That is right. Post mortem report merely says that the left lung was softer than the right and a cut section had reddish tinge. There is no special mention of the congestion of lungs in the post-mortem report. That reddish tinge might be due to eosin in the formalin. If Dr. Nair found congestion of the lungs it would have been better if he said so. I would not say they were engorged. (Mr. Pereira reads a passage at p. 612 of Taylor on the condition of lungs in suffocation.) Signs of echymosis were absent in this case. If they were present at death I would expect them to be present at the post mortem. I did not find patches of lividity on stomach and intestines. In this case I did not find the vessels of the brain particularly full. I noticed the venæ cavae was full. That is where the blood comes into the right ventricle.

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*Q.* Is it not the case that where death has occurred from asphyxia the lungs have ceased to function before the heart?—*A.* Yes.

*Q.* The circulatory system which is set in motion by the tissues of the heart continues to work after the heart has ceased to work?—*A.* Yes.

*Q.* Therefore it is that blood is driven from the right ventricle into the pulmonary artery?—*A.* Yes.

*Q.* Most of the books lay down that a fullness of the pulmonary artery is one of the cardinal signs in case of asphyxia?—*A.* It is one of the signs of asphyxia.

*Q.* That shows that the lungs stopped, heart was working behind the lungs, blood was getting into the pulmonary artery but could not go further?—*A.* Asphyxia might have caused with the lungs in a different state, if the heart and lungs stopped almost at the same time.

*Q.* I am speaking of a case where the heart continues to function for a few seconds after the lungs ceased. If syncope and asphyxia synchronized all this goes by the board?—*A.* Yes.

*Q.* If the heart continues to function even for a few seconds after the lungs, you would expect to find the pulmonary artery containing blood?—*A.* Yes.

*Q.* Dixon Mann, Waddell and others say that it is one of the cardinal signs of asphyxia?—*A.* Yes. (Mr. Pereira reads Dixon Mann p. 26 (1922 edn.) and Modie regarding condition of pulmonary artery and veins.)

*Q.* So that not only old authorities but modern textbooks say that the pulmonary artery would be full and pulmonary veins empty?—*A.* A few books say that and lot of books omit it. The blood that goes through the pulmonary artery is venous blood. That is the only point of resemblance between a pulmonary artery and vein. Arteries lead the blood away from the heart and the veins bring blood to the heart and the pulmonary artery is like the first part of the aorta which is the most important artery in the body. To call the pulmonary artery a vein is not to be fair by the pulmonary artery. It carries venous blood.

*Q.* You found in this case the pulmonary arteries empty and pulmonary veins full. That is definitely a point against asphyxia?—*A.* Yes.

*Q.* Your main reason for saying this is a case of asphyxia is the fullness of the right ventricle of the heart and oricle?—*A.* Yes.

*Q.* Apart from Stuart Ross & Farely can you refer to any book which refers to secondary syncope?—*A.* That book at p. 212 refers to Leonard Hill who is a great Physiologist. The fact that Leonard Hill is quoted in modern books shows that he is considered an authority still. Hewitt at p. 408 (1907 edn.) says "When excitement and struggling is well marked . . . and secondary syncope may arise." Kushny is an accepted authority on Pharmacology and action of chloroform.

*Q.* Kushny does not adopt that phrase—secondary syncope. He states that in the majority of deaths from chloroform death is due to cardiac syncope. Do you agree?—*A.* Yes.

*Q.* That from a mild overdosage one can get asphyxia setting in first and the heart thereafter, till as you keep increasing the strength of the

chloroform, we reach a point where asphyxia and syncope are intercurrent and both occur simultaneously?—A. Yes. Kushny nowhere refers to the phrase secondary syncope. He says that in a great number of deaths by chloroform death is due to syncope.

Q. Considering that and the most important sign of asphyxia being absent in this case, there is the possibility of syncope having preceded the asphyxia?—A. There is the possibility but not the probability. I am aware that modern opinion has departed from the old views held with regard to cause of death by chloroform. There have been 3 commissions sitting on the subject and the trend of modern opinion is to emphasise death by cardiac syncope. They say that death can occur by one of 2 ways in cardiac syncope—either by vagal inhibition of the heart or by fibrillation of the heart. Both vagal inhibition and fibrillation can occur at any stage of chloroform inhalation, fibrillation being a condition that is commoner where the anæsthetic was not particularly concentrated?—A. I cannot give an opinion on that.

Q. They (Embley and Levey) thought that the andralene produced in the human system by excitement is a predisposed cause?—A. That is so. Andralene is produced by excitement.

Q. Sudden shock of any sort can cause death by cardiac syncope?—A. Yes. There have been instances related where sudden shock like grief and fear have killed people.

Q. You said to my friend first of all that there was no smothering in this case; then you said it was extremely improbable and then you said there might have been?—A. When I said that you must take it with the context. I probably thought smothering without the element of chloroform comes in there.

Q. It is assumed that chloroform was used, then you say the chances of any death by smothering pure and simple are extremely unlikely?—A. Yes.

Adjourned for the day.

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mination—  
*continued.*

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DR. R. L. SPITTEL—sworn. CROSS-EXAMINATION (continued).

This case is a peculiarly difficult case from the medical point of view. There is something that can be said for and against the evidence. Even the matter of asphyxia is open to considerable debate. In death by chloroform pure and simple the cardiac muscle does get weakened. One can find considerable dilatation of the right ventricle of the heart due to chloroform alone. I would not say that one can find the maximum distension. I agree with the passage from Kushny, page 260. This shows that the chloroform pure and simple can cause a ventricle dilatation when it reaches the maximum. I agree with the words "The oricle is weakened . . . relaxed in diastole." As a matter of fact the relaxation is one of the features of chloroform poisoning due to the poisoning of the muscles of the heart. Chloroform reaches the heart muscles and the other parts of the body

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because the blood containing chloroform gets into the heart by the coronary arteries. It is a fact that the majority of deaths in chloroform anæsthesia and chloroform poisoning occur from cardiac syncope. (To COURT: In primary syncope it would be difficult in this case to account for the asphyxial conditions and the fluidity of the blood, dark coloured blood in the veins, etc.) So far as the heart conditions go, the maximum dilatation of the right ventricle of the heart may be present by chloroform pure and simple. These are features present in death by asphyxia. As far as Taylor goes, he certainly says that the condition of the heart need not necessarily be a full one. A common feature in asphyxia and chloroform deaths is fluidity of the blood. I am not sure that fullness of the veins is a feature that I will expect to find in cardiac syncope. The contraction of the left ventricle drives the blood on to the arteries and then on to the veins. I cannot show a single authority which shows that the emptiness of the pulmonary artery and fullness of the pulmonary veins is consistent with asphyxia. The veins should be ordinarily full in cardiac syncope. I noticed the venæ cavæ were full of blood. I am talking of the thoracic veins, they were full of blood. The arterial system was empty. I concede that it is not a condition inconsistent with death by cardiac syncope. The fullness of the veins, the condition of the heart are conditions which exist in cardiac syncope with this exception that it is much more frequent in asphyxia than in syncope. It is difficult to dogmatise that the death must be due to asphyxia. (To COURT: The difference of opinion shows that it was due to chloroform.) I think it was due to primary asphyxia and secondary syncope the two being intercurrent when the interval between the stoppage of the heart and respiratory organs was very small. That is a condition consequent on overdosage of chloroform being administered. I have not read Kushny since yesterday at all. (Kushny read to witness.) "The cause of death . . . interval between the two cases is not appreciable." As a matter of fact no bruises or scratches of any sort were found on the dead body. Taylor says in cases of strangulation on an adult one would invariably expect to find marks. Smothering is something that is attempted on children. Cases of smothering of adults are very rare. I said yesterday that if the cry was articulate you can come to some definite conclusion. Chloroform does not definitely indicate the form of death. (To COURT: I place emphasis that it was one sudden groan, taking the circumstances. If it was stertorous breathing it would go on for some time.) I did say at the inquest (page 83) "a groan is indicative of either homicide or suicide." I never myself heard a suicide groan or scream. The fluid condition of the blood can be caused by other conditions than merely chloroform and asphyxia. I adhere to my statement at the inquest proceedings that I was of opinion that there was a fair quantity of mucus. The formation of mucus and salivation is a result of irritation caused by concentrated chloroform. When chloroform is administered to patients even in the operative theatre swabs of cotton wool are kept to wipe away the saliva emanating from the mouth. Two minutes after the administration of chloroform salivation occurs, but it does not always occur.

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Q. If salivation occurs in this case it will not account for burns round the mouth?—A. If the handkerchief was applied against the face and the person attempted violently to eject the handkerchief she could have spit into the handkerchief.

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Q. Do you contend that spit is calculated to prevent a burn?—A. That is what I contend, I should think it did. If the chloroform irritates the air passage saliva would form. In this case there was a fair quantity between the pad and the lips. Her lips were not prominent. I know the photograph well. I was thinking of a photograph in her living stage she  
10 did not have too prominent lips. They were rather prominent. She had just an ordinary nose. I did not say at the Inquest that it was a snub nose. It was not too prominent. If pressure were applied on the mouth I would not expect to find burns on the mouth. I do not agree with the authorities who say that one of the signs doctors are asked to look for is burns on the lips. I am not aware that authorities say that you would expect to find the lips burned where criminal force is used in the administration of chloroform. (To COURT: In the case of the Eurasian lady, the projections of the pillow would cause the burns and probably the chloroform got inside the nose. I do not quite know.) Whitehouse is  
20 a well known writer on toxicology. (To COURT: The marks on the upper lip is difficult to explain. It is indicated in the drawing. I do not know what the mark is. Whitehouse, page 1168, "post mortem appearances." "The presence or absence of local action upon the face and lips is important in the case of administration" and he says the heart is in diastole blood dark and fluid. I found projection marks. I think they might be due more to pressure than dribbling on the face. In the Police Court (page 134) I said I would have expected more. I have myself stated in evidence that the effects of chloroform vary on different skins. All the experiments were carried out on people engaged in ordinary walks of life. Mr. Soysa  
30 was about the most cultured. The others belonged to poorer classes. Mr. Soysa is rather a dark sort of individual. One would expect to find in the case of ladies who use face creams the skin rather tender, but I do not think it would make any difference. Some women have delicate skins, some not. I do not enquire. I do not think they were plumbago women. They were ordinary women. I do not know what work they did. They may have been basket women. I saw what the skins were like. (To COURT: I did apply chloroform on the abdomen. This skin is very tender. I repeatedly did it. This particular experiment was all on men. I did about 20 different tests. The women were in the non-paying wards. One  
40 woman was under anæsthesia. A loosened handkerchief saturated with half ounce of chloroform was placed on the face for 5 minutes. I found no burns. I did not want to endanger the life of the woman. The handkerchief was kept for 5 minutes. I did not keep any for 10 minutes. The others on the abdomen I just placed a saturated handkerchief on a man without pressure and I got a certain amount of burning, little points where the folds rested but not to the same degree as the burns in this case. I have an ordinary watch. I did not wash the face of the person before the application of chloroform, but before anæsthesia the patient's face is

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generally washed. I used half ounce. I cannot say what degree of concentration. A good deal will depend on the saturation. I took half an ounce. You can go up to 5% running little risk. It may be over 2 but under 5%. At the end of 2½ minutes there was an interval of ½ minute. I found no burn. I will not draw the inference from that that chloroform dripping on a skin cannot burn. There was no dripping. It was resting on the skin. One drip will not cause a burn but a succession of drips, 6 or 12, might burn. It depends on the number of drops of chloroform. (Police Court proceedings, page 81.) I said "the mere falling of chloroform may cause a burn in some cases but it is unusual. It is just a general statement." The marks referred to are the thigh marks. 10

*Q.* Were you of the opinion that formalin may have caused these unusual appearances?—*A.* I do not say so. I would modify the word "cause" and say "contributed."

*Q.* Dr. Milroy Paul was of the opinion that this lady's skin was particularly susceptible to chloroform but later on he said may have been susceptible to chloroform?—*A.* I am not responsible. I have no reason to suppose that her skin was tender or the other way.

*Q.* You said you were unable to account for the marks on the eyelids?—*A.* Later I said it may have been caused by the folds of the handkerchief. There was a marked circular area on the left eyelid. The mark on the right eyelid was an elongated area. 20

*Q.* That shows that the folds of the handkerchief would extend as far as the eyelids?—*A.* Might have. I cannot be definite. Dogmatism is sometimes justified, but sometimes it is not.

*Q.* Your theory as to how the burns were caused does not take into account the burns on the upper eyelids?—*A.* Does not necessarily exclude it.

*Q.* Does it not follow if a cloth did extend as far as the eyelids you would find that the burns extend a good way up on the cheeks?—*A.* Yes.

*Q.* A line connecting the two burns on the cheeks the upper margins of the cheeks would extend two-thirds up to the bridge of the nose?—*A.* Yes. 30

*Q.* And yet the burn on the nose was restricted to a triangular part on the tip of the nose?—*A.* Yes.

*Q.* Seeing that this patient's skin, if it is chloroform, was sufficiently tender to cause a big burn on the tip of the nose, would you not have expected to a burn along the ridge of the nose?—*A.* If there was pressure, Yes. If there was no pressure, No.

*Q.* The edges of the burn were fairly regular?—*A.* Yes.

*Q.* The regular edges indicate that the medium containing the chloroform was not shifted about?—*A.* We are not justified in coming to any conclusion. How do we know what happened before. So far as the burns go there are no signs of movement on the face. I do not know how the pressure was applied except that a fold rested. I leave the eye there. The middle to some extent where the fingers were in a position and some parts not so much. It depends on where the pressure was made. The marks coming down to near the edges of the nose showed a dehydrated condition. 40

And yet there was an area partly on the left side of the face that was not burnt.

Q. Granting that this lady had a sensitive skin, such a burn as is found in this case would have been caused by a handkerchief saturated with chloroform?—A. I do not agree with that, not in a burn of that coalescing character. I put it to you that the burns are not explainable. My only reason is that because in all the experiments I performed on these skins I have done in probably about 20 cases, I rested the handkerchief saturated with  $\frac{1}{2}$  an ounce of chloroform I was never able to produce a burn like that without pressure. I would concede that Dr. Nair's experience of post mortems was greater than my own. I would question the passage from Clarke (p. 155) when he says that the "majority of chloroform deaths occur very suddenly without any premonitory signs." I do not agree with it. Death could occur from cardiac syncope but I do not agree that death would occur at the beginning. I agree with Sydney Smith page 486 when he says "the alleged use of chloroform for criminal purposes is common but its actual use is very rare." I emphatically disagree that no struggle takes place under anæsthesia. Very often when we give anæsthesia patients struggle violently and two or three persons have to place them down. Some persons are really violent and you have to use force to keep them down.

Q. Do you suggest that a person who voluntarily submits to chloroform and struggles as a result of reflex action struggles as violently as a person being administered against his will?—A. I do. Conditions are different. The assailant has a handkerchief saturated with chloroform and chokes the patient. They have less restraint. I disagree with Sidney Smith. That is his opinion. The struggle comes on in the state of excitability. They must hold them down flesh to flesh. Medical men are advised to look for violence in cases of rape. I would expect a person to whom chloroform was going to be administered to struggle violently. No signs whatever were found. I am unable to express an opinion as to the marks on the arms were caused. I do not think that the mark on the thigh could have been caused by a drop of chloroform. It might be caused by a drop of hot water. (To COURT: It cannot be chloroform because just a single drop of chloroform would evaporate.) It need not be boiling water, just short of boiling would do it. The water was brought from the kitchen where the bottles were corked and brought into the room. They were empty beer bottles. Such a bottle would quickly radiate heat. I would expect a difference in the heat of several degrees, as it was brought over a distance of 50 feet. I daresay that if the water did somehow drip off it could have caused a blister on the legs. My opinion is that it might have been. I prefer not to say anything. I have no preference one way or the other. Even 5 or 6 or a succession of drops might have caused a burn through the nightdress. One drop would have been absorbed by the cloth. I could produce a burn on my skin by dropping. When I say 5 or 6 I cannot definitely say. I say more than one. It depends on the drop. There are big drops and small drops. I agree with Dr. Karunaratne

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that those marks are ante-mortem and include 2 to 4 hours after death. (To COURT: As far as I can remember the blister on the thigh was about the size of a thumb nail.) I remember some cotton wool dipped in . . . was applied and the central area showed a reddish tinge. I cannot say whether the marks on the elbow were post mortem or not. I cannot say that there was a blue mark on the tongue and palate. I gave evidence in Negombo in a case of shooting. There was evidence in the case that the man cried for some minutes after he was shot dead. The local doctor Frank Perera said that death was instantaneous and that the man died immediately after receiving injuries. There were 27 pellet wounds. 10 Two penetrated into the brain, 1 externally 2 pellets in the heart 11 penetrated the lungs and several penetrated the viscera. My opinion was sought by the authorities. My opinion was that he could have survived that he could have cried to a distance of 3 or 4 yards. Doctors Garvin Mack and S. C. Paul gave evidence for the defence. The accused was acquitted. I do not agree that my evidence was rejected. I remember the case at Pimbura Hospital. I gave evidence in a rape case. Dr. Ponniah was definitely of opinion that she was long suffering from gonorrhœa. I cannot help that. I cannot remember. (To COURT: I have not always given evidence. I have always avoided it.) 20

Re-exa-  
mination.

RE-EXAMINED: The pharynx includes the soft palate, it is one of the boundaries. The mark on the thigh was vertical along the axis, breaking up at the top, this is the inner mark. The other is like an inverted crescent at the bottom. I would not like to give an opinion whether it is possible if water kept on dripping from a stopper. With regard to the marks on the arms I would not like to hold myself to the opinion whether it is inconsistent with the marks of a person holding a person down. Primary syncope sets before any signs of asphyxia set in. (To COURT: In asphyxia respiration stops and the heart may go on. It takes 2 to 5 minutes to produce asphyxia signs such as seen in this case.) When the heart stops 30 there is no drop in the blood pressure in the arterial system. I do not expect to find in a case of pure syncope unaccompanied by asphyxia congestion of the veins. Mucus depends on when the heart failed. If there is dilated heart brought about by chloroform both sides will be dilated. (To COURT: When rigor mortis set in they will contract.) When chloroform dilates the heart that is owing to the weak muscle of the heart. Even when rigor mortis sets in there was a marked difference between the right and left ventricle. My opinion is that it was secondary syncope. I used 2% chloroform in my experiment. It was not diluted, it was ordinary concentrated chloroform. Medically the lip extends  $\frac{1}{2}$  an inch beyond the 40 muscle. Medically the lip was burnt right up to the mucus membrane. On the upper lip there was a little mark. I am not definite. There was a projection that would come to the upper side of the lip. In this case both lips were not burnt. I said fluidity of the blood is common to both chloroform and asphyxia. I do not agree that fluidity and dark coloration is common to both. Dark coloration in chloroform may be brought about

by asphyxia. (Kushny page 230 read.) It is rather an important point in regard to the deviation. Buxton page 464 (1914 edn.) says the same thing. If there was no asphyxia blood may be rose red. Shannon says rose red. In the case of the Eurasian woman in "Waddell" the blood was found to be cherry red and there was nothing to show that it was death by syncope. I read a passage in Taylor about such a case. There is no definite sign and you have to take all the circumstances before you express an opinion. I took all the circumstances medically speaking into account before I expressed my opinion.

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## Evidence of Dr. W. A. E. Karunaratne.

DR. W. A. E. KARUNARATNE—sworn.

EXAMINED: I am M.D. London, also a Bachelor of Surgery. Since I took my degree I have been in the service of Government. I am Pathologist at the General Hospital. I was appointed 10½ years ago. I got the Bucknil Scholarship, the Filliter Exhibition in Pathology and the Gold Medal in Pharmacology at London besides several other prizes in London. I had experience at the Brompton Hospital where I was House Physician for 13 months. It is a large Hospital. As Pathologist I am in charge of

20 post mortems. I am in charge of the post mortem department. I do about 300 or 350 post mortems a year. I have personally done about 2,000 or 3,000. I have seen many others done by others. I have experience in taking microscopic sections of organs. I do it for all Hospitals in the Island. Nobody else does it. When an operation is done sections are sent to me for diagnosis and treatment. I was present at the post mortem examination on the body of Mrs. Seneviratne. I also had certain sections taken from various places where there were marks. I examined them microscopically and issued my report P. 43. I swear to the correctness of the report. (Pathologist's report read.) The sections of the cheek are typical of the

30 damaged portion of the cheek. I got sections of the cheek. I noticed the post mortem appearance at the post mortem itself. I agree with the description of the external appearance given by Dr. Nair in his report. I have read through it carefully and I agree in regard to the internal inspection. The right ventricle contained blood and was greatly distended. The left ventricle had very little clots. The right auricle was abnormally distended. The left side was comparatively empty. From my examination of the heart I say that the right side was abnormally distended, both auricle and ventricle. The left side was comparatively empty and not distended at all. There was not more than the normal quantity of mucus in the

40 trachea. There was no abnormality in the kidneys. The lung showed dark brown coloration and that was due to congestion. That was verified by the fact that the section showed veins filled with clots. The lung was

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not merely reddish. The cut section was reddish brown. I agree with the report of Dr. Nair. I was not aware that the urine in the bladder was given to the Analyst. I read it in the papers. Mr. Collins said he did not find any salicylic acid. (To COURT: The urine was not decomposed. It was quite clear.) There was the ammoniacal smell. I saw it was taken from the bladder itself. Some urine escaped but the urine sent to the Analyst was taken from the bladder itself. There was no disease to account for death. It was not a natural death. Post mortem finding was that of asphyxia. I say that. The main point in favour of asphyxia was abnormal distension of the right side of the heart and the full distension 10 of the vena cava and distension of the veins of the neck. There was a certain amount of congestion of the lungs and the accumulation of mucus in the trachea is very significant. (To COURT: All these are signs of asphyxia.) In cases of asphyxia I have seen the pulmonary artery empty. I would not say it is a necessary condition of asphyxia at all. Conditions in asphyxia vary a great deal. It is not from the absence or presence of certain signs that asphyxia can be present, but taking the whole picture. The main reason why the pulmonary arteries are full the heart beats for 4 or 12 minutes after the stopping of respiration so that the right ventricle fails and distends the artery. I have seen post mortem evidences. It fits 20 in with the immediate stoppage of the heart. My statement as to whether the pulmonary arteries are full or not depends on the heart. The same reason for the pulmonary veins. It is difficult to say which stops first. The heart stops immediately after respiration. There is no pumping of blood into the pulmonary artery. In asphyxia there is fairly marked cyanosis on the lips, and rigidity. In violent deaths there is also the protrusion of the tongue. The signs depend on the completeness and rapidity of the death. I do not expect external signs to disappear. There is one important point in a failing heart associated in asphyxia, the blueness is associated with pallor. (To COURT: The explanation is rather difficult, 30 but it is a common phenomenon. Where the heart and respiration fail together blueness has been replaced by pallor.) Where the heart and respiration come in together cyanosis disappears. In this case there are signs that asphyxia went on for some time before the heart failed. Assuming that chloroform had been used I would attribute death to chloroform. Death was due to respiratory failure associated with secondary syncope. In cases of death from chloroform we can get rapid death within a minute or so and death in the latter state of chloroform anaesthesia either in the later induction period or in the 3rd stage with regard to death in the first stage the opinion is that syncope is the cause of the majority of 40 cases. There is a possibility and some people have said it is probable that in certain cases spasm of the glottis may produce asphyxia but later books seem to support the idea that spasm of the glottis would produce asphyxia. (To COURT: Death must have occurred in the later stage. I would say 4 or 5 minutes. With the absence of external appearances it is very suggestive that asphyxia was not instantaneous. It would have taken 4 or 5 minutes or about that. I exclude primary syncope owing to the

asphyxial signs. Death could not have taken place instantly but after 4 or 5 minutes. (To COURT: It was an asphyxial death.) It is consistent with a person himself saturating a handkerchief and applying it on the face. I would expect pressure to produce such deep burns. (To COURT: The dermis burns are 3rd degree burns. The burns were almost alike. If I had noticed any change I would have taken sections. A part of the dermis was destroyed. It was not a burn of the 1st degree. In this case there is a destruction of the dermis. Some of the burns were of the 2nd degree. If I noticed any difference I would have taken sections, more than one section. I did then in the case of the arm where it was dark black. (To COURT: I cannot speak from personal experience but I have seen one case where it took 3 minutes to produce erythema. In that instance after 3 minutes there was marked erythema. The individual is very well known. He applied cotton wool and applied pressure for about 3 minutes. After this case. There was marked redness. It did not produce a burn. It was only just a dilatation. I do not know whether later on there was a burn. The burns extended on the face, thigh, cheek, right down to the left cheek. There were also burns on the eyelids. The eyelids generally speaking are more delicate than the rest of the face. The appearance suggests that pressure had been used.

Q. Is there any improbability in the mucus part of the mouth not being burnt by the application of pressure.—A. It depends on where the pressure was applied. It is not impossible.

(This witness was re-called. See No. 64, p. 286.)

Adjourned for lunch.

No. 63.

Further evidence of J. V. Collins.

J. V. COLLINS, re-called—sworn.

To COURT (shown bottle C.2): 150 cubic centimetres of chloroform was put in this bottle at 11.30 a.m. on the 26th May and I weighed it at intervals and the last weighing was this morning and during that period of 12 days the loss in weight due to evaporation of chloroform has been 1.8595 grams. Percentage daily lost is .215. If the conditions remained the same the bottle would take 465 days before it was empty. That is assuming that the conditions did not alter as the level of the liquid fell. That is assuming that the bottle was started with 72 grams of chloroform. I did not notice any deterioration in the quality. I have not taken the stopper off at all.

EXAMINED BY DEPUTY SOLICITOR GENERAL: Certain organs were sent to me for examination. I examined the liver and urine for chloroform and the

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stomach and stomach contents and intestines and urine were examined for aspirin. (To COURT: When the urine was sent to me it was not heavily decomposed. The decomposition was not marked. You would not notice it.) I know the later experiments made by Dr. Milroy Paul and brought to me. I tested these specimens for aspirin and I found traces of salicylic acid. Dr. Milroy Paul did come to me with urine, and besides the test I carried out with the deceased's urine, there were 3 other experiments. I tested Dr. Paul's specimens with ferric chloride for presence of salicylic acid and it gave a red violet colouration. The *ultra vira* was tested for all of them, and they did not fluoresced.

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(This witness was further re-called. See No. 69, p. 309.)

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EXAMINATION (continued): By the lips I mean the mucus membrane. Not only the mucus membrane but the epithelium of the outside. When I speak of the lip I mean it comes up to the margin. The epithelium corresponds to the attachment to the base of the teeth—the top part is also where the membrane is reflexed from the inner margin of the lip to the jaws. All round the mouth would be the lips. In this case burns from the chin extended up to the lip—right up to the mucus portion of the lower lip. (Witness looks at diagram P.42.) It comes almost to the margin of the mucus membrane on the lower lip. It goes right along the lip except a little portion at the two ends. It touches most at the middle portion. The drawing is accurate. On the upper lip also one portion comes to the lip as shown in the drawing. A dram is equal to  $\frac{1}{8}$  of an ounce. (Deputy Solicitor General hands the witness a handkerchief of the size P.13.) It is difficult to say what quantity of chloroform would be required to saturate a handkerchief like this to cause all these burns, but I think about  $\frac{1}{2}$  to 1 ounce. A lesser quantity will not do I think. I am not speaking of any personal experience. I cannot definitely say. I have very little experience of chloroform—about 15 or 16 years ago I did some work in chloroform. I am aware of the action of chloroform itself. Sometimes chloroform would dilate the heart. That dilation would be of the whole heart. That sets in at a later stage of anæsthesia. A heart which is dilated is as a result of the muscle being weak. A dilated heart in a case of chloroform is a heart that is more or less paralysed by the action of chloroform. So that in that condition I would not expect a maximum contraction of both ventricles, but it is possible you may get, because in rigor mortis it is a question of conditional rigidity setting in and the fact that the cavity becomes small is merely a result of the rigid condition. In this case I would expect the left side of

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the heart to have contained some more blood than that, if chloroform had acted directly on the heart. I am merely speaking of the left side. I do not want to be too dogmatic on that point. From my inspection I would say that the appearance on the right side was quite different from what you get in ordinary dilatation of the heart. It was over distended. I know the condition of a relaxed heart. When the heart is in diastole the heart is relaxed. The condition of a heart which is relaxed and full of blood would be different from the condition I saw in this heart. Here the distension was more. In the relaxed heart and dilated heart the muscles are affected. (To COURT: From this extraordinary distension you infer that was asphyxia?—A. Yes.) If the heart is dilated by chloroform I would not expect the veins to be distended to that extent. It is possible for the lungs to be congested. If you take a dozen cases you will find differences in post mortem findings in several of them. These conditions differ very materially in individual cases and one must not take the presence or absence of one sign as for or against death from a special cause. (To COURT: With regard to the later stage of chloroform anaesthesia there are 2 schools of thought—The Edinburgh school holds that it is respiratory failure followed by syncope and the other school holds that it is syncope followed by respiratory failure, but both are agreed that there are large numbers of cases where both occur at the same time. Sometimes it is difficult to say which stops first. Dr. Spittel's and my opinion are approximately the same. Both of us are agreed that syncope came after a period of asphyxia.) Taking all the signs together which were found on post mortem examination the conditions are not consistent with either a relaxed heart or a dilated heart. (Witness is referred to his report P.43.) (*Right Shoulder*.—Epithelium is denuded in patches; where the epithelium is present the cells appear damaged; superficial layer of the dermis is infiltrated with a great number of cells.) Will you explain what is the significance of that?—A. There is the presence of these cells in the dermis; so that there is a certain reaction on the part of the tissues to some irritant. Irritant meaning something which irritates the skin—might be rubbing, might be pressure, might be anything.

Q. From that what follows?—A. The conclusion is that the irritation must have occurred at the time when the cells were alive. That is either before the person died or within 4 hours of death—4 hours is the extreme. I should say about 2 hours after death. That is due to the fact that the tissues did not die till about 2 or 3 hours after the death of the person.

Q. Would that be consistent with an injury or some pressure which had been exerted on the arms previous to the person's death?—A. Yes. It will also be consistent with some injury within two hours of the death of the person.

Q. What would be the time of this injury if it was previous to death? Could it be 1 or 2 or 3 days before death? Could you put a limit as to what time previous to death?—A. That is difficult. It depends on the nature of the irritant to reaction. Sometimes reactions may occur within a few minutes, especially when there is a cellular action it will be an hour or two

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before death. (Witness shows on the drawing the portion from which he took this section.) It is almost at the margin. (To COURT: I say that shows there had been an irritant used—some disturbance of the skin. One cannot say the nature of the irritant. It may be rubbing or pressure or various types of irritation taking place one hour before death or two hours after death. The presence of cells clearly indicates that there was a reaction, that the cells were alive at the time the irritant was affected. Limiting myself to 2 hours I say that the irritant could have been affected within two hours after death.

Q. Why do you say one hour before death?—A. It is rather difficult to say how long reaction takes place not knowing the nature of the irritant— not only does it depend on the irritant, but also on the resistance of the tissues at the time. I say one hour before death generally speaking. We often get cellular action about that time—one hour after the application of the irritant. 10

Q. Supposing a person squeezed that arm. Deceased was a normal person. How long will it take before the cells got infiltrated?—A. One cannot speak with authority because time varies but I can say about one hour. That one hour may be after the actual death of the person. There are cases where the reaction does not take place for several hours, not after the death of the tissues. The interval between the application and reaction in a living person will be about an hour. I cannot say definitely whether it was caused before or after death, but I can only say that it was when the tissues were alive. It might be caused by somebody handling the body immediately after death. 20

Q. Could you tell us how long the infiltration of the cells remain before the hand again becomes normal in a living person? Will it remain for a number of days or disappear in a day or two?—A. There are so many factors involved that I cannot definitely say. (To COURT: You found this after exhumation because formalin had preserved the tissues?—A. Yes.) I took only one section of the right arm. 30

Q. Were all the parts which were leathery, leathery in equal degrees in the case of the right arm?—A. Some parts were more leathery. They were different here and there but I did not pay much notice to that. I looked at these under the microscope. It takes about 4 or 5 days to prepare these things. One does not usually take the whole face. I took about 7 sections from different parts. Very often I would have to depend on one section for a report. Usually I do not examine more than one section. In the sections I examined there were no marks of rubbing. I took some of the normal skin also. I did not notice anything on the normal skin suggestive of any rubbing. I examined everything very carefully—even the cells which are very tiny. If there were marks of rubbing I would have noticed and mentioned it in my report. Under a microscope a thing is magnified 600 to 1,000 times and even a very small thing could be seen. (To COURT: What do you mean by . . . destroyed?—A. They seem to be lost. They may have disappeared by rubbing.) 40

Q. If the skin had disappeared by rubbing would not the normal skin which remained show marks of rubbing?—A. Yes. I took some of the normal tissue which was not affected by the burns and examined that also. I have got all the sections which are prepared including the normal skin. You cannot take a section of the skin affected without taking a section of the normal skin also. When you take a section of the injured skin you take a portion of the sound skin also. Otherwise, you cannot examine the margin of the destroyed portion. I examined the section of the normal skin under the microscope but my report was confined only to the damaged section. To the best of my recollection the undamaged skin showed no trace of rupture. I can show that to Court under the microscope. I examined the pancreas and it appeared to be normal. We see the islands of langarhans. If there had been any damage to that I would have mentioned it. If there was any abnormality in the pancreas I would have made mention of it. There was nothing abnormal in the heart. Even with regard to the left I cannot say whether the injury was ante or post mortem.

Q. Can you say that was when the tissues were alive?—A. Only by deduction. There is no definite evidence on the left arm to show whether it was ante or post mortem by the section itself. The section showed that the fibres in the dermis were closely set; that may be due to the fact that there was loss of fluid from there and so the cavities got together or due to the fact that there was pressure applied. I would not like to say definitely which it was. It may have been after death. My opinion is that these injuries were of the same type and judging from the fact there was a reaction here my necessary conclusion is that this also happened about the same time—may be after death. *Left Leg.*—Presence of pigment. It is very difficult to be quite sure, but I thought that the movement of the pigment may be formalin or may be due to the activity of the tissues. The conclusion I come to from all these is that the injuries may have happened before or after death. I cannot say which is more likely or less likely from the sections alone. I am not an expert on aspirin but I know something about it. I reported the first case of idiosyncrasy to aspirin in England. In that case a patient was given 10 grains of aspirin and soon after that—may be about 2 hours I think—I was sent for as the patient was cynosed and gasping for breath and when I went to see the patient, at first I could not make out what it was, but then it dawned on me it was condition of the oedema of the glottis. The patient was almost black in the face and such marked oedema that one could hardly see the eyes. He was an European. There was lividity of the face. Soon afterwards I noticed a rash on some parts of the face and also on the arms. These rash marks have no similarity to burns. Gradually the spasm subsided and the patient got well. I examined the urine at the time and there were some traces of albumen in the urine. When I went to see the patient I asked the sister to inform his (patient's) wife that the patient was in such a bad condition and the first question the lady was asked is "has he been given aspirin" because she said that some time back the same symptoms

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occurred after giving a small dose of aspirin and I have seen some other cases of aspirin idiosyncrasy where there was localised oedema lasting for a short time and disappearing. A person subject to idiosyncrasy every time he takes aspirin it manifests itself. The rash which comes on disappears gradually. In this case I refreshed my mind and I found that most of the rash disappeared in about 4 or 5 hours but there were traces of that because it was a white skin and one could notice even small points for a few days later.

*Q.* What would be the toxic dose of aspirin to bring about death?—

*A.* That varies a great deal. Lately I read in the British Medical Journal 10 of a case where 600 grains of aspirin were taken and the person was alive, but I think it must be anything over 200 grains to bring about any fatal result. If aspirin is taken it is quickly absorbed into the system and manifests itself in the urine.

*Q.* Within what period will you find signs of aspirin in the urine?—

*A.* It starts manifesting within an hour. The excretion of aspirin continues for 2 days at least. About 80% is excreted within 2 days. Within 2 days if you examine the urine at any time you will find traces of aspirin. That is salicylic acid and salicylic uric acid.

(*To COURT: Q.* If she had taken 50 or 60 grains at 10 in the night 20 would you expect all the acid to disappear by 5.30 the next morning?—*A.* No: you are bound to find something.) This lady's death has nothing to do with aspirin or diabetes.

Cross-exa-  
mination.

**CROSS-EXAMINED:** In cases of death by chloroform you find distension of the heart—may be to the maximum capacity, but what I mentioned was over-distension. I understand what is meant when the post mortem report states that the right ventricle was distended to its maximum capacity. Whatever be the size of the heart you can hold it in the palm of one's hand. I know of cases where people suffering from disease of the heart where the heart bulges beyond the palm of the hand. I have seen quite a good lot. 30 I do not say that in those cases the distension is far more than in this case.

*Q.* In this case was it distended to the extent to which a normal heart can distend or a diseased heart?—*A.* It is difficult to say, but judging from my own experience of post mortems this is a case where there was an extreme distension of the right side of the heart.

*Q.* A diseased heart could bulge, like a football, up to the armpit?—*A.* This is not such a case. I did not understand the last question.

*Q.* Was this heart distended to such an extent to which a diseased heart distended?—*A.* It may be the distension you see in a diseased heart. 40 Had I not made a microscopic examination I would have looked upon this as a diseased heart. We are referring to the right ventricle alone. I have seen larger hearts than the size of a football in diseased persons, but the appearances are different.

*Q.* In this case the distension was the maximum one would expect in a healthy heart?—*A.* I cannot say that. I agreed with the post mortem report regarding the condition of the heart. Does the report say that it

was the heart of a healthy person? (Mr. Pereira states that the report is that it was a healthy heart.) When the statement is made that the right side of the heart is distended to its maximum I mean it is the maximum irrespective of whether it is a diseased or healthy heart, because there are cases where a heart has burst. I have seen diseased hearts which bore no resemblance. I withdraw what I stated earlier that the distension here may be that of a diseased heart because I did not understand that question. I have seen diseased hearts before but quite different in appearance to this heart—much bigger than this heart.

10 Q. In this case the distension you found was the maximum to which a healthy heart could be distended?—A. I do not like to say that because I have found diseased hearts less distended than that. They need not be distended to that extreme. I am referring to the dilatation of the right ventricle. You will find that in diseased hearts or in hearts that are not diseased. I have seen diseased hearts bigger than that and where the ventricle was not distended to that extent. In aneurism a heart can be distended like a football, but this is of a different type. I have seen the right ventricle distended more than this in diseased hearts. You can get bursting of the heart with distension where the distension is less than this.

20 Q. Are you not aware that from chloroform deaths as a result of cardiac syncope there can be the maximum distension of the heart?—A. There can be.

Q. So that from the circumstances of the distension of the right ventricle alone you cannot say this is a case of death by cardiac syncope or asphyxia—which supervenes first—from that condition alone?—A. In cardiac syncope you can have a maximum distension of the right ventricle.

Q. You found maximum distension of the heart in this case and that is one of 5 grounds you gave for saying this is a case of asphyxia with secondary syncope?—A. Yes.

30 Q. You can find a similarly distended heart where death supervened as a result of cardiac syncope?—A. That is so.

Q. It is possible to find the right ventricle distended such as this heart was distended?—A. That is so. I did not give the 5 grounds for saying this is asphyxia in order of their importance. I just mentioned them. I would not necessarily place the condition of the heart foremost. Both the venæ cavæ were full. They both come into the right auricle.

Q. That is a condition that is not inconsistent by death from syncope of the heart?—A. No.

40 Q. You found a fullness of the veins?—A. You do not often find so much fullness of the veins of the neck in syncope, but that is not impossible.

Q. Books say that the vessels of the lung, brain or the membranes will be full in cases of death by cardiac syncope?—A. Yes.

Q. Congestion of lungs?—A. I would say there was a certain amount of congestion—I should say moderate. I concluded from the brownish colour and the fact there was one section in which the vessels were filled with clot. Eosin may have something to do with the coloration. There was also coloration elsewhere in the stomach where the colour was pink

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but here it was brownish red colour and I can only say that eosin may have something to do with the coloration.

*Q.* The more recent books state that the fullness of the lungs is an inverse sign to the fullness of the heart?—*A.* Some books say that. Taylor says so and usually it is so, but I have seen cases of asphyxial deaths where there was the right heart empty and yet it was a case of asphyxia. Variation is so great that one could not depend on 1 or 2 symptoms. It is not possible to be dogmatic on the presence of 1 or 2 points.

*Q.* Taylor emphasises there is only one feature which will help the doctor who holds the post mortem, in the absence of the cardinal signs, to come to a definite conclusion and that is the extravasation of blood in the pleura pericardium and meninges?—*A.* Even that is not conclusive. Three days ago I saw an ordinary case where there was extravasation of blood all over the body and that was not a case of asphyxia; that was an ordinary case of plague.

*Q.* The presence of extravasation of blood plus a full heart is a sign from which one might definitely say it was asphyxia?—*A.* I would not say even so much as that, because I do not think there is anything called a cardinal sign of asphyxia. One has to take the whole picture. There are cases of undoubted asphyxia where there is not a drop of blood in the heart or lung. Not only in cases of asphyxia but in syncope post mortem appearances may be nil. You have to take all the facts together. In cases of asphyxia you find all sorts of appearances, but if you take a large number of cases you will find certain findings which you take as present in the majority of asphyxial deaths. Because a person has not got a distended ventricle or an engorged lung or blood in the pulmonary artery I would not say it is not a case of asphyxia. One has to take all the points together and make your own opinion of the case. I have not had experience of formalin injected bodies.

*Q.* Have you any experience of death by chloroform before this case?—*A.* No. I was present at a case where a person died on the table at the General Hospital. He was anæsthetised by Dr. J. S. Silva. That was about 7 or 8 years ago. The patient died of generalised tuberculosis of the heart. This was a patient who died under an anæsthetic. I mentioned this case in the Police Court also. I came here not to speak about chloroform but to speak about the post mortem appearances.

*Q.* There are well known authors who say that death occurs from cardiac syncope and not from asphyxia in cases of deaths by chloroform?—*A.* There are. This has been the subject of controversy for several years.

*Q.* The trend of modern opinion is to attribute death to cardiac syncope?—*A.* I cannot say that because there are 2 different schools of thought—the school which holds the view that death was due to asphyxia reigned supreme in the great majority.

*Q.* Since then there has been a revulsion of feeling and now more than half of the authors on medical science after 1920 are of opinion that death is due to cardiac syncope?—*A.* I cannot agree with you there because there are well known people here. Dr. Buxton was the Secretary of the

Commission appointed to investigate the effects of chloroform although they paid special attention to the heart. What happened was that the Hyderabad Commission ignored the heart altogether. The later Commission said that while emphasising the importance of respiration on deaths by chloroform, they emphasise the fact that the heart was affected, but Buxton one of the latest books gives the contrary view. Even in some books there is the statement that you get quite a large number of cases of death by chloroform with respiratory failure followed by syncope. (Witness reads Buxton 1914 edn. p. 290 "Syncope may occur in other degrees of chloroform narcosis (secondary cardiac syncope) . . . chloroform vapour.")

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*Q.* It says there that chloroform vapour is the cause of syncope?—*A.* I do not say that Buxton is still of the view that death from chloroform was as a rule as asphyxia. This passage I have read agrees with the latter school—Edinburgh school—who holds that secondary syncope occurs. Kushny is one of the best known books on Pharmacology. Buxton on anæsthesia mentions secondary syncope. I agree with Kushny that majority of cases arising from chloroform are attributable to cardiac syncope. By that from an overdosage one might also get intercurrent asphyxia and syncope.

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*Q.* Where the lungs fail first and heart second, by saturated vapour of chloroform you might get both synchronising?—*A.* That is what I think happened in this case, but I hold that respiration failed just before the heart stopped.

*Q.* Will you admit that respiration began to fail owing to the action of the heart?—*A.* Maybe, but I do not deny that. There is a third view that failure of respiration is due to failure of blood pressure and there are two different schools with regard to that point; one says it is due to the heart, but the other says it is due to direct action of chloroform on the heart muscles.

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*Q.* You said this in the Police Court: (p. 146 of record) "In self administered chloroform sudden death is due to cardiac syncope, and the condition of the right side of the heart and venæ cavæ point to asphyxia. Asphyxia coupled with secondary syncope can be present in a case of self administered chloroform." Did you say that?—*A.* I have said so according to the record (shown record). The first part of that statement is absolutely correct in case of self administered chloroform usually death occurs immediately and that is death from syncope. There is no dispute at all with regard to that in the different schools but in the later death of chloroform the majority of people held that it is a case of asphyxial death with secondary syncope, but it is possible that a self administered case can go so far.

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*Q.* On this aspect Dr. J. S. Silva has far more experience of chloroform and he is a lecturer on anæsthetics and Pharmacology and Therapeutics?—*A.* I daresay his knowledge is very great. He has specialised in those branches as I have in pathology.

*Q.* In this case you do not for a moment say that asphyxia is due to the shutting out of oxygen from the lungs by artificial means?—*A.* It is

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not necessary for the post mortem findings to admit there was any blocking of oxygen.

*Q.* You said this in the Police Court—p. 145 of record “ I must admit there are well known authors who held that death is a death of syncope associated with asphyxia. In this case I would not say that asphyxia is due to prevention of inhalation of air. Mechanical stopping of breathing is not necessary ”?—*A.* That is so.

*Q.* With regard to the burns on the face, some of the edges had a drip character?—*A.* Yes.

*Q.* At the inquest you said that you are of opinion that they were caused by dripping?—*A.* Yes. The direction of the drip on the thigh was more or less along the axis. (Witness looks at the drawing.) There were 2 burns one below the other. There is a little deviation but there are more or less in the direction of the axis. They can be due to a drip.

*Q.* Probably caused by Chloroform?—*A.* No.

*Q.* Why?—*A.* Because I think a hot water bottle could produce that condition—that shape—the oval shape. I have seen that in the hospital. This is more or less straight—that depends on the amount of pressure. I would not expect a long cylindrical mark. The mouth of the bottle may come in contact or any margin of the bottle may come in contact and produce a burn; that is possible. If there were bottles between the thighs and the water was boiling out there is no reason why there should not be burns on both the thighs.

*Q.* From the absence of the burns on the other thigh would it not be more likely due to the dripping of chloroform or boiling hot water?—*A.* If the person was standing I would expect it to go down the leg, but if that person was seated I would expect the thing to go across the limb diagonally. That is why I think this is more likely caused by a bottle rather than anything dripping. I did not know there was evidence that bottles were placed between the thighs. You can get a linear mark from a bottle merely depend-  
ing on the pressure of the bottle.

*Q.* In the absence of the burn on the other thigh is it not more likely caused by the dripping of some corrosive substance?—*A.* From the direction of the drip I cannot say it was a drip. If the person was standing I would expect it to go down diagonally. The shape of the mark on the thigh does not indicate a drip.

*Q.* The burns on the face had regular edges. Marks like that can only be produced by a handkerchief containing chloroform remaining in one position, not being shifted about?—*A.* Yes. If it was shifted about the burns will be more extensive and probably less intensive. The regular edges indicate that it was in one position and in continuous touch.

*Q.* The drip character of the edges indicates that her skin was sensitive to chloroform?—*A.* My opinion was this. I said at the inquest that I did not know chloroform was used, that the marks were those of an irritant and I said that those projections suggested the action of a liquid but taking the appearance of the whole face it suggested chloroform. So that I did

say it looked to me a drip mark. I know of cases of chloroform burns. Apparently this lady's skin was sensitive to chloroform.

*Q.* If a handkerchief folded into four, saturated with chloroform was placed on the face (over the mouth and nose) if there was pressure and she lay on her back the points of contact with the handkerchief would be the tip of nose, cheeks, lower side of the chin and mouth and if the handkerchief extended up to the eyes, the eyes also?—*A.* They would.

*Q.* The burns you found in this case were not more extensive than might have been caused by a handkerchief folded, saturated with chloroform, and kept on the face of a person lying on bed?—*A.* That is so.

*Q.* Granting her skin was sensitive to chloroform, burns on the face could have been produced by a handkerchief saturated with chloroform resting on the face?—*A.* Yes, if the skin was very sensitive.

*Q.* Except that you found certain signs of a 3rd degree burn?—*A.* The section I took showed a 3rd degree burn. Ordinarily chloroform only causes a 2nd degree burn.

*Q.* Some ladies thinking that the marks on the face were due to stains, rubbed it with hot water bottles and with brandy; all that was calculated to aggravate the burns of the 2nd degree which might have been there already as a result of chloroform?—*A.* Yes, that would aggravate.

*Q.* And certainly will affect the condition of the dermis?—*A.* Provided you limit yourself to the mark alone. If brandy was applied to the whole face it would have produced some change outside. The area outside the face had to be examined to examine the area inside. I took a flat rectangular section about the thickness and size of a 50 cent piece including the margin and part of it showed a burn affecting the dermis and outside showed the dermis all right. From my microscopic examination I am unable to say that that burn was ante mortem. I am unable to say that any of the marks on the body were ante mortem except the section of the skin I took from inside of the right upper arm. In that section the mark must have occurred in the lifetime of the tissues. It is not possible to say definitely whether the mark on the thigh was ante mortem or post mortem.

*Q.* The colouration of the mark on the inside of the thigh was very similar to the colouration of the face?—*A.* They were more or less similar. They were dark and dry. Marks on the arms were of a darker brown colour than the marks on the face. I remember the mark on the thigh being wiped off by someone with some alcohol to see whether it would be reddened. I cannot say whether the colour of the mark on the thigh was approximately the colour of the marks on the face. There was exudate on the elbows. The corpse was tight fit to the coffin. At the inquest and in the Police Court I said that the elbows were pressed against the sides of the coffin and the elbow injuries were definitely post mortem. That is my opinion still. (To COURT: I took a section from the face including the edge. The Court can see the edge under the microscope.) With regard to the mark on left arm I cannot say that it was before death. Dark fluid blood which is present in asphyxia is also found in chloroform deaths. Those are cases where asphyxia is produced by chloroform. One dram is 60 drops. There is one

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recorded case where 15 drops of chloroform caused death. Taylor lays down that if chloroform is used by force for criminal purposes one would expect to find signs of struggle. In cases of rape doctors are advised to look for abrasions and scratches. None of these things were found in this case. Aspirin might produce a rash and swelling and might even produce blistering. It depends largely on the idiosyncrasy of the person. There are persons who cannot take aspirin. There are some people who get a rash when they take pineapple. A person who has no idiosyncrasy to aspirin has to take a large quantity to kill. Aspirin is quickly eliminated from the system—not in 10 minutes. They say between half and one hour it will be eliminated. Clarke is referring to sodium salicylic. That is not aspirin. That is more rapidly excreted than acitile salicylic acid. 10

Q. If the rate of elimination is different the quantum also differs?  
—A. That does not follow because the reason aspirin is excreted late is that it takes a certain amount of time to split up in the stomach, but in the other case the splitting takes place early, but once the excretion has started there is no reason why one should delay and the other should be fast. In the starting of the excretion there might be a little delay. In the case of a diabetic person you will expect a considerable quantity of aspirin to be eliminated during the night in urine because a diabetic person will urinate 2 or 3 times during the night. Even then you will find traces of aspirin the following morning. Small quantity of aspirin escapes. Authorities say that about 80% is excreted in the first 2 days and later a little and that about 5 to 10% gets absorbed into the tissues. I cannot say whether a diabetic person will break down the acid sooner than a healthy person. At the inquest I said that formalin may have some effect on aspirin, but since then I think that formalin does not have any effect on salicylic acid because at the time I did not know anything. 20

Q. Changes might occur in the aspirin as a result of 24 days burial underground?—A. If there was nothing there to prevent changes occurring. I saw this body. There were maggots in certain outer parts of the body. 30

Q. There was the smell of stale old dry fish?—A. No; that is the smell of formalin. I thought the body was well preserved.

Q. Has anybody investigated what changes go on in a formalin injected body buried underground for 24 days in a climate such as this?—A. No: I have seen formalin injected bodies but I have not done a post mortem on a formalin injected body.

Q. An experiment carried out in more or less a sterilised glass vessel is different from the conditions in the human system?—A. Conditions are different. 40

Q. Mr. Collins said there was some decomposition of the urine but not marked?—A. I do not know that. The urine was not decomposed. There was no smell at all.

Q. Did you stoop down and smell it?—A. I did not actually smell it but if it was decomposed I would expect the smell of ammonia. The room in which the body was kept was full with people—doctors, medical students and nurses—and there was hardly any room for breathing. They were all

there up to the post mortem, and even after the post mortem began there was a number of medical students. It was a room about this size (from the defending Counsel's table up to the Bench). It was a long narrow room. When this body was kept breadthwise in the room there was not more than 3 feet on either side for people to walk. I was there with Dr. Nair and Dr. J. S. de Silva close to the body. I cannot remember at what stage the bladder was cut. I would not like to say whether it was opened out towards the end. I remember a good deal of urine flowing out of the pelvic cavity. The urine was obtained from the bladder. When I was asked whether I have  
 10 seen a chloroform burn I said that I saw an erythematous mark on Mr. Collin's hand by application of chloroform for 3 minutes. That can be produced if you leave the chloroform without evaporation even on a coarse skin. He himself pressed it to his skin.

Adjourned for the day.

8th June, 1934. Accused present, same Counsel as before.

DR. W. A. E. KARUNARATNE—sworn (cross-examination continued).

CROSS-EXAMINATION (continued): *Q.*—You concluded that death was due to primary asphyxia and secondary syncope. Is that a condition which is described as syncopal asphyxia or asphyxial syncope?—*A.* I do not  
 20 know what way that is described. I cannot say.

*Q.* Is that the condition known as syncopal asphyxia?—*A.* We do not use that term. That term is rather loosely used. I know Buchanan's work on Forensic Medicine and Toxicology.

*Q.* Buchanan says there "Cases of asphyxia do sometimes occur where the cavities on each side of the heart are empty or nearly so. This is the case in the syncopal asphyxia of some writers"? That is why I asked you whether the condition you saw was syncopal asphyxia?—*A.* I do not use that term myself because that is not an accurate description of the condition. If I had to use the expression I would not say it is that, but I would say  
 30 it is asphyxia associated with syncope.

*Q.* That is syncopal asphyxia. Asphyxia is the main ground with certain signs of syncope?—*A.* It can be taken either way. I know Sir Thomas Lewis' book on the registration of the heart beat. He is a well known authority on the heart. He was my tutor also. I know the experiments carried out by Embley and Levey. Embley said it was due to the inhibition of the heart, and Levey said it was due to fibrillation of the heart as a result of the administration of chloroform. (Mr. Pereira reads a passage at p. 367 of Sir Thomas Lewis's book.) I agree with that passage. Sir Thomas Lewis is the greatest living expert on the  
 40 heart to-day. Fibrillation is poisoning of the heart muscles as a result of chloroform being carried to the heart muscles. Levey only referred to sudden deaths from chloroform, and I also mentioned yesterday that with regard to sudden deaths from chloroform, majority are agreed that it is death from syncope. Everybody is agreed that in case of sudden death it is more a syncopal death than an asphyxial death. By the injection

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 Cross-exa-  
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*continued.*

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of 6 barrels of formalin into the body the conditions vary to some extent. Ordinarily the weight of the blood in a person is about 5,000 cubic centimetres—very roughly that is about 1/10 of the weight of the person. If the deceased was 140 lbs. in weight the weight of her blood would be 14 lbs. Six barrels of formalin would come to about 6 lbs. That is bound to have some alteration in the blood.

*Q.* You said this in the Police Court—p. 145 of record—“ It is possible that the person was sleeping in the normal position, went to the place where chloroform was kept in a bottle, saturated the handkerchief and came back and seated on the bed tried to inhale chloroform to induce him to sleep.”—*A.* That question was put to me and I was asked whether that is possible and I said Yes. I did not say the degree of probability of the case. The deceased being a well built lady, if chloroform was administered against her will she could have struggled. Very commonly one does expect to find bruises and scratches in such cases. **TO JURY:** Is it a recognised fact that the skin on the inside of the thigh is much more tender than the skin on the face?—*A.* I think it is so, but I cannot say definitely. I cannot say under the microscope whether the skin is tender or not.

*Q.* Have you held post mortems on death from secondary syncope?—*A.* I have had deaths resembling this. Secondary syncope would necessarily mean a primary asphyxial condition and I have had cases of asphyxia with syncope, not induced by chloroform.

*Q.* Did you find the signs more or less similar in these cases?—*A.* Yes, in general appearances, but not in every detail.

Re-exa-  
mination.

**RE-EXAMINED:** Whether a person struggles under given conditions and whether marks would be left will depend on the circumstances of each case?—*A.* That is so. It is not a matter on which I can give a general opinion.

*Q.* When Embley and Levey described the probabilities of fibrillation or vagal inhibition, they are discussing only the case of sudden syncope—that is instantaneous death?—*A.* That is so. That discussion is confined to such cases only.

*Q.* Whether a case of instantaneous death by chloroform is brought about by fibrillation or vagal inhibition, that has nothing to do with cases where asphyxial signs occur?—*A.* That is so. I cannot say how many years ago this classic case of 10 drops of chloroform killing a person happened. It is a very ancient case and most textbooks quote that case. It is difficult to say whether that is a case of idiosyncrasy. That condition has not occurred since then. I know Lt.-Col. Lowry, an anæsthetist who had 45,000 cases without a single death. He is one of the members of the Hyderabad Commission.

*Q.* In such a classic case as that would you expect death to be syncopal death?—*A.* Yes.

*Q.* Would you expect any signs of asphyxia in it?—*A.* No.

*Q.* There are few cases of primary syncope?—*A.* That is so.

*Q.* In answer to my friend you said that in cases of chloroform death you find fluid blood?—*A.* That is correct. The dark fluid nature

of the blood is due to the asphyxial element coming in. The fluid blood is common. You may find that in ordinary chloroform, but it is stated that fluid blood in chloroform is usually reddish in colour. Fluidness is common to chloroform as well as to asphyxia, but the darkness is due to asphyxia. (To COURT: Darkness is due to asphyxial conditions.) (Deputy Solicitor General cites Kushni 9th edn. p. 230 and Buxton p. 464 to show that the blood is dark coloured in asphyxia.) In my own opinion the dark coloration is due to the asphyxial element.

10 Q. Can you not have darkness in chloroform deaths without the asphyxial element?—A. It may be possible, but in certain deaths from chloroform we find cherry red blood.

Q. Less cherry red blood than in syncopal death?—A. That is what I think. Darkness is due to too much of carbon dioxide.

Q. When any textbook refers to cherry red blood or red blood it must be due to syncope?—A. I exclude an asphyxial element.

Q. You know the case of the Eurasian woman referred to by Waddell where the blood was found to be cherry red. From that would you infer that death was due to syncope?—A. I think so.

20 Q. If a handkerchief was folded into four and saturated with chloroform and placed on the face you would get the marks which were found on the face?—A. Yes.

Q. Would you not also expect the handkerchief to touch the ridge of the nose in that case?—A. Yes.

Q. By reason of the gravity the handkerchief will bend because it is not rigid and touch the ridge of the nose?—A. Yes.

30 Q. Under these conditions, if the rest got burnt you would expect the ridge of the nose also to be burnt?—A. Yes. I do not know whether this lady's skin was delicate or not and of my own knowledge I cannot say whether mere touching will burn or not. From my own experience and knowledge gathered from books I say that chloroform requires pressure to produce such serious burns. If it drops and evaporation is prevented a certain amount of burning is possible but not the burns I found here. Even by microscopic examination I cannot say whether this lady's skin is susceptible to chloroform or not. There are certain parts of the body where the skin is more delicate than in other parts. I think the skin on the abdomen is more delicate than the skin on the face. Whether hot water bottles would cause burns on both thighs depends on the fact whether the bottles touched both the thighs with equal pressure. I noticed another mark on the outer side of the left thigh. That mark may be caused by a hot water bottle. (To COURT: The marks on the arms could not have been caused by hot water bottles.) I was not questioned on that point closely but I do not want to say anything. Regarding the marks on the arms I maintain that some pressure or some irritant must have caused them, but the nature of the pressure I am not prepared to say. The epithelium was present on the arms, but only denuded in patches, but in the case of the mark on the thigh the whole of the epithelium was gone and there was a marked difference. The inference is that the burns on

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the arms could not have been caused by the same cause—probably not caused by hot water bottles. I cannot say whether they were caused before or after death. I said it must be within 2 hours after death judging from the reaction. The reaction to an irritant is a positive sign but the absence of reaction does not mean that no irritant was applied.

Q. Judging from the post mortem conditions can you say whether there has been mechanical obstruction to breathing?—A. I cannot say no. May be consistent with a certain amount of mechanical obstruction to breathing. I cannot say there was such obstruction and I cannot say there may not have been any obstruction. That is because knowing that chloroform was used it was quite sufficient to explain the post mortem conditions. If I did not know that chloroform was used I would say it was smothering. 10

Q. Can a person who has not seen a large number of post mortem appearances decide on the conditions appearing in post mortem and give a decided opinion. Dr. J. S. de Silva that apart from 13 or 14 post mortems which he had when he was first appointed he has not done any post mortem himself. Do you think such a person is competent to express any definite opinion?—A. That is not left for me to say.

Q. You were questioned about the right side of the heart being dilated by disease, for instance aneurism: if such a disease was present you would have been able to detect it in the post mortem and that dilatation was due to that?—A. Yes. In this case there was no evidence of any disease. If there was aneurism or hypertopia of the heart I would have noticed. Chloroform acts more on the ventricles than on the auricles. If dilatation was due to chloroform, I would expect the distension of the left ventricle. In this case I could exclude dilatation by chloroform. 20

Q. In the case of a pure death by syncope, before syncope sets in it is death in a flash, there would be a normal quantity of blood in the veins?—A. Yes. 30

Q. After death by syncope would you expect a normal quantity of blood?—A. Usually that is so. I would not expect congested veins unless there was some definite disease of the heart to account for such congestion. In this case there was no definite disease of the heart. In a pure syncopal death there will be the normal amount of blood in the veins and here there was more than normal, but you can get a syncopal death from heart disease, but there would be some explanation for the condition owing to the disease. I cannot say how the formalin could get into the right side. Granting the left ventricle was contracted. Within 15 to 20 minutes of the injection of formalin into the body the fluid permeates through the vessels and gets into the tissues. It alters the volume only temporarily. 40

Q. When formalin gets into contact with the blood, it clots it?—A. I cannot speak to that. I cannot see how formalin could get to the right side of the heart. So that finding the left ventricle contracted, granting it was in a state of rigor mortis at the time, it is very difficult to push the formalin and contract the ventricle. Heart is an agent where rigor mortis may even occur 2 hours after death.

Q. Assuming that death took place 4 or 5 minutes after the application of chloroform and that chloroform caused these burns, do you think it is possible for a person to chloroform himself to death without any mechanical contrivance?—A. No. My statement is not inconsistent with the answer I gave to Mr. Pereira because I merely mentioned the fact that is possible, but there are factors which are necessary. In the case of the late chloroform death there are those various stages of excitement to pass through and I cannot conceive that without any contrivance it is possible to keep the chloroform in contact with the face. By unconscious action the person would take it off. That is the explanation I wanted to offer Mr. Pereira when I was told that I could give my explanation in re-examination.

CROSS-EXAMINED (with permission): There are several authorities which say that the blood in the veins is dark red in chloroform deaths?—A. Yes. The blood in the veins is always dark. We have seen post mortems. When we use the term “dark” it is “darker” than what you normally find. Venous blood is darker than arterial blood. When anybody states it is dark blood it is different from the normal appearance of blood. (Mr. Pereira cites Dixon Mann, Waddell, Buchanan and Modie to show that the blood is often dark in colour.) (TO COURT: Shannon is one of the recent authorities on post mortems. He states that the colour may be rose red. I am not trying to explain the syncopal element. The dark colour is due to carbon dioxide.) (TO JURY: Assuming that the deceased was able to commit suicide—take it she had done so—in considering all the marks on the face and the big burn would you expect to find any burns on the palm of her hand?—A. May or may not.) (TO COURT: I know personally that Dr. Hill has gone on leave to England.)

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No. 65.

Evidence of T. K. Sahideen.

T. K. SAHIDEEN—affirmed.

30 EXAMINED: P.C. 2919, Harbour Police. I know Dr. W. C. H. Hill. I saw him leaving the Island by S.S. “Alster” on the 5th April 1934. That ship was going to England. He has not returned to the Island as yet.

CROSS-EXAMINED: Nil.

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**Proceedings after close of evidence.**

The Deputy Solicitor General moves to read in evidence the deposition of Dr. W. C. H. Hill.

Deposition of Dr. W. C. H. Hill read. (See No. 2 (a) at p. 2.)

The Deputy Solicitor General tenders two witnesses, Mr. V. de Livera and Mr. E. Seneviratne who have not been called by him if Mr. Pereira wishes to cross-examine them. Mr. Pereira does not wish to cross-examine them.

Statements of accused read in evidence. (See No. 2 (b) at p. 4.) 10

CROWN CASE CLOSED.

Mr. Pereira states he is not calling any evidence.

At this stage the Court is adjourned and after the lunch interval the Court visits Duff House, the scene of this offence.

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**Proceedings at Duff House.**

(2 p.m. on 8th June, 1934.)

His Lordship and the Counsel for the prosecution and defence and the jurors are present.

Witness  
Thomisa.

The first witness called is Thomisa. He shows the place where he was working that morning. He states the fowl run is now in the same condition as it was then. He states "originally I started working from the fowl run nearer the gate. There were no gunny bags on the fowl runs nearer the gate. From here I could see the house well. I could see the front verandah from here (meaning the fowl run nearer the gate). There were flower pots right along the front verandah of the house. I have no recollection whether I saw Banda sweeping the verandah. From here I went to the fowl run nearer the house. (The witness now goes near the fowl run.) There was a small hut here. I have no recollection whether from here I saw Banda sweeping the verandah: I have no recollection of seeing my master from this spot. There are 3 compartments in the fowl run

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30

nearer the gate. From the fowl run near the house I went to the fowl run on the other side. When I was working in the fowl run near the gate I saw Miss Mabel Joseph going along the drive. Then I came to the fowl run near the house. (The fowl runs this witness speaks of are on the right side as you face the house.) When I saw the car going I was feeding the chickens in one of the fowl runs near the gate. I cannot remember the car coming back. I cannot remember the car going out and coming back with Dr. Paul. I did not see the paper boy. I cannot remember whether I saw a Tamil man speaking to my master."

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- 10 The next witness is Banda. He states: "There were big flower pots right along the verandah. Between every two pillars there was a big flower pot and on either side of it a small flower pot. The height of the plants in the big flower pots was this (shows height—little higher than himself about 6 feet). I swept the lower verandah and the upper verandah. I open the doors in the verandah. The plants in the small pots are of this height (shows about a foot). The plants in the big pots spread their branches.

Witness  
Banda.

From the verandah we enter the child's study, and from there we enter the dining room and the pantry.

- 20 Seelas shows the spot where he was working in the pantry that morning. He states that the side door of the pantry was open that morning. The windows of the pantry were not closed but cannot remember whether the 2 doors were open. He states: "I saw my master in the back verandah through the window in the pantry. If he went towards his set of rooms I could not see him from here but I could hear his voice. Except the door leading to the back verandah from the hall, I cannot see anything else from this place. From the pantry I came to the middle of the dining room. From the middle of the dining room I can only see across the door leading to the back of the house from the hall. Though I was walking up and down  
30 the dining room I did not see my master but I heard his voice. When I was working in the dining room I did see not my master coming to the hall. There was a table in this dining hall. From the pantry I came to the left of the table in the dining hall (left while facing the back of the house). Standing on the left of the table I cannot see the back of the house. I did not see my master coming to the hall or going to the front. That morning I did not see Miss Joseph going out. At that time I may have been in the pantry or washing my face. When I heard the noise the door in the lady's room was closed. The first door leading from the dining room to the lady's room was open. I cannot remember which door was open. When  
40 I was walking up and down in the dining room I cannot remember whether the door of the lady's room was open or closed. When I heard the cry

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Witness  
Alpina.

I was in the pantry opposite the window. The door leading to the spare room was open. There were 2 almirahs in the spare room. Before I heard the noise I was in the pantry for about 6 or 7 minutes—not for a long time. The noise came from the direction of the lady's room."

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Alpina states :—" One door leading to the deceased's room from the spare room is always closed. There were two almirahs in the spare room. That morning the doors leading to the pantry and dining room were open. When I left the lady's room that morning the two shutters of the door of her room (not the door leading to the child's room) were in this position (witness shows as if the shutters were practically open). When I went out the lamp was left between the wall and the almirah near the lady's bed. The window between the almirah and bed was open. I closed the other window in the room like this (shows) but I did not lock it. There was a blind to that window. The lock was broken as it is now. (Witness shows the lady's dressing room.) The door leading from the dressing room to the lady's room was open and the two doors leading to the bath and lavatory from the dressing room were also open. The windows in the dressing room were open. There was a toilet table in the dressing room. I took the handkerchief from the lady's bed and threw it on to the toilet table in the dressing room standing near the door. (Witness shows the child's room and spot where Miss Mabel Joseph was sleeping.) The door leading out from the child's room was locked and the window was open in the child's room. There was a blind to that window. I went and washed my face in the bath in the child's room and the windows of the bath were open as they are now. The doors leading out from the child's bath were locked. When I got up in the morning the lady was sleeping on the bed with one hand on her face. When I went out later she had entirely turned to a side—towards the wall. Her head was towards the back of the house and her feet towards the almirah, lengthwise on the bed. Between my first going to take a wash and coming into the room she had entirely turned. One pillow was on her side against the wall. When I heard the cry and came in the lady was lying across the bed with the head towards the wall and the legs hanging down over the edge of the bed. The teapoy was by the bed on which there were a number of books. The next day I found the green bottle on this teapoy. That teapoy was close to her feet. The round teapoy was close to the head and there was a glass of water on that. The lady woke me up twice that night. I was sleeping near the door leading to the spare room with my head towards that door and from there I could see the lady. She first called me to close the window which is on the head side of her bed. She next called me Alpina and I was awakened but I did not get up. Then I saw the lady drinking water at that time. She drank it sleeping. I did not see her keeping back the glass on the table. When I came into the room hearing the cry the door was practically closed. (Witness shows how the door was closed only with about  $\frac{1}{4}$  in. of space

between the two shutters.) As I opened the door from outside I saw my master just stepping into the lady's room from the child's room. Then I saw the lady lying across the bed. As soon as I opened the door and came in I got a smell. I cannot say from where the smell came. The bed sheet was in order. The sheet with which she covers her legs when covered, comes a little over the ankles. When I came into the room a 2nd time and saw the lady across the bed the covering sheet was crumpled a bit. Then it was not over legs but on a side of the body. In Court I said that the sheet was not disturbed. That was the sheet that was spread on the  
 10 mattress, but the other sheet was in the condition I now state. It was partially under the body and partially out. She was not lying across in the middle of the bed but more towards the head side of the bed. The extra pillow she kept always near her head on a side. She keeps it on the side to which she turns. When I came and found the body lying across the bed, the pillow was still on the side—it was not disturbed but more or less in the same position as it was before—it was on the bed by the wall. The lady was right across the bed. The left hand was touching the body a little and the head was turned a little to the right. I prepared the bed for her every night. When I prepare the bed I keep the covering sheet on  
 20 the bed lengthwise and when she goes to bed she covers her legs with it because the feet are bare when she wears the nightdress. (Witness shows how that sheet was when the lady was lying across the bed.) It was partially under the body and partially out. The lady's eyes were slightly open and the handkerchief was on the bed near the right side of her head. The right arm was bent upwards. Accused was seated on the middle of the bed by the body fanning her with a book. The handkerchief was near the lady's right hand which was bent upwards."

Dr. Peiris pours one ounce of chloroform on to a handkerchief standing near the lady's bed to see how long it would smell. Alpina states that  
 30 this may be the smell which she got that morning.

Miss Mabel Joseph states that as she got up from her bed in the child's room and went to the bath passing the door between the lady's room and the child's room she saw the lady sleeping on her bed and while coming back she did not see her. She states further:—"When I left that morning only one door was open but the side door and the door leading out from the child's room were closed but the window was open. When I went out that morning the door leading to the verandah from the child's study was open, but when I came back from church it was closed. When I went to church the door leading out from the child's study was locked. I met Banda at the end of  
 40 the lower verandah. He was sweeping at the very end of the verandah (looking towards the gate from the portico it is the extreme left end of the verandah). At that time the door leading from the child's study to the outside was locked. That door was locked when I went to my room. I cannot say

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whether Banda opened that door while I was dressing. I took about 15 minutes to dress up. When I told Banda to call the rickshaw I was in the front verandah. Then Banda was sweeping the lower verandah.”

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Witness  
Banda.

Banda states that when Miss Mabel Joseph asked him to call the rickshaw he was at the extreme end of the front verandah (towards the fowl runs) sweeping. He states that when Miss Joseph was going out he just got down to the lower verandah to sweep, having finished sweeping the upper verandah. When Mrs. Bandaranayake came I had just finished sweeping. I swept the verandah slowly. Miss Joseph states that Banda just went out of the portico to call the rickshaw when the rickshaw was coming. Banda states he was in the compound opposite the portico of the baby's room when he called the rickshaw. He says he cannot be quite certain of the spot. When he spoke to the rickshaw man Peera the rickshaw was near the mango tree on the garage side of the house. He says that Peera must have seen him. 10

Witness  
Peera.

Peera states he brought the rickshaw that morning for Miss Joseph. He says he did not see Banda nor did he hear him calling. He says he did not wash his face that morning, that he came in a hurry and did not observe whether Banda was there or not. He says he has no recollection whether Banda was there or not. 20

Witness  
Martin.

Martin shows the chicken coops in the back verandah. He states: “When I left for the hunusal my master was in the back verandah behind the window of the pantry. I saw my master in the back verandah when I was going towards the kitchen to bring the hunusal. I fed the ducklings near the big tree in the little compound behind the back verandah. From there I went to bring the hunusal through that little back compound to the kitchen. As I got to the end of the back verandah from that little compound before going into the kitchen, I turned and looked and then I saw my master in the back verandah just near the pantry window. When I came up to the kitchen the driver went from the pipe towards his room Alpina and Seelas went towards the house. By the time I came up to the kitchen the other two had gone. I did not hear any noise. I came straight to the tap near the kitchen to wash my hands. When I came near the pipe I did not see Seelas, I only saw him going out of the kitchen. He must have come before me. There were chicken coops right along the wall in the back verandah. That morning when I was feeding the chickens in the back verandah my master appeared and stood near me. I cannot say from where he came. He stood near me and asked me to put the poultry food to a plate and keep it from ducklings. Then I collected the food and went with it to feed the ducklings. When I was going to feed the ducklings my master was still selecting the chickens in the back verandah. I did not help him in selecting them. He was doing the selection himself. From near the ducklings I went towards the 30 40

kitchen and when I turned before going into the kitchen I saw my master at the same place where he was when he was selecting the chickens. He was looking at the chickens there. I did not see Seelas going towards the kitchen at all but I only saw him going away from the kitchen with Alpina. My master did not call me for me to turn back and look before going into the kitchen. I just looked towards him."

Simon the cook says he was combing his hair in his room (shows his room) when he heard a noise and thought it was from the garden behind. He says: "I went to the washstand and washed my face and  
10 came back to my room. The doors of my room were closed when I was in the room. I heard the noise when the doors were closed. It was a sound like 'Augh.' When I heard the sound I looked through the window and saw 2 boys in the garden behind and I thought that they had made that noise. Then it struck me that I should ask my master what I should prepare for his meals. Then I went towards the kitchen and from there I was going to ask my master what I was to prepare. Then I saw Alpina in the back verandah near the door (leading from the hall to the back verandah)."

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Alpina states that when she was rushing for hot water bottles she may have gone along the back verandah towards the accused's set of rooms as she  
20 had seen medicinal bottles along that verandah and she states she may have gone through the little compound where the ducklings are also to fetch bottles.

Witness  
Alpina.

Simon the cook says: "I asked Alpina where she was running but she did not speak. Then I did not go in the direction of my master's room. I came along the back verandah to the spare room and then went up to the lady's room; then one shutter of the lady's room door was open I came right up to the door. Then I saw the lady lying across the bed and my master standing on her left side and bending a little and fanning her. Alpina was standing behind my master. I was at the door. I did not speak a word.  
30 My master turned back and saw me. Then he asked me to go on the cycle. Then I went. I thought why should I go on the cycle when I could get the car. Then I came back and stood at the door again. Then my master was in the same position and Alpina behind him even then. Then I spoke to my master. He did not come towards me. He told me to take the car to Bambalapitiya and bring the gentleman. I am sure my master was standing on the left side of the lady while the lady was lying across the bed. On the second occasion when I came up to the door I saw my master standing near the bed.

Witness  
Simon.

Except the foreman, all the other Jurors are asked to go and be near the  
40 stand-pipe close to the kitchen while his Lordship and the foreman and counsel remain inside the lady's room. Inspector Van Cuylenberg is asked to produce a long "O" sound at different intervals, raising his voice each

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time. The Jurors who were out say they heard two sounds. (The window of the lady's room on the kitchen side is kept closed while these sounds are made.)

The same experiment is tried with those Jurors at the spot where Seelas said he was when he heard the sound. They say they heard the 2nd sound. Then they are asked to remain at the spot where accused is said to have been when he heard the sound—with the door leading from the lady's room to the spare room closed with about  $\frac{3}{4}$ " space between the two shutters the "O" sound is made at different intervals—the Jurors say they heard 3 sounds. Again they are asked to remain near the pipe close to the kitchen and 2 short sharp sounds are made inside the lady's room. They say they heard the 2nd sound. 10

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His Lordship and the Foreman of the Jury and Dr. Peiris remain inside the room while all the others are asked to go out. Half an ounce of chloroform is poured on to a handkerchief by Dr. Peiris in the room with the door leading to the spare room closed. After 3 minutes the others are called in to the room and they say they find hardly any smell of chloroform. The smell on the handkerchief lasted for about 10 minutes.

Witness  
Banda.

Banda says he left the newspapers that morning on a cane chair in the verandah by the accused's office room. 20

Witness  
Jaya-  
wardene.

Proctor Felix Jayawardene shows the spot in the front verandah where he was seated talking to accused. (That spot is by the portico.) He says accused was seated on an easy chair and he was seated on an ordinary chair. He states that accused told him that he came from his room sent for the papers and when he was in the verandah near the chicken run he heard the sound and pointed out the direction. Mr. Jayawardene states that he took it to be the fowl run on the extreme right hand corner of the front verandah. He says that accused has a handkerchief in his hand and he was sobbing.

Witness  
Alwis.

Leo Alwis states that when he spoke to accused he was in the verandah, and that accused pointed out where he was when he heard the noise. (That is the extreme right hand corner of the verandah facing the house.) He says that accused told him he heard 2 screams. 30

Proceedings at the Scene closed.

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## No. 68.

## Further proceedings at Trial.

11th June 1934. Accused present—same counsel as before.  
The Deputy Solicitor General addresses the Jury.  
Mr. R. L. Pereira addresses the Jury.

Adjourned for the day.

12th June 1934. Accused present—Same counsel as before.  
Mr. R. L. Pereira resumes his address to the Jury.

Adjourned for the day.

10 13th June 1934. Accused present—Same counsel as before.

Before Mr. R. L. Pereira resumes his address to the Jury, the Deputy Solicitor General brings to the notice of the Court that Mr. Pereira in his address yesterday made a point that there was no proof of some specimens handed to Mr. Collins the Government Analyst. He states that in the post mortem report it is definitely stated that these specimens were handed to Mr. Collins by the Judicial Medical Officer and if there was any doubt on the point both Doctor Nair the Judicial Medical Officer and Mr. Collins who are present could be re-called and the matter cleared up.

His Lordship states that if the specimens referred to were handed to Mr. Collins by a messenger he would not allow that messenger to be called now.

Mr. Collins and Doctor Nair are called by the Court.

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 No. 69.

## Evidence of J. V. Collins (re-called).

J. V. COLLINS—sworn (re-called).

To COURT: I remember I gave evidence on 2 occasions.

Q. I will read to you the evidence you gave on this one point referred to: "The Judicial Medical Officer sent me the deceased lady's stomach and some of the intestines and liver and kidney and later on I received the tongue and a piece of the palate and also some urine." Later you said to Mr. Pereira "The Judicial Medical Officer handed me the liver, etc., at the post mortem. I was watching a bit but I did not see the urine escaping. I think I left before the post mortem was completed. I did not take the urine with me, but that was sent to me by a messenger on the next day or the day after with the tongue and a piece of the palate."

Evidence  
for  
Prosecution.

No. 69.  
J. V. Collins  
(recalled),  
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Evidence  
for  
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(recalled),  
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Cross-exa-  
mination.

**Q.** You distinguished between the main organs and the urine. Do you wish to add anything?—**A.** At the post mortem itself these productions were handed to me actually. Next morning I received the urine and the portion of the palate and my statement that they were sent by a messenger is not correct. They were brought to me personally by the Judicial Medical Officer. It is so recorded in my notes. The note runs thus:—  
“Two bottles brought by Judicial Medical Officer Colombo on the 8th morning.” I am quite sure they were handed to me by the Judicial Medical Officer.

**CROSS-EXAMINED :** **Q.** You definitely stated to us that a messenger brought the urine to you the following morning?—**A.** I am afraid that is due to the fact that we freely get productions from the Judicial Medical Officer by Messenger; sometimes the Judicial Medical Officer brings them. I did not consult my notes when I made that statement. **TO COURT :** That urine was not sealed; that was because it was personally handed to me by the Judicial Medical Officer. I got a large number of productions. Generally a constable or a messenger brings them with a letter from the Magistrate, but here I was present personally at the post mortem and I removed the main organ myself. I have made a mistake when I stated that the urine was sent by a messenger. That statement is incorrect. 10 20

No. 70.  
Dr. T. S.  
Nair  
(recalled),  
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**No. 70.**

**Evidence of Dr. T. S. Nair (recalled).**

**T. S. NAIR** recalled—affirmed.

**TO COURT :** I was the Judicial Medical Officer, Colombo.

**Q.** Your post mortem report states that certain sections were given to the Analyst. Can you remember how you gave these various sections to him?—**A.** They were handed then and there. The Analyst Mr. Collins was present at the post mortem and they were handed to him then and there. I gave the urine to him next morning. I took it to him. It was too late to give it the same day. He had left by the time the urine was taken and the urine and tongue and palate I took to him the next day. I myself handed the urine to Mr. Collins in 2 bottles—not more than two ounces—I swear to that. 30

Cross-exa-  
mination.

**CROSS-EXAMINED :** Nil.

## No. 71.

Extract from the Note Book of Sub-Inspector, R. Gibson.

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“ Rao Mahal.” Ward Place, 9.45 a.m. 15.10.33.

10 Doctor S. C. Paul states: “ Mrs. Stephen Seneviratne has been my patient ever since her marriage about 10 years ago. She has been suffering from diabetes for about 5 years and Neuralgic headaches. She used to consult me periodically regarding her diabetes. The last occasion I saw her was about 3 months ago. I was summoned this morning at 7.30 a.m. to the bungalow. She was lying across her bed on her back with her legs hanging down, arms by the side. Face with peaceful look. Nothing dribbling from mouth or nose. Her husband told me that at about 5.30 a.m. or 6 a.m. he heard a loud wail from his wife as if she was in pain. He found her lying on the bed in the same position as I saw her. He applied hot water bottles and sent for her Uncle and me. There was an Aspirin bottle on the toilet table and a bottle of Pancreasal tablets. The Aspirin bottle had about  $\frac{1}{2}$  dozen tablets in it. To all appearances it appeared to me as if she had died of sudden heart failure.”

Read over.

20

(Signed) R. GIBSON,  
Sub-Inspector.

(Signed) S. C. PAUL.

I certify the above to be a correct copy from my Note Book.

(Signed) R. GIBSON,  
Sub-Inspector.  
25.5.1934.

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No. 72.

Further Proceedings at Trial.

Mr. R. L. Pereira resumes his address to the Jury.

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Extract  
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**No. 73.**

**Judge's Charge to Jury.**

**No. 73.**

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**Accused Present—Same Counsel as before.**

Court sums up: Although the practice in modern Courts in Great Britain is to make the summing up of the Judge as short as possible, and I myself during the course of my experience in this Court have endeavoured to make my summing up as short as possible, it is quite apparent that on account of the exhaustive nature of the trial, we have fully heard the evidence of the large number of witnesses called and the absorbing nature of the questions of medical and legal interest, you realise that I have some ground to cover. This case naturally has caused a great deal of anxiety not only in your minds but also in my mind, and you will soon be called upon to discharge a grave duty. I would like to remind you of the duty you owe to your conscience to return a verdict according to your conscience on the evidence led in this case. It is a curious feature of the human mind, that is one characteristic of trials in the highest tribunals in every part of the British Empire, the trials have to be slow, all the facts have to be collected, and they are done with a certain purpose. Indeed these facts should soak into your mind, and in reality you will find that if you have given due weight to the evidence and you have been intellectually honest sincere and patient you may have made up your minds already. If you are intellectually honest, it will make you prefer to accept the prosecution or the defence story. If you are intellectually honest, if you are sincere that you want to do a public duty, if you are patient and sincere you will find that your minds have been made up for you subconsciously so that definitely it is a valid duty you have to perform. If you are intellectually honest you will give full weight to the evidence. Again if you have patience and sincerity you will find your mind is made up for you already. That is what is meant by reasonable doubt. It is a doubt of which you have no doubt in your mind. It is a paradox. A reasonable doubt is not based on sentiment. If you are sincere you can perform the duties you have been called upon to discharge. Gentlemen here we have had a very complicated case no doubt and we have also had very interesting questions in medicine and law. It has been a case of absorbing interest to me, that is part of our profession although the conclusion the final issue is a simple one. Is this a question of suicide or misadventure. A third alternative is whether it is homicide by the accused or anybody else. If it is a case of homicide it can be the accused and nobody else and according to the prosecution he was the person in the house at the time and he was the person who had a motive. Is this homicide by the accused and nobody else or suicide or misadventure. It is a simple case from this point of view. It is a difficult case from another point of view. Before I go on to deal with many matters in this case I think we all owe a great deal to Counsel on both sides and I must express our deep gratitude for their help in this case. You may realise how we would have fared without their

assistance. That trial followed British procedure which was also their procedure. It is extraordinary, as complete as possible that a human being can expect it to be. All the facts were elicited and you are asked to decide. You can imagine what the position would have been without their assistance. I think we owe a great lot of gratitude to Counsel on both sides. You were particularly struck by the Deputy Solicitor General and his fairness, moderation and restraint. On the other hand we have had Counsel for the other side and as you would expect Mr. R. L. Pereira and Mr. Obeyesekere have met many of the principal points. It is for

10 you to find out how far this attempt has succeeded or not, so that we owe, we ought to express our obligation to them. Now Gentlemen, the charge is one of murder as you know. Murder means killing somebody with the intention of killing. On this particular case you have the charge laid against the husband for killing the wife. You have \*to decide first whether this is a case of natural or unnatural death, or whether it was caused by outside agents. That is for you to decide. According to the evidence this has not been contested that she died of chloroform poisoning. If you however find that she died of natural causes, of diabetes or any other cause, you acquit the accused without going further. If you answer

20 the first proposition against the accused or that it was caused by an outside agent, then you go on to consider the cause of death. If you answer this question you go on to what the offence is. Is it murder or something else. You have to decide first of all whether the death occurred naturally or unnaturally, secondly if it was unnatural was it the hand of the accused who did it and thirdly if it was the hand of the accused that did it what his offence for which he is responsible. Before that I wish to explain a few preliminary matters. In every criminal case there is a presumption of innocence on the part of the accused. The accused is presumed to be innocent and it is for the Crown to prove either by direct evidence or by

30 circumstantial evidence that it was the hand of the accused which administered the chloroform on the morning in question. It can be proved by direct evidence or by circumstantial evidence—both evidence has got its defects and strong points. But on a review of the whole case, it is for you to make up your mind whether it was the accused who administered the chloroform. That is the issue. If you have any reasonable doubt whether the accused did it, you must give the benefit of your doubt to the accused. There is an important point I shall mention later. There is a presumption of innocence and the benefit of any doubt should be given to the accused in every stage of the case.

40 You are the real judges in this case because in a criminal case in the Supreme Court the Judge's functions are mainly two-fold, first of all that every relevant bit of evidence is placed before you—that is the duty I have been trying to discharge. It is my duty to place before you the implications, the difficulties, the strong-points. That is the main duty of a judge of the Supreme Court. My second duty is to impress on you that it is your duty to decide on a question of fact. In fact it is not my duty at all. I am only a human being. I do not want to force my

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\* *Sic* (see  
repetition on  
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\* *Sic* (see  
page 313.  
Repeated as  
in certified  
Record).

opinion on you. It is for you to reflect on it. If I have expressed my opinion it is in order that you may reflect on it. The question of fact is entirely a matter for you. A question of law is a matter for me. As a matter of fact my duty was in regard to the question of relevant evidence. This case presents most extraordinary features in it. Here you have got a lady who is buried before a large assembly—there is no evidence of it—buried in the presence of a large number of people on a certificate which so far as the outside world is concerned this lady died of natural causes, syncope of the heart as testified to by a doctor who alleged in that certificate that he was present at her last illness. Now I want to tell 10  
you that Dr. Paul is an estimable man but as a witness he comes as a public man. I have told you all you are not bound by it. I have laid the evidence in a systematic order. Here is a lady who is buried on a certificate granted by a doctor who was present at her illness and who says she died of syncope of the heart. Well then, on the 31st October or so the Superintendent of Police is stated to have let loose his sleuth hounds. Half a dozen inspectors go all over the place \*to decide first whether this is a case of natural or unnatural death, that is to say, whether it was caused by someone. According to the evidence and this has not been contested, the deceased died of chloroform poisoning. 20  
If you, however, find that she died of natural causes, from diabetes or any other disease, you acquit the accused without going further. If you answer the first question that death was caused by an outside agent, and can form an opinion as to the cause of death you go on to consider what the offence is, if it is an offence. Is it murder or suicide or death by accident? You have to decide first of all whether the death occurred naturally or unnaturally. Secondly, if it was unnatural, was it the hand of the accused which caused the death, and thirdly, if it was the hand of the accused, what is the offence for which he is responsible. In every criminal case there is a presumption of innocence on the part of the accused. The 30  
accused is presumed to be innocent and it is for the Crown to prove either by direct evidence or by circumstantial evidence that it was the hand of the accused which administered the chloroform on the morning in question. It can be proved by direct evidence or by circumstantial evidence—both evidence has got its defects and strong points. But on a review of the whole case, it is for you to make up your mind whether it was the accused who administered the chloroform; that is the issue. If you have any reasonable doubt whether the accused did it, you must give the benefit of your doubt to the accused. There is an important point I shall mention later. There is a presumption of innocence and the benefit of any doubt should be given 40  
to the accused in every stage of the case. You are the real judges in this case, because in a criminal case in the Supreme Court the Judge's function are mainly two-fold, first of all that every relevant bit of evidence is placed before you, that is the duty I have been trying to discharge. It is my duty to place before you the implications, the difficulties and the strong points. That is the main duty of a Judge of the Supreme Court. My second duty is to impress on you that it is your duty to decide on a question of fact.

In fact it is not my duty at all. I am only a human being. I do not want to force my opinion on you. It is for you to reflect on it. If I have expressed my opinion it is in order that you may reflect on it. The question of fact is entirely a matter for you. A question of law is a matter for me. As a matter of fact my duty was in regard to the question of relevant evidence. This case presents most extraordinary features in it. Here you have got a lady who is buried before a large assembly—there is no evidence of it—buried in the presence of a large number of people on a certificate which so far as the outside world is concerned this lady died of natural causes, 10 syncope of the heart as testified to by a doctor who alleged in that certificate that he was present at her last illness. Now I want to tell you that Dr. Paul is an estimable man, but as a witness he comes as a public man. I have told you all you are not bound by it. I have laid the evidence in a systematic order. Here is a lady who is buried on a certificate granted by a doctor who was present at her illness and who says she died of syncope of the heart. Well then, on the 31st October or so the Superintendent of Police is said to have let loose his sleuth hounds. Half a dozen Inspectors go all over the place.

What is the result of the inquiry. It has been disclosed to you that 20 this lady did not die of a natural death by syncope of the heart, that she was unattended by any medical man, and that she had died through the administration of chloroform which left visible marks on the face clearly. So that it was noticed clearly by everybody present and drove them to a very close examination. Is it not a strange case? It is a strange feature and who brought about this result? It is the Superintendent of Police. Don't you think every credit should go to a man like him. Whenever the Police fall short of their duty we condemn them. Is it not the result of his endeavour, although the trail was cold, although the clue was obliterated. Death took place on the 15th. Yet he did the only possible 30 thing under the circumstances and the result was justified. It is a valuable asset to any country to have an officer—to have any public man—who would do his duty fearlessly regardless of any consequences whatsoever, wholly in the administration of justice. That is a tribute due to him, and you contrast that with the pusillanimity with which these three persons—Sub-Inspector Gibson, Mr. Bartholomeusz and Dr. Paul brought about this disaster. It does not affect the case at all, but I am putting to you these features. Dr. Paul is not on his trial here, nor is Sub-Inspector Gibson, nor Mr. Bartholomeusz, but it is a curious feature in this case which calls for public comment. Here was this lady now found to have 40 died as the result of administration of chloroform and that she was supposed to have died of an overdose of aspirin, a fact which was hermetically sealed up in the breasts of the accused, Dr. Paul and two or three other persons, for this information is not mentioned in the death certificate. What is the purpose which induced Dr. Paul to give that certificate? It is now suggested that cause of death was not aspirin at all, but it was chloroform administered to her by herself or by the accused. That is one point I wish to point out to you.

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Now I go on to tell you that your duty is not to look at points here and there and decide the case on that one point. Your duty is to take what Dr. Karunaratna said is to diagnose the case. You have to look at the whole picture. You must look at the case as a whole, subject to criticisms put by counsel so ably before you, and that is why I asked Mr. Pereira to continue his address because I wanted his words ringing into your ears when I sum up. Otherwise there will be 12 hours time.

Now you have to look at the case as a whole and I will read to you the definition of the word "proof" which is in the Evidence Ordinance. It means "A fact is said to be proved when after considering the matter before it" all the matters before it—not only the prosecution evidence, what is the accused's statement; what is his defence; what suggestion is made—considering the matters before it—"the Court either believes it to exist or considers its existence so probable that a prudent man ought under the circumstances of the particular case to act upon the supposition that it exists." So that is the test. Take the whole case and from that you must come to the conclusion that you believe, or that it is so probable that a prudent man ought under the circumstances of the particular case act on the supposition that it exists. The seven of you represent the prudent man, taken from your offices against your will and dragged here—for what purpose? There are experts in law and medicine all showing their ability to you, stuttering about in this stage to convince seven men? Why? Because you represent the whole of society. It is your bounden duty to say it is proved or that it is not proved. "A fact is said to be disproved when after considering the matters before it the Court either believes that it does not exist or considers its non-existence so probable that a prudent man ought under the circumstances of the particular case act upon the supposition that it does not exist." That is the meaning of the word "disproved" used in the law courts. It is your duty to look at the entire case—to have a bird's eye view—of the whole case.

This is a case of death by poisoning and as judges very often told Juries I will try to be short as I can but they are very material. A Judge very often told Juries that poisoning cases were decided on circumstantial evidence, because no poisoner is going to poison any person in the presence of witnesses. I want to tell you as shortly as I can the difference between direct evidence and circumstantial evidence—nothing mysterious about it at all—law is nothing but crystallised common sense which human beings have found by experience that certain rules are followed, set forth as legal because they are based on experience. When you have direct evidence—suppose it is a case of stabbing. A witness will come and say "I saw this accused stabbing the person who was injured." That is direct evidence. That is sense. But in circumstantial evidence there is no witness to prove the actual seeing of the deed, but facts are proved which are relevant according to certain rules, which, when put together lead to one inference and one inference alone, namely, the inference of the guilt of the accused and no other inference at all. If it leads to any inference of the innocence of the man, the benefit of it must be given in favour of the accused and the accused must

be acquitted. If it leads to one inevitable inference only of guilt, only then could you find him guilty, owing to the presumption of innocence over-riding. I will take a concrete case. Supposing there is a row in a house. All the doors are locked except one door which is half locked left ajar. Suddenly they hear a woman yelling out shrieks of murder and the passers by are attracted by this noise. They suddenly see a man rushing out with a knife in the hand—blood dripping—blood-stained. They catch hold of him. They go inside and find a woman stabbed, with a knife injury sustained in the heart and the Doctor says that death is due to stabbing and the knife in the man's hands could have caused it. I am taking only a hypothetical case. Supposing the police prove that the husband is that accused, and they prove they were separated and there had been quarrels. This man was living apart and that there were always quarrels and living apart. Supposing the whole case is proved to your satisfaction, what is the inevitable inference it will lead to? To take that particular case—the accused offers no explanation at all—absolutely none—what is the possible verdict on that—there is the knife—a man came running after the shrieks—blood dripping—motive proved—everything proved—what other verdict can you bring except one of guilt. Supposing that accused gets into the witness box and tells you “It is true that this is my wife; it is true I have quarrelled with her; it is true I was living separately, but on the day in question I came to see her, but when I was coming I suddenly saw a man running and my wife shrieking and he had blood on his body. I tried to chase after him and I heard a shriek and I ran into the house and found my wife dying, and I took the knife and ran out and I was arrested.” Supposing he gave that explanation and looking at his demeanour you think “Hollo, there is something in this man's story. I have no reason to disbelieve.” If you disbelieve him then the verdict is guilty, but if it causes doubt in your mind—that may be true—you must give the benefit of that doubt to the accused and acquit him. I cannot put it to you more fully than that. The whole law of circumstantial evidence so far as I can see is much the same as the rest under our law; of course we are bound by the English law though we do not make use of it, but there is one section which I want to put to you very clearly—“When any fact is specially within the knowledge of any person the burden of proving that fact is upon him. Take the case of this man—the manner in which he happened to come there, how he came rushing out with the knife in hand—how blood was dripping—the explanation is on him, because it is specially within his knowledge. The burden of proof is upon him. This has a bearing in this case; that is why I am mentioning it. Any fact which is specially within his knowledge, the burden of proving that fact is upon him. It is a hypothetical case I gave you. He has got to explain. In the absence of any explanation the only inference is that he is guilty, but if he gives an explanation which is plausible, which causes a doubt in your mind because there is that over-riding presumption of innocence, then you will have to give the benefit of that doubt to the accused. During the course of this case there is that over-riding presumption of innocence in favour of the accused, but

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if any fact is specially within his knowledge for which you want an explanation, the burden of proving that is upon the accused and he must satisfy you. That burden can be discharged either by his giving evidence—I want to tell you in fairness to the accused—or in any other form which counsel pleases. He can discharge that burden by eliciting facts from the prosecution witnesses. The burden is upon him, whether he gives evidence or does it by eliciting facts from witnesses called against him. I want to read that section to you again—“When any fact is specially within the knowledge of any person the burden of proving that fact is upon him.” It is obvious not necessary to put it in a Code. When any fact is specially within his knowledge the burden is upon him—nobody else can do it. He can do it by extracting facts, or more satisfactory, by coming into the witness box and telling you his explanation so that you may know. Dr. Crippen was cross-examined for days. I want you to keep that in mind. That is the difference between circumstantial and direct evidence. 10

Now I want to tell you that in direct evidence when a witness comes and gives direct evidence you may either disbelieve him at once; you can do that sometimes; judging from the demeanour of the witness and from other causes you can say he is a liar and you do not accept his evidence, but when a doubt is caused—and doubts are not very rarely caused like that except where Heavenly inspired juries. How doubts are caused are when opposed facts are put into opposition and then it creates doubts—that is the meaning of an alibi. There are witnesses who come for the Crown who give you a story. These witnesses apparently are not broken down by the cross-examination. Accused comes and says “At that time I was at such and such a place” and you see these opposing forces. There is the presumption of innocence in favour of the accused. If you have any doubt in your mind you must give the benefit of the doubt to the accused. In the case of direct evidence you can certainly disbelieve witnesses. Generally you have reason to disbelieve when opposing facts are put before you and doubts are caused in your mind, then give the accused the benefit of your doubt. In circumstantial evidence you depend on two things. A chain of facts is proved, well first of all you know what facts are proved. There is a chain of many facts and you must first decide what has been proved to your satisfaction. Some points may be and some may not have been proved to your satisfaction. What is the inference leading from them? Does it lead you to any inference? If it does not, then you acquit the accused. Then many of you gentlemen must have thought during the course of this exhaustive trial that many of the thousand and one facts were irrelevant. For instance the lady Mrs. Dias Bandaranaike was asked whether her husband was not called “Gal”. You may have thought what is this waste of time. I ought to explain to you in a murder case, suppose it is stabbing, if you allow evidence on one fact “I saw this man stabbed” can you decide a case on this fact. I am not trying to justify a long trial. I agree this is a superhuman effort for you to go through long trials. Look at the volume of evidence. Human experience shows that in order to come to a judicial decision you want a number of judicial 20 30 40

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facts, they are called relevant facts. Then the atmosphere is entirely cleared. I want to tell you this much. During the evidence, I was thinking was it irrelevant. Some of you must have thought so from the point of view of relevancy. I want to tell you that simply because a witness has the hallmark of the Crown he must be believed. You have to take all the circumstances of the case. The general purpose must be kept in mind so that a case cannot be proved unless you find that he had the opportunity and a motive and by the conduct of the accused. As regards procedure all that is important the Code lays down section by section.

10 Gentlemen, I am asking you, I am putting a simple proposition to you. Here is a husband charged with killing his wife. Husbands do not always kill their wives nor do wives commit suicide or inhale chloroform so as to cause death by misadventure. Is it not material for the purpose of the case to find out what sort of life they were leading. As to motive what better evidence can you get than the writings of the deceased. You see why I allowed the letters. This woman was somewhat peculiar in her mind and the accused was not treating her as he ought to have. A case was cited by counsel that letters in certain circumstances were not admissible. I am sensitive to that kind of evidence. A man was charged

20 for criminal abortion. But at the time of the case the defence stated that the woman was going to do the operation herself. A letter was produced that after she did it she confessed to the husband to prove that the accused did not do it, that the woman did it. The letter was overruled and the objection upheld. The letters were not allowed. In Adelaide Bartlett's case the letter of the husband the deceased was proved. It has not been shown that it was the truth. It was a mirror of reflection of the woman's mind. At the same time you will see her not getting on with the husband for 5 years. What better proof than that letter signed by her. It is for you to see if the purport was to show the mind of the

30 woman. Her letters will show the state of mind of the woman. I have placed every bit of relevant evidence. I am fully justified in doing so. Not only is there relevancy from the point of view of opportunity there is his conduct and things like that. When any witness comes here you can tell whether his story should be believed or what his powers of observation are worth in the matter of evidence. These questions are relevant. When the question was put to Mrs. Dias Bandaranaike, was your husband called Gal—apparently to me the word Gal means brick—the suggestion was that it was rather a come down so far as money was concerned and this man bearing such a respectable name was a brick manufacturer and dealing

40 in dairy produce and had contracted to supply stones to Leo de Alwis to build his palatial mansion. The suggestion was that she and he could be influenced in this case. It is relevant. It is not meant to insult. As soon as Counsel passes a certain limit the Court lays it down. There is no question of bullying a witness, so that the law has given me full powers. Please remember that when a witness is being cross-examined, I would not allow the limit to be passed and I would test the questions to see how far they would be relevant. The question was put to Mrs. Leo de Alwis

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whether it was true that Mr. Fred Dias Bandaranaike threatened to thrash her. She denied. She said I can get the thrashing but that it cannot be administered. It is necessary to know what sort of lady she was. The statement of the accused about Mrs. Francis Seneviratne. They were rumours, and that was the reason why she thought of committing suicide. You see how relevant the questions become. You must not think the 17 days wasted at all. It is a slow outcome of facts. If you have intellectual honesty, sincerity and patience, your work will be cut and dry.

You have been taken away from your work to decide the case on the evidence. I want to explain this carefully. Suppose a witness comes and says in an ordinary case of stabbing he saw the accused stabbing the dead man. Counsel for the defence says "did you not tell the police officers that you did not see it." I want you to be very careful—"Yes I did say. I cannot give an explanation why I said that. The Police Officer admits what is the effect of evidence, not unless he gives a rational explanation, you would reject it. There is no evidence on which you can decide this case. Suppose in a case of stabbing a witness says "I did not see the accused" and the police officer also says so. You cannot get a conviction on this evidence. This is not evidence given in the witness box. That has a very important bearing in this case. So that I do not know why all these fights took place. I allowed it. So that when Alpina comes here and says she did not tell Mrs. Dias Bandaranaike I heard the shrieks, she says no I never heard the shrieks. Ceelas and the driver came there and spoke to Mrs. Dias Bandaranaike. He said shrieks if you believe Mrs. Dias Bandaranaike it does not mean that she did not hear the shrieks. If you believe Mrs. Dias Bandaranaike that she did make that statement; if you disbelieve, there is an end of it. Even if you believe her that is not evidence on which you can act. This is the effect of several decisions in this law court. Keep that in mind in considering the so-called contradictions. You must decide the case, as counsel for the defence said, not on suppositions and conjectures. I do not know the relevancy of the statement of the Deputy Solicitor General that death might have occurred earlier. It is a "faux pas" on his part. You can decide on the evidence in this case. The evidence that the door was first opened by Alpina and Mabel Joseph who gave access to the accused at a certain time—why was it not said before. In that Adelaide Bartlet case the case was put by the Attorney General on the footing that it was possible to anaesthetise the husband when he was sleeping. He was ill at the time, and for the purpose of deliberately committing murder or for the purpose of amorous episode mentioned by Mr. Pereira and she took advantage to get the man to drink. Then it struck the Attorney General—then when counsel for the defence was addressing the Jury he passed a note round to see; then he got up and said "There is another view I want to put before you, namely, that it is possible that because this man was ill she actually poured the chloroform and kept it near him and made him believe it was medicine and took it by mistake. The Judge said "The case has been fought not on that footing and I am not going to allow that. The case

was fought on a footing and now to say that the door was open, I cannot allow that. I am taking this case of Alpina saying "As I entered the room the accused stepped in there." Some of the witnesses say—Leo Alwis, Mrs. Alwis and Mr. Dias Bandaranaike—that the accused was actually on the bed and a great battle was fought here. Taking the test I told you—any previous statement made by this woman cannot be taken into account because your oath is to decide the case on the evidence given here—what Alpina states—one washes the other. Even supposing you believe her statement that accused was on the bed, are you going to  
 10 convict him on that. He may have just come and tried to revive her. How are you going to acquit him—because he may have committed the offence and gone out and come again. You see the value of that from a probative point of view whether he was actually on the bed with his palm on the face of the lady. Is that going to convict him? He may have come a second before and tried to revive her, or is the fact that he was just entering going to acquit him if he committed the crime. It is quite possible that he could have done it. He could have gone out and come again and pretended and said "Has the lady fallen." These are facts to which you must give due weight. What I want to point out is that  
 20 ordinarily when Alpina says "When I was going to the room accused was just stepping in" and when other witnesses say "What we saw was accused was actually on the bed" there must be the effect of one washing the other and entirely Alpina's evidence on that point, but you cannot do that here because of the accused's admission that as he stepped into the room Alpina entered the room. So that you have taken an oath to decide the case on the evidence. I have told you the effect of previous statements; even if you believe that Alpina heard shrieks, that accused was on the bed, even if you believe so, that is not evidence given in this witness box on which alone you can decide this case.

30 I saw in the papers that the Privy Council has allowed leave to appeal in a case because the Chief Justice of Bermudas forgot to mention to the Jury what verdict they can return. Our law is entirely different, but the verdict whether it is a conviction or an acquittal, I hope it will be unanimous owing to the serious and grave nature of this case, but if you cannot agree please remember that I have got the full power to ask you to reconsider your verdict, but four to three means an unacceptable verdict. That means you have to go through the trial again. I hope you will not have that misfortune. Five to two; six to one is acceptable, that is left to my discretion. I hope I made myself quite clear that four to three will not  
 40 be accepted at all. Let your verdict be unanimous owing to the gravity of this case. You have all listened to this case and realise the sacredness. There can be no doubt regarding your decision one way or the other.

Now we will get on to the case. I have told you what circumstantial evidence is. You must know the facts you are going to accept. So I must go through some of the facts. I will never be satisfied unless I have

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discharged my duty as fully as I can. The Judge has to sum up putting all the facts before you as far as he can in his power because the Judge is supposed to be—I do not say I am—experienced in these matters and put it in a way that will make it easy for the laymen to follow the case. In circumstantial evidence you must know what the facts you are going to accept are—large numbers of facts have been proved—every one relevant matter in this case. This is a case of husband and wife and you know all about the property. The deceased lady had two lacs of rupees of property according to Leo Alwis and then you also know that she sold her Wellawatte property. She was a lady of property and so far as we know she has left no Will at all. You keep in mind Mr. Pereira said that there is no proof that there is no Will, nor is there proof that there is a Will. If she died intestate half the estate will go to the accused and half will go to the son Terence, who, being young, will be under the tutelage and guardianship, probably, of the accused, because motive has been put forward before you and as regards motive Mr. Pereira quite rightly pointed out to you that the Crown was not bound to prove the motive of an accused at all, but the Jury expect a motive to be proved. So far as the motive is concerned, it is a most difficult thing to prove because what adequate motive for one man or woman may not be for another—motive may be with one class of people and not with another. So that an English Judge has stated, “It is impossible to prove motive for the devil himself knows not the mind of man.” Mind of man varies. So whether it is adequate motive or not it varies according to the constitution and character of the accused person, but there are facts which are placed before you. Then you have this long story of there.\* You know that has been proved to your satisfaction I take it that the husband and wife did not pull on together. Mr. Pereira used an expression—accused perhaps was foolish to have treated in that way. All that is well reflected in these letters—that letter shews that the ground of quarrel is the woman Jessie. You saw the Singhalese expression—the phrase which was translated to you. I hope the Singhalese gentlemen of the Jury will explain it to the others. She actually charged indirectly or fairly charged him with immorality—telling (letter P.8 is referred to). It starts like this “Your action about Jessie has ended my life and taken away all desire to live.” This is a letter presumably by the deceased, dated 9th March, 1932, produced by the accused (P.8 is read)—written by a wife who bore two children. 10

\**Sic.*

What are the actual conditions? I will tell you that as fully as possible. The two lived in the house—husband and wife. Whether that was adequate motive or not depends on the abnormal circumstances of the case. What is adequate for one case may not be adequate for another. The letters are written in the same house. She used to pin letters on the bed. They were not a couple a peace-life.\* These letters were preserved and produced to the police. They were written in 1932. Things were so up to that date. I do not want to go into detail about the evidence on this point. You can best sense the evidence led in this case. Mr. Pereira told you yesterday that on the 14th when Mr. Charles Seneviratne came the accused had gone 20 30 40

\**Sic.*

with the child to Mrs. Francis Seneviratne's and that he did exactly the opposite of what she desired. I shall place all the material before you especially the manner which I shall maintain has been relevant in this case to show the atmosphere in which they lived. With regard to the letters P.6\* and P.7\* were written from White House. P.6\* was written on the 9th March 1932 from White House and P.9 was written from White House according to internal evidence, where she complained about him and the other letters P.10, P.11 and P.12 were also written apparently to the husband. There is no evidence that it reached him.

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- 10 Now we come to the relevant facts. On the 14th it may have escaped your memory—you remember that Mrs. Seneviratne on the 14th, the day before this incident took place—billing preserve was made at 10 o'clock in the morning. Apparently everything was normal. That is admitted. You remember Mrs. Charlie Seneviratne came there and her husband went to the races. Mrs. Seneviratne the deceased had a nap. Mrs. Charlie Seneviratne came and spoke to the deceased and she asked her to take away the loan of Rs. 175 lying in her iron safe. And then you remember that she wrote for the motor car of Mrs. Dias Bandaranaike and all went to Mr. Felix Jayawardene's house. You remember Mr. Felix Jayawardene
- 20 an impressive gentlemen in national costume. That gentleman said he wanted a setting of eggs, in the Police Court he said that it was a conversation with the deceased and here he corrected himself and said he spoke to Mabel Joseph who said that the accused and Mrs. Seneviratne were going to Kottawa and would not be able to get the eggs. So these two arranged to go to Kottawa on Sunday morning if the tragedy had not occurred. You remember Mr. and Mrs. George de Saram agreed to make a picnic of it. Mr. and Mrs. George de Saram were to supply the breakfast, and they were to go on the 16th. She was actually buried on account of that fatality. And up to the evening of the 14th there was nothing abnormal about this lady at all.
- 30 Then came the 14th night, the dinner where Mrs. Seneviratne speaks of her face falling with reference to Terence. Nothing abnormal at all. Husband and wife went to the portico to bid good night to the departing guests. There was a sudden falling of the face and I want you to remember that and that remark about *De mortuis nil nisi bonum*. That is the only rift in the cloud, that is the only trouble apparently and husband and wife are said to have gone into their rooms. That is borne out by Mabel Joseph who said she saw the deceased come from the direction of the spare dining room. The accused says she had a bottle of aspirin which he gave her owing to a Headache. Mabel Joseph, in her evidence, says she did not see it at all.
- 40 Mr. Pereira says she might had had it but it may not have been seen by Mabel Joseph. Then you remember the collection for church 25 cents for St. Michale's Church Polwatte. Then she asked Alpina to bring the water, and she actually woke her twice in the night. Nothing abnormal in that. And it is a curious feature that there was somebody sleeping in the room. She woke this woman twice but never got out of bed. Alpina had been in her employ for five years. She did not notice anything abnormal. She did not see an aspirin bottle. She may have brought it in without anyone

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noticing it. A great deal depends on the aspirin because it will help you to decide to some extent.

And then that night. You remember the incidents. All the doors were closed. This suggestion that one of the doors or the lavatory doors were open, must be rejected, you must depend on the evidence.

The story of the morning. You remember Alpina got up and went to wash her face, she saw her lady sleeping she thought she might be awake. It was about six o'clock. She came back after washing her face. Mabel Joseph saw her when she was going to church. The last that was seen of this lady was by Alpina when she left the door ajar. After an hour this lady is stone dead. That is the picture you have got of the incidents of the night. Nothing abnormal so far as you can see. Let us get the facts together and then see where it leads. You can put all kinds of suggestions. Those are the facts, nothing abnormal at all. The woman seems to be perfectly all right. It seemed complicated already. Mabel left early morning. 10

Now comes the history of the 14th. The doors were opened. What a lot of trouble. You see you have to be patient in a case like this. You remember Counsel fighting one trying to prove that a door was left open. I lent myself to the fray. You saw Ceelas and Banda gave evidence in the way they did give. Then suddenly he was locking up all the doors. Banda came there and opened them. Banda says he was sweeping the whole time. He did not see the accused at all, so that it cuts off the accused going that way at all. The question is are you going to believe them, it is your privilege not Counsel's or mine. You must decide. If you believe Banda, then acquit the accused. If you believe the evidence of Ceelas and Banda and Martin, you know that account of describing the matter just before he turned towards the kitchen, he saw his master was standing there. That shows he did not go immediately he heard the cry. These are village youths. Are you going to give effect to their evidence or not. In all the circumstances, are you going to give effect to it. 20 30

It is a proper thing to leave the evidence for some time. That is like an alibi. Then oppose to it this statement.

Does it create a doubt in your mind. If a case for the prosecution is made out on the rest of the evidence—if it causes a doubt in your mind give that doubt to the benefit of the accused, but, if on the other hand, you think they are telling a lie—it is entirely a matter for you—and that perhaps they knew more about this matter and they do not wish to come out with it for the reason given by the Deputy Solicitor General which I will point out to you, namely, that they were at one time employees of the accused; You must keep that suggestion in mind. Mr. Pereira said they are not under his employ now, but you do not want them to be actually under him—some outside influence could do that. It is a comment I wish to put before you. There are other influential friends. You must analyse and see where that influence is. It is true what Mr. Pereira said that Thomisa was employed under the proctor for the accused. It is your experience. You will be able to say. Could they be influenced by the accused's friends? That is the suggestion for the Crown. Is that possible. 40

Mr. Pereira pointed out that if they had been coached they could have been coached better—that is so. Are you entitled to reject their defects which are shown up because they might have been coached up better. This is a privilege for you. I will advise you let us leave their evidence those who say the accused was at a certain spot, which shows at once that he could not have committed that offence. Let us see what the rest of the prosecution is and put the opposing evidence and see how the pull effects. Does it cause a doubt in your mind? There is a presumption of innocence in favour of the accused. Take that trio of witnesses—Martin, Seelas  
 10 and Banda, Banda states he left the place and went out tapping, but he admits when he came back he was at Duff House and that the meals were supplied to him not by the Crown—All these are points—whether like homing-pigeons they came back to roost. It is suggested this house is really in charge of Proctor Saram on behalf of Negriss—there is no proof at all, but the fact remains that these witnesses are at Duff House except Alpina. It is necessary for me to call your attention shortly to the main effect of these witnesses as to what took place. You remember most of the incidents. You remember Alpina says that she was grinding that sambol when Seelas and the driver both came and informed her “There  
 20 it looks as if the lady is calling for you.” You know all the evidence Seelas and the driver and Simon the cook gave. You know that it was a girgling noise. Alpina did not hear the cry but she did mention to Mrs. Bandaranayaka that she heard a shriek or something. I do not know what this bother is about. As I pointed out, even if you believed Mrs. Bandaranayaka was true that Alpina stated to her that she heard a shriek that is not evidence in the witness box, because Alpina’s version is quite different, but instead of running down one, could it not be due to a mistake obviously. I must ask you to keep in mind that the atmosphere in the witness box is quite different. When these things were occurring nobody thought of giving  
 30 evidence here. So that you can remember the tense situation. There was a sudden death—people crying—relatives came there—this woman Alpina comes. She is a very intelligent woman, and in fact she said she smelt a peculiar smell. Does it not show that she was trying to speak the truth as far as her memory goes of the events. I attach a lot of importance to the smell. She smelt that. She said that. Whatever it is. They ask this woman talking in ordinary Sinhalese. She emphatically said what she said was that Seelas and the driver came and told her “There as if the lady is calling for you.” Mrs. C. Seneviratne bore her out on that point. Mrs. Dias Bandaranayaka may have understood it in that sense.  
 40 You must make allowance for the confusion of the woman for want of retention and falsity of memory. It is not necessary to allege motive. You saw these witnesses. Did it not strike you or did it strike you that they were honest and trying to recollect possibly what took place. There is their version. In every case when you hear any story you will find the people who heard it differ on very material points. I do not know why this bother was made because even if she heard a shriek, as Mr. Pereira pointed out, what kind of shriek. She used the word “shriek.” She said

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she heard a noise. You must start with the evidence that these witnesses who do speak of the noise speak of it as a gurgling noise, but now you will have to test the evidence. What kind of noise was it? Accused told Dr. Paul—I will read to you what he said. Accused told the Magistrate in his statement—it has got an important bearing. We held certain tests there. That is merely to indicate to you the conditions more or less—not exactly the same. Accused says in his statement—“I was in the verandah where the chickens were when I heard a groan. I went into the child’s room. He was sleeping.” He says there that he heard a groan and he went into the house through the child’s room to examine it. He told Dr. Paul, the witness that has been commented upon by Counsel for the defence, (reads Dr. Paul’s evidence at Rec. p. 180)—“He said he was in the verandah feeding the chickens or supervising the feeding of the chickens. He said he was waiting for the Sunday morning papers. Then he heard a scream.” He was talking in English. Dr. Paul is a Tamil. (Dr. Paul’s evidence contd. :—“He heard a scream coming from the direction of his wife’s apartments. He rushed up. He thought his son had put his head in between the railings of the bed and probably could not get it out. He ran up to see if that was so. When he went into his son’s room he saw his son sleeping. Then he ran into his wife’s room where he saw her across the bed.”) 10

You make allowance for his error of judgment. There is no doubt that he told him he heard a scream which made him believe that his son had put his head in between the railings and could not get it out. You saw the railings in the picture. Take the best possible construction for the accused. A child is not going to gurgle when he puts his head there. I am telling you the evidence. Then he goes on—to Mr. & Mrs. Alwis he said “shrieks.” We will leave them out. To Felix Jayawardena he said that he heard a “goragora” (gurgling) noise. (His Lordship reads Felix Jayawardena’s evidence on this point.—“He told me that Mrs. Seneviratne had taken an overdose of aspirin and that in the morning when he came out of his room into the western side of the verandah just near the fowls house (he showed me the place) he heard a gurgling sound. He said “Goragora sabtha”). I got him to mark it on the plan. (His Lordship continues reading Felix Jayawardena’s evidence :—“He heard a gurgling sound inside the room. He thought that his son had got his head between the rails of the bed and went into his son’s room and found nothing the matter there.”) 30

That is the evidence of the nature of the noise. What is the effect that noise had. It is rather important. Coming from a central position it affected round a circle. It affected the accused; he said he was in the back verandah, made him think it was a scream, made him rush up, made Seelas who was perhaps the closest—I do not know. I may be wrong—he heard the noise coming from the direction of the deceased’s room, made him think that the lady was calling for Alpina. Mr. Pereira is quite right that in Ceylonese houses no male servants go into the lady’s room as a rule. I do not know what the more advanced Ceylonese are 40

like, but I am speaking of the old fashioned people like myself. He takes a bee line direct to the kitchen. Some idea has crossed the mind of the driver. These three are set in motion by the noise—I will not use the word cry,—two of them going towards Alpina and the 3rd, the accused, going to his son to see if his head had got between the rails. You saw the test. There it is. Keep that in your mind. It is necessary for you to keep these facts in mind. You have to test that. You heard what he told the Magistrate—groan. What he told Dr. Paul—scream;—what he told Mr. Felix Jayawardena—girling noise. Then he ignore Mr. & Mrs. Alwis. They said “shrieks.” One place he said “groan,” Alwis used the word groan in one place. The important thing is that Dr. Paul was the first man to whom he spoke. If the prosecution story is true, accused heard the noise in the room itself. Prosecution suggest he administered the chloroform. So he heard the noise there itself. The first person to whom he mentioned was Dr. Paul. Then the affect it had on the other two was to make this man Seelas go out. Remember he did not rush at all. If he had heard an unusual noise—was it a shout. Was it an unusual shout? He said he took his ordinary way. I got it out. The driver also said “There the lady is calling for you.” Alpina herself just washed her hands and walked in the ordinary way. The door was closed she pushed it open. She got the smell at once, sees the accused. Accused says “Did the lady fall?” and the position of the lady is rather an important aspect—crosswise. What is the first reaction on this woman Alpina, She cries out “Walauwe Hamuduruwo ” “Walauwe Hamuduruwo ” tries to raise. She bends over and tries to raise. Accused said “go and bring some brandy.” I am going to ask you later when you are considering the conduct of the accused to keep two versions in your mind—What is the reaction on a guilty husband who had murdered his wife? What is the reaction on an innocent man who found his wife in a swooning position? You must keep that in your mind. Supposing accused’s version is true that he is absolutely innocent, he thought his wife was in a swoon. According to this statement he knew that she had threatened to commit suicide by taking poison. I will read out the statement later on, before I close, and he also knew that she was taking chloroform for toothache to induce sleep. Keep in mind the accused’s story. If that is the truth what will be his reaction on that occasion. Mr. Pereira told you “Will a husband go and telephone at all.” Of course not, but this woman was in that position for one hour, according to medical evidence, dead. What is the reaction on a guilty person. It is very necessary for you to keep both these pictures in your mind. What is the reaction on a man who administered chloroform. Did he know the certainty or uncertainty of the chloroform. If that woman revived what would have happened to him. If she revived was there certainty of action of chloroform or uncertainty of action. I am taking the picture of a man who had done it.

We are collecting the facts and it is necessary for me now to read the material portions of these witnesses especially Banda, Ceelas and Martin.

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Ceelas—you know almost everything about the case so far as the witnesses are concerned, but you may have forgotten. He said he was a domestic servant living at Radawana, employed under the accused for three years, first came under his employ when he was living at White House. From there he was continuously under his employ. "From the time this enquiry started till now I have been living at Duff House." He says "the lady paid me. I cannot say where the money to pay me came from, from the lady's purse or from the gentleman. I have no particular enmity against the accused. I have lived at Duff House since the inquest proceedings started. Mr. Abeysinghe the proctor for accused gives me money for my meals. The other servants Thomisa and the driver are there. They are fed there. Last night Alpina was at Duff House. I did not speak to her about the evidence in the case. Alpina did not tell me about the case. I did not speak to anyone else about the case. "The dinner passed alright. There was nothing unusual. (To COURT : Mrs. Seneviratne took her meals. There was no liquor. I cannot remember that definitely.) All had dinner as usual. After dinner Mr. and Mrs. de Saram left. Then I was in the pantry. When they were leaving Mrs. Seneviratne went to the front verandah. I did not notice where she went from there. I saw her going into her room. I did not see her going anywhere else before going into her room. I have no idea where Mrs. Seneviratne went. I had to clear the table. My duties are in the pantry. In the morning my duty is to set the table. I cleared the table removing some cups and plates which were on the table and then spread the table cloth. That is the table in the actual dining room—not the spare dining room." I could not understand the window. Mr. Pereira pointed out the window. "I saw the accused when I was taking the plates and arranging them. That was before I went to the dining room. I was wiping plates when I heard the noise. Then from there I went to inform Alpina about it. When I heard the cry I did not see the accused and Martin standing at the spot. At the time although I may not have been able to see Mr. Seneviratne or Martin I could hear them conversing. I cleaned up the plates and went to have my dinner. When I came back a considerable time later I saw Mrs. Seneviratne coming in the direction of the accused's room. (To COURT : I saw her coming along the spare dining room.)" His evidence is that he saw her coming along the spare dining room. Then he goes on, "I told the Magistrate that it must be about 6.15 when I came to the pantry. It was after some time I heard the cry. (To COURT : I cannot fix the interval between my coming to the pantry and hearing the cry.) I suppose it must be a few minutes. I did not see Mabel Joseph going away. I saw the car going with the cook and the driver. (To COURT : I heard the car going. I cannot remember the time between the cry and the car going away. I told the Police Magistrate that I heard a girgling sound. The sound came from the direction of the mistress' room.) Martin is a little deaf. He is a little boy." When he heard the cry he was in the pantry." That is the witness Ceelas' evidence. I want to read Ceelas' evidence at the scene. It is recorded very shortly. On (Rec.) page 303 Ceelas "shows the

spot where he was working in the pantry that morning. The windows of the pantry were not closed but cannot remember whether the two doors were open. He states—"I saw my master in the back verandah through the window in the pantry. If he went towards his set of rooms I could not see him from here but I could hear his voice. Except the door leading to the back verandah from the hall I cannot see anything else from this place. From the pantry I came to the middle of the dining room. From the middle of the dining room I can only see across the door leading to the back of the house." I will read the evidence of Banda, only the material portions. "I am a domestic servant, I am now living at Malwana. I am a brother of Alpina. I was employed for 7 months under the Seneviratnes. Then I started sweeping the outer verandah in the direction of my master's room. (To COURT: When I was sweeping Mr. Seneviratne opened the door and came out.) When Mr. Seneviratne came out he was in the outer verandah. I noticed him there but after he moved further up, while sweeping I lost sight of him. (To COURT: I was sweeping towards the front verandah.) I cannot say how long it was before I lost sight of him. I took a short time to sweep the verandah. When I was sweeping Miss Joseph asked me to get the rickshaw. I was then sweeping the front verandah. I did not see the accused at that stage. Miss Joseph asked me to get the rickshaw. It is left in the stable near the firewood shed. I had just passed the portico when I saw him coming with it." He showed us he went further down. He pointed out the lower portion. If that is so he took all that time to sweep that portion from the time the car left. He pointed a little further, near the other big tree. "I did not finish the verandah. I swept along the verandah. I was sweeping towards the Nurse's room. I cannot say how long it took. The rickshaw went by the left hand side. I did not go to the gate to see if the boy brought the papers. When I was engaged in sweeping the verandah the car went off. (To COURT: The next incident I remember was at that time I was sweeping the lower verandah.) I did not hear any noise. The car went on the right side." My impression was that when Miss Joseph went he was sweeping the top verandah and went on to the lower verandah but I was wrong. "When the lady from Bambalapitiya came I went to the pantry. I was sweeping till the time Mrs. Bandaranaike came. I cannot remember whether it was after the car went or before. After placing the papers I came back to the verandah. The accused was then in the deceased's room."

In cross-examination Banda said "I never saw Mr. Seneviratne speak to anyone in the verandah." That is an extraordinary thing to me, because Mr. and Mrs. Alwis stated definitely that the accused said he was talking to a Tamil man you remember about a clerk or typist taking Rs. 10/-. I will read that portion to you later. That cannot be a fiction made up by them. You remember that when they came that morning after the death accused said he was waiting for the papers, pointing the front verandah, and they are the only people who say that that morning he was talking to a Tamil man who complained of having been robbed of Rs. 10/- by a typist. It is a strange thing this man Banda says it may be earlier. He says "I

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never saw Mr. Seneviratne talking to anybody in the verandah." It may be that he was sweeping the western verandah. The point you have to consider is whether Banda is to be believed by you or not, that he was fixed in sweeping the lower verandah alone for half an hour—you remember Mabel Joseph pointed out where he was and he supported her—or whether he had gone to call Peera, given him the message and gone out for his own job in search of the paper. That is possible, but the evidence is quite different. If you believe Banda, then Mr. Seneviratne could not have gone by that front door. Whether you believe or not, reserve it for the present, until I have dealt with the whole case. (His Lordship reads Banda's evidence—Rec. p. 50—"I know the paper boy Hinni Appu's son Simon. He brings the Sunday papers. The weeks papers are delivered as a matter of course. Simon brought the papers that day. That was after the car had left. I am quite certain of that. When Miss Joseph asked me to fetch the rickshaw I was sweeping the western end of the verandah." He gave the impression that he was sweeping the top verandah. You saw the plan. Obviously it is the higher verandah. So he has contradicted himself badly there. He says "When Miss Joseph asked me to fetch the rickshaw I was sweeping the western end of the verandah. That front verandah consists of a broad verandah ending at Miss Mabel Joseph's dressing room." He amended that by saying at the spot that he was sweeping the bottom verandah. It may be he is making a mistake. (Banda's evidence continued :—"It is 15 feet broad, fairly broad. There is a lower, narrower verandah besides. That extends along the house. The lower verandah has got a number of flower pots and lots of corners. It would take a long time to sweep.") According to his evidence here he took half an hour to clean both the verandahs. Then he says "I was sweeping this upper section of the verandah when Miss Joseph wanted the rickshaw. At her request I shouted, at the portico, when I found Peera coming with the rickshaw." If he is making a mistake, is he one of the village boys who do not know the significance of these matters. If he is speaking to facts which are going to be used as of probative value here he is—two contradictions I have pointed out. He further says "If Mr. Seneviratne came to the verandah I was bound to have seen him and even thereafter. After I found him going to the back verandah to feed the chickens. I did not come to the front verandah. From where I was I could not see Seelas. In December last when Mr. Seneviratne was taking into custody I went to my village. I am now working as a rubber tapper. As a matter of fact I was fetched from my village to indicate to the Police where I was sweeping, to make a plan. When I swept the extra verandah in the morning I did not sweep the child's study. I cannot remember when I swept this verandah. I swept the verandah along the child's study. I remember Mrs. Bandaranayaka came when just when I was finishing sweeping. It was near about the child's study. I had swept the other side. When I was cleaning the upper front verandah I could see the hall." Banda when re-examined said "In sweeping the lower verandah I started from the west and went sweeping towards the child's study. When I was sweeping

there I can see the hall at the doorway. I can see part of the hall only. Between the two verandahs there are big pillars. From the lower verandah I can see the dining room near which the chicken coops are kept, but not the other dining room. I am now engaged in rubber tapping. I was served with a summons and I came to Colombo on Sunday by bus. My sister came with me. We were not both staying together from Sunday. I was staying at Duff House and my sister was at Mt. Lavinia. After the trial commenced all these days I have been at Duff House and I have been provided with my meals. I do not know who provided for my meals—  
 10 not the Crown.”

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When he was examined at the spot later he said that when Miss Mabel Joseph asked him to call the rickshaw he was at the extreme end of the front verandah (towards the fowl runs) sweeping. He states that when Miss Joseph was going out he just got down to the lower verandah to sweep having finished sweeping the upper verandah. When Mrs. Bandaranayaka came he said he had just finished sweeping. He swept the verandah slowly. Miss Joseph states that Banda just went out of the portico to call the rickshaw when the rickshaw was coming. Banda states he was in the compound opposite the portico  
 20 of the baby's room when he called the rickshaw. He says he cannot be quite certain of the spot. When he spoke to the rickshaw man Peera the rickshaw was near the mango tree on the garage side of the House. He says that Peera must have seen him. Peera states he brought the rickshaw that morning for Miss Joseph. He says he did not see Banda nor did he hear him calling. He says he did not wash his face that morning, that he came in a hurry and did not observe whether Banda was there or not. He says he has no recollection whether Banda was there or not.

The boy Martin is interesting because he is the real person who proves, according to the defence, that the accused never left the spot till he heard  
 30 the noise. You saw that spot. His evidence is not very long. When I have finished that I will not read any part of the other evidence because they are quite clear in your mind. Martin says “I have been under the accused's employment for about 1 year and 4 months. I am still under his employment. I remember the day the lady died. That morning I got up. Having got up I washed the cups and saucers in the outer verandah where the chicken coops are. Food is given to chickens in these cups. After having washed them I brought some cooked rice and water and mixed that and gave it to the fowls. There is one room in which morning tea is taken and another room where breakfast and dinner are taken. I took the cooked  
 40 rice from the dining table at which they take their breakfast and dinner. The doors and windows were open at the time and I was able to get into that dining room. When I was giving the food to the chickens my master came from his room along the back verandah. I knew his three rooms. He came along the verandah in front of his three rooms, and then got on to the verandah in which the chicken coops were. That is how he came. I am sure that is the route he took. He told me that some chickens had to be taken to Kettawa and asked me to take the food kept for the chickens and

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put it in the vessels placed for the ducklings. After that he told me to go to the kitchen and bring some broken rice (hunusal). It was at the same time that he told me to feed the ducklings and to bring the broken rice. This conversation took a short time. Then I went direct to the water tap to wash my hands."

Mr. Pereira has pointed out that was a long operation to take out food from 20 coops.

(Martin's evidence continued :—" Then I went to get the broken rice which was kept on a plank in the kitchen. I took some broken rice into a small box which was there and then came back to where the chickens were. I do not know how long that took. I did not delay long. When I came back to where the chickens were my master was not there. When I turned to come away from the kitchen I did not see my master. When I was going to wash my hands I saw the driver coming out of the kitchen and going towards his room. After I washed my hands and was going towards the kitchen I saw Alpina and Seelas going towards the dining room. I did not hear them speak anything." 10

According to his statement there, it was after he washed his hands and was going towards the kitchen he saw Alpina and Seelas. The driver had already passed on the passage when he was going to the tap and was coming out. Then he says "After washing my hands when I was going to the kitchen I saw Alpina and Seelas going towards the dining room." That is what he said at first. 20

(Martin's evidence further read :—Leaving my master I came to the kitchen to take the broken rice. After my master spoke to me I took the rice to the ducklings which were closer to my master's room. I got down from the back verandah to the duck's pond. I fed about 10 ducklings. I left my master and went to feed the ducks. I did not see my master after that for some time. Having fed the ducklings I went to get the broken rice. There is a fence and a door in that fence and I had to pass that door and go. I went through the compound at the back of the house. I got on to the verandah. When I came back with the broken rice I did not see my master. I went to the pipe and washed my hands as there was rice on my hands. Then I saw Alpina and Seelas going. I put the food to the ducklings and came away, but did not wait there till they finish taking their food. After my master spoke to me on the back verandah till I heard that the lady was dead I did not see my master. I saw Alpina and Seelas going towards the dining room." He told us a different thing, that when he was going back he stopped there and looked and saw his master. 30 40

In cross-examination he said "I have been under accused's employment for one year and 4 months. I was given food and clothing and once in a way a rupee. . . . That morning when I got up the others had already got up. Then the front doors had not yet been opened. After I got up I first washed the cups—not my face. I had 20 cups to wash. There are 20 coops. After that I put rice and water into each of these coops and placed them under each chicken coop. That took about 20 minutes. By

that time my master turned up. He found fault with me for giving rice and water to the chickens. He asked me to go and give that to the ducklings and give broken rice to the chickens. I had to take out the 20 cups again and put the food in all these to one plate. Then I took the bigger chickens from the different coops and put them into one cage. My master himself was engaged in collecting the chickens." You remember he told us at the spot the master did nothing. No, that is not so. (Reads from the proceedings.) He said "When I was going to feed the ducklings my master was still selecting the chickens in the back verandah. I did not help in selecting them. He was doing the selection himself." What he said in Court was "I had to take out the 20 cups again and put the food in all these to one plate. Then I took the bigger chickens from the different coops and put them into one cage. My master himself was engaged in selecting the chickens. That also took about 20 minutes. Then I went and placed the plate of rice and water for the ducklings and then went to get the broken rice. On the way to get that I went to the tap to wash my hands. Till I went to put the food for the ducklings my master was on the back verandah." He told us that he did nothing in the selection. (Martin's evidence continued:—"I had to take the plate of rice and water and keep it near a big tree where the ducklings were. I merely go and place the plate of food there. When I was going towards the pipe I saw the driver going towards his room. When I was going to the kitchen I saw Alpina and Seelas going towards the dining room.") I do not know whether that was after washing. It must be after washing. To Court he said "After washing the hands when I was getting over the steps I saw them." He saw the driver as he was going to the tap, but he saw the other two after he washed his hands and was going to the kitchen. At the spot he said "When I left for the hunusal my master was in the back verandah behind the window of the pantry. I saw my master in the back verandah when I was going towards the kitchen to bring the hunusal. I fed the ducklings near the big tree in the little compound behind the back verandah. From there I went to bring the hunusal through that little back compound to the kitchen. As I got to the end of the back verandah from that little compound, before getting into the kitchen, I turned and looked and then I saw my master in the back verandah just near the pantry window. When I came up to the kitchen the driver went from the pipe towards the room. Alpina and Seelas went towards the house. By the time I came up to the kitchen the other two had gone. I did not hear any noise. I came straight to the tap near the kitchen to wash my hands. When I came near the pipe I did not see Seelas." Then he says later "From near the ducklings I went towards the kitchen and when I turned before going into the kitchen I saw my master at the same place where he was when he was selecting the chickens. He was looking at the chickens there. I did not see Seelas going towards the kitchen at all but I only saw him going away from the kitchen with Alpina. My master did not call me for me to turn back and look before going into the kitchen. I just looked towards him."

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To continue with his evidence. "He told me that some chickens had to be taken to Kottawa. About 10 big chickens were selected." In re-examination he said "About 10 big chickens were selected and placed in a bigger cage in the same verandah. My master was there when they were placed in that cage. I did not see him leaving. (To COURT: The important job I did with my master that morning was selecting the bigger chickens to be taken to Kottawa." You remember a newspaper cutting was brought and that this was referred to. "Before I came to Court to-day nobody reminded me of that. Nobody reminded me about taking the chickens to Kottawa. The bigger chickens were collected and put into a big cage and placed in the same verandah a short distance away. All that time my master was there doing nothing. Accused first waited till I selected the chickens and put them into another cage. He waited till the chickens were fed." He told us that he selected. "All that time he was standing there doing nothing. Till I did all this accused was there walking up and down. Anybody could have seen him. (To COURT: I cannot remember what he was doing then. I do not know whether the newspaper report is correct. To JURY: When I first saw my master that morning I had finished washing the cups and was putting the rice and water into the cups. This is his evidence. It is my duty to read it to you. As regards the evidence of Alpina, Simon, Peera and the driver you know. 10

Gentlemen the question arises, we are collecting the facts. I told you about this scream, what the actual words used by various people, the accused himself, by the witnesses. Then I told you what the net result of the cries were. 20

Now we come to the question where was the accused when the noise was heard. According to witnesses I have read, Martin states that the accused was in the back verandah and never left the spot until sometime after the cry was heard. If you come to the conclusion that the accused at the time the cry was heard was not there at all, Martin's evidence is thrown overboard. It is very material to find out where he was. Where was the accused when the cry was heard? If the accused was in the back verandah according to Banda, he did not see him cross. According to Martin he was there even when he was in the kitchen. According to Seelas he heard his master's voice when he was going to the kitchen. So that if the master was in the front verandah the evidence shifts. The evidence on the point is his statement to the Magistrate, which the accused made on the 10th February, the second statement. His first statement was "I am not guilty." He says "I was on the back verandah when I heard the groan. He thus brings himself in line with the evidence. An important witness was Mr. Felix Jayawardena. He took the trouble to mark the spot on the plan. Mr. Pereira was quite right in his comment. He marked it in red, first at the bottom, near the dressing room, which was neither according to accused's statement or the prosecution. I asked him "you are a proctor of so many years' standing." Then he marked in red. Then he said it was in the front verandah. I was not satisfied. I asked him to 30 40

mark it. He marked it. Then I wanted him to fix him to some sort of certainty, not to fit in to a preconceived theory of mind. I have to perform just as sacred a duty as yourselves, something to form your opinion. I asked him "Did you talk to him?" His evidence (Rec.), page 133, he says "That day I spoke to the accused. He told me that Mrs. Seneviratne had taken an overdose of aspirin and that in the morning when he came out of his room into the western side of the verandah just near the fowl house (he showed me the place) he heard a gurgling sound (he said goragora sabtha) inside the room. He thought that his son had got his head between the rails of the bed and went into his son's room and found nothing the matter there—that his son was fast asleep—and then he walked into his wife's room and found her in a faint. He tried to revive her by giving her some brandy. He spoke in English as well as in Singhalese.

Any doubts at all up to that stage? I will read to you his later evidence. "He heard a gurgling sound." I was not satisfied with that. "That spot is where the verandah comes from his room where the main verandah meets. That is about the corner of the front verandah where the western verandah meets it. We were seated quite close to that spot. He showed me the spot. It was near the chicken run. (To COURT: I am a proctor of 19 years standing. I told the Magistrate also that accused was standing in the western corner of the verandah. If I remember right accused said he found his wife lying across the bed and he tried to revive her by giving her some brandy.

CROSS-EXAMINED: That day I saw the back verandah of Duff House. I cannot say whether there was a large number of chicken coops on the back verandah on that day but he used to have them there. He said he was close to the chicken run when he heard the sound. On that day I did not see chicken coops on the back verandah but I have seen them before."

That is the evidence at that stage. I thought I will press the matter and he said he may have meant the back verandah. You see the difficulty in Courts of Law.

Now we come to the statement of Dr. S. C. Paul (Rec. p. 180). This evidence he gave here. Remember his previous statement is not evidence. It is the evidence he gives here. He says "he gave me an account that he was standing in the verandah that morning. He said he was feeding the chickens. I cannot remember I think he said the verandah. He said he was in the verandah feeding the chickens or supervising the feeding of the chickens. He said he was waiting for the Sunday morning papers. Then he heard a scream (Rec. p. 180). He said he was in the verandah." He is definite he did not mention it because he was answering questions. Mr. Leo de Alwis is quite different. Mr. Leo de Alwis says—he sticks to his guns and so does Mrs. Leo de Alwis. You get three servant witnesses who say they did not see him in the front verandah, the accused's own statement that he was in the back verandah. Mr. Leo de Alwis mentioned about the Tamil man. Is that a concoction about the Tamil man. Leo de Alwis says that when he questioned him where he was in the morning he said he was in the verandah

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where he asked the boy to buy the papers and he saw a Tamil man and just after he came there a boy came and started sweeping. If this story is true that accused said he was in the verandah, that servant must be Banda and he must have seen the Tamil man speaking to him. Similarly Mrs. Alwis also mentioned that incident of the Tamil man coming and complaining. On that point of where the accused was, you have got the evidence of Mr. Felix Jayawardena. I read out to you all the implications and I have given you the other bits of evidence.

Now coming to time, what are the times—that luckily we have found not much difficulty. We knew of one thing certain on the evidence led, 10  
namely, that Simon the cook came running to the driver to take the car for Mrs. Bandaranayaka at 20 to 7—10 minutes to go and 10 minutes to come. 7 a.m. they returned. That time is fixed as far as possible according to the evidence. Then you have got one other fact that Miss Mabel Joseph left for the church before she heard any cries—before all this occurred. So the cry occurrence must have occurred before 20 to 7 and after Miss Mabel Joseph left. That is quite clear. I want to point out to you that we have no definite evidence at what time Alpina left her mistress's room to go to the kitchen. She left the door ajar. That is the last she saw, but at that time both she and Mabel Joseph had gone to the lavatory and washed their faces 20  
and Alpina left the lavatory and came to the room, picked up her mat and went. Miss Mabel Joseph after that got into the dressing room and dressed and went. So that you will be right in thinking, from the point of view of suicide, that the time the deceased had at her disposal, if she had intended to commit suicide, was the interval between Alpina leaving deceased's room and Miss Mabel Joseph leaving shortly after that, because you see you cannot fix it from the time Mabel Joseph left. Mabel Joseph saw her sleeping when she was going to the lavatory. She did not see her when she was coming. We do not know how long she was changing her dress to go to church. It may be that if they got up early in the interval of time would have been 30  
greater; may that Alpina left close on 6 or even before 6, and we have no definite evidence with regard to the time at which exactly Miss Mabel Joseph left—may be 6.30 or may be 6.15. We cannot say definitely that the cries were heard immediately after Miss Joseph left. We are no criterion at all, but the time can be fixed from another point. That is, if you take the driver's evidence. The driver says it took about 5 minutes for him, after hearing the noise, to go to the kitchen, inform Alpina, then come out and go into his room, put on his coat and walk a little distance—it took 5 minutes. During that time, if he is right in 5 minutes, Simon the cook had heard the noise, looked outside through the window saw 2 boys and thought they made 40  
the noise and went on combing his hair; then he went into the kitchen; to put the kettle then it struck him to go to his master and he went and saw the master; master saw him, told him to go and fetch Dr. Paul and Walauwe Humuduruwo, on that point I will tell you the contradictions—or only Mrs. Bandaranayaka, and he thought better of it and wanted to go by car; he went back; during all that interval the driver had already mentioned to Alpina, just stepped there, and put on his coat; you must estimate his

5 minutes from that angle. The driver said he mentioned to Alpina "There your mistress is calling," came out, got into the garage or somewhere, put on his coat and stepped out 15 paces when the cook came and wanted the car; that time he estimates as 5 minutes; whether he is correct or not you can test from this point, namely, that during that time the cook had heard the cries, finished his combing, went to the kitchen, put the kettle on—Alpina had already gone to fetch hot water bottles—came and saw the accused. Accused ordered him to fetch somebody on bicycle; he came back and thought better to go by car, saw the master, master ordered him; then  
 10 he came back running and told the driver "let us go." That is the estimated time as far as I can find out. But we have got a valuable index in the fact that can fix anyhow one of the terminals, namely, 20 to 7. This is a point you have to consider very carefully.

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According to the medical evidence of Dr. Paul this lady must have died about an hour before 6.30 a.m. That is only medical evidence. According to Alpina's evidence this lady showed no signs of life from the time she came after hearing the cries. She was in the same position; in spite of processes to revive her she was still there, so that that fact is clearly established. It is a matter for you entirely. My opinion does not bind  
 20 you at all. I am a human being and if I am expressing my opinion directly it is only for your consideration and not for your acceptance. I have also got to discharge a sacred duty; therefore, if death had taken place 5 minutes before 20 to 7, take the best possible—accept the driver's evidence. That is to say, 25 to 7 a.m. death took place. The question you have to ask is "This lady was in that position. What is the conduct of the accused during the so-called fanning process. He thought she was in a swoon when Mrs. Bandaranayaka came, when Simon the cook came and after Dr. Paul came. Is it consistent with that of a man who committed the crime or consistent with that of a husband who thought his wife was in a swoon.  
 30 That is a very serious point you have got to decide. That is why I am collecting all the facts.

The next fact I want to mention to you is what happened as soon as Alpina entered the room. The door was not open. She had to push the door open; therefore the door must have been closed either by the accused or by the deceased, whichever theory you are testing. The first thing she noticed was that smell. That smell must have been chloroform smell. At the last test we had she said that is something like this. What does she do then. Her first impulse was to yell out "Walau Hamuduruwo."  
 40 You will make allowance for the fact that accused is a man and more phlegmatic, but this is a woman, excitable like all women. Her first impulse was to raise her; she yells out. She is asked by the accused to go and bring the brandy. Then you got the incident of the hot water bottles; then you know the position of the deceased; how she was lying in that awkward position—woman in faint; the first impulse of this village woman was to raise her head. You will keep in mind accused is not an ordinary villager. He is an educated man—educated to his finger tips

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and consider the reaction—the tests I asked you to keep in mind. It is an important part in the case.

I must now tell you about the story of the handkerchief. There is a mysterious 2nd Handkerchief in this case. I do not know whether it struck you. There is reference to two handkerchiefs. Mr. Pereira himself brought it out. There was a handkerchief found by Alpina which she threw on the dressing table. In addition to that handkerchief, P13 is said to have been found by the accused on the 17th morning with which she must have chloroformed herself. I do not know whether you know the significance of it. Leo Alwis said that handkerchief P13 was given to him by the accused as having been picked up by Alpina, whereas in the Police Court and to the Coroner he said accused told him he picked it up himself. Mr. Pereira pounced on Alwis saying "You did not make that statement that it was given by Alpina, but you said it was given to you by accused as having been found by him. Then he said "If that is so, it may be so." He said that was not asked. You know why? If he had tried to make out that the handkerchief he gave was the handkerchief picked up by Alpina, then Alpina had stated that she had given it to be washed by the dhoby, but the fact remains if you accept both these versions—if you accept the construction put by Mr. Pereira on the case, it means that Alpina found a handkerchief near her hand and another one was found that morning by the accused—under what circumstances we do not know, and this lady then used two handkerchiefs. I will read to you the evidence. Alpina says "I took up the handkerchief and from the entrance to the dressing room I threw it on to the dressing table. I remember throwing it but I cannot remember after which trip I threw the handkerchief. After this incident my master asked me whether I found a handkerchief on the bed. Accused must have questioned me about the handkerchief 3 days after the funeral. He did not tell me that he too found a handkerchief." So that he did question her about two or three days after the funeral, on the 19th, but on the 17th he seems to have given a handkerchief as having been found by him.

Mr. PEREIRA : My point all along is that there were two handkerchiefs. One handkerchief was found on the 15th morning.

COURT : That is better.

Mr. PEREIRA : My point is that both handkerchiefs were found on the 15th morning. Your Lordship said it was better. I do not know whether it was better for the Crown or for the accused.

COURT : It is better because if the accused had chloroformed the lady, he would have taken the handkerchief away himself.

Mr. Leo de Alwis had stated that P13 the handkerchief was found on the 17th October. The accused gave him P13 and the caustic soda as found that same day. I thought it was 17th but Mr. Pereira says 15th. I only tried to find out how many handkerchiefs were there. Leo de Alwis says "I came to Duff House on the 17th also. I had occasion to visit Duff House twice that morning—once when I came

early that morning accused had 3 lady visitors and he said he was rather busy and then I went to my sister's grave. I went and met the accused at about 11.30 a.m. and as far as I can remember at that time he was reading some letters of sympathies he had received. I told him I had come to ask him whether he knew anything more about the death. He said he had occasion that morning to open the iron safe and certain almirahs in my sister's room and he got some documents which were of no use and he destroyed them. He gave me a handkerchief with my sister's monogram on it P13. 17th is the date. I believe he said that Alpina found that same day. Mr. Pereira pounced down upon Mr. Leo de Alwis (Record p. 123) who had forgotten the details.

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So that two handkerchiefs were found so far as evidence goes. The accused gave Leo de Alwis the handkerchief found on the same day. The important thing is two handkerchiefs, one found by accused and taken by him and another by Alpina and that is the very handkerchief handed to Leo de Alwis as the one she had chloroformed herself with.

The case about the bedclothes covering the feet has luckily been cleared. At that time I thought the bedclothes were here, it makes every point of absorbing interest. When a woman is sleeping like that with her legs covered by a cloth, if she is suddenly disturbed or suddenly gets up of her own free will or draws her legs back and then turns, the bed sheet covers the middle of the legs. Sheets must be crumpled.

Well now that is what Alpina saw. The point to draw your attention is that she had one handkerchief. Where the other one is nobody knows. The burden of proof is on him. Alpina smelt the handkerchief for any smell, but never smelt that before. If deceased was in the habit of inducing sleep, maybe Alpina would know about it. She was for five years her attendant, but never recognised it before.

Then Simon the cook. His evidence in the Police Court was that he came there out of curiosity. He saw the master standing there fanning and he was asked to go and fetch Mrs. Bandaranaike in the car. He was standing near about the lady's legs. The legs were hanging from the bed. I asked him to show where he was standing. You all noticed that he was on the left side of the lady. "I wanted to take the car as that was quicker than cycling". What is the reaction of these two pictures. This lady was certainly dead, dead as a door nail. She did not move at all. Can any person mistake a swoon; He says "go on the cycle and bring Mrs. Dias Bandaranaike". He told in the Police Court Dr. Paul and Mrs. Bandaranaike and when he came here he said Dr. Paul. He left the choice to him, whether he went to one or the other. And on the way back, according to the driver he was asked to bring Dr. Paul. On the way back he spoke of Dr. Paul. They come back at 7 o'clock. It is a painful duty to perform. By scrutinising the evidence, if anything, Mrs. Seneviratne was dead 25 minutes. What was the reaction of a husband who thinks his wife in a swoon. He does not even ask if the doctor had come. Why did he conclude that Dr. Paul did not come.

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(His Lordship reads Mrs. Bandaranaike's evidence—"I got down from the car at Duff House and got in through the hall. I cannot remember exactly whether I went through the spare room. I got in through the hall and passed the dining room, but did not enter the deceased's room. I did not go through the nursery but through the spare room. I went up to the door which was open. I could see inside. I cannot exactly say in what position the deceased was. I did not distinctly see her. I saw Mr. Seneviratne in the room. He was lying by the side of his wife near the railings. I cannot say on which side of the lady. I believe on the left, but I cannot be sure. I did not see what accused was doing. I cannot remember whether there was anybody else in the room. Accused got down from the bed and standing near the bed asked me to fetch the doctor.") He does not even ask her, if he had already sent for the doctor, "Is the doctor come?" What is the reaction on a husband who comes suddenly on the scene and sees his wife in an apparent swoon, in spite of trying to revive her for the last 25 minutes? Had he any doubt that she was dead? You have to answer that question. What is the reaction? He ought to know best. 25 minutes—could he have made a mistake she was dead mistake it for an ordinary swoon? If the picture is from the point of view of homicide I am asking you to test it. These are questions which you must ask. Your bounden duty. If the picture is of homicide, did he know that it was certainty of action of chloroform or not? This is the first case in the British Empire it is said. That is a point you must keep very prominently in your mind. Then the action of chloroform is unusual. If that lady had got up it was a serious matter for the husband. If it was homicide, the man who committed the murder, would he like his wife to get up suddenly and say "You are the rascal who did this to me." Is his action consistent with that picture or the other? I do not know; they are for your consideration. Remember, the verdict is yours, not mine, but please remember that this is a case of justice—must weigh the balance evenly. I am telling you the facts as they occur and the inference to be drawn from them. We will put them in its proper place later on. This is not an easy case. This is a most difficult case, but difficulties ought not to deter us from our sense of justice. We must face, and why? That is what a civilised human being is for. You are not going to shirk your duty. It is said that it is better for five guilty men to escape rather than convict one innocent man, but let us go further "Acquit an innocent man and convict a guilty man." That is the ideal. Mrs. Bandaranaika says "I could see only the deceased's head but not her face—not even the body. I cannot say why I did not see the body, but I did not see it. I asked accused what was the matter with her. Then he asked me fetch the doctor and I went back to the car."

What is the reaction on an innocent husband—woman not getting up, froth coming out; here a nearest relative come at his summons. What will he say "Hello Reeni, what has happened, come and see." Please keep n mind that Dr. Paul has a very pregnant sentence—that you must take

the psychology of the human factor. Take the ordinary educated man. What would be the reaction in these circumstances.

Mrs. Bandaranayaka says "As soon as I went up to the door he got down from the bed and seeing me he stood up and told me to go and fetch Dr. Paul. He mentioned Dr. Paul. He did not ask me whether I fetched the doctor as if he has sent a message. There is a telephone in that house. Because we are not on the 'phone it did not strike me at the time to 'phone. He asked me to fetch Dr. Paul or any other doctor. I am sure he said that. Dr. Paul being their family doctor I went to him. After he asked me to fetch the doctor I asked him what was the matter. He did not reply to that. I did not want to waste time by going in and looking. I thought she was very bad. I thought she had a fainting fit. Accused was not excited. His bearing did not convey any very great urgency. When he asked me to bring Dr. Paul or any other doctor I did not think anything at the time. I was so excited that I just went back to the car. The accused was dressed in his pyjamas at the time." That is the reaction when Mrs. Bandaranayaka came. It has not been proved to us whether a telephone message was sent or not, but there is a telephone in the house. Mr. Pereira told you—take everything he said with very great consideration —"Do you think at that serious moment a husband will think of telephoning a doctor?" It is true but the factor of time comes here. When Mrs. Bandaranayaka came it was 7 a.m. According to her the time was 25 to 7, when this woman was dead. Every means of artificial respiration was tried. What is the reaction on a guilty man when Mrs. Bandaranayaka came? Now Dr. Paul comes. We have got the controversy of whether accused told Dr. Paul "Go in and see my wife." Dr. Paul said that to the Coroner and here also he said that accused said "Go and examine her." You also remember that when Dr. Paul was asked "If Mrs. Bandaranayaka says that accused got up and walked away, will you contradict her" he said I do not know. One hour after death, still thought it was a swoon. At what point of time did it cross his mind that she was dead and the cause of death, that it was aspirin poisoning. Is that when he came out with it to Dr. Paul—what point of time. Keep the time factor in your minds. Dr. Paul comes at 7.30. Don't attach any importance to what accused said—make every allowance for the human deficiency. Keep in mind this is a criminal case—the two tests you are applying. Dr. Paul comes at 7:30. This lady must have been then dead for one hour—froth had come out and rubbed so hard—according to what accused says—until it caused a 3rd degree burn. It must have dawned on him that she was dead. Keep the two pictures in mind—suicide and homicide. If it was suicide, what is the reaction on a husband who suddenly found this tragedy occurring there—make every allowance for the apparent ill-treatment of his wife, not as she deserved, in his favour. What is the reaction on an ordinary prudent man in these circumstances? Would he not assist the doctor to find out "what is the cause of death—what has happened to my wife." He goes to change his clothes. He had changed his clothes according to Dr. Paul, but he says he cannot swear that he had another pair of pyjamas.

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He talks to him. I will read Dr. Paul's evidence on the point. Mrs. Bandaranayaka says "After he (accused) asked me to fetch the doctor I asked him what was the matter. He did not reply to that. I did not want to waste time by going in and looking. I thought she was very bad, I thought she had a fainting fit." Dr. Paul says "My object was to finish the examination and just as I was walking across I saw him coming to me. He was closer to my door, coming from that bedroom. I think he had changed and put on another pair of pyjamas. I cannot remember the colour of the second pair of pyjamas. That was my impression. I cannot remember. Spoke to the accused first. I told him his wife is dead and then I ask him what really happened. I have no recollection whether he asked me what happened. I asked him what really happened in the morning. He gave me an account that he was standing in the verandah that morning. He said he was feeding the chickens. I cannot remember. I think he said verandah. He said he was in the verandah feeding the chickens or supervising the feeding of chickens. He said he was waiting for the Sunday morning papers. Then he heard a scream coming from the direction of his wife's apartments. He rushed up. He thought his son had put his head in between the railings of the bed and probably could not get it out. He ran up to see if that was so. When he went into his son's room he saw his son sleeping. Then he ran into his wife's room where he saw her across the bed and then he told me that he called for the servants. He tried to revive her. He sent for some brandy and wiped the face and applied hot water bottles. He wiped the face as well as the body with brandy. Then I asked whether she had taken anything before. All that he could remember was that in the night she asked him for aspirin and that he had given her the bottle of aspirin. When I asked him what the aspirin was for he said she complained of a headache and he gave her the aspirin. That is all the information he gave me at the time. I asked him what the marks were due to." 10

At 3 p.m. when Dr. Paul went to examine the mouth the marks might have been deeper; yet he allowed the certificate to go. He says "I did not take the responsibility." As soon as he had shelved the responsibility on to the Police he thought everything was justified. That was the attitude he took. That may be a wrong attitude, but we cannot condemn a man for that. Dr. Paul says "But the marks developed gradually. When I went at 3 p.m. it was distinct. It was quite a depressed area. The first time there were no depressions, when I viewed the body. At the inquest there was a marked depression. I asked him about the marks. He said they may have been caused by brandy and hot water bottles. Mr. Seneviratne did not ask me what she died of. As a matter of fact I asked him the question. I remember my conversation with him. It is very difficult to recollect but I distinctly recollect my conversation. I wanted to find out the history of the case. I was not sure of the cause of death, that is why I phoned the Coroner to make the necessary investigations." 20

Now gentlemen about the aspirin bottle. I have told you the events of what happened after Dr. Paul came. You know the rest of the story, the 30 40

issue of the certificate, and I know the case will have to go on tomorrow. You must be patient, otherwise I cannot rest until I discharge my duty. You know the issue of the certificate, the embalming of the body, the conversation of Dr. Paul and his son. All that you know, not much bearing on what I tell you. Seriously taken, the aspirin bottle, you know the history of it. That bottle P.3 was found by Dr. Paul. He said he found 6 or 8 tablets, as a matter of fact Inspector Koelmeyer found 9 tablets. The accused told Dr. Paul that it was nearly full. He told Mr. Felix Jayawardene so " If I remember right accused said he found his wife lying across the bed  
 10 and he tried to revive her by giving some brandy. Accused said that that night Mrs. Seneviratne had taken water 3 times to take aspirin pills. I believe he said that he had given that bottle to her before she retired to bed. He said that when he gave the bottle there was a large number of pills but only a few left in the morning. Nine were found in the bottle out of 25 pills. He told Leo de Alwis that he had taken 3 tablets and to Dr. Paul, it was nearly full. Then you remember he told Dr. Paul death was caused by probably an overdose of aspirin. Dr. Paul found the pancresal bottle.

I want to tell you that question, I suppose you decide one way or the other, it is of help, the chief way you come to a verdict. I will tell you why  
 20 before I finish today. If you are satisfied by the evidence that has been collected, that as a scientific fact the lady could not have taken aspirin that night, you have to give your decision on the evidence given by Dr. Karunaratne, Milroy Paul, Mr. Collins and the authorities they have quoted. Dr. Spittel agrees with those authorities. If you can, come to a conclusion one way or the other. It requires careful analysis. If you find that no aspirin was taken at all you must come to one of two conclusions. Either the lady deliberately threw away 11 tablets or the story of the aspirin is absolutely false and designedly brought in by the accused with a view to misleading the doctor. It must be  
 30 one of the two alternatives. Has he misled the doctor in getting the certificate that she died of aspirin poisoning. The point is for you to consider, supposing he did, say he may have done it. The suggestion came from him you remember and not from Dr. Paul. If it is seriously taken, it is a problem. It is necessary for me to read the evidence that his suggestion was that it may be due to an overdose of aspirin. This was curiously taken up by the doctor who issues a certificate authorising the burial and you will I hope realise the strong sense of duty of Dr. Milroy Paul who brought the case to light by clearly demonstrating that the certificate was wrong. You have to decide on this question of  
 40 aspirin very carefully. Now as regards the facts collected we have not gone into it fully. You will be in a position to say whether death was caused by an overdose may be or it was actually a suggestion. That is a point I want you to reflect on tonight so far as P.3 is concerned.

It was found by Dr. Paul, Mrs. Bandaranaike coming there and this conversation taking place outside, and Dr. Paul says he found P.4 un-stoppered. All are laid very clear. You cannot get over the fact that Dr. Paul does say it was a suggestion that Dr. Paul might have introduced the

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lady. The first mention of P.4 is from Dr. Paul and he mentioned it at an early stage. I do not know why there was a contest on this point. It was there, an unstoppered bottle, Dr. Paul said he cannot remember he smelt it or not. It was found next morning by this servant woman. The next history you know of it, is this accused giving it over to his brother Mr. Charles Seneviratne who goes or is invited with that bottle and shows it to Mr. Leo de Alwis. Mr. Pereira said it was to the benefit of the accused to placate him but keep in mind these facts also. These are facts brought out about P.3 and the handkerchiefs. I shall give you details tomorrow, but I have to impress your mind also. There is a lot of ground to cover, I have not come to the medical evidence yet. P.4 is found by the servant woman Alpina on that teapoy. You remember Mrs. Leo de Alwis was looking about for a letter, but it is quite possible she may have missed it. She went to the extent of lifting the four corners of the mattress. The foreman asked whether it was found on the teapoy. It was found without a stopper by Alpina. She put it on a table. A thing of importance what I am telling you is that Mr. Charles Seneviratne on the 18th night told Leo de Alwis about it. At that time Leo de Alwis had already been given P.3 and the bit of caustic soda—I attach no importance to it. And Mr. Charles Seneviratne his brother goes and discusses with Mr. Leo de Alwis, and shows him the handkerchief. There was no doubt accused gave the handkerchief. It is corroborated by the evidence of Charles Seneviratne as the handkerchief given by his brother and that is also supported by Mrs. George de Saram who says that it was found by someone at Duff House. P.4 is taken by his brother to show there was a chloroform bottle which might have contained chloroform. About chloroform and the ampule it is of some importance in this case which ought to be taken into account. I told you these facts are relevant. I am just telling you facts about P.4, and I am just reminding you about the facts. 10

Then you also have that Dr. Paul found those burns. Mrs. Dias Bandaranayaka found them, and the accused's explanation that he had rubbed brandy, etc. It is not easy to attach any importance in what order he mentioned, but he mentioned that they may have been caused by brandy or by wiping, etc., but one fact I want to tell you that Alpina noticed a blister. She says "At the time I was attending on Mrs. Seneviratne I did not notice anything else except small bubbles on the chin." She added she saw some marks on both cheeks. Then the various explanation given by the accused. I do not know whether you will attach any importance. He gave all kinds of explanation—caused by hot-water bottles, etc., but that is an element you will keep in mind. 30

Now we will come on to the chloroform story—when first that story was mentioned. That was mentioned to you by counsel for the accused. The dates are rather important. It might confuse you if I give you the exact dates now. I will give you tomorrow—I am talking on broad lines, but not with regard to particular evidence which I will read to you tomorrow.

According to Mr. Leo de Alwis, there was a talk of chloroform at 12 noon that day and that Dr. Paul said at 3 p.m. that it may be chloroform. That is his story, and that he did not see Dr. Paul after that till the 27th.

That is Leo Alwis' evidence, and he says that he asked the accused on the 15th October, that is the day of death, at about 4 p.m., if he had occasion to get chloroform at all, and then the accused told him he had got chloroform about two months ago for veterinary purposes and it is on the estate or in the room. That is his story—whatever it is worth. Then he goes on to say they searched the room and could not find it. Then Mr. Alwis says that on the 17th October at 11.30 a.m. the accused gave him the handkerchief P.13 and the caustic soda as having been found that same day. Now, Mr. Pereira says it is the 15th. We will accept that. Then, 10 some day after the 17th, Leo de Alwis had a talk with Mr. C. Seneviratne the brother of the accused, when he showed him the handkerchief as having been given to him by his brother, and then they had a talk about chloroform. I will read the relevant portions tomorrow. And later, which Mr. C. Seneviratne fixes as the 18th, he showed the unstoppered bottle P.4 to Mr. Leo Alwis and apparently took it back after showing it to him. Now, Dr. Paul's evidence, as Mr. Pereira pointed out to you, is opposed to the evidence of Mr. Alwis. According to Mr. Alwis, on the 15th itself there was a talk about chloroform from about 12, and that same afternoon Dr. Paul examined the lips for corrosive irritant and he thought it might 20 be chloroform. Dr. Paul says he never knew anything about chloroform at all except from his conversation he had with his son at 9 p.m. that night—an academical conversation—and he was not convinced by him, although at 3 p.m. the marks were deeper and if he had examined very carefully he could have seen them himself. Dr. Paul says "All this story about what he told Mr. Alwis that it might be chloroform is all untrue, he came to me on the 17th—he fixes it as the day after the funeral—he saw me." As Mr. Pereira says, take Dr. Paul's evidence, and Dr. Paul's own words are these "Mr. Leo de Alwis' first visit to me was in the forenoon of the 15th itself. Then he came later in the day and wanted me to come and 30 examine her mouth for corrosive poisoning like lysol. I went there and found nothing inside the mouth or lips. Rigor mortis had set in. The lips and inside of the mouth were alright. I said she could not have taken any corrosive poisoning internally. Mr. Alwis' third visit was the day after the funeral. (TO COURT: I was at my house.) He suggested that some chloroform may have been left over after the confinement. I suggested that he should go and ask his brother-in-law. He went and came back the same day or the next day, 4 visits were already made. In the Police Court I said it was quite possible it was the same evening that he said his brother-in-law said he handed the chloroform to his wife for safe keeping."

40 The evidence of Mr. C. Seneviratne is that on the 16th, the day of the funeral itself, Mr. Alwis had told him that accused had informed him that the ampule of chloroform had been given by him for safe keeping to his wife. If Dr. Paul's evidence is accepted, then on the 17th Mr. Alwis only suggested that chloroform may have been left after the confinement and he asked him to go and ask his brother-in-law if that was so. If, on the 16th, Mr. Alwis had told Mr. C. Seneviratne that the accused had told Mr. Alwis there was an ampule of chloroform given by the accused to his wife for

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safe keeping, what about the evidence of Dr. Paul that Leo Alwis said that chloroform may have been left over after the confinement and he suggested that he should go and ask his brother-in-law. Then he says "He went and came back the same day or the next day. 4 visits were already made. In the Police Court, I said it was quite possible it was the same evening that he said his brother-in-law said he handed the chloroform to his wife for safe keeping." If you accept Dr. Paul's evidence, first time mention was made that the ampule was entrusted for safe keeping was on the 17th and he contradicts the evidence of his (accused's) brother Mr. C. Seneviratne that Leo Alwis himself on the morning of the 16th had told him that accused had told him that an ampule had been entrusted to his wife for safe keeping. I am merely mentioning this to you that you may have a correct view of the facts. 10

If you look at the story of this ampule of chloroform—if Dr. Paul's evidence is accepted—the first suggestion that an ampule was entrusted to his wife by the accused was on the 17th when Dr. Paul had asked Mr. Alwis to go and ascertain from his brother-in-law. If you accept Mr. C. Seneviratne's evidence, then that story was earlier, on the 16th morning itself. I will read all that evidence later on.

I do not know—I find a difficulty in the evidence of this chloroform—the evidence is quite clear, I do not know what inference you are going to draw from it. Henry Perera that Chilaw conductor of the accused said that in July there was a buffalo with its leg amputated. The accused had said—first of all he said in the Police Court—nothing can be done. His evidence here is that accused said the leg has to be amputated. He did not suggest anything about chloroform to him, left it at that and went. In the meantime, the conductor, without knowing what was passing through his master's mind, acted on his own. Naturally, otherwise the leg would be rotten. One man was got down, but he failed, and the other man cut the leg—nothing to do with chloroform. According to Henry Perera's evidence, he said at first that after the leg was cut accused came with his wife and he saw the leg cut. He corrected that. You remember Mr. Pereira brought it out with great ability that when he was referring to his wife he was referring to April, but there is evidence that even if he is wrong he distinctly says that accused knew that the leg had been amputated. In the meantime the accused buys a bottle of chloroform. There is a little difficulty there. I might mention it. Mr. Pate says you want 2 or 3 ounces to chloroform a buffalo and you have got the evidence of accused's brother who said it was 2 oz. but Fernandez said that during that year they only stocked 1 oz. bottles. Accused speaks of one ampule in his statement. There is that difficulty. The significance of that I will explain fully, but in the meantime I want to point out that accused had bought some chloroform, according to his brother's evidence, he had come with it in his motor car along with other things, just then a telephone message came from the Public Trustee: his wife came running and said so and so. He said "Take care of this bottle" and he gave her the whole thing and that probably is the bottle of chloroform with which this lady 20 30 40

had been experimenting on herself. That is the suggestion. You must consider that. As regards the evidence I will criticise very carefully on these points to-morrow. Supposing you accept that. The inference is that the accused forget to ask back the chloroform from his wife, not only afterwards, but even when his attention was directed to the fact that the leg of the buffalo had been amputated, and that there was this telephone message at that time. You have got to seriously consider these facts and ask for yourselves the question whether you believe that evidence or not. That is your function—not only that. The accused forget  
 10 to send the ampule to Chilaw. He bought it for that purpose to amputate the buffalo's leg, but by an accident it was left behind—a coincidence. You have to ask whether such accidents do happen. You have to ask seriously whether these accidents happened as narrated, or artificial explanations put forward afterwards. I have got to tell that. These are the two issues. If you think it is true, give the benefit of the doubt to the accused by all means, but you must make up your mind with regard to this chloroform story. That is to say that accused bought this chloroform for the purpose of amputating and he forget to send it to Chilaw, forget all about the buffalo and then he forgot to ask back for it from his  
 20 wife even when his mind was recalled to the fact that he knew that the leg had been amputated, and you have got this other fact that the telephone message came at that critical time.

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Gentlemen of the Jury, I think the time has now come when I should suggest to you the plan or scheme on which you should look at the whole evidence in the case, I indicated partly but not fully yesterday this plan on which I expended a good deal of thought, which any Judge would  
 30 suggest to the Jury to adopt. They would find the evidence for the prosecution and the defence will fit into the plan. In a case of homicide, there are three questions to decide. For our purposes it is only necessary to mention the first two. The first was, was there a natural death or an unnatural death caused by external agency. This is the first question to decide. If you are of opinion that the lady died a natural death then you acquit the accused keeping in mind the strong presumption of innocence in favour of the accused. Only if you come to the conclusion that the lady died a natural death. Then you go on to the second whether it was  
 40 homicide in this case as suggested by the Crown or whether there were natural causes by which the lady died. If you have any doubt you must give the benefit of the doubt to the accused. Or whether it was suicide or misadventure. In this statement at the post mortem which is also part of the case for the prosecution, of which you have a copy. Gentlemen on the first issue which I shall explain later completely—I shall try to be brief—as to whether this was a natural death. I do not know whether

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you have made up your minds. After all that you come to the conclusion that they failed to prove that the lady died of chloroform you must decide on the evidence. The lady did not die of diabetic coma although she had diabetes and all the doctors agreed that death was due to chloroform the contributory cause of her death, whether the chloroform induced asphyxia or whether it induced syncope or secondary syncope does not matter at all. If you are satisfied that the lady died of an unnatural death, you go on to the second issue. On the second issue, the case of the Crown is a case of circumstantial evidence and that the circumstantial evidence proves indubitably to the only conclusion that it is a case of homicide, and that it is not consistent with any other theory at all. That is what we must test. The defence says Oh no, in the first place it is not conclusive of homicide because it proves suicide or misadventure and even if it did not prove that it had caused so much doubt that the Jury must give the accused the benefit of the doubt. 10

You remember in the opening speech of the Deputy Solicitor General he said this is a case of circumstantial evidence and to prove that he put a mass of facts before you. He has asked you—all are his own witnesses—to disbelieve some of them and to believe the other witnesses on certain points and on the facts so collected, the only conclusion you can come to is that it is a case of homicide, it was not consistent with any other theory and asked for a conviction, and the manner in which the Deputy Solicitor adopted in placing these facts before you, you must pick and decide for yourself. I must repeat my warning of yesterday. It is entirely for you to decide on the facts, not for me. You are not bound by my opinion at all or Counsel's. My suggestion does not bind you at all. I made it sufficiently clear to you yesterday. As I have explained to you you can reject it it is your privilege. Then the Crown says there is the chain of circumstances. First you have motive second opportunity, third he had the means and fourth he had his conduct. All these four headings the Crown says lead to homicide and is not consistent with the theory of suicide or misadventure. But before you can adopt these inferences you must determine the facts on which you can draw inferences. I shall deal with these headings separately. 30

So far as motive is concerned the Crown is not bound to prove motive. The motive will apply equally for the theory of the accused namely the lady had grounds for committing suicide.

We now come to opportunity. The Crown has put forward several witnesses. You have been asked to disbelieve and reject the evidence of Martin, Silas and Banda. Now gentlemen, I want to tell you at once if you believe these witnesses—it is your privilege to believe—namely if you believe Martin, that the accused man was there after the scream of the lady or just about that time, if you believe Banda, if you believe Martin alone—he has proved what seems an alibi. If you believe Seelas—I read his evidence yesterday fully, that he could not see his master, but he could hear him and that Mr. Seneviratne never came by the front verandah it hinges mainly on the evidence of Seelas and Martin and negatively on 40

Banda's evidence. The Crown has asked you to disbelieve them. Whether you disbelieve them or not it is entirely a matter for you. Mr. Pereira says that they must be believed because they are Crown witnesses. I cannot assent to that proposition at all.

Mr. PEREIRA : I do not think it is a correct representation of what I said. I never said that they must be believed because they are Crown witnesses.

He says that one of the grounds is they are Crown witnesses. If that occurred to your mind and you therefore think they must be believed, I cannot assent to that. Whether they should be believed or disbelieved it is for you to decide. The Crown called a large number of witnesses, whom in fairness they have called. Martin they need not have called. I practically forced Dr. Joseph de Silva's being called. The names of witnesses appear on the back of the indictment. The Crown is bent on placing all the facts before you so that you can come to a conclusion.

Here you have three witnesses. I told you if you believe them, you acquit the accused, because the accused was there, the lady must have taken the chloroform, the accused did not leave the scene until after he heard the cry. It is your privilege to believe or disbelieve. The Crown has placed before you certain facts and I suggested to you yesterday that you should postpone whether you disbelieve or believe them from the fact of his evidence alone, but consider the case as a whole. Before making up your mind leave those three witnesses alone, and I will deal with the framework of the whole case.

On the ground of opportunity, there was opportunity in this sense. The accused was there in his own house, and some doors were open. There was opportunity only in that limited sense because Alpina's evidence was that she came in and then the accused made certain observations. It was rightly urged by the Counsel for the defence, showing clearly she must have come there after hearing the scream. The words "Has the lady fallen down" are confirmed by Mrs. Leo de Alwis. I pointed out that Alpina's evidence if believed does not pull either way.

Now the most important ground placed by Counsel for the prosecution was the ground of conduct of the accused, that the conduct of the accused was only consistent with the theory of homicide, not only at the time the accident was discovered, if it was an accident, but also until the period that Mrs. Dias Bandaranayaka appeared on the scene and afterwards Dr. Paul came, and even afterwards—after Dr. Paul had come, and later, when the suggestion that the ampule of chloroform was made by the accused; these are the points placed by the prosecution. In considering that bit of evidence I asked you yesterday to keep in mind the two pictures before your minds, namely, the theory of homicide and the theory of suicide or the theory of death by misadventure—innocent accused, guilty accused. Lastly we have got the means—the chloroform. In order to draw any inference from the facts, I warned you yesterday that you must first of all make up your minds as regards what facts you have no doubt whatever;

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that was the main part of my summing up yesterday. I have 2 or 3 grounds to explain today, about the aspirin and the ampule of chloroform. I will read the evidence of these witnesses shortly on the point and make my comments, because it is better to do so rather than trust to my memory now. That is the case presented by the Crown so far as the chain of circumstantial evidence is concerned. In addition to that you have got two groups of doctors giving expert testimony and you will keep in mind the very cogent remarks read out from Taylor on Evidence, namely that experts have been found in England, and in Ceylon in the case cited by Mr. Pereira, namely expert on handwriting, that they take a partisan spirit—a sort of sportsmanlike spirit and they like to back their opinion through thicker and thicker. That is a failing of human nature. Keep that in mind. There are two groups of doctors—Drs. Spittel and Milroy Paul and Karunaratne have given their views as to what the cause of burns were—what the effect of chloroform would be. As opposed to that we have evidence of two doctors of vast experience as pointed out by Mr. Pereira—Dr. J. S. de Silva and Dr. S. C. Paul. They are older men than the other three you will realise. There is Mr. Hill's evidence also which comes in a way the Crown says, to support our case on circumstantial evidence we have got the evidence of these three witnesses—Dr. Nair also in a way. The accused says "Oh No, there is the evidence of Dr. S. C. Paul and Dr. J. S. de Silva who support the opposite." That is the pull that you have between opposing masses of facts which you must decide for yourselves. That is what I want to call your attention to very carefully today. 10

You have in the first place the presumption of innocence in favour of the accused. You have the three witnesses Sellas, Banda and Martin who testify to the position of the accused. Then you have got the evidence Dr. S. C. Paul and Dr. J. S. de Silva supporting the suggestion that the lady's skin could have been burnt by self administration of chloroform, and that the death is consistent with self administration of chloroform. You have got that on one side. Opposed to that as presented by the Crown you have got the circumstantial evidence I mentioned to you divided into those four groups. Now you see how the evidence of three witnesses who go to prove opportunity and matters of fact is put before you by the Crown and the position they take, and then you have the evidence of the other doctors as suggested by the Crown proving the opposite namely that burns of this kind owing to their degree—that is a thing that you will have to go into deeply,—could not have been caused. There must have been pressure used. You have got these two opposing forces and which one will remain is a matter entirely for you, and, remember this again, that if you have any doubt whatever as to whether the Crown case is true or not, if it is a reasonable doubt, if you can imagine it can cause reasonable doubts to any person listening to this case, it is your bounden duty to give the benefit of that doubt to the accused and acquit him, I cannot put it in a clearer manner than that I think as the ground work on which you must examine this case. 30

I told you yesterday what are the facts and I put before you several facts. The decision on these points is entirely a matter for you and the 40

inference you draw from these is a matter for you. You are not bound by any opinion of anybody. That is your privilege—your great privilege as members of the Jury in this case. I left off on two points which I think are of importance, on which you should make up your minds in finding out what facts have been proved to your satisfaction or what facts have not been proved to your satisfaction. The two facts relate to chloroform—these are facts, not the opinion of doctors—and secondly, the aspirin, I think it is better now if I point out to you all the evidence relating to aspirin and the result of the analysis of Mr. Collins, because it has an important bearing in this case. Stated shortly, on that point I would give my comments first and then read the evidence.

As to the manner of discovering the bottle and as to what the accused told Dr. Paul, I had better read the evidence of Dr. S. C. Paul. You remember how he found that empty bottle. I will read that. This is as regards what happened when he met the accused. (His Lordship reads Dr. S. C. Paul's evidence: "Before I went to the telephone I met the accused. I met the accused in the hall to the best of my recollection. I asked him what happened before going to the telephone. I was going in search of the accused. Then I met the accused coming towards the room while I was at the door. My object was to finish the examination and just as I was walking across I saw him coming to me. He was closer to my door coming from that bedroom. I think he had changed and put on another pair of pyjamas. That was my impression. I cannot remember. I spoke to the accused first. I told him his wife is dead and then I asked him what really happened. I have no recollection whether he asked me what happened. I asked him what really happened in the morning. He gave me an account that he was standing in the verandah that morning. He said he was feeding the chickens. I cannot remember I think he said verandah, he told me he was in the verandah feeding the chickens or supervising the feeding of the chickens, he said he was waiting for the Sunday morning papers. Then he heard a scream from the direction of his wife's apartments. He rushed up. He thought his son had put his head between the railings of the bed and probably could not get it out. He ran up to see if that was so. When he went into the son's room he saw his son sleeping. Then he ran into his wife's room where he saw her across the bed and then he told me that he called for the servants. He tried to revive her. He sent for some brandy and wiped the face and applied hot water bottles. He wiped the face as well as the body with brandy. Then I asked him whether she had taken anything before. All that he could remember was that in the night she asked him for aspirin and that he had given her the bottle of aspirin. When I asked him what the aspirin was for he said she complained of a headache and he gave her the aspirin. That is all the information he gave me at the time. I asked him what the marks were due to. He did not say it was due to an overdose of aspirin. I cannot quite remember. He may have said that"). His Lordship remarks:—I was wrong when I used those words yesterday. Mr. Pereira was right. These are the words (His Lordship continues to

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read Dr. Paul's evidence: "He said he had given her a bottle of aspirin. I asked him what the marks were due to. He did not say it was due to an overdose of aspirin. I cannot quite remember. He may have said that. I told him I found an aspirin bottle. My next step was about the marks and he gave an explanation. He said that he rubbed some brandy on the face to revive her and also applied hot water bottles on her face. At this stage I took it for granted that it was quite possible. I did not take the responsibility. I 'phoned up the Coroner at once. The aspirin bottle was on the table. I saw the bottle: it was on the table. I told him I saw the bottle. He said he had given the bottle the previous night. He said the bottle was nearly full. I saw about half a dozen or so. I did not actually count but there were about half a dozen tablets in the bottle. I asked him about the quantity. He told me that it was nearly full. Then he thought she had probably taken the balance of it.") 10

That is the main evidence of Dr. Paul, I want you to keep in mind. Then he thought that it was the effect of an overdose of aspirin salicylic acid and so on. Later he says "The bottle contained about 6 tablets, but as a matter of fact there were 9. The bottle contained a good deal of cotton wool to prevent moisture getting in. 50 grains is an abnormal dose, 5 to 10 grains is the normal dose. 1 or 2 tablets is the usual dose." 20 He says "Mr. Seneviratne told me that when he handed the bottle of aspirin to his wife it was nearly full. I found half a dozen or so." Then he stated "Mr. Seneviratne did not ask me what she died of. As a matter of fact I asked him the question. I remember my conversation with him. It is very difficult to recollect but I distinctly recollect my conversation. I wanted to find out the history of the case. I was not sure of the cause of death. That is why I 'phoned the Coroner to make the necessary investigations." So that so far as Dr. Paul's evidence is concerned. Dr. Paul asked him "did she take anything for this." He said "I gave her a bottle of aspirin nearly full. Dr. Paul says he found half a dozen— 30 9 to be exact. The accused suggested that she might have taken the balance. Dr. Paul was satisfied that death was due to an overdose of aspirin.

You have got the evidence of Leo de Alwis and Mrs. Alwis. They say accused said it was an overdose of aspirin. Let us take Dr. Paul's evidence alone. That bottle was given by the accused, according to the statement, to the lady because she was suffering from headache. When he gave that bottle it was nearly full. Nine tablets were left, and it is suggested that the difference had been taken by the deceased. The question now arises what is the result of all the evidence subject to all the comments made by Mr. Pereira. Did the deceased take aspirin or not? Was that bottle given by accused to the deceased or not? That is a point you should make up your minds on the evidence. You remember the lady suffered from diabetes. You remember Mrs. Leo de Alwis found the pan in the lavatory containing diabetic urine. Mr. Pereira, I tell you fought out bitterly. Mr. Collins gave evidence as regards the analysis, as regard the identity of the urine, you know the history of it. The suggestion was made at one time 40

that the urine had escaped out of the pelvic cavity. It was not asked from Dr. Nair who possibly denies that it escaped into the pelvic cavity. He it was who brought this out in examination in chief. "I took the urine and handed it to Mr. Collins." His evidence supports that. If it was sent to his office it is of interest because this urine contained formalin and glucose as she was suffering from diabetes. That also supported that circumstance, to some extent the evidence of the urine was identical. Then you have the important evidence of Mr. Collins, that he analysed the urine and that he did not find any trace of salicylic acid. He says "I

10 examined the urine for aspirin or salicylic acid and found no traces. Dr. Milroy Paul gave Mr. Collins the urine of a patient to whom he had administered aspirin and he found salicylic acid. The urine was divided into three groups, and all that gave positive traces of salicylic acid. Mr. Pereira to meet that point asked Mr. Collins "don't you think it is dangerous to use one as conclusive as regards the other." (Rec. p. 163.) "Ordinarily for a scientific test no scientist will base an opinion on a isolated test?" Mr. Collins replied "No." "Q. If it has to be repeated many times before any definite conclusion can be drawn from it?—A. If the conditions are

20 varying, Yes. Q. The conditions under which you kept the sample of urine are different from the conditions inside the human system?—A. Certainly, conditions are quite different." That is Mr. Collins' opinion. That question was difficult and was met or attempted to be met by Dr. Milroy Paul in his evidence. The effect of his evidence is this, that it was alright for Mr. Collins as analyst to say it was dangerous, but as a doctor the test was conclusive because there was no decomposition in the urine that was sent to Mr. Collins for analysis. He was definite that there was no decomposition, there was no smell. It was acid and the fact that glucose was not affected was conclusive to his mind that the test was applied fairly as conclusive on the point. That evidence I had better read to you. "To

30 COURT: You know the urine you have analysed and no trace of salicylic acid was found days afterwards. Is that a conclusive test in your opinion in the circumstances of the case?—A. In answering that question you must take these facts—this urine was perfectly sweet at the time it was taken from the body. I mean it was not putrified. It was fresh urine—no smell whatever. I was there. Further, the delicate acid re-action of urine has been unchanged. If you allow urine to stand in a glass the re-action becomes alkaline, but here it has been preserved unchanged. That was the Analyst's report. Further, the delicate sugar which is a compound easily broken up on standing was preserved unchanged; there-

40 fore salicylic acid, a compound which is less liable to be broken up, if it was present, should have been easily detected. Formalin does not affect it because we have actually tested. Glucose does not affect the test." Then on that point he was again asked: "the urine in the bladder was unchanged because there was no smell—because the acid re-action was still present. If you keep urine without any preservative for a few hours it becomes alkaline. That is a sign of putrefaction. Here it was acid and that shows that it was preserved without any putrefaction. I was present at

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all these tests. I took specimens of my experiments to the Analyst. The experiment on the aspirin is mine. I examined three different patients on the lines I have gone into." On that point Dr. Karunaratne agrees. He said he was present at the tests of the urine which he himself took, namely you remember he carried out tests on two occasions, when he got a patient to take aspirin, and he evacuated after 7 hours and he took it to the analyst and found it gave a positive reaction. The specimen was also subjected to the ultra violet ray. Mr. Pereira is quite right. It was not carried out in the presence of Mr. Collins. You remember Dr. Karunaratne also said that he did not notice any smell, it was fresh urine, he said there was no ammoniacal smell which you would find in decomposed conditions. You see how this point was bitterly fought out. Mr. Collins was recalled again when Dr. Karunaratne was giving evidence. This is what he says. You remember he produced the bottle C.2. "When the urine was sent to me it was not heavily decomposed. The decomposition was not marked. You would not notice it." And you also get from him that the urine was not handed to him the same day or the next day.

These tests are scientific tests. His evidence is that there was no trace of aspirin at all. But this not all. The bowels and intestines were also examined for aspirin. There was a little doubt. Mr. Pereira was right in pointing it out and we asked him the question the second time. He said he found no trace of aspirin in the bowels. We asked Mr. Collins that question. In reply to the Deputy Solicitor General he said that he examined certain organs for chloroform and others for aspirin. So that not only urine showed no traces at all, but the stomach contents and intestines also showed no traces of acid according to Mr. Collins's evidence. Dr. Milroy Paul says, quoting authorities, that it will take for this lady more than 10 hours, and he quotes authorities, if any aspirin had been taken in the quantity that is disclosed in the evidence—nearly full—9 tablets left—the toxic dose is 10 tablets according to Dr. S. C. Paul's evidence. Dr. Milroy Paul says "according to authorities with which I agree"—You remember Dr. Karunaratne and Dr. Spittel also agreed that it was evacuated in certain percentages—50% I think. I better quote to you the authorities, Taylor, Waddell, Clarke, Dixon Mann and Hale White—better take Clarke. Clarke says with regard to sodium salicylic which is not the same as this—"When a single dose of sodium salicylic is given by the mouth, the excretion in the urine commences in about 15 minutes and rapid excretion of the drug continues for 40 hours, after which small quantities are only excreted. About 50% is excreted in the first 24 hours and a further 20% in the next 24 hours and a total amount of 80% is excreted by a normal person." So that was quoted as showing that if sodium salicylic was taken you will not find a complete evacuation of all traces of sodium salicylic in the urine after the lady died in the interval between her taking the aspirin, it must have been at night after 10 p.m. and her death about 6.30 a.m. This says, 50% is only the limit in the first 24 hours and 20% in the next 24 hours—48 hours it takes. Dr. Karunaratne and Dr. Milroy Paul told you that sodium salicylic acts more rapidly in disintegration in the human

system from aspirin and authority was quoted to you from Whitla, page 298 —“Aspirin acts in the body as sodium salicylic into which it is slowly decomposed in the intestines—the tests have shown that drugs easily come in contact with . . . the greater part of the changes take place over the upper intestines and this is so slow that . . . cannot occur.” That has been quoted for the opinion of Dr. Milroy Paul and Dr. Karunaratna. You remember Dr. Milroy Paul's evidence that if no trace of aspirin was found chemically by Mr. Collins when he analysed that showed that she could not have taken any aspirin at all, and that is supported to the full extent

10 by Dr. Karunaratna's evidence. Dr. Spittel did not examine and could not speak to the fact whether urine was found decomposed or not, but agreed with the authorities quoted, namely, that it would take 24 hours for 50% to be evacuated and 20 or 30% in the next 24 hours. These are placed before you as facts. Dr. S. C. Paul has also given evidence on that point. He says “If she had taken 10 tablets she would have taken them for headache to relieve the pain. It will relieve the headache. She may have passed a good portion of the salicylic acid in 3 hours, but it takes 24 hours to pass out completely.” That is his opinion. (Dr. Paul's evidence

20 read further: “It is a slow process. If Mr. Collins found no salicylic acid it is very unlikely that such an amount could have been taken. If the urine was examined immediately after it is quite possible to find salicylic acid. I would not like to say what changes might have taken place where the body has been buried and injected with formalin. I am speaking of conditions where aspirin is taken and the urine is examined in 3 hours.”) He supports Mr. Pereira's contention that diabetic urine found might have evacuated any aspirin she might have taken. (Mr. Pereira says he did not contend that the whole of the aspirin could have been evacuated, but that a good part will be evacuated.) Dr. S. C. Paul's evidence further

30 read:— (“It is impossible to say what will happen, without a whole series of experiments.”) That is his evidence on the point. To meet that contention Mr. Pereira suggested that the formalin might have affected so as to leave no trace. Dr. Karunaratna was asked that question seriously by Mr. Pereira and he says “I have made no experiments whatever and I cannot say what formalin effects will be.” That is the evidence for you to make up your minds on the point, whether as a matter of fact if this lady had taken the tablets, the difference between “nearly full,”

40 “a large number” (to Mr. Felix Jayawardene) “balance” is what the accused said, and “nine” whether this evidence is conclusive on the point or not; what does your mind say? Does that show or does that not show that she could not have taken any aspirin or is there any doubt on that point. If there is any doubt it must be a reasonable doubt, and that doubt you will have to give to the benefit of the accused. You have another fact also, and that is so, that Mr. Collins found no traces of aspirin in the intestines or bowels. Formalin might have affected it, might not have affected it. That is the position in which that question is left. Supposing she did take the balance 10 tablets, or what amount it is you can estimate for yourselves. What is the effect that would have?

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According to Dr. Paul two tablets or one is a normal dose and ten tablets will be abnormal. He was positive that death could not have been due to an overdose of aspirin, because it causes depression of the heart, induces coma, and you would not expect her to cry out, and you would not expect her to get up and take that position and sleep crosswise across the bed. So that he says death could not have been due to an overdose of aspirin. If she had taken those ten tablets what did happen to her. She must have passed off the aspirin in that urine which was found by Mrs. Alwis or if there was any left either in her intestines or bowels or in the urine, formalin must have so affected that no chemical result which is so delicate would have disclosed it, and then after having taken those 10 tablets or whatever the amount is, I leave that to you. 10

I want to point out to you again that a Judge is after all a human being, and during the course of his summing up sometimes he might indicate what he thinks—might suggest—he is a mortal human being after all—so long as it is distinctly understood by you that you are not bound by any opinion I express—that is your high privilege. It is bound to happen. In the course of a Judge's summing up he might say that certain facts appear to have been proved or certain inferences can be drawn, it does not bind you. There is no rule prohibiting me from expressing my opinion and I am not afraid to express my opinion so long as it is understood that you are not bound by my opinion or the opinion of the Deputy Solicitor General or accused's counsel. It is a matter entirely for you. I have been trying to impress that in your minds right along. 20

If she had taken the aspirin it is a point to consider yourselves. You must make up your minds whether that aspirin bottle was given to her by the accused on a review of all the facts, and if she took the aspirin, how it is that those results were disclosed on the evidence, subject to the infirmities to which I have been pointing out. It is a matter for you to come to a conclusion—Did she take the aspirin or did she not? If you are doubting, give the benefit of the doubt to the accused. Whatever view you take that helps you to come to a conclusion. It has an important bearing on the case for the Crown as put forward by the prosecution, because it is an important point in the third element in their group of circumstantial evidence, namely, the conduct of the accused immediately after Dr. Paul came there and when this talk about aspirin took place. If she did take aspirin, you would expect certain results. Was it a normal dose? What was the quantity of tablets she took; if she took at all what effect did it lead to—will a woman like that, who had taken such a quantity, be able to chloroform herself and kill herself, and why did she do it. You must ask those questions. Those are inferences you must draw for your own selves. All that I can show you is to put the facts before you. If you have any reasonable doubts on the point, give the benefit of that doubt to the accused. If she did not take those aspirin tablets, it is one of two alternatives. Then she got the bottle and threw away those tablets. Keep in mind the theory put forward by accused's counsel—it is possible that she wanted to frighten the husband—it is an element you must take into account—by administering chloroform 40

to herself and go off to sleep, and in order to mystify him still more threw away those tablets. Those are points you must consider with your natural experience, and after a review of all the evidence if you come to the conclusion that the accused did give that aspirin bottle and certain things followed you will keep that in mind.

If you come to the conclusion that the accused did give an aspirin bottle and that a certain thing followed—keep all that in mind, and if you have any doubt, give the benefit of that doubt to the accused. If you come to the conclusion that it was given by the accused—nobody saw the aspirin bottle  
 10 except Mabel who says that the deceased came in the direction of the husband's room. She could have brought the aspirin bottle without her seeing it. If you come to the conclusion—it is an important point in the case—it will help you to decide one way or the other. These are important. There is no motive for Dr. Milroy Paul and Dr. Karunaratne to tell you a lie on a question of fact that the urine was not decomposed at all, that any trace of aspirin would be decomposed, that the formalin could effect and wipe it off. Dr. Karunaratne says he cannot say. Keep all this in your mind and draw your inference from the chain of circumstantial facts.

Mr. Pereira suggests other alternatives, that the lady must have trans-  
 20 ferred the aspirin into another bottle thinking the husband might want it the following morning. I want all the suggestions to be considered. After having given aspirin for a headache, the bottle being found there. The ordinary normal dose is two tablets to cure the headache. What is the inference. If there is any doubt, give the benefit of the doubt to the accused. It is put forward as a correct scientific fact that formalin may have affected the urine, I do not know but Dr. Milroy Paul says formalin would not affect it.

You remember—keep in mind the large number of details. In the test they added formalin to one and formalin and glucose to another portion and yet they detected salicylic acid—based on actual tests.

30 Gentlemen, I come on now to the question of the ampule of chloroform. Now in any case of poisoning, gentlemen, as a matter of ordinary experience, of course to prove homicide, the prosecution proves or attempts to prove that the poison was obtained by the accused, and that it was not obtained by him if it was suicide. As in this case that it was not obtained by the deceased, that will help you to decide the case. That has happened in many poisoning cases, it was the accused who got the arsenic or aconite or had the means. Now the accused has made this statement. He only referred to it incidentally about the ampule of chloroform on the 10th  
 40 February and that it may be in the house or on the Estate at Chilaw and that his wife knew the purpose for which he bought it. Mr. Pereira told you in his speech, he knew the police had been making a search as to where the chloroform could have been bought. He honestly stated that he obtained some chloroform and he entrusted it to his wife. Could he have said that if he was guilty but at that time it appeared in evidence. Leo de Alwis says that he had bought an ampule of chloroform for amputating a buffalo's leg and that he handed it to his wife. Do you understand the implications of it.

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I read the evidence of Dr. Paul to show that it was on the 17th October the day after the funeral that Mr. Leo de Alwis saw him and asked whether it could have been caused by chloroform. Dr. Paul asked him to find out whether there was chloroform in the house. He came and went back. He went again on the 18th and on the next day he cannot say. He said that the accused had handed it to the deceased for safe keeping and you have from Dr. Paul's evidence, in the first statement that accused admitted the ampule of chloroform. This statement was made on February, 1934, so that you keep that in mind when you are considering this matter. Then you got the evidence of Leo de Alwis as to the various incidents that took place between him and the accused according to his version with regard to this chloroform. Mr. Leo de Alwis in his evidence (Rec. p. 105) says "There was a suggestion that chloroform might have been mentioned at this time. Whether it was between this time and 12 I could not exactly fix the time." This is the time when he went to ask for a certificate. According to him then he says that Dr. Paul came at 3 or 4 for the certificate and he suggested that it may be chloroform. He says this at (Rec.) p. 120 "I said yesterday that the question of chloroform was discussed for the first time after Dr. Paul came at 4 o'clock in the afternoon. I cannot fix the suggestion that it was chloroform on anybody. Dr. Paul said it was very probably chloroform. I remember questioning Mr. Seneviratne. The accused did not mention ampule, he said he bought chloroform for veterinary purposes to amputate the leg of a buffalo. I went into his room with him and he opened his cupboard on the 15th evening." That is denied by Dr. Paul who said he did not know anything about chloroform. Then he says at 4 p.m. he asked the accused whether there was any chloroform. According to him the accused admitted to him the same day and that he went into his room and opened his cupboard on the 15th evening. In his previous statement he said "house." Very unsatisfactory evidence, contradictory to an extent. According to him then for the first time he heard from the accused about the story that the chloroform was bought by him to amputate a buffalo's leg was on the 15th October at 4 p.m. Whether he went and searched in the room is a matter so doubtful that I would ask you to reject that portion or reject entirely his whole evidence, but now comes the important thing, that on the 17th October—I will read the passage to you—the handkerchief P.13 was handed over by the accused to him. He says "I went and met accused at about 11.30 a.m. and as far as I can remember at that time he was reading some letters of sympathies he had received. I told him I had come to ask him whether he knew anything more about the death. He said he had occasion that morning to open out the iron safe and certain almirahs in my sister's room and he got some documents which were of no use and he destroyed them. He gave me a handkerchief with my sister's monogram on it. (Shown P.13.) This is the handkerchief. There was an iron safe. I did not open it.")

I want to refer to that incident of the two handkerchiefs incidentally, because I want to explain to you that I was under the impression, because I looked up all my notes, and I found no reference to it either in the speech

of the Crown Counsel or defence Counsel. The reference by the Deputy Solicitor General was entirely to one handkerchief found by Alpina. You remember how carefully we asked Alpina what the position of the handkerchief was, and we have been considering all along how the handkerchief had been used and how it could have fallen—and I searched my memory to find out whether any reference was made to two handkerchiefs during these proceedings, but I found this passage as I pointed out to you where Mr. Pereira cross-examined Leo de Alwis to show he was a false witness on that one point, namely, when he said that accused handed the handkerchief to him on the 17th October at 11.30 a.m. He stated in Court here that that was handed to him by the accused as having been found by the servant girl. Mr. Pereira cross-examined and asked him that statement is false because accused never said that it was found by the servant girl but found by the accused and I will read to you the relevant portions.

10

“Do you know,” says Mr. Pereira, “that the whole case is that two handkerchiefs were found, one by the accused and one by the servant?” Answer—“I have no recollection I only read and re-read my evidence. If you say so I do not deny it, but I did not read about 2 handkerchiefs,” then he says “I now remember that Alpina said 2 handkerchiefs were found and that one had been given to the dhoby.”

20

I was under the impression that he had lied only on that one minor point that accused stated it was found by Alpina, not by him; I was taken aback when Mr. Pereira said: “No, that is not so, it was found that morning.” He is quite right, because he (Alwis) says this, “I am not developing a story. Perhaps he said so and I forgot it at the time. Q. You told the Enquirer on the 8th November that your brother-in-law gave you a handkerchief saying he had found it in your sister’s bed that morning?”—A. If it is in the record I may have said so, I have forgotten all about it to-day. I am not twisting evidence. Perhaps he made several statements.”

30

Therefore it is clear that the accused’s contention all along was that two handkerchiefs were found that morning. We know definitely as regards one handkerchief. Alpina said that.

40

I want to tell you in fairness to the accused again that whatever inference you can draw from it is a matter for you. You are not bound by my opinion. If I have expressed my opinion or if I indicated an opinion you are not bound by it. You can draw any inference you like from it after reflection, or draw no inference whatever, but there are certain points which I want to place before you on that incident. Two handkerchiefs were found, one by the accused that is P.13: another handkerchief was found by Alpina and thrown into the lavatory. She said that she was asked by the accused what about the other handkerchief and she said she probably given to the dhoby. As to the exact circumstances under which the accused found that handkerchief, the time at which he found, why he took it, that is a matter entirely within his knowledge. We know nothing about it. That is all I wish to say. If two handkerchiefs were

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found and one was taken by the accused and the other by Alpina we have no evidence before you at all as to the circumstances under which it was present, as to where it was found, in the morning at what time, was it as he got up—as soon as Dr. Paul came in, because the evidence shows that some of the ladies found nothing there. You remember Mrs. Alwis and others were searching. They might not have noticed a handkerchief. We do not know at what stage accused found—the time. What inference you will draw from it, I will leave it to you, and keep in mind these two pictures—the theory of homicide and suicide. If there were 2 handkerchiefs, whether it is better for the homicide theory or the suicide theory it is a matter for you. I want to impress upon your minds that you have a perfect right to ask these questions which will naturally arise in your minds. 10

On the 17th October he gives P.13 as having been found. Some day after the 17th, Mr. C. Seneviratne, accused's brother, goes to Mr. Alwis and he is shown the handkerchief. So that that story is confirmed. It is not disputed, that a handkerchief was given by the accused to Mr. Alwis. It has a bearing in this case. That is confirmed not only by his own evidence, but also by the evidence of Mr. Saram who supports him on that point; that is also confirmed by Mrs. George de Saram that Mr. Alwis referred to a handkerchief given to him by someone at Duff House as used by the lady for chloroforming. 20

Mr. C. Seneviratne says on that day itself Mr. Alwis told me that my brother had entrusted an ampule of chloroform for safe keeping and that those marks may have been caused by chloroform. He says "On certain information given to me by Leo de Alwis I questioned my brother. Leo de Alwis told me that my brother had entrusted an ampule of chloroform for safe keeping and that those marks may have been caused by chloroform"—the whole story—It was entrusted to accused's wife. "He told me this on the morning of 16th no sooner he arrived from Mount Lavinia about 8 o'clock, earlier or later." 30

There is this peculiarity, that if you believe Dr. Paul, on the 17th he (Alwis) came to speak to Dr. Paul and asked whether it was chloroform. He said go and find out if there was any chloroform in the house. He went and came back. You have that contradiction.

Mr. C. Seneviratne says later "On certain information given to me by Leo de Alwis I questioned my brother. Leo de Alwis told me that my brother had entrusted an ampule of chloroform for safe keeping and that those marks were caused by chloroform. . . . On the 16th I got that information. I had my doubts even then." Then he says that Leo de Alwis told him that the doctor had told him that the marks could be due to chloroform. He says "He said he could prove it by the marks. He drew some attention to the marks on the hands and the marks on the nostrils. I said that it was due to splashes of blood during the embalming. I am quite certain that the conversation about the chloroform took place on the 16th. I did not question my brother immediately. I asked him 40

later in the day and asked him if it was true that he had entrusted chloroform to his wife. He said he had bought some chloroform for amputating a buffalo's leg."

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So that, gentlemen, you see there bits of evidence relating to the first discovery of the talk of the ampule of chloroform. According to Mr. C. Seneviratne accused had entrusted that to his wife for safe keeping. I thought entrusting a bottle of chloroform for safe keeping to his wife was rather extraordinary and I asked him, Mr. C. Seneviratne, in the witness box "What do you mean by entrusting?" and he gave this  
10 explanation which I want to read to you. Cross-examined he said "The accused told me that he bought a bottle of chloroform to amputate a buffalo's leg and that he gave it to his wife for safe keeping till it was removed to Chilaw." Then I asked him what he meant and he said "To COURT: I questioned him on the point. His explanation was that he had gone out shopping that day and bought several articles, eatables and non-eatables, oilman-stores and the chloroform. Then no sooner he got to Duff House his wife came running to the front verandah and said that the Public Trustee's Office had phoned for him twice and wanted him urgently. He did not get down from the car but handed all the parcels to his wife and the  
20 chloroform and said 'This is chloroform, take care that the baby does not get at it. Keep it in a safe place.' That was about 1½ months ago. That is how he came to give it to her. That was how it came to be in her custody." That is his explanation. One comment I want to make is that he did not give that explanation before, perhaps because nobody asked him on that point before; because I asked him, his explanation comes here for the first time—may be true or may not be true. It is for you to decide on a review of the facts of the case. That is the first time that explanation is given—that may be the first opportunity he had—keep that in mind.

30 There are certain points you have to consider. Henry Perera's evidence I will read before I give my comments on that. There is no doubt at all that this buffalo had some connection with that journey on the 12th July. That date is fixed. He says "I remember some buffaloes being sent. There were six. . . . One he-buffalo had broken its leg. I had to put the animal into a cart." Then he brought a vedarala, then he applied medicine. "After the animals were received the accused came to the estate about 3 or 4 days after. He saw the lame buffalo. He said he could not cure the animal without amputating. He told me nothing else. He did not tell me he would send any medicines from Colombo. (To COURT:  
40 Then I got Mathes.) I told the accused that I am getting the animal treated by the vedarala but I was doubtful about it. The accused did not send me any medicines. The accused did not ask me to keep him informed of the progress of the animal. If any medicines were sent it would have been sent on to me." You remember Mr. Pereira's point that medicines may have been kept in the other bungalow. (Henry Perera's evidence read further:—"I know that Mrs. Seneviratne died. . . . After the death the accused visited the estate. . . . Mrs. Seneviratne

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has visited the estate about 1½ or 2 months before her death.") On that point you remember Mr. Pereira got him to admit that was in April and not 1½ months before, but I want to bring to your notice that he told us that she came with Mr. Seneviratne. (Reads Henry Perera's evidence :—" When she came the leg was cut off. It was 10 or 15 days after. Mr. Seneviratne questioned me about it and I said yes. On his visit he came with Mrs. Seneviratne. This is the only buffalo with a leg cut.")

In cross examination Henry Perera referred to Mrs. Seneviratne's visit to the estate 1½ or 2 months before her death, but in April the talk about the amputation took place. I wanted to clear the matter up and asked him a few questions " Mr. Seneviratne does not visit the estate very frequently. I showed Mr. Seneviratne that the leg had been cut. I cannot remember for certain whether Mrs. Seneviratne was there. Mr. Seneviratne came and saw it and said it could not be cured and told me that the leg would have to be amputated. Then to the Jury he stated that " It was finally decided that the buffalo's leg should be amputated. That was the decision of the vederalas. I did not tell the Magistrate that accused said nothing could be done to the leg nor did accused tell me that, but he said that the leg will have to be amputated. In spite of that I got vederalas to cure it, but they could not cure it and the leg was amputated without any reference to Mr. Seneviratne." So that you will see from his evidence that if it was decided to amputate the buffalo's leg he did not mention that he was going to get ampule. He may have forgotten about it or Henry Perera may have forgotten about it. But whatever it is he comes back and says he bought a bottle of chloroform. Mr. T. A. Pate says two or three ounces of chloroform are necessary to amputate a leg. That is what is in the statement, and that he bought the ampule of chloroform is only proved in his statement, may be true or may not be true. The Police have led evidence, they tried to lead evidence as to the sale of chloroform but they signally failed. Fernandez gave evidence but he strenuously denied that he sold any chloroform to the accused. He is a Pharmacist. He says " For some time past we have stocked chloroform in 1 lb. bottles. There are so many poisons we have to handle daily. Quite a long time ago we had cartons of 1 oz. Phials. I produce a Poison Register from 5th October." From July 12 to 5 October are not produced. " I lost the register and kept the slips." You know the incident about the slips. " We now stock 1 lb. bottles only." Then I find this recorded Mr. Pereira admits that chloroform was bought from the witness' shop.

The fact that chloroform was bought by the accused has not been proved by legal evidence at all because Fernandez stoutly denies that he sold the chloroform. In his evidence he said the accused is not a regular customer and the evidence is to that effect. Mr. Pereira admits that he bought it in July for the amputation of the buffalo's leg. It is not legal evidence except as an admission by the accused. There is no evidence of it, but the fact remains that Fernandez has lost the register from July to September. We have no evidence of it, what date it was bought. We have the accused's statement that it was bought in July for the amputation of

the leg. We must assume the first explanation about this ampule of chloroform according to recorded legal evidence. The accused says one ampule may be a one ounce or 2 ounce ampules. If he had bought it for amputation of the buffalo's leg in July, you have got these facts that he did not tell his conductor that he was going to get the leg amputated or that he was going to send medicines or to keep him informed of the progress of the animal. He buys the ampule of chloroform for this purpose forgets to send it and he trusted it to his wife and even after his visit to the estate, the chloroform was left with the wife.

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10 You have to consider all the facts. It is an important bit of evidence for or against the theory of suicide, that the chloroform was bought by the lady or had gone into her possession. You have the evidence of Mabel Joseph of the lady buying pancreasal, but no evidence that she bought chloroform. The accused himself admits, by an admission made at the time to Leo de Alwis that he had an ampule of chloroform which he bought for a veterinary purpose. There is an admission that he bought it, no evidence except his own admission, his own statement, the Register is missing. You have to ask the question. He says now that an ampule of chloroform was bought in July and he says that he bought it for  
20 that purpose. He says now that he gave it to his wife for safe keeping. He says now she was using chloroform for toothache. Mr. Charles Seneviratne himself did that and he heard afterwards from his brother that the lady also did that, copying his example. You must ask yourself. A serious question does arise because if the ampule of chloroform was traced to the accused and it never went to the deceased then it favoured the theory of homicide and that is a matter for you to infer from all these facts. I told you that there is legal evidence bearing on the point. There is the register from July to October missing, may have been honestly lost, may have been lost for other reasons, it may probably show sales to other  
30 people and Fernandez was afraid of exposing them, the true date and quantity sold. So that you have got to keep your mind that if this chloroform came into the possession of the lady it is a series of coincidences that he forgot to mention the ampule of chloroform that it was going to be sent for the amputation of the buffalo's leg. It is a coincidence that he had forgotten to send it or make use of it for the purpose he bought it for and the lady forgot to send it to the estate or return it. I thought it was necessary to draw your attention to this.

Mr. Pereira says he may have given a chance to the vederalas to heal the leg but when on his visit he found the animal's leg hanging on a single  
40 tendon he knew that the chloroform was of no use. The suggestion put forward by Mr. Pereira was possible and I want you to remember it. You will keep it in mind that it was not a case of forgetting to tell the conductor because he saw the operation, but to remember that he forgot to ask from the lady. It was a dangerous substance. You can trace it in your own mind where the ampule went. It was generous of the accused on the 10th February to say where he got it. He was very generous to say

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it to Leo de Alwis but you keep this in mind when considering his conduct. It was Leo de Alwis' action that set the Police in action.

Now we will come to the medical evidence. So that you have got before you this fact, that the cause of death was—all the doctors are agreed that it was not due to any organic disease. In fact it was admitted by accused's counsel that death was caused by chloroform and not only was there no organic disease, but not due to any diabetic coma, and it was not due to aspirin. If it was due to aspirin that the lady died, the aspirin would be in her body; unless the formalin had caused very great chemical changes it would be found. It is not due to diabetic coma, not to aspirin, and no organic disease was found. All the doctors are agreed that chloroform was the cause of death. It is not contested and I think it is sheer common sense, apart from medical testimony,—the burns, the smell by Alpina and the accused's admission that he had entrusted the ampule of chloroform to his wife, that she was in the habit of taking chloroform for the purposes of inducing sleep. On the first question it is a matter for you, but even here I tell you it is your privilege to say that you are not satisfied. I think I have made that quite clear. If it was caused by chloroform, all these questions of syncope, asphyxia coming—very voluminous evidence—I have read all through—you must be sick of it—but the general result I will tell you, and tell you the two groups into which the doctors fall. If you are satisfied that it was caused by chloroform, then arises this medical question—What is the cause of death? Was it syncope or was it secondary syncope in which there was intercurrent action of asphyxia also present? Or was it actually simple asphyxia—smothering—as Dr. Nair says. Dr. Nair gave evidence. You saw him, I do not know what your impression of him was. You saw him in the witness box. If you are not satisfied with his opinion. You remember the final conclusion he came to was that she died of asphyxia because there were signs of asphyxia and he had no positive evidence that there was chloroform. Then I told him "If you are told that it was due to chloroform," and he said "I will say it is the cause of smothering." Reject his evidence on the point if you like, but his evidence is of importance because he is the J.M.O. who held the post mortem and testified to the facts he saw himself. Apparently Dr. S. C. Paul's theory was that it was syncope which is similar to what he had already certified in that certificate as to the cause of death by the lady taking an overdose of aspirin according to him it was syncope pure and simple. In one place he says there may be incipient asphyxial signs but they all disappear. In one bit of evidence he says that death might have taken place in 2 or 3 minutes. He is positive that it was due to syncope and he was asked about the sound to which I attach some importance and he said that sound could have been caused by the heart beating and then the last inspiratory gasp when the lady fell on her back. That was the cause of the sound. You have Dr. J. S. de Silva's evidence backing Dr. Paul's evidence, but he had to admit that there may have been asphyxial signs also which disappeared. I will read the evidence if necessary of the other doctors. If we leave out Dr. Nair and Professor Hill who changed his

opinion from syncope to asphyxia, they are of opinion that death was due to secondary syncope in which there were intercurrent asphyxial signs. It is a curious thing; in reading those books you have been told of differences of opinion among doctors,—how the first Hyderabad Commission thought that death was due to asphyxia rather than syncope. To the lay man—

10 it might strike you that both occur at the same time. It is a curious thing that some doctors speak of syncope and others speak of asphyxia and a regular battle here and passages taken showing that the pulmonary artery being empty is not a sign that it was asphyxia. Dr. Karunaratna gave a

learned exposition as to how the heart stops immediately after respiration and pump blood into the artery and suction may draw all the blood into the artery. They are important questions but the first question is that chloroform was the cause of death. If it was syncope the time during which it took to occur is of some importance. Syncope is sudden stoppage of the heart. I cannot put it better to you than what Dr. Milroy Paul says if it is pure and simple syncope. Syncope means, he says, ordinarily—in a sudden flash a live man is dead. His heart has stopped. He says “I say that cannot occur because there are certain asphyxial signs which take time.” That is a question for you to decide on a review of all the evidence,

20 whether you will not accept there were distinct asphyxial signs—some mucus in the trachea which the doctor testified to—veins engorged with blood which were not seen by Dr. J. S. de Silva and the distension of the right heart. You remember Dr. J. S. de Silva said it was not distension but normal relaxation. From all that you have to make up your minds if it is necessary at all, whether you will not accept the proposition that there were certain asphyxial signs which must have taken few minutes. Even if you take Dr. Paul’s evidence who says there may have been asphyxia—incipient asphyxia and all the symptoms show that pulmonary artery was empty, all show that death was due to syncope and not to asphyxia.

30 He himself admits that death may have taken place in 2 or 3 minutes. In another place he says in a minute. It is for you to decide whether the balance of all the evidence—you saw the conflict—you saw everything—whether the more likely story which you will accept should be that death was caused by secondary syncope. All this difficulty arises because the two apparently—where concentrated vapour of chloroform was applied—occur within very little interval. Whether respiration stops first or the heart stops first, it is a difficult matter, naturally, from the ordinary lay man’s point of view it is difficult to find out and you have this extraordinary feature—Dr. Spittel says the heart must have stopped first,

40 respiration immediately—about the same time. Dr. Karunaratna says no respiration stopped first and heart stopped immediately after. The whole thing is what is the interval of time during which this death took place. That is a matter entirely for you to decide. You do not want me to read all the evidence on the point.

We now come to the question whether it is homicide or suicide. For that I gave you the whole framework on which you must approach this question this morning. The circumstantial evidence has been grouped

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into four groups—motive, opportunity, means and conduct. On this I have already touched in several places, but this is the time to group them together to sum up. So far as the motive is concerned, I have told you there are the letters Mr. Pereira has quite rightly pointed out there is motive also for suicide. There is motive also for the lady taking an overdose of chloroform because she wanted to frighten her husband and make him believe that something serious had happened to her. Motive, I say, you will keep in mind and one fact which was very strenuously urged upon you—here is educated man—the accused; he surely would not have committed a crime like that without reading all the literature on the subject. This is the first case of its kind, apparently, in the British Empire, and where inhalation of chloroform was given; would he have taken the risk of this lady screaming. You must keep that in mind. Could he not have done this in a better way if he wanted to do it. That is proper criticism that you must keep in mind, but whether it is conclusive or not it is a question for you—that a crime could have been committed in a better and more effective way is a matter for you. You keep his remarks very carefully in your mind and you have this extraordinary feature—that the evidence discloses that this lady had been talking of suicide. You saw the unsatisfactory evidence of Alwis on the point. In one of the letters she said “if anything happens to Terrence I will commit suicide”. I was taken aback when the Deputy Solicitor General said that it was a suggestion by accused. So far as the motive is concerned it seems to be balanced. What may be adequate for one may be inadequate for another but you have got the evidence of these ladies and the phrase that is used about Jessie. I would call your attention to that.

Then you come to opportunity. I asked you to keep the evidence of Martin, Banda and Seelas for the present and to make use of it when you are considering the pull of opposing facts. I explained that to you as carefully as I can. The opportunity therefore could only mean if you exclude the evidence of these three witnesses that there was no one else but the accused who committed if it was homicide—no outsider, no Tamil man coming from outside. I think one of you wanted that question put by the Foreman—“You did not see any stranger coming”. Nobody could have come in the night. I do not see the relevancy of it. You know the condition in which the doors were. The accused was up. It is not likely a case where a man is away 100 miles or living away, but it is the same house. It is opportunity in that sense. When considering Martin, Banda and Seelas' evidence I told you it is a question of belief, for if you believe their evidence, then he had no opportunity and you acquit him, but I pointed out to you that you have before you points stressed by the Deputy Solicitor General in considering their evidence. You must take into account their demeanour, any contradictions they may have made in the evidence and any influence that may have been brought to bear on them keeping in mind that accused had no personal method of reaching these people because he was on remand at that time keep all that in mind, and also keeping in mind what I already told you—

the effect of the evidence given by other independent witnesses as to where the accused was that morning. Mr. Felix Jayawardena marked on that plan which he afterwards made it very definite and Dr. Paul's evidence and the accused's own evidence. You must make up your mind if you can at this stage whether to believe or to disbelieve. That is a matter for you. Are you going to acquit the accused because you believe all three witnesses, Martin especially, or do you disbelieve them, or if you do not believe or disbelieve, keep them aside. See the pull of the circumstantial evidence plus the evidence of the doctors pulling against the opposing forces of the three witnesses Seelas, Banda and Martin plus the evidence of Dr. J. S. de Silva and Dr. S. C. Paul which I will discuss soon. In that pull make up your mind. If it causes any doubt in favour of the accused, give that benefit to the accused and acquit him, but if you think the chain stands firm corroborated by Dr. Milroy Paul's testimony, if you think the chain stands firm to your mind that you have no doubt at all, it is your bounden duty to return the verdict asked for by the Crown, namely a verdict of guilty. What the offence is I will mention later on. The means I have discussed at great length. Had the lady the means of committing suicide with chloroform or if you consider the theory of homicide, had the accused the opportunity to have the chloroform himself and what about his explanation that he handed it to his wife for safe keeping.

Now comes the conduct. His conduct is important in this case because it is part of a chain of circumstantial evidence in every case. It is mentioned specifically in the evidence, and the Crown has asked you to subdivide his conduct into three groups, Namely, during the faint, after the faint when Dr. Paul came and the later conduct when he gave the handkerchief to Leo de Alwis. He sent the bottle through his brother to Leo de Alwis. He mentioned the aspirin to Dr. Paul. I have always told you that about the faint you must keep prominently in mind the two theories for the prosecution and the defence, that his reaction was that of a guilty man, not of an innocent man, that is as presented by the Crown one of the points which they say strongly point out is that it is indubitably homicide and nothing else. If you have any doubts in your mind at all owing to the psychological factors in the special customs of the accused which you must take into account, that is to say that he did not guess that his wife died and that he himself being alone in the house except for servants, did not think it necessary to make a fuss about it, if it is natural to find—his wife in a dead faint that he could try to revive her, you must give the benefit of the doubt to the accused. Certain facts have been proved. Have you any doubts? Alpina the woman told us all the features that took place during the period.

After the faint, that also I have dealt with very carefully. You see now how very carefully, you see now how very important it is for you; what is your conviction in your inner mind and regarding the story of the aspirin bottle. I was wrong when I said that accused said it was aspirin. But the fact remains the aspirin was nearly full and the suggestion came from him. I summed up the medical evidence and it is important for

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you to make up your mind about the aspirin. If you are of opinion that the aspirin was never given by the accused it is an important point for the prosecution. His subsequent conduct in regard to the bottle, keep this in mind.

With regard to the doctors opinion about homicide and burns. It is a new subject. I will adjourn now.

You have been very patient and your tea will be sent to you, it is provided in our Code. Anything I asked you do not discuss the case. If you are going on till 4.30 and the tea is brought in by the Registrar when you are considering the verdict do not discuss the case. 10

After Lunch.

Gentlemen of the Jury :

We are now reaching the closing stages. Before I come to speak of the burns and the doctors' opinion on the point, one point I forgot to mention and that is I should have mentioned it, I forgot it, that is the conversation that Mr. Charles Seneviratne had with the deceased. I merely want you to remember it—with Mrs. Seneviratne the deceased on the subject of chloroform suicide. You remember that conversation was referred to by Mr. Charles Seneviratne and the Police Court incident. It appears then 6 weeks or two months before the death, this lady had 20 discussed the possibility of committing suicide by chloroform. He mentioned a case. I am putting your minds to it. That is a strange incident and further you have got this fact that this story is confirmed by his wife that she heard it 3 days after the funeral and you remember Mrs. Charles Seneviratne said that creature had committed suicide. He did not mention the incident at that time. He mentioned it to his wife three days after the funeral, and gentlemen, it may be true or not it is a matter for you to try to fit it into the scheme. The evidence discloses that the accused's brother not only had a conversation with Leo de Alwis on the 17th night in regard to the handkerchief but his brother showed P.4 and went 30 to Chilaw in search of a chloroform bottle and whether the evidence that lady did take the chloroform is true, is a matter for you, whether to believe it at all.

\* *sic.*

Coming to the subject of burns. You remember in my scheme the main case for the prosecution is a chain of circumstantial facts and the evidence of the doctors put in to corroborate the evic.\* That was the best manner in which to view the evidence of experts. I hope you will keep in mind the fact that Mr. Pereira quoted to you the passages about experts, where experts take on partisan spirit. It applies to all experts and they are sometimes prone to support their views, sometimes taking extreme facts and end up by speaking to facts they had not seen. That is so in England. You must have read of experts called on both sides and it develops into a duel between the parties. Then you must keep in mind that experts were liable to err in a spirit of partisanship. You have got before you all those doctors who have been very carefully cross examined and you saw them 40

being questioned. You heard the two views namely the views of Dr. Joseph de Silva and Dr. Paul and the views of the other three Doctors as to when and how these burns could have been caused and further you have had experiments performed in this court itself. The main question is this, whether these burns could have been caused on a delicate skin : Dr. Spittle detailed certain experiments he conducted. That part of the evidence I must read to you. You will remember he referred to the case of Mr. Soysa and the woman of the labouring classes on whom he applied pads of chloroform and the net results of his observations, that you could get burns, not  
 10 of this kind. He said they were coalescing marks. He said in one instance in four minutes or so he got burns and spots and he was of opinion from other observations he made to get burns pressure was needed. One part of his experiment was mere application of chloroform without any pressure at all. I hope you will keep in mind in suicide pressure could be applied so as to cause burns. Dr. Paul said it would explain the burns on the chin and on the tip of the nose. There is a counter picture by Dr. Milroy Paul. You remember there was no burn on the upper lip. I want you to have P42 before you. I want you to take it with you. Dr. Milroy Paul said it was possible to have pressure without affecting the upper lip and portions  
 20 of the lower lip and you have also the fact that chloroform is volatile liquid, evaporates in 5 or 10 minutes. I think I ought to read it out to you. This is what he says " I agree with this picture regarding the burns. The burns on the lips are correctly shown. This is more or less correct. On the top lip there is mark shown. That portion was very indefinite. It was not leathery. It was different to the other mark over the upper lip—that was very evident. I did not particularly notice the lower lip being dark coloured. The portion on the upper lip was of a different colour and it looked as if it was due to the excessive outflow of saliva in contact with the portion. The marks seem to be suggestive of a handkerchief or some such material being soaked in  
 30 chloroform and clapped to the mouth and nose. (Witness shows how it must have been done.) I cannot account for the marks on the eyelids except that it was clapped there for a moment but I cannot give an explanation for that." In reply to the Deputy Solicitor-General he said it was caused by the folds. "The fringe of material might have touched there or the finger may have touched there. (To COURT): I know that chloroform evaporates.

You remember that the doctor's evidence was that the burns were of the first degree so far as the burns on the arms and legs were concerned, although they were of the same description. The Pathologist said it might  
 40 have been caused after death. There is no evidence to prove that it is ante mortem before the actual death of the person or not or the burns may have also been caused after. It is apparently at the time there is other evidence to show the burns were the cause of death. I am talking of the burns on the face. Then Dr. Milroy Paul goes on to speak about the salivation. He says this " it depends on the saturation of the article where the chloroform will come out. In the position that you show the lips will be covered but I do not think they will be pressed to that extent because the

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hand becomes a cone and there was a free amount of saliva thrown out. When you give a concentrated anæsthetic a person generally spits out and that is done very quickly and when vapour is concentrated abundant salivation will occur. That saliva will prevent the burning. That is what I thought happened." Then he goes on "I cannot say definitely whether most of the burns were of the 2nd or 3rd degree." The Pathologist says they were third degree burns because it went to the dermis. According to Dr. Joseph Silva chloroform does not produce third degree burns, only vesication, probably rubbing out of the epidermis. The fact that they were third degree burns can be explained by the rubbing process in the effort to wipe out the froth. That point is met by Dr. Karunaratna. 10

(His Lordship reads Dr. Spittel's evidence: "I cannot say definitely whether most of the burns were of the 2nd or 3rd degree. They were deep burns such as would be caused by pressure of chloroform. Some skins are more susceptible than others. I did a few experiments on that. There was a patient one Mr. Soysa who has been summoned." Accused's counsel asked for summons. "I kept a handkerchief for 4 minutes on his face moistened with 2 drams of chloroform without pressure and there were no burns. He could not tolerate  $\frac{1}{2}$  ounce.") That is another point taken by the prosecution. That is to say, if it lasted for some time, for a few minutes, 20 not instantaneous one minute, if it lasted, I say—according to Dr. Paul it might have lasted just a minute, then because there was paralysis of the vagal nerves of the heart death would be caused by syncope—and the prosecution says that a man or woman cannot tolerate that pain. So that if she put it at all for a time the pain would be so intense that she will automatically take it off. That is the Crown suggestion.

He (Dr. Spittel) goes on to say "He could not tolerate  $\frac{1}{2}$  ounce that was placed over the mouth and nose, but no burns at all. I applied  $\frac{1}{2}$  ounce of chloroform to a handkerchief and applied pressure over the forehead and tip of nose for 3 minutes while I asked Dr. Paul to press another handkerchief moistened with  $\frac{1}{2}$  ounce chloroform on his abdomen for 3 minutes and we got burns in both these cases." That is with pressure. "The other case is a very important one." Mr. Pereira pointed out that she was an ordinary labouring class woman. "There was a woman under chloroform for an operation and I placed a handkerchief soaked with  $\frac{1}{2}$  ounce chloroform without pressure over the mouth and nose. To safeguard the life of the patient I removed it momentarily in the middle of this experiment and placed it again, but I kept it for 5 minutes and got no burns at all. There was no pressure in that case." These are his own experiments. "It was a handkerchief that was loosened out as it was in use—crumpled up. At 30 the end of the 5 minutes the handkerchief was not dry—by no means. A handkerchief would take 10 minutes to dry if it is kept loose, but if it is kept in a tumbler it would take much longer. What I found with regard to the chloroform and pressure is that if for instance I put  $\frac{1}{2}$  ounce chloroform on that handkerchief and kept on my hand I could not tolerate it for more than one minute. After that the pain becomes more intolerable. The 40

face that I was able to keep two persons so long is because I had partially anaesthetised them. Mr. Soysa was also partially anaesthetised. When it begins to burn for a minute probably it will not leave a mark, but if you can tolerate for 2 minutes it is sure to leave some mark. There are two cases in which I placed  $\frac{1}{2}$  ounce of chloroform on a handkerchief on the abdomen without any pressure and I did get a certain amount of burn, but nothing like these. They were just patchy burns. I kept that for 3 to 5 minutes. Just where the points of the handkerchief rested there would be a little mark. Even without pressure it might leave marks on certain

10 skins. The marks left there did not vesicate so quickly as marks produced by pressure and took long to develop. In this particular case the marks on the face were observed very quickly after death because Dr. Paul had seen them. He was there very shortly after death." (I do not know whether he is right. He (Dr. S. C. Paul) was there one hour afterwards.) "That is why I think that the marks in this case were caused by pressure. In the cases where I had not used pressure it took much longer to develop than that. Brown staining is the sort of staining I refer to. When there is no pressure you do not get those marks, but if you use pressure you get those marks very soon after. If you simply leave the handkerchief

20 saturated with chloroform the burns are very much less than if you applied pressure. Even in that case there are the folds of the handkerchief preventing evaporation to some extent."

Chloroform, you must have realised from the evidence is a very volatile liquid and as soon as it falls it evaporates and the suggestion is that if you prevent evaporation it begins to burn. Now, Mr. Pereira met that point in this way. He refers to the drip marks and he says "Does it not show—he put these questions positively to Dr. Milroy Paul and Dr. Spittel—does it not show that there was no pressure there at all. They had to admit that it looked so, but you remember the demonstration

30 given by Dr. Milroy Paul, but in that case it does not follow it was outside the area covered by the fingers or the handkerchief. It might well be that the handkerchief was not touching it and it may be that it was so saturated it began to drip. You remember Dr. Spittel's evidence is that one drop alone would not cause those injuries at all, but there must have been a continuous drip—5 or 6 or even 6 drops—You have to keep that in mind. As opposed to all that you have the evidence of Dr. S. C. Paul and Dr. J. S. de Silva. All these doctors bear very high qualifications. They hold some of the highest degrees any man can get in the British Empire. So is Dr. Paul (senior). He is a doctor of very great experience.

40 He is positive that the injuries could be caused without any pressure, by merely putting it over the face. He says he had had experience. Dr. J. S. de Silva as pointed out by Mr. Pereira is a man of very considerable experience—25000 cases of anaesthetisation, but the prosecuting counsel says they are all cases where you bring the chloroform vapour, not actually bring the chloroform into contact with the face. Dr. Silva says "I know one case where there was a drip, it was not a case of the hospital, if I remember right, which did cause a burn." It is a curious

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feature in this case. I have been thinking a good deal about those pro-  
jections—that if they were caused by chloroform there was no other mark  
below showing that chloroform had dripped, but it may be that chloro-  
form may have evaporated as it came on to the cheek. All these are  
points which are relevant—You have got two opposing theories—Dr. S. C.  
Paul and Dr. J. S. de Silva on the one side; the other doctors on the other  
side. They are younger men who gave their evidence, especially Dr.  
Spittel's testimony, and actual experiments conducted by him. That is  
a matter which has been fought out here very strenuously and the evidence  
on the point must be quite clear in your minds. Dr. Silva's point was 10  
very clearly put by him. He says "If pressure was used by a person  
who intended homicide how do you account for the fact that the ridge of the  
nose was not damaged? You cannot get out of that position by saying  
that the position was this way (demonstrates) because there are marks on  
the eyelid which you have to account." Further he said "How do you  
account for the fact that if a man was trying to chloroform somebody else  
with pressure to kill, that there were no marks at all on the mouth"  
That was his point. These are points which have been put before you,  
not on the ground that he is an expert giving expert opinion, but appealing 20  
to your common sense and experience. You must give due weight to them.  
Dr. Milroy Paul tried to meet that difficulty by saying it is possible there  
had been pressure round the mouth and Dr. Spittel pointed out that there  
may be no marks round the lips owing to spitting and salivation. He  
could not account for the marks on the eyelids. He says that may be  
caused by some of the fingers touching. Keep those views in mind and  
see whether you can come to a conclusion on the matter. If you cannot  
come to a conclusion, reject all the evidence and apply your own views  
on the subject and ask yourselves the question by trying to reconstruct  
the whole scene from the point of suicide or homicide. If you try to do 30  
that—I will explain to you that later on. So much for the burns on the  
face. The two opposing views—the point you have to consider is this.  
These marks appear developed—at least Alpina saw blisters on the chin.  
Dr. Paul saw some marks. Mrs. Bandaranayake saw some marks which  
became deeper as the day wore on. They were certainly, according to the  
evidence of the doctors, second degree burns, except at one place. That  
appeared to be of the same nature—the depressed area and the general  
appearance. There is this positive scientific fact that in that one place it  
was a burn of the 3rd degree. To cause burns of that kind construct in  
your mind's eye—whether it is possible for a person who intended to deceive 40  
her husband into believing that something serious had happened—not to  
kill herself, that by accident it was an overdose—just ask yourselves—  
try and reconstruct the picture how she could have done that. The two  
illustrations have been put very prominently to you by Counsel for the  
defence and Counsel for the Crown. She may have. Why did she do?  
If she was trying to effect a deception on her husband she went further than  
she expected. Mr. Pereira says she may have laid down herself in that  
cross wise position. Or, did she sit and apply this on her face and then

collapsed suddenly on her back. That was one of the pictures that Dr. S. C. Paul mentioned and accounted for the syncope. If she sat on the bed and collapsed Dr. Spittel could rightly ask "What happened to the handkerchief and hand"? These are matters on which you need not want experts. These are matters you must decide in your own mind. Did she sleep and put the handkerchief on the face? Did she put any pressure on it. What happened after that? How did the handkerchief come to be in that position where her arm was. We all knew of one handkerchief. Mr. Pereira referred to Raymond's evidence with regard to  
 10 burns on the wrist. He says he noticed blisters. These blisters may have been caused by contact with the handkerchief saturated in chloroform as she lay in the death struggle, if there was a death struggle, or caused in an attempt to ward off an attack by a person attacking her. Keep these pictures in your mind and try to reconstruct the whole scene. Now so far as the blister on the leg is concerned you know the pros and cons of the argument—it was fought out bitterly and if you have any doubts you must give the benefit of the doubt to the accused. I cannot impress you more than that.

Dr. Paul Senior made a very good point when he said "My son said  
 20 the blister was pressed, if it contained albumen it showed that it was caused before life was extinct" a process which took place before or within two hours after death. Dr. Milroy Paul says that in a post mortem blister the chemical contents would be different and that in his opinion it was caused probably by hot water or chloroform. He could not say one way or the other. So far as the blister is concerned Dr. Karunaratna cannot say whether it was ante mortem or post mortem. Dr. Spittel's evidence is that it may have been caused by the dripping of chloroform, not one drop, but continuous dripping. Dr. Spittel says that one drop could not produce the blister. You got the picture. Dr. Paul Junior was of opinion that it  
 30 might be caused by chloroform getting through the night gown or even by a hot water bottle. Mr. Pereira suggested that the other thigh should also show a similar burn but the Deputy Solicitor General replied that it need not necessarily touch the other thigh. These problems are set by doctors. If you cannot make up your mind from the Doctor's evidence it is still your duty to come to a conclusion on your own observations in this case. Could the burns of that kind be caused by a mere handkerchief by putting it in that position or must pressure have been used. If pressure was used could not the lady herself used pressure when she wanted to go off, accused says in his statement that she was in the habit of inducing sleep  
 40 by chloroform. How did she in the past induce sleep by chloroform like in midwifery cases by getting into a half faintish condition and putting the handkerchief by and putting one to sleep. Make up your mind one way or the other and see whether it corroborates the prosecution story or the case for the defence, whether it was suicide or death by misadventure.

So far as the exudation on the elbow is concerned Dr. Nair—there is no legal evidence—says "that it was caused ante mortem, might be." There is no legal evidence that it was caused post mortem, but there is

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legal evidence that the burns led to the marks although the pathologist says that they could also be post mortem.

(Mr. Pereira asks the Court to read Dr. Milroy Paul's evidence.)

"At the inquest I was of opinion that she was unduly susceptible to chloroform (Inquest evidence Page 70 read: "This subject was unduly susceptible to chloroform) I do not as strongly as I did hold that the blister on the thigh was due to chloroform. I said it was a case of smothering". "If the handkerchief was pressed down very tight I would not expect any change in the contour of the face". In the Police Court Dr. Milroy Paul said "I said at the inquest if force were used the mouth would be burnt, if there was a little pressure. It might be suicide." 10

On the subject of burns there are two conflicting views. It is difficult to come to a conclusion. That is your privilege. You have to reconstruct the scene in your mind on the point.

I just want to refer you to an important point. In this medical evidence so far as the scream or sound or noise is concerned, call it whatever you like. I want to read Dr. Spittel's and Dr. Joseph de Silva's evidence. Dr. Joseph de Silva told us and gave authorities for it that it was stridor and he also said that in his experience these patients who are under anaesthesia under chloroform would give a loud stertorous breathing. 20 He told us how a student went 25 yards away and heard the sound of a patient under chloroform. Dr. Spittel says that stertorous breathing is continuous, cannot be one noise or two noises. Dr. Joseph de Silva said it may be stridor, a short coarse sound. The explanation is in Hewitt. I am merely mentioning this to you, very interesting, this passage from Hewitt. It is fairly interesting this passage from Hewitt. This is Dr. J. S. de Silva's own book. There is a passage here—"Two varieties of laryngeal stridor present themselves in practice. The first of these is a short, deep and coarse sound probably caused by the collapse or falling together of the superior aperture of the larynx." 30

If that was the noise that was heard here, it means spasm of the glottis and therefore death would be due to asphyxia. I want you to keep that in mind. "The other variety is a prolonged and high pitched sound sometimes altering in pitch during inspiration and depending upon laryngeal spasm rather than upon collapse. In surgical practice laryngeal stridor may arise from the direct effect of the anaesthetic vapour, from the presence of mucus or either adventitious substances."

So that there is a reference which supports what Dr. Silva says. You remember he used the words "short, deep and coarse sound." The other variety is a prolonged sound. So that if there was a short, deep, coarse 40 sound, it must be due to the collapse or falling together of the superior aperture of the larynx, in which case death would be caused by asphyxia, and you would find definite signs of that as Dr. Spittel speaks in his evidence of the laryngeal lividity. This is Dr. Spittel's evidence on that point and you remember that is the recorded case of the Eurasian woman and the case referred to in Hewitt, I think, or one of the other books, the

person who wanted to commit suicide had a mechanical affectation to his face by plaster, etc.—that is the man. The Eurasian woman had the pillow over her head. He is referring to that. (His Lordship reads Dr. Spittel's evidence on this point.)

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No. 73.

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“Q. Would it be possible for a person to clap a handkerchief saturated with chloroform to his face and keep it there owing to that pain till he dies? —A. Personally I think that is quite impossible. It seems to me a superhuman act to saturate a handkerchief with chloroform and press it down there until you die, but there have been recorded cases where always  
10 there has been a retentive device like a pillow. There is one such case of a physician in Winter Blythe, p. 148, 3rd edn. The other case is in Waddell where a Eurasian woman kept a pillow over her face. How she was able to do that baffles me. She must have been a strong willed person or drunk or drugged. There again she had this particular device and she was found dead when this thing was over her. She had made an attempt and failed earlier.”

Then he goes on about the sound which I want to read to you.

“Q. If she sat on the bed in a crosswise position and with fortitude of mind pressed the chloroform to her nose and mouth and the last moment  
20 she fell?—A. That is very improbable because if she did that then the presumption is that she took a sudden gasp and died of syncope; then where does the cry come in.” Dr. Paul says “Why? the last inspiration is the noise.” Dr. Spittel disagrees. Then he goes on to say “The death rattle is not heard from outside and it is a continuous thing, not 1 or 2 abrupt shrieks. Here there were 1 or 2 cries suddenly brought to an end. (That is what he thought.) A groan would mean that she felt the pain. If she clapped it on and groaned and at the moment of groan she died that is a possibility, but a very remote one in my opinion because if she groaned the tendency would be to take it off even momentarily. If she died of  
30 syncope you would not find the asphyxial signs. That must have taken a little time.” Then he goes on and says “In England and other countries it is a common practice when a woman is giving birth to a child to hand to the woman a handkerchief soaked in anæsthetic. Then she would go under and the hand falls and when they recover they are given another dose. We put the anæsthetic on Mr. Soysa. He would hold it on the nose and mouth and start breathing; when he came to the 2nd stage of anæsthesia—that is the stage when they are apt to be excited and noisy and give groans, curses, swear and do anything—these sounds are heard far but in this case it could not have been those sounds because in that stage  
40 all the muscles get rigid and incoherent movements and the patient is not conscious and therefore they cannot keep it there—the hand stiffens and the thing goes out and when he came back after a little time he looks silly and he puts it back again. Mr. Soysa did that and he willing to give a demonstration. Every time he attempted the hand fell off—never once did he go right up or reach the stage of surgical anæsthesia. There is a difference between a normal person and a suicidal person doing it. Mr.

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Soysa must have done it over half a dozen times." Then he goes on and says :

" Q. It has been said that at a certain stage in anæsthesia you get a stertorous sound and stridor; would that sound be a continuous one?—  
A. That cry as described by two people—the chauffeur and Seelas—they heard a loud cry as if the lady was calling for Alpina and Alpina herself said that was what they told her. (He is entirely wrong there.) That is a definite articulate cry, but not a groan."

It is for you to decide whether on the evidence this was a groan or an articulate cry or a death rattle. (Dr. Spittel's evidence read further 10  
" A purpose act done by a person in a conscious state because it was a definite call to a servant. It could have been done in the 2nd stage, but it suggests that it was a conscious cry and articulate call for someone.")

You must decide whether it was an articulate cry. (Dr. Spittel's evidence read further : " If it was an articulate sound then it could not have been when she was under the stage of anæsthesia. I place importance to the significant fact that the cry was not a continuous one, but 1 or 2 shouts. In the 2nd stage of anæsthesia they go on rambling and swearing for a long time. It is not one and a sudden stop, but here there was a sudden cry and sudden stop (meaning death). If it was in the 2nd stage when she was 20  
getting rigid; this is the only stage in which she could utter a cry of that nature, a loud call for a servant—then she would have kept calling and her hand would be found rigid and she would not be found dead in that stage. Because she cried out I think the homicide element comes in there. If it was a patient in the 2nd stage of anæsthesia then the cry would have been repeated more frequently and the patient would not have died. In stridor she would have died of asphyxia. We would expect lividity in the larynx and larynx storter suagis not a single sound but a series of sounds for some time. Stertorous breathing will also be continuous."

The effect of his evidence is this—you have to decide whether it was 30  
an articulate cry or not. If it was an articulate cry, then he says it was a conscious call. If you have any doubt on the point—try to find out what it was the sound that impelled 3 different persons to move. Keep in mind the fact that Dr. Silva mentioned that people are on the look out to hear more an unusual sound than a usual sound, and the test you applied. You saw that the sound is carried there easily—even a low sound. See by the nature of the cry what action it gave rise to. According to accused he heard a scream and went to the child's room—the other two—the boy went and spoke to Alpina. According to Dr. Spittel, if it was stertorous breathing as Dr. Silva suggests, it could not be that because that would be continuous. 40  
If it was stridor it could only occur in the instance mentioned here—that is the spasm of the glottis, and in that case you would expect definite signs of death by asphyxia—not uncertain signs where the two are mixed together and you will find lividity of the larynx. That lividity may have disappeared at the exhumation.

Now I am come practically to the last stages of this very intricate and complicated case and the responsibility will go to you. If it was a case of

suicide you must try to reconstruct the scene. If it was a case of homicide also construct the scene. If it is a case of suicide, if you believe the accused's defence, try and reconstruct the scene from that point of view. The aspirin was given. She either took all the aspirin and urinated all the contents so that no marks were left, or if she urinated any salicylic acid—you have Dr. Paul's evidence. It is not so from the experiments he made—or if she did not take any aspirin at all, then she either transferred part of it into another bottle or threw away the contents in order to frighten her husband—then she must have had the ampule of chloroform given for safe keeping, the

10 mouth of which she must have broken off that morning or some time before, because accused says she was using it for toothache and inducing sleep and decanted it into some bottle—there were plenty of bottles there. P.4 plays a significant part in this case. There is the story of the two handkerchiefs also—whether she used one or two I do not know—I am trying to reconstruct the scene from the point of accused's defence. If she wanted to commit suicide, why did she do? If the blister was caused in her feet as Mr. Pereira suggests, you must ask yourselves. Try and reconstruct the scene in that way. Then she left the unstoppered P.4—the green bottle—

20 on the dressing table towards her head, after having poured it on the handkerchief. If she used 2 handkerchiefs, well, there is no evidence. She poured it and as she poured it it was so saturated that when she was walking one of the drips fell on her night gown—that permeated into her thigh and caused that burn. She came there. She laid herself on her back, put that on her face and within one or 2 or 3 minutes went off—or the other scene that she sat there and put on her face. Why did she put it on her face seated; then the sudden noise that was heard—was it the death rattle or groan or conscious call? She closed the door also. I told you about the relevancy of the time factor. Obviously when Mabel Joseph and Alpina left she was in that sleeping condition. She must have been contemplating of

30 doing this desperate act. As soon as these two had gone out, up she gets, closes the door, then there is the aspirin—I do not know—she might have done that in the course of the night without Alpina seeing it—she goes there, decanters or already decanted into the green unstoppered bottle, pours it and goes through this act. That gentlemen is the reconstruction I would ask you to do yourselves.

Then for the theory of suicide, as I pointed out to you, you have got the evidence of the 3 witnesses—I am only summing up before closing. You have only the 3 boys Banda, Martin and Seelas. You have got the opinion of Dr. Paul (Senior) and Dr. Silva with all their experience pointed out to

40 you and the criticisms that could be applied to them pointed out by the Deputy Solicitor General, that although Dr. Silva may have been an anaesthetist for a long time, yet can he speak with authority without having had any actual experiments conducted by him personally except that one case—the fall of chloroform on a lady's cheek which left a blister, and the authority he quoted from Clarke. Subject to that criticism you have the evidence of Dr. Silva and Dr. S. C. Paul supporting the suicide theory on the one side. On the other side you have got, as I pointed out, the other

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doctors' evidence—they are younger men—one of them at least as a surgeon—Dr. Spittel—that is the only experience. There you can apply the same objection to him—that is to say, has he had any concrete experience with actual dealing with chloroform except for anæsthetic purposes by some anæsthetist, but he supports his opinion by experiments actually tried. Is there any reason for you to disbelieve that he tried experiments. If he did can he explain if there was any difference between that case and this case. You have the evidence of Dr. Karunaratna. This is the pull of opposing facts which you have to consider.

After I had put the framework before you, you could not have gone through the evidence without forming some conclusions, formed from the point of view I mentioned namely from the framework then you get the pull of opposing facts. If you think in your mind that the circumstantial evidence pointed out to you—I detailed it to you at great length—whatever the doctors' difficulties as regards evidence—if it corroborates the evidence, your own mind will tell you, then you answer the question whether chloroform was administered by the accused. If on the other hand the chain is weakened owing to your positive belief that Dr. Paul and Dr. Joseph de Silva are right or the 3 boys are speaking the truth or by the combined effect of both, or any reasonable doubts are caused in your mind for you to waver with regard to the conduct or opportunity and the means, who had access to the chloroform, the story that it was given to his wife, then it is your bounden duty which you owe to your conscience and to whole society to bring in a verdict accordingly. But if you doubt the story then in the name of humanity give the accused the benefit of the whole doubt and acquit him of the offence he has been charged.

Mr. Pereira said that the verdict is one way or the other. I have tried to discharge a difficult duty. I am sorry I have overworked you. You can see how throughout the case—you may have thought what is the meaning of this—you are brought here to discharge a duty, a serious duty performed in the time of peace. You will realise now that time has not been wasted in this case, and that it will help you in your elucidation. All that you want is patience, sincerity, intellectual honesty, and I forgot to add fearlessness, whatever the verdict may be one way or the other. I will ask you to consider the verdict now and the only thing I can hope now—all of you believe in the Almighty as I do—and I hope God Almighty will help you to arrive at your decision.

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We do hereby certify that the above is a true and correct verbatim report of the charge to the Jury delivered by the Presiding Judge in the above case tried before the Supreme Court.

Sgd. M. ANTHONY,  
Shorthand-Writer, S.C.

Sgd. GEORGE C. RODRIGO,  
Atg. Shorthand-Writer, S.C.

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I, GUY OLIPHANT GRENIER, Registrar of the Supreme Court of the Island of Ceylon and Keeper of Records of the said Court do hereby certify that the above is a true copy of the Charge to the Jury by the Presiding Judge at the trial of the above-mentioned case as recorded by the Stenographers above mentioned and that the original of the same is in my custody.

GUY O. GRENIER,  
Registrar & Keeper of Records, S.C.

Seal.

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No. 74.

**Verdict and Riders.**

Verdict:—(five to two). Guilty of murder.

Riders:—The foreman of the Jury states that one of the five recommend the accused to mercy.

They add the following riders:—

(1) In the opinion of the Jury there has been slackness in the initial stage of the enquiry into this case which is greatly to be deplored.

(2) They consider that the action of Dr. S. C. Paul in granting a death certificate under the existing circumstances is difficult to understand and  
20 that it is open to censure.

(3) They feel that some steps should be taken to ensure that the Coroner carries out his duties strictly in accordance with the law and not on the lines of his own inclination.

(4) They desire that the Inspector General of Police enquires into the attitude of Sub-Inspector Gibson with a view to finding out whether he carried out his duties strictly in accordance with Police procedure and as a precautionary measure in the future.

(5) Further it is felt strongly that an all round tightening up procedure be adopted by those who are responsible for enquiring into cases of sudden  
30 deaths. It is not only necessary but that will be of benefit to the public.

On being asked if he has anything to say why Sentence of Death should not be passed on him, the accused states that he has nothing to say except to plead his innocence.

Sentence of death is passed on the prisoner.  
Execution is fixed for Thursday, the 19th July, 1934.

No. 74.  
Verdict and  
Riders,  
14th June,  
1934.

*In the Privy  
Council.*

No. 75.

Order in Council granting special leave to appeal to His Majesty in Council.

AT THE COURT AT BUCKINGHAM PALACE

The 6th day of June, 1935.

PRESENT.

THE KING'S MOST EXCELLENT MAJESTY

LORD PRESIDENT,	SIR TEJ BAHADUR SAPRU,
MARQUESS OF LINLITHGOW,	MR. ATTLEE,
LORD STEWARD,	MR. HORE-BELISHA,
SECRETARY SIR SAMUEL HOARE,	CAPTAIN R. C. BOURNE.
SIR GEORGE H. MURRAY,	

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WHEREAS there was this day read at the Board a Report from the Judicial Committee of the Privy Council dated the 14th day of May 1935 in the words following viz. :—

“ Whereas by virtue of His late Majesty King Edward the Seventh's Order in Council of the 18th day of October 1909 there was referred unto this Committee a humble Petition of Stephen Seneviratne in the matter of an Appeal from the Supreme Court in the Island of Ceylon between the Petitioner Appellant and Your Majesty Respondent setting forth (amongst other matters) that the Petitioner prays for special leave to appeal from a Judgment of the Supreme Court delivered on the 14th June 1934 whereby he was convicted of murder and sentenced to death which sentence has since been commuted to one of rigorous imprisonment for life : that the Petitioner was indicted at a Session of the Supreme Court in its Criminal Jurisdiction at Colombo before Akbar J. and an ordinary jury of seven persons consisting of two Europeans one Tamil and four Sinhalese : that fifty-two witnesses were called for the Crown and the trial lasted for twenty days : that the case for the Crown was that the accused had murdered his wife by administering chloroform to her between about 6.15 a.m. and 6.45 a.m. on the 15th October 1933 in her bedroom at a time when a maid-servant who slept in that room had shortly before left it to prepare the servants' breakfast in a kitchen close by when a son of the deceased and of the accused aged nine was sleeping in a room which led into the bedroom and when to the knowledge of the accused there were a considerable number of other servants near enough to hear any noise coming from the bedroom : that the case for the accused was that the deceased had died either as a result of suicide or of misadventure and there was uncontradicted evidence that she was of a suicidal tendency and also that she suffered from diabetes : that the medical witnesses called by the Crown consisted of an analyst and no less than seven doctors : that these doctors all agreed that death was not due to natural causes but at that point their agreement ended and

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Order in  
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on every other medical aspect of the case both large and small they were in hopeless disagreement: that not one of the doctors committed himself to a positive opinion that death was due to homicide: that the issue between homicide on the one hand and suicide or misadventure on the other hand was the crucial issue in the case and that there were no other facts or circumstances which could possibly entitle the jury to come to a conclusion upon that issue adverse to the Petitioner despite the contradictory and inconclusive character of the mass of intricate medical evidence placed before them: that there has been a manifest violation of the natural principles of justice in that he has been convicted of the offence of murder upon evidence which was palpably insufficient to warrant any such conviction and notwithstanding the fact that not one of the seven doctors called by the Crown was prepared to express a definite opinion that the death of the deceased was caused by homicide and when the other circumstances of the case were upon any legal or fair view wholly inadequate to operate as a substitute for the medical evidence necessary to establish the commission of a crime of the kind in question: And humbly praying Your Majesty in Council to order that he should have special leave to appeal from the Judgment of the Supreme Court of the 14th June 1934 or for such further or other Order as to Your Majesty in Council may seem fit:

“ The Lords of the Committee in obedience to His late Majesty’s said Order in Council have taken the humble Petition into consideration and having heard Counsel in support thereof and in opposition thereto Their Lordships do this day agree humbly to report to Your Majesty as their opinion that leave ought to be granted to the Petitioner to enter and prosecute his Appeal against the Judgment of the Supreme Court of the Island of Ceylon dated the 14th day of June 1934 whereby he was convicted of murder.

“ And Their Lordships do further report to Your Majesty that the proper officer of the said Supreme Court ought to be directed to transmit to the Registrar of the Privy Council without delay an authenticated copy under seal of the Record proper to be laid before Your Majesty on the hearing of the Appeal upon payment by the Petitioner of the usual fees for the same.”

His Majesty having taken the said Report into consideration was pleased by and with the advice of His Privy Council to approve thereof and to order as it is hereby ordered that the same be punctually observed obeyed and carried into execution.

Whereof the Governor or Officer administering the Government of the Island of Ceylon and its Dependencies for the time being and all other persons whom it may concern are to take notice and govern themselves accordingly.

M. P. A. HANKEY.

*In the Privy Council.*

No. 75.  
Order in Council granting special leave to appeal to His Majesty in Council, 6th June, 1935—*continued.*

Exhibits.

EXHIBITS.

P.8.  
Letter from  
Deceased to  
Accused,  
9th March,  
1932.

P.8. Letter from Deceased to Accused.

9. 3. 32.

My dear Stephen,

Though I have always done things for you and yours from the bottom of my heart and in all sincerity putting you above all others, only next to God; in my life I never meant anything very much to you—At first the novelty of the situation attracted you, then it began to wane. You have always acted indifferently to me. Blind fool that I was though your actions hurt me and made my heart bleed at the beginning I did not see it all. It is only very lately that I came to realize it. 10

Just think and see if I am not right. In a way what is there to think, you in your heart knows it all.

First when Poddah was nasty and said things about me you sent him away all right but before three months were over you put him on a land bought with my money. Noel went about saying all sorts of things about me, not a word was spoken by any man in my defence. And now God has punished him and they have been forced to come to to for various things. Even against your wishes though I then disliked to annoy you I have done things for them and listened to most nasty remarks from you. 20

Swaris misbehaved with Selina deceived me and took her away you sent him away but before a few months were out got him into this garden to bring rafters and paid him with my own money—although you knew I detested the fellow and did not want him to come within these gates on principle. Then came Eliza Auntie and her daughter though I begged of you not to have anything very much to do with them you turned your back on me. Your actions about Jessie has ended my life and taken away all desire to live—A year ago you phoned her up to Lily's house and got her here knowing how it was hurting me but sent her away. Then she started phoning you and you gave her certificates went and saw her at Lily's and allowed her to tell you about letters I had written to her. Then you gave her employment you tell me now with supplying chickens. All these you did knowing very well that they would hurt me but they were no concern of yours. How that woman must have been laughing at me knowing the influence she had over you she must have been saying (*here follow Cingalese characters*). Now last of all you got a land at Homagana and got her without word to me—Well now, all is ended my life is a barren desert to-day. I see from the very beginning I did not matter much to you. You always did things to hurt me my feelings you have never cared about. A bold and forward woman would not have felt all that as keenly as I am feeling now but my nature is different. I will drift to my end from day to day. God grant that it will be soon. 40

(sgd.) Lilian.

Always you have acted against me—Remember Dr. Paul the filth you published about him. If I wasn't interested in him you would never have done it. Wherever you may go whoever you choose, I will tell you this, you will never find another woman who had your interests at heart as I did. I gain nothing by telling you this. In a way it ashames me but it is a part of my story which you will realize some day. You have never thought "It is not right of me to hurt and displease Lilian but it is mine to shield her from it all whenever I can."

Exhibits.

P.8.

Letter from  
Deceased to  
Accused,  
9th March,  
1932—*continued.*

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P.6. Letter from Deceased to Accused.

Arbuthnot Street,  
6th December, 1932.

P.6.

Letter from  
Deceased to  
Accused,  
6th Decem-  
ber, 1932.

My Dearest Stephen,

I have just received your telegram, many thanks for it. It is indeed very kind of you to have sent it as otherwise I would have been wondering what had happened. I have not yet received your letter and I am writing this before I get it, as I want to tell you something. If your letter is a nasty one to say that you are quite happy and contented without my objectionable presence then I would not be able to say what I want calmly  
20 that is why I am writing now—

I have heard from people that Jessie was going about Veyangoda with Mohotti and they were seen in a buggy cart together. From this I gather that there is something between them. Jessie I think is trying through Mohotti to get to Chilaw, your land, I mean. My request to you is not to allow her to come into that land as Mohotti's wife or in any other capacity. Of course, you can respect my wishes or throw them to the winds that is left to you. Then what remains to me if you pay no respect to my wish is to act for myself. I have thought long and deeply about this matter and I have decided that if you are going to allow her to stay at Chilaw  
30 or to come into that land I am going away. Jessie at Chilaw, Lilian will be absent from your home. This is my final decision. I know I am taking a very serious step because to-day I am almost a begger even Kottawa is mortgaged but it cannot be helped if you do not care so much for me, as to do this little thing in my opinion it is useless leading this life. From the day I married up to this I have always had your interests at heart and I have never, not even once thought of myself first even in my bitterest moments. This is the honest fact I am telling you as I would some day tell my God. I know I am in your power now, because I have given you more than half my inheritance. As you know I have now hardly enough to feed  
40 and clothe myself leaving aside luxury's to which I have been used to all my life but yet I can face that life rather than this with Jessie at Chilaw. My fields will give me enough rice if carefully looked after. My house will shelter me and the few nuts and grassfield will provide the other things I want. As for my child I will do what I can and leave the rest to God. I suppose He who sent him here will look after him.

Exhibits.

P.6.  
Letter from  
Deceased to  
Accused,  
6th Decem-  
ber, 1932—  
*continued.*

I am now almost half in the grave and even if I have to undergo any privations it won't be long. Whatever happens this is my final decision. Perhaps you may tell me she is not there and allow her to remain but I will as long as I live always try to find out if she is there and always pray to God to let me know somehow or other if she is there.

A little while before I got the wire I wrote a note to Hendrick asking him to drive her out if she comes because I thought you were on your way here then. It may reach Chilaw by this same post, if you like you can tear it up without giving it to him.

Now this note may send you into a fury and make you behave as unpleasantly as possible to me. Well all right do it. Nothing can be worse than what I am going through now.

I am not well my head is aching.

Yours affectionately,  
sgd/ Lilian.

P.10.  
Letter from  
Deceased to  
Accused,  
29th Decem-  
ber, 1932.

**P.10. Letter from Deceased to Accused.**

Arbuthnot Street,  
Lister House,  
29th December, 1932.

My dear Stephen,

Just a line to ask you if you are going to sell Nawala. Della has just now told me that car loads of people are going there to see the place saying that it is for sale. I want a candid reply to this please. You see Nawala and Allawa are mine in the sight of God. I sold the valuable property that my poor parents left me to next to nothing because you wanted to buy these—When I gave you the money I never expected you to buy these in your name. I trusted you about Aluwa. When I found out that you had brought it in your name I begged of you not to do the same with Nawala and your reply was that the deeds cannot be drawn just then as the owner had mortgaged it. Later on you told me that you had got the deeds drawn in your name because you paid a paltry sum of Rs. 3000—. To get this land you got me to sell one and half acres of Wellawatta for Rs. 4000/- and got me to pay 60% interest on some money you borrowed. Many and many a time I begged of you to transfer these to me and your reply was that I will sell them to spite you so you won't but that you will leave it my child. Now you are going to sell it. Is it right? My poor child when I am no longer here other brats and women will eat and drink what is his and perhaps he will starve I tell you one thing the money you will take by selling Aluwa or Nawala will never prosper you or anything done with it, that I know well. This is money taken from a poor trusting woman who is today weeping bitter tears that she trusted you. Wherever I am whatever I am doing tears spring to my eyes when I think of what happened to the land that my parents left me at Wellawatta. I was forced to sell it to the first bidder and the money was taken and lands bought in your name and now they are to be sold to pay for your vast acres. Alright go on ahead and let me die—

today I am a diabetic with one foot in the grave.—Whether I am alive or dead the money that was forced out me will never prosper as every moment I think of it the agony I feel is more than I can bear. After having taken it all, the way you have treated me and how you are treating me now. When Malpen came and you asked for the egg book I knew something was afoot and I put the direct question “Are you going to sell Nawala.” And your reply was no I am not but now car loads are going saying it is for sale. Alright. If you sell it or Alluwa I am going to do what I can to help myself I will explain to the whole world what happened to all that my  
 10 parents left me to my people as well as to yours and look after myself and leave you to go your way. The sale of Nawala or Alua will be the good-bye between us. I tell you once more the money taken from them will never prosper you or your descendants. The agony I feel at what had happened to what was mine and the trick you have played on me will have some effect on the money. Having taken the money how have you treated me.

Exhibits.

P.10.

Letter from  
Deceased to  
Accused,  
29th Decem-  
ber, 1932—  
*continued.*

**P.7. Letter from Deceased to Accused.**

Arbuthnot Street.

P.7.

Letter from  
Deceased to  
Accused,  
undated.

My dear Stephen,

It is quite true I wanted to go and called this a hell it was once when  
 20 you brought Jessie here and again when you kept her at an estate leased by you because I begged of you not to keep her on my lands and here you leased out a land and kept her. To Charlie if he asks me I will tell the facts if you have no objection. Roxie too will hear of it and if they do not believe your letters to me are there. With Jessie at W.H. or on the estates I certainly wanted to leave this and go. I certainly did see a man or Ghost peeping into my room one night when you were away at 12 p.m. and after that 2 nights I did keep a few lights burning when you were away at night. In one part of your letter you say you sold this house to buy something to get an income to eat with in another you say you sold it because  
 30 of me that at least is the story you told your brother well say anything you like.

You one day, I swear before God did say that you will try and save W.H. and a few days later said there was some money to be had on a cocoanut estate and asked me to get it. Thinking it was for that purpose, I signed the mortgage but did not ask you because I thought you would fly into another fury saying that I distrusted you. As I told you once before I would not have otherwise signed it unhesitatingly as I did. Spread any story you like about me and get your brothers too to do it—  
 40 I have never done the same about you though you accuse me of it. If you do not feel sorry to make people believe ill of me without any truth why should I be sad over it. You first advertised it when Eric was here and that was before I saw the ghost and kept lights burning. Can't you remember I asked you that night why you did it—Instead of putting the blame on innocent me if you say you sold it because of your greed of land

Exhibits.  
 —  
 P. 7.  
 Letter from  
 Deceased to  
 Accused,  
 undated—  
*continued.*

it would be better. The huge debt too you seem to put down to me am I the cause did I ever in my life worry you for money for anything at all. Have you ever given me anything any kind of presents. Have you ever taken me anywhere for a few days for a holiday or have you ever taken me out of Colombo for even a day to a hotel or rest house all your brothers are taking their wives or the wives are going.—I never went the reason was “How can you go with all this”—You never thought I wanted these things because I never asked or worried about them because I did not like to trouble you. All went to the Galle wedding even Peter Samarakkody’s wife. Did I go though my brother offered me a lift. Why! because I did not have money for a saree—You had at the time 40,000 Rs. in your Bank and I told you why I wasn’t going half hoping you would offer it but did you? You only said “Well then I will go and come.” Do you remember what you once said to me on a Christmas Day when I gave you something your words were—“The shops were full of presents but I did not feel like buying anything.” And now too to enable you to buy lands I have to creep into an uncomfortable house. My days on earth are numbered, these few I would like to spend comfortably. So I will out of my income give you Rs. 25/- please get me a decent house in a comfortable quarter where there will be plenty of air for my child. You have told my brother over the phone that you are going to get a house for Rs. 175/- is this that house? You want me to be gentler to you how can I be so when you are always nasty to and bark at me—Now let me explain the “Tatched hut” to which Roxie is witness. It is true I wanted to go not to a tatched hut but to the home of refuge for women—with a woman who has been nasty on your land or in your house of course. It was better. Even you admitted that you were sorry for what happened.

Please tell me how you want me to behave and what you want me to do instead of putting further blame on me. I know I do not deserve all this and I know I would not have got it if I did all I did for you to a more thoughtful reasonable and loving man. At the beginning of our life I did all you wanted sold and gave all my money to you without touching a cent hoping you will satisfy yourself and that I would have a peaceful and happy life in the end. Now after all Oh! God, what have I got. Whatever I am forced to do I cannot live alone at nights. I always had a fear of night and I have it doubly now since I saw that man.

(Sgd.) Lilian.

I in fond love clung to you and Baba leaving aside all others for your sakes. To you both I gave my all. Before I married when uncle Abraham was ill and dying I left him and came to Dehiwela because you wanted. I was even angry with my one brother whom I fondly loved because of you—Now all is over and you have turned against me. I only want death now.

(Sgd.) Lilian.

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## P.9. Letter from Deceased to Accused.

Exhibits.

My dear Stephen.

P.9.

Letter from  
Deceased to  
Accused,  
undated.

A woman marries for love, for companionship, to be cared for, for protection, to be defended, and to be looked after, especially a woman like me who has money and calm desires (i.e. not like Effie). My poor mother urged me to marry so that there would be someone to do all this when she is gone—Hardly 10 years have gone and to-day our home is broken up and sold. Everything I have come to look up to as a part of my Life and hoped to give my son is going garden flower tubs plants I have put down and cared for all all are going—even most of the furniture will have to go at least all the valuable bits which would have been of any use to my child will have to go because there wouldn't be enough room in a house for Rs. 90/- for these. Of course these are not mine but these went to make up my home. Leaving aside all this I am to be shubbed into a 3 roomed house taken on a lease. The very thought of going into a house like this is disgusting to me. I who have always lived in a roomy house and one that was my own.—I tell you however long I may live in one of these I can never come to look upon it as my home and take any interest in it or in the garden there will hardly be a thing called a garden will there. This sort of thing is good for those who are doing some kind of work with the hope of making some money at the end and making a home and settling down at last—Now how long am I live like this till I die and why simply because you want vast acres for cattle rearing and money to buy cattle and feed cattle—I and my child are to be shubbed aside without a home and comforts and forced to live alone from one week to another simply because you want scope for your ideas. Leaving aside all I am to live alone pass the nights alone in rented houses in places quite unknown to me—I who cannot fall asleep and sleep on for hours at a stretch as I usually do when there is no one in the house. I am to live day and night alone with only my baby for years and years if I unfortunately happen to live. Oh! God, is this fair? Do you think it fair to do this to me. Especially after all the promises you made me when my mother died and I wanted to break off the engagement. Well! if I cannot live I can die and if I cannot live even till I die however short the period be like this something else may happen. Whatever and wherever it may be I cannot live alone. I gave you one of my reasons in an earlier note. If you think it fair and feel justified in the sight of God to treat the woman who trusted you as a God and believed in you and whose life you took in into your keeping before Him. Well then do it—I will await death my comforter and redeemer. Can you buy me a pistol before I go into the other house. I can get a friend to do all the necessary things about this but Government may not allow it without your consent. At least alone at nights I will feel that I have some sort of defence with me then. Think of it I go through all these so that you may have money to spend on cattle, lands to feed cattle and develop for pleasure to keep you busy and happy. For these to you we child and I go homeless without a home our very own where we can plan and arrange

Exhibits.  
 P.9.  
 Letter from  
 Deceased to  
 Accused,  
 undated—  
 continued.

furnish and plant as we like. Alone from morn to night and night to morn in mortal fear. Sad not knowing what to make of myself and when God will set me free—Sad thinking of the life my mother gave me and how she left me. Nothing to bring any joy or happiness ever bemoaning my lot and wishing over and over again that my poor child were not born. My poor darling all these things will have a bad effect on him. I know he might grow up into a sad and morose man perhaps with a grievance at his mother's fate which he may not ever get over if I die soon.—Well, what's to be done. Let it be.

sgd/ Lilian. 10

I came to phone to my brother whilst I was there someone phoned up about a house in Castle Street for Rs. 90/-. But I am not going to creep into a hole for Rs. 90/-. There are only 3 rooms he says I think I will have to keep Mabel in the lavatory. This man wants you to phone up I have never been used to living in pokery holes and its not fair to expect me to do it now. Is it fair to force me and the child to live in a pokery hole for you to revel in wealth and gather wealth—wealth which I will never live to share or see. If only this was told to me at the beginning of our life how different things would have been. My poor dead parents left me well provided for able to pay much more than Rs. 90/- for a hovel if only I had kept to myself what was mine this lot would not be mine to-day. To-day even the blooming Kottawa is not free—all that was left for bread and butter. 20

sgd/ Lilian.

P.11.  
 Letter from  
 Deceased to  
 Accused,  
 undated.

**P.11. Letter from Deceased to Accused.**

My dear Stephen,

All these years I lived under a roof which had belonged to me, from now onwards I creep into rented hovels. I do not ask anything for me only for my innocent unfortunate little one. Please see that he has healthy surroundings to live in a place where there is plenty of fresh air so that he can grow into a healthy man. He is not a strong child as it is with all my care. I will not be a burden and a stumbling block to you much longer only a few years is all that is left for me. Every day, morning night and noon I will pray to God to shorten my days and with every charitable act I do I will pray for the same thing. To give you your freedom which you so badly want will be my one aim in life. Somehow or other I will die and give it to you. May you have all the wealth prosperity and happiness that this world can give to live and enjoy as mine have been empty of these. Can you kindly transfer Aluwa and Nawala to me. You see I have nothing to leave my child now though my parents left me nearly Rs. 200000/-. Even Morahena is not free. Please do not think I want these things for myself. Oh No, I have finished with that part of my life. I now live as a prisoner in the cell waits for the end of his term. All these I want to settle on my child before I enter the coffin. You are young healthy and strong a long life of 30 40

health wealth and prosperity is before you and once when I am under the earth there is nothing to prevent you from marrying again a gentle sweet and pleasing woman one my opposite in every way. Exhibits.

Then what of my helpless unprotected child. As other women made you turn your back to me so once again a woman will make you do it to my child. This is my one fear. When I see you with the child my fears fly away but then again your love for me was the same at the beginning. It was a woman who turned it to hate—wasn't it. P.11. Letter from Deceased to Accused, undated—continued.

(Sgd.) Lilian.

10 P.12. Letter from Deceased to Accused.

My dear Stephen,

Although you did not tell me and kept it a secret I have found out that you have sold this house and finished. Now I am writing to ask you to transfer Aluwa and Nawala to me. You see they are bought with my money and I also would like to know why you did not tell me after my mortgaging Morahena and giving you the money only a few days ago. I would not have done this if I knew White House was sold. I am a miserable beggar to-day and I now have to creep into rented houses which in my life time I have never done and would never have to do if not for you. By 20 creeping into a miserable hovel for Rs. 100/00 or so a month anything goes wrong with my child I will without hesitation kill myself then and there.

Please do what I have asked you at the beginning of this.

(Sgd.) Lilian.

From now onwards I will pray night and day to God to end my life. Every charitable act of mine will be with a prayer.

P.39. Postcard. Accused to Mrs. G. de Saram.

30 Mrs. George de Saram,  
Brooklands,  
Athurugiriya,  
Homagama.

Duff House,  
Bagatelle Road,  
11. 10. 33.

P.39.  
Postcard,  
Accused to  
Mrs. de  
Saram,  
11th Octo-  
ber, 1933.

My dear Dottie,

A tamby came here and informed me that he has a good c'nut estate for sale at Dunagaha and one or two others as well.

I have asked him to come on the 16th October Monday at 9 a.m. to go with us. Will you kindly come over with George to see the property. If you come here at 9 a.m. it will quite do. Please reply if convenient.

(Sgd.) Stephen.

**Exhibits.**

**P.45. P.45. Declaration of Death by Leonard Godwin de Alwis made under Sec. 24 (2) of Ordinance No. 1 of 1895, 15th October 1933.**

*(Not printed.)*

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**P.44. P.44. Certificate of Death, 1st November 1933.**

*(Not printed.)*

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**P.41. P.41. Post-mortem Report by T. S. Nair, J.M.O., Colombo, 7th November, 1933.**

*(Not printed.)*

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**P.43. P.43. Pathologist's Report, 11th November, 1933.**

*(Not printed.)*

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**P.28. P.28. Postcard (anonymous) to accused.**

10

*(Not printed.)*

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**P.29. P.29. Postcard (anonymous) to accused.**

*(Not printed.)*

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**P.30. P.30. Postcard (anonymous) to accused.**

*(Not printed.)*

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**P.31. P.31. Postcard (anonymous) to accused.**

*(Not printed.)*

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	<b>Exhibits.</b>
<b>P.1. Photograph.</b> <i>(Not reproduced.)</i>	<u>P.1</u>
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<b>P.14. Photograph.</b> <i>(Not reproduced.)</i>	P.14.
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<b>P.19. Photograph.</b> <i>(Not reproduced.)</i>	P.19.
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<b>P.40. Photograph.</b> <i>(Not reproduced.)</i>	P.40.
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<b>P.50. Photograph.</b> <i>(Not reproduced.)</i>	P.50.
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<b>P.5. Pencil Sketch.</b> <i>(Not reproduced.)</i>	P.5.
<hr/>	
<b>P.42. Pencil Sketches.</b> <i>(Not reproduced.)</i>	P.42
<hr/>	
<b>P.51. Sketch of Cot.</b> <i>(Not reproduced.)</i>	P.51.
<hr/>	
<b>Plan of Duff House.</b> <i>(Not reproduced.)</i>	Plan.
<hr/>	

In the Privy Council.

No. 55 of 19

*On Appeal from the Supreme Court of the  
Island of Ceylon.*

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BETWEEN

STEPHEN SENEVIRATNE - -  
*(Accused) Appellant.*

AND

THE KING - -  
*(Complainant) Respondent.*

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RECORD OF PROCEEDINGS.

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FREEMAN & COOKE,  
12, Russell Square,  
W.C.1.

*Solicitors for Appellant.*

BURCHELLS,  
5, The Sanctuary,  
Westminster, S.W.1.

*Solicitors for Respondent.*