

IN THE PRIVY COUNCILON APPEAL FROMTHE SUPREME COURT OF THE ISLAND OF CEYLON

B E T W E E N :-

EDWARD LIONEL SENANAYAKE ... Appellant

-and-

1. HERATH MUDIYANSELAGE NAVARATNE
2. HERBERT SYDNEY MOLAGODA Respondents

P R O C E E D I N G S

VOLUME II

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IN THE SUPREME COURT OF THE ISLAND OF CEYLON.

THE CEYLON (PARLIAMENTARY ELECTIONS)
ORDER IN COUNCIL 1946.

Election for Kandy Electoral District
No.24 held on 24th day of May 1952.

1. Herath Mudiyanseelage Navaratne of 251/7
Trincomalee Street, Kandy.
2. Herbert Sydney Molagoda of No.6 Lady
Torrington Road, Kandy.

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Petitioners

Election Petition
No.3 of 1952.

V.

Edward Lionel Senanayake of No.34 Gregory
Road, Kandy.

Respondent

Present. The Hon'ble Mr.Hethumuni Ayadoris de Silva.
Election Judge.

Counsel. S.Nadasen with Stanley de Zoysa, A.I.Rajasingham,
V.R.A.Pullenayagam and C.Manoharan instructed
by Thevarajan for Petitioners.

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G.E. Chitty with G.C. Rasa Ratnam, G.T.Samara-
wickrema and Izadeen Mohamed instructed by Ranjit
Hewagama for Respondent.

Inquiry commences on: 10th November, 1952.

Before opening the case for the Petitioners, Mr.
Nadasen moves to amend the particulars filed
in respect of the falsity of the return of the
Election Expenses, and he produces the motion.
Mr. Chitty has no objection to the amendment
because of the triviality of the matter.

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Application is allowed.

Mr. Nadasen opens the case for the Petitioners.

In the course of the opening address
Mr. Nadasen moves to withdraw charges 3(a) &
3(b).

Application is allowed.

10th November 1952.

M.R.Ganapathy - Affirmed

36 years, Clerk, Kandy Kachcheri, I remember the last General Election for the Kandy Electorate. The candidates were E. L. Senanayake, Mrs. T.K. Illangaratne and T. Somasunderam. Mr. Senanayake was declared elected. He is the respondent in this case. Thereafter Mr. Senanayake made his return of election expenses. I have been summoned to produce the return of election expenses and vouchers. 10

The return of election expenses by the respondent which is dated 27th June 1952 is marked P1.

The declaration which was sent along with the return is marked P2.

The various vouchers annexed to this return namely eight bills and five receipts are marked as follows:-

P3 bill dated 7th May 1952 from Beling & Co. for Rs.282/-

P4 bill dated 1st June 1952 from Union Printing Works for Rs.325/- 20

P5. bill dated 3rd June 1952 from Lanka Printing Co.Ltd. for Rs.242/50

P6 - bill dated 13th June 1952 from Lanka Printing Co.Ltd. for Rs.244/45.

P7 - bill dated 31st May 1952 for Rs. 175/- from Lanka Predipa Printing Works.

P8 - bill dated 17th May 1952 from D.W. Kalubowila for Rs.435/- 30

P9. bill dated 26th May 1952 from Gamini Printing Works for Rs.1659/09. The document is in two sheets. Both marked P9.

P.10 receipt dated 17th May 1952 from D.W. Kalubowila
for Rs. 455/-

.P11 Cash Memo dated 21st May 1952 from Kandy Radio
Engineers for Rs.225/-

P12 Receipt dated 17th March 1952 from Beling & Co.
for Rs.275/-

P13 Receipt dated 3rd June 1952 for Rs.1000/- from
Gamini Printing Works.

P.14 Receipt dated 12th May 1952 for Rs.110/- from
Gamini Printing Works.
10 Works Rs. 158/65.

I produce these documents P1 to P15. The Katcheri
has been selling a number of election registers for
the elections. (To Court: When the Kachcheri sells
these things (registers) a record is made). I
got the record of sales for all the electoral districts
under the Government Agent C.P. I maintain that record.
Anybody can buy these registers. They were available
for all those who were interested in them. I am
the election clerk and I sell the registers when
20 anybody comes to buy and note down his name. I know
the respondent E.L.Senanayake. I have brought to Court
now the book in which the sales of the registers
are entered. (A certified extract of the sales
of electoral registers to respondent Mr.Senanayake
is marked P16. On 5.4.52 two registers for Rs.40/-
20.5.52 one register for Rs.20/- On 23.5.52 two registers
for Rs.40. In all I have sold five registers to
Mr. Senanayake to the total value of Rs. 100/-
When I sold I made a bill in his favour and issued a
30 bill. The bill is made on Kachcheri Receipts for
payments made. I produce marked P17 a certified copy
of the receipt dated 5th April 1952 for Rs.40/-
issued to the respondent, and P18 certified copy of

receipt dated 20th May 1952 for Rs.20/- and P19 certified copy of the receipt dated 23rd May 1952 for Rs.40/-. P17,P18 and P19 were issued to the Respondent. (shown) Register of Kandy Electorate marked P20. Apart from Mr. Senanayake Mr.P.D.A. Weerakoon purchased two registers on 9.4.52. In P20 page 83 under electoral No.382 is the name of Herat Mudiyanseelage Navaratne, and on page 188 against No.309 appears the name of Herbert Sydney Molagoda.

Cross-examination by Mr.Chitty

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During this period April May and June I was in charge of electoral work. I was the election clerk in charge of the General Election. I did all the clerical work in connection with that election. I had to attend to all the election work in Kandy Districts electorates 21, 22, 23, 24, 25, 26, 31 and 32. In regard to all these districts I was in charge among other things of the sale of registers. I started selling these registers on 5th April 1952. I cannot remember whether at that time the Government had announced that there would be an election. One Subramaniam a temporary clerk assisted me. He was in charge of the actual sale of registers. The applications are made to me by candidates personally and when the registers were available I made out a paying slip and got my assistant to hand over the books. Whenever a candidate comes in he speaks to me. In my absence to Subramaniam. From 5th April I have sold altogether 96 copies of registers in respect of all the electorates - 14 copies in respect of Kandy electorate. If a note or a telephone message is sent I will hand over the register to the person calling. In such cases I put down the

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name of the person who sent the message and not the name of the Messenger boy. I do not make any kind of entry showing in which case a person called personally and in which case I had supplied to the messenger. All the letters received are filed. In relation to Kandy election there is a letter from S.A.C.Mohideen, 313 Trincomalee St.Kandy, and one from Tilak Somasunderam and two letters from Mrs.T.Illangaratne one dated 4th May and another 14th May. In each of her letters she asked for one copy register. She has been supplied in all with two registers. That appears on page 5 of this file against the dates 5.5.52 and 14.5.52. I cannot remember whether she came personally or sent a messenger. Similarly with regard to other electorates. Mr.R.E.Jayatilleke was supplied with a register. I do not know whether he came personally or on how many occasions he came. Similarly I cannot say how many times Mr. Senanayake came personally or someone else came purporting to be on his behalf.

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Certified correct

Sgd. M.N.Peiris

Stenographer S.C.

Adjourned for Lunch.

10.11.52.

Proceedings after Luncheon interval.

M.R. Ganapathy, re-affirmed.

Cross-examination (Contd) I mentioned S.A.C.Mohideen to whom two registers have been sold - on the 19th April he was supplied with one and again he was supplied with another on the 21st April 1952. He had sent one letter undated but the date of issue is shown as 19th April. The register shows an issue to Mohideen on 19th April. I could only state that the letter purported to be from one S.A.C.Mohideen. If a messenger is sent, the name of the person who sent him is entered for the purpose of the sale and receipt. Before the nomination day we had been instructed by the Commissioner of Elections to issue only two copies to each candidate. The normal rule is if copies of Registers are available to issue any number on applications made. From the Gazette now handed to me it appears that Parliament was dissolved on 8.4.52. On the 5th April 1952 I find Mr. Senanayake and Mrs. Illangaratne were each supplied with two copies on payments made. Before the 8th April no one else had purchased Registers in respect of the Kandy Electoral area. 28.4.52 was Nomination Day in respect of all Electoral areas in the Island. Notes of proceedings on Nomination Day in respect of the Kandy Election shows that Mr. A.K. Liyanage, Proctor S.C. & N.P. had represented Mrs. T.K. Illangaratne. Advocate Fred E. de Silva had represented Mr. Senanayake. There is no note to indicate if Mr. Somasunderam had been represented. I was on duty at the Kachcheri on Nomination Day. We had taken precaution to prevent any crowd collecting in the Kachcheri premises on that day. At the Kachcheri there were only those who had come on business there. Only the proposers and seconders were allowed in addition to the candidates to enter the Kachcheri premises on Nomination Day. I did not notice any crowd outside. I did not get out for lunch and had my lunch that day at 4 p.m. I left the Kachcheri premises at 10 p.m.

The Government Agent was the Returning Officer. In all we had sold 14 Registers (Electoral) in respect of the Kandy Electoral Division before and after Nomination Day, viz.

Mr. Senananyake	5
Mrs. Illangaratne	4
Mr. P.D.A. Weerakoon	2
Mr. S.A.C. Mohideen	2
Mr. Somasunderam	1

The last sale was to E.L. Senanayake on 23.5.52. Election
10 was held on 24.5.52 at Kandy. On the 24th I was on duty at the Kachcheri making arrangements for the receipt of ballot boxes and the counting. I was not summoned to produce the Return made by Mrs. Illangaratne of Election expenses. (Mr. Chitty desires to hand over a certified copy of it with annexures to the witness - Mr. Nadesan objects and it is finally decided to deal with any application for its production if and when such an application is made after hearing Mr. Nadesan on such application). (Pl shown to witness) Election Return must be made within 30
20 days of gazetting of the result of an Election. Mr. Senanayake's return was received on 27th June 1952. I cannot say when the other returns were received. I cannot say when the results were Gazetted - I think on the 28th May 1952 - I am not quite certain. We bear in mind to examine of returns are made within time. No returns were received out of time. The O.A., A.G.A. or the G.A. minute on the receipt of the returns. The O.A. Muhandiram K.V. Renganathan had accepted Mr. Senanayake's return and acknowledges receipt. There is no indication on the face
30 of the return how it is received i.e. whether by post or by hand. I cannot say whether it was personally received or sent by post. The annexures to returns are not specifically acknowledged. From letter acknowledging receipt one cannot say what documents were received with

a Return. There was no covering letter with the Return sent by Mr. Senanayake. There is no record of the number of documents received with his Return. All documents received with a Return are Date stamped. The peon of the Office Asst does it in his presence. The O.A. hands them to the peon to be Date stamped. The peon opens the tappal, the O.A. sorts out the letters and sends them to the different branches. When I receive papers sent to me thus, I take whatever action is necessary. On receipt of a Return I straight away acknowledge receipt and open up a file which has perforation for threading through. The files are kept in the office and are open to inspection by interested party on payment of the prescribed fee. We recover the fee and allow inspection, in my branch in my presence. When that has been done I take back the file and keep it in my office drawer under lock and key. In connection with the Elections I have a recollection about one or two people examining the Returns - I cannot say when they did so but I keep a record of such inspection. The receipt issued for the fee recovered will have the name of the person who had called to inspect. I could remember two inspections in regard to returns received but I cannot say from recollection which Returns were inspected. At the time of inspection there is no objection to a copy being made by the inspecting party. It is open to anybody to do so. I could recollect only one or two inspections but I cannot remember in respect of which Electorate or who the people were. The Kachcheri receipt issued for the fee recovered will show the Return of which Electorate was inspected and the name of the person who had made the inspection. I cannot say whether the Returns in respect of the Kandy Election was inspected or not. The inspections I referred to was not within the last month or two. In my absence another officer might allow inspection but I cannot say if that had happened. I am still doing that work. People

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were curious to find about Returns and I had told the candidates that Returns must be made within 30 days or that the deposit would be forfeited. When Returns are received that fact is Gazetted and we put up a notice at the Kachcheri under Section 71(1) of the Ceylon (Parliamentary Elections) Order in Council, 1946. that the Return relating to Election expenses of such and such a candidate at the Election, and the Declaration made in respect of such Returns were received on such a date and that such Returns and declarations can be inspected
10 on payment of a fee of One Rupee, at any time during Office hours at the Kachcheri during the six months next after publication of this notice in the Government Gazette. I cannot remember whether during last month any one inspected any Return. When certified copies are applied for, a clerk makes them out and I check them - thereafter they are certified by the O.A. or extra O.A. Two other persons have made entries in the Register - a large majority of entries are made by me. I cannot say whether Registers were sold to the candidates themselves. The 5th May entry in respect of Mrs. Illangaratne has been made by Subramaniam. On 14th May I had made
20 the entry. In respect of the sales to Mr. Senanayake on the 20th and 23rd May, the entries have been made by Subramaniam - the entries are in his hand writing. I was not in the Kandy Kachcheri when Mr. Illangaratne was said to have been working there.

Re-examined: If an application was made in writing for an Electoral Register, that letter would be in the file. There have been instances when we had received Telephone messages for Electoral Registers, followed by messengers
30 being sent for them without letters. We recover the money from the person who had telephoned to us by issuing a receipt in his name and taking the money from the Messenger. When an application personally calls, we put down his name on the receipt for payment. The tappal is opened by the peon

in the presence of the O.A. The O.A. then makes endorsements on each of the letters received - sorts and sends them to the various branches. (Shewn P1 to P15) These would have been sent to me on the day of receipt itself. (Shewn P21) This is the file cover I opened in respect of the return made by Mr. Senanayake. P22 is the acknowledgment sent to Mr. Senanayake on the 27th June 1952 (P.23) This is the notice posted up at the Kachcheri in respect of the receipt of the Return from Mr. Senanayake. This notice is put up at the Kachcheri in addition to the Gazette notification regarding the receipt of an Election Return of Expenses. The annexures to the Return of Mr. Senanayake have been numbered 1 - 13 that is done soon after receipt of Return. When I receive the Returns and annexures I keep them in my office drawer under lock and key. I affirm that P1. with annexures marked 1 - 13 are the same as those I received from the O.A. On 3rd July 1952, I issued P24, a certified copy of the Return made by Mr. Senanayake along with annexures numbered 1-13 Mr. Senanayake submitted 6 nomination papers.

No.	Name of Proposer	Name of Seconder
1.	Soysa, Warasahenidige Abraham Bastian, 331 Pol. Dis.N.	Ratwatte Suriyaratne Douglas, 122 Pol Dis. F.
2.	De Soysa, Jeronis Sylvester, 204. Pol.Dis.U.	Abeyagunawardane Veda Aratchige Victor. 458 Pol.Dis.E.
3.	Wimalasena Nandiri 99, Pol.Dis.A.	Coomaraswamy Nalattamby 101 Pol.Dis.J.
4.	Godamune Albert, 88 Pol.Dis.S.	Rajapakse Richards 448 Pol.Dis.B.
5.	Abeyasinghe Don Henry. 4 Pol.Dis.Q.	Mustapher S.M. 103 Pol.Dis.J.
6.	Jayasundera Cyril 598 Pol. Dis.M.	Rodrigo Gondaduwa Kalupana Aratchige Marshall.180 Pol.Dis.l.

Chitty (with permission of Court) I produce R.I.original entry relating to sale to Mrs. T.K. Illangaratne.

Illangaratne on 5.4.52. R2. is original entry relating to the sale to Mr. Senanayake on the same day. R.3. original entry re sale to Mr.T.B.A. Weerakoon on 9.4.52. R4 is the original entry relating to the sale to S.A.C.Mohideen on 9.5.52. R5. is the original entry of the sale to the same person on 21.4.52. R.6. is the original entry of the sale to T. Somasunderam on 24.4.52. R.7 is the original entry of the sale to Mrs.T.K.Illangaratne on 5.5.52. R.8 is the original of the sale to Mr.E.L. Senanayake on 19.5.52. R.9
10 is undated original entry of the sale to Mr.E.L.Senanayake. (Kachcheri receipt in respect of this last sale bears date 23.5.52 - a day before the Kandy Election). Except in respect of the last sale - Vide R.9. the date of sale in respect of other items have been shown. (Note: Kachcheri Receipt No. of the sale on the 20th May is 1499. While the Kachcheri Receipt No. of the sale on 23.5 is 1791 - this is brought to the notice of the witness by Counsel) Yes, those two
20 receipts have not borne serial numbers. I produce a certified copy of the entire Register showing the sale of Electoral Registers between the dates 5th April and 27.5.52, both dates inclusive. There is no letter calling for an Electoral Register by Mr. Senanayake in this file. If I had said earlier that there was one, it is a mistake.

Adjourned for the day.

D.B. Abeyesekera: Affirmed.

36 years, photographic artist, Proprietor of the Chitra Studio. Trincomalee St.Kandy. I have been summoned in this case to produce my account books, bill books, receipt books, order book and job registers. I have produced the books that are in my possession. I know a little English.

Q. What are the books that you have produced?

A. I have brought here the Cash Book and the Bill Book.

Q. Your Order Book?

A. My business is not such a big business to maintain an Order Book. I never had an order book. 10

Q. Job Register?

A. I look into the Cash Book and get particulars from it. I kept no job book.

Q. You are also summoned to produce photo blocks of Mr. Senanayake from which you made the badges?

A. I have brought the negative photo blocks.

Q. Have you brought the wooden photo blocks?

A. I did not make any such photo block.

Q. You made some badges? 20

A. Yes, I made only badges.

Q. How did you make the badges?

A. Mr. Dharmasena gave me photograph....

Q. Did I ask you about Dharmasena?

(To Court: Photograph of Mr. Senanayake)

Q. I asked you how did you make the badges?

A. First of all I made a design. Then I pasted the photograph of the party concerned and then we copy that with the aid of the camera. I brought the negative of that from which we printed the badges. 30

(Shown badges marked P25)

Q. Is this one of the badges printed by you?

A. Yes.

Q. How many badges like this did you print?

A. 1500 badges.

Q. How much did you charge for the 1500 badges?

A. Rs.500/-

Q. Have you got your cash book?

A. Yes.

10 Q. And your receipt books?

A. Yes.

I produce receipt book No.9 marked P26.

Q. In this receipt book P26 turn to the counterfoil of the receipt in respect of this payment?

Mr.Chitty objects to the question on the ground that it is not an original document.

Mr. Nadesan says a counterfoil is an original document.

Mr.Chitty says that a counterfoil is by no means an original document. A counterfoil of a cheque book is an original

20 document.

Mr. Nadesan reads Section 62 of the Evidence Ordinance and submits that the document is executed in counterpart.

He says that this is a receipt book from which receipts are issued and from the counterfoils entries are

made in the books. Section 62 explanation 2 is the part which applied to the passage in page 523 - Ameer Ali

according to which duplicates and triplicates are treated like originals.

Mr.Chitty objects for the simple reason that this is

30 secondary evidence according to Section 61, 62 and 63 of the Evidence Ordinance. He objects (1) on the ground that before a copy of document

can be produced notice to produce the original should be served. It is a copy within the meaning of the Evidence Ordinance. (2) On the ground that this is a document executed in part and in counterpart. That has got a special meaning. He further states that Bill of Ladings and Debentures are made in several copies which are signed by both parties in which case each copy will be an original. This document clearly comes within Section 63 sub-section 2 namely copy made by mechanical process. So that the real test is in making did the party 10 who was executing or writing it out make more than one original copy? That is the real test. A copy kept by a party for the purpose of converting it into an original cannot be produced. In the present case he has not seen the document and did not know the genuineness or otherwise of it. They had no such receipts. That is one danger that is sought to be created by production of secondary evidence.

Mr. Nadesan says that it may be recorded that the respondent never had such receipts. 20

Mr. Chitty: I have not yet seen the Originals. When my learned friend seeks to produce a copy I am entitled to say that he must produce the original. A further point I wish to make is that this is my learned friend's argument. This is a record preserved for his own and that since it is a record to that extent it is original. My submission is that the argument is entirely fallacious.

Mr. Nadesan says that he was not seeking to produce the counterfoil book as evidence of the contents of another document. He was not seeking to prove the contents of the original receipt. Receipts for payments are issued keeping a carbon copy and the carbon copy is maintained to enter up the day book. I can produce that Day Book which is an original Book. Counterfoil of a cheque book is an independent original document.

Mr. Chitty says that he objects on the additional ground
10 that the document is not even listed in the list of documents filed on 7th of November.

Mr. Nadesan says that is not correct for the reason that the witness was summoned to produce the various books.

Certified correct.

Stenographer S.C.

Mr. Chitty submits that the list of documents filed on the 7th November does not contain this document although the badge is a document listed. He further submits that this is a counterfoil it cannot be produced.

Mr.Nadesan: I am producing a receipt book.

I am emphasising the fact that this is a receipt book, a primary account-book which I have for purposes of my accounts.

If I produce this book and speak to an entry there, then that is corroborative evidence of my oral evidence. Section 34 of the evidence Ordinance deals with it. I am producing the counter-foil receipt book. I am concerned regarding the primary evidence for my guidance.

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This is not a document which I am producing as secondary evidence of the original, and it is for that reason I am producing that. These are books which I had to submit to income-tax department and for the purpose of auditing my accounts. There is nothing to prevent me from keeping an account in this way. Instead of making 2 entries I devise a way to make these entries I am not seeking to produce this receipt book as evidence of an original.

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I am only seeking to produce this as an account book which is in my possession. I am not seeking to produce the contents of an original given to the other side. There is not the slightest doubt that every receipt book is an account book as well. It is serially numbered and it is in a book form....There is no law

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which says how an account book should be kept. I am producing this as an account book to show that from these entries I have made the entries in my cash book.

Mr.Chitty does not want to press the point regarding the listing of documents.

Order

Mr. Nadesan seeks to produce through this witness a receipt book in which is contained a copy of a receipt said to have been issued to the respondent in acknowledgment of a sum of money paid by the respondent to the witness for some work said to have been done by the witness for the respondent.

Mr. Chitty, learned Counsel for the respondent, objects to the production of this receipt book, and the receipt
10 which is in the said receipt book, Mr. Chitty's argument is as follows: He says that Mr. Nadesan is seeking to prove by secondary evidence the contents of a document which was said to have been issued to the respondent. If a receipt has been issued, the original then would have been with the respondent. What is sought to be produced now is a carbon copy of the receipt which was issued to the respondent. The primary evidence is the said receipt itself and the carbon copy is the secondary evidence. Mr. Chitty cites Sections 62,63,64,65 and 66 of the Evidence
20 Ordinance. It is common ground that the respondent was not noticed to produce the original receipt.

Mr. Nadesan on the other hand argues that he is not seeking to produce the carbon copy of the receipt that the witness issued to the respondent, but that he is only seeking to produce that carbon copy as a record made by the witness from which his book or books were posted. He says that document is in the nature of an account book as far as the witness is concerned; but one has to consider the implication of the admission of the document. Mr. Nadesan
30 concedes that according to the procedure laid down in Section 65 of the Evidence Ordinance, if he sought to produce the carbon copy of the receipt issued to the respondent he should have noticed him (respondent) to produce the original. If Mr. Nadesan does not want to

produce this document as a copy of a receipt issued to the respondent he could produce his other books for whatever they are worth to show that the witness received certain payments for something that was sold to the respondent or some service rendered, to the respondent. Any carbon copy maintained by the person who issued the original certainly may be considered a memorandum or an account of some money dealings between himself and the person to whom the said receipt is issued, but if one allows a document of this type to go in that would amount to circumventing the provisions sections 62,63,64,65 and 66 of the Evidence Ordinance. 10

I, therefore, hold that this document which is sought to be produced is secondary evidence and the respondent has not been given the notice required by section 66 before this document could have been produced.

The objection raised is upheld, and the document is rejected.

Sgd. H.A.de Silva

Puisne Justice.

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At this stage Mr. Nadesan moves that the Court may be pleased to allow this document to be admitted under the provisions of Section 66 of the Evidence Ordinance, and he urges reasons in support.

Order:

After I made the above order Mr. Nadesan moves that the Court do use its discretion and allow this document which is now ruled out to be admitted. In support of that application he cites section 66 of the Evidence Ordinance, Section 66 provides that "secondary evidence of the contents of the documents referred to in section 65, sub section (1) shall not be given unless the party proposing to give such secondary evidence has previously
10 given to the party in whose possession or power the document is, or to his proctor, such notice to produce it as is prescribed by law; and if no notice is prescribed by law, then such notice as the Court considers reasonable under the circumstances of the case; provided that such notice shall not be required in order to render secondary evidence admissible in any of the following cases, or in any other case in which the Court thinks fit to dispense with it".

Mr. Nadesan in pursuance of the provisions contained
20 in section 66 applies that the Court do dispense with the requirements contained in this section 66 and allow the secondary evidence of this document to be produced. I have already made order rejecting this document for the reasons given. I see no reason in this case - and Mr. Nadesan has not been able to urge to my satisfaction as to why I should exercise my discretion - to allow this document to be admitted.

Sgd. H.A.de Silva

Puisne Justice.

(Examination of Mr. Abeyesekera continued)

I produce my cash book marked P26 which includes the payments received by me for the badges. On page 16 of this book there is an entry regarding the badges. This is my cash book, and all the cash entries are in this book which regularly entered in the ordinary course of business.

There is an entry on that page under date, 22nd May 1952, in respect of a sum of Rs.350/- as received by me from E.L.Senanayake. That entry reads thus :-

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"E.L. Senanayake receipt No.866, received Rs. 350/-"

(That particular page is marked P26(a)- page 16) That payment was in respect of 1000 badges.

The next entry is at page 22 of the Cash book under date 23rd June 1952, bill No.974 received Rs.150- from E.L.Senanayake for 500 badges.

(Page 22 of the cash book is marked P26(b))

.....

1.30 p.m. adjourned for lunch.

(Proceedings after luncheon interval)

D.B. Abeysekera: reaffirmed

Examination (Contd) Each of the pages of this Cash book contains a number of columns. The first column is for the name of person making payment - the second column is for the number of the bill covering that payment, the 3rd Column, what is described as the Studio Column, issued to enter advances. The 4th Column is headed Amateur - when roll films are given, developed and printed, particulars of such are entered in that 10 Column (column4). The last column contains total in respect of each item. What is now marked as P26A in P26 is the payment in full in respect of the item indicated in that line payment in full for that particular job. The full sum due in respect of the badges made by us was Rs.525/- out of this Rs.350/- was paid first and in respect of the later delivery I accepted Rs.150/- instead of Rs.175/-. The first thousand badges were supplied two days before the election. The balance was supplied a month after (or is it you supplied the balance earlier and received payments a month after in respect of it?)

20 The Election took place on 24th June, no 24th May. I gave the second batch of badges on the day before, viz, 23rd May, 1952 I made delivery of the first batch of badges at 5.30 p.m. on 22nd May. No, I made first delivery on 23rd & 2nd delivery later that day. I was given the order for 1000 badges on the 15th May. I completed the work and made delivery on the 23rd. I gave the balance next morning as I was pressed for delivery stating they were urgently required. I delivered 1000 badges at my studio to Dharmasena, our Ward member. The respondent is also a member of the Municipal Council. I cannot say definitely whom Dharmasena

30 supported. I can say that Dharmasena was associated with respondent in respect of the elections. I cannot say in detail what Dharmasena was doing in association with respondent. It was Dharmasena who entrusted the work of turning out badges to me.

Dharmasena

was at our Polling Station - Mapanawatura. He was wearing one of the badges I had prepared. He was there at the polling booth but I did not see him doing anything in particular. He is one of the chief men of our place and I saw him at the polling booth. About two days before election day I saw the respondent's booth being put up - I pass that way every day on my way to and from my studio I saw Dharmasena in that polling booth. I went to the polling booth - as election is by secret ballot I am not prepared to say for whom I voted. I did not work for any candidate. I cannot say whether respondent visited my house in my absence but I did not see him going about canvassing near about my house. My name does not appear in the list of that voting division - I had been put down as a person in my studio (living there). I know Mrs. Illangaratne. I am unable to say whether she had visited my house in my absence. I return home daily at 9 p.m. Neither Mrs. Illangaratne nor Mr. Senanayake came to my studio in connection with the election - to canvass for my vote. Yesterday I saw Dharmasena come up to the Court passing the place where I was seated - he came with two others whom I did not know. Dharmasena passed me but he did not speak to me. I did not see him with the respondent yesterday. When they were lecturing I saw them together. I mean at meetings. I saw Dharmasena and respondent together. No, I did not see them together - these two gentlemen were at the meeting. The meetings were in support of Mr. Senanayake. I only saw them present at the meeting at Mahaiyawa - I cannot now remember who the speakers were at the meeting. I heard Mr. Senanayake speaking - a person called "Sarap" was the other speaker. I went at the tail end of the meeting and only heard these two speak. I did not take the photograph appearing in the badge. The photograph of the respondent is encircled by a wheel - Dharmasena asked me to do that, the wheel is the respondent's election

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symbol.

Cross-examined.

Q. You said in answer to my learned friend that Dharmasena came and placed the order for certain badges?

A. Yes, that is true.

Q. Mr. Dharmasena paid for them?

A. Yes.

The entries in the book P26 were made by my clerk. Mr. Dharmasena gave me the photograph to make the badge. The design was given by him. I have the design and the photograph. I made the design according to the instructions given by Dharmasena. I produce it - R11. The writing at the back of it is in the handwriting of Dharmasena - translated it reads "Abeysekera, make thousand small badges as early as possible". It is initialled and dated by Dharmasena - A.A.D.15.5.52. The design is in Indian ink. The photograph given to me was a square photograph and I cut out a circle. No negative was given. I am unable to say if the photograph was the original or a photograph of a photograph. I showed the design to Dharmasena; he approved it and took away design and paper. This is the identical photograph given by Dharmasena - I took a negative of it. The tear appearing is due to this design having been put in the file - after completion of a work I preserve the design. I fixed the price for the work by discussion between Dharmasena and myself. The clerk makes the entry on my instructions. The receipts were made out in Mr. Senanayake's favour as the work was for Mr. Senanayake, it was a badge of Mr. Senanayake and I got the entry made thus for easy reference - for easy identification. I assumed that the work was for Mr. Senanayake although Mr. Dharmasena placed the order. That was the first order by Mr. Dharmasena on behalf of Mr. Senanayake since I opened my studio. I had done work for

Mr. Dharmasena - big designs - placards in connection with his candidature for Municipal Seat - I had painted his photograph and made postures - work done by other people for him was shown to me. I had never made badges for Mr. Dharmasena in connection with his candidature for Municipal seat. For the purpose of making the badges produced, Mr. Dharmasena showed me a design, something like this of a badge made in connection with his consent for Municipal seat. In his badge there was an elephant in the background and his photograph in the centre - that badge had been made in respect of a Municipal election Mr. Dharmasena had contested. Mr. Dharmasena asked me for a reduction of Rs.25/- in respect of the badges I had prepared for the Kandy election and I agreed as he was a customer. In short I had no transaction with respondent over this matter.

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Re-examined I did not give any instructions to respondent or his proctor regarding the evidence I was to give here. The entry regarding payment of Rs.350/- was made on my instructions by my clerk. His name is Wickremesinghe. There is the entry in the bill book (receipt book) and in the evening according to the entry in the bill book the Clerk made entries in P26. Entries in P26 are made from bill book. The bill books are in Court. In respect of each entry corresponding No of bill is entered in the cash book P26. I gave a receipt for payment on 22nd May in favour of Mr. Senanayake. Mr. Dharmasena did not protest to the receipt having been made out in favour of Mr. Senanayake. As I gave it, he put it in his pocket and left. He did not look at the receipt. On the second occasion too I gave the receipt to him in favour of Mr. Senanayake. He said nothing, took the receipt and went away.

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S.T.L.de S.Sugathapala - Affirmed

Examined - I am the Chief Clerk of Education Office,

Kandy. I remember the last general election. It is usual for candidates to book Government School premises in respect of their meetings - payment has to be made - Rs.10/- as security deposit and payment at the rate of Rs.5/- for every two hours a place is used for such meetings. In respect of the candidature of E.L.Senanayake for the Kandy Seat Nuwara Bowela School Kandy was booked for the 8th May 1952. That was the only meeting held there. The usual security deposit and Rs.5/- for two 10 hours use of the premises were made and Kachcheri receipts were produced S.T.P. Harasagama booked the premises on that occasion. I produce the receipts for or in respect of the 2 deposits. P27 is for Rs.10/- and P28 is for the Rs.5/- I produce the application made dated 7th May 1952. (It is provisionally marked P29 subject to proof of agency) one M.A.Peries booked the Kotawela Government School premises for a political meeting on the 12th May. I have no other letters asking for permission to hold any meeting at any Government School premises in respect of the candidature 20 of Mr. Senanayake. In respect of booking by M.A.Peries payments were made. The security deposit receipt was returned to obtain re-payment as no damage had been done. I produce the deposit receipt for Rs.5/- in respect of that booking - P31.

Cross examined: I cannot identify the signature of Harasagama and Peries. All that I could say is that their names appear on the two letters. I could only say that these receipts are in the names of two persons but I cannot say to whom they were given. P29 states that the meeting 30 was in respect of the candidature of Mr. Senanayake. I was not present at the meeting. In respect of the sum of Rs.10/- deposited to cover any damage, I am not aware of any damage in respect of the meeting of the 8th May. I saw both applications and being handed to the O.A. and they were

passed on to me. The Kachcheri receipts are issued by the Shroff of the Kandy Kachcheri.

Re-examined: In regard to P30 some one came and handed it over but I cannot say who it was. (P30 provisionally marked subject to proof of agency).

P. Hettiaratchi - Affirmed.

Land Clerk, Kandy Municipality. I remember the Last General Elections. Municipal playgrounds were rented out to various candidates for the purpose of holding their meetings. The Municipality issued permits in respect of those meetings. The Municipality rented out on 3rd May Dungolla playgrounds; 13th May Market Grounds; 16th May Suduhampola Playgrounds; 14th May Deiyannawela Playgrounds; 20th May Market Grounds; 22nd
10 May Market Grounds; 23rd May Bogambara Grounds. On 3rd May the permit was issued in the name of S.T.S. Harasgama. I do not know how Mr. Harasgama is related to Mr. Senanayake. A fee of Rs.5/- was charged for the use of each playground. I produce marked P32 letter dated 7th May purporting to have been sent by S.T.S. Harasgama: it is an application for the meeting to be held on the 13th May on the Market Grounds (see note below) I produce marked P33 letter dated 7th May being application for the meeting held at Suduhampola on 16th May. I
20 produce marked P34 letter dated 7th May in respect of the meeting held on the 14th of May at Deiyannawela. I produce marked P35 letter dated 9th May for the meeting held on the market grounds on 20th May. I produce marked P36 letter dated 10th May in respect of the meeting held on 22nd May on the market grounds. (The above documents P32 - P36 are marked provisionally subject to a proof of agency). In respect of the meeting of 23rd May the application purported to be by Mr.E.L.Senanayake over the telephone. That was not an application by Mr.Harasgama
30 On that day the

the ground was not available. Mr. Senanayake rang up the Commissioner Mr. de Lanerolle and the latter made a minute which I produce - P37. I produce marked P37 Minute made by the Municipal Commissioner on 15th May 1952. This shows Mr. Senanayake had applied for the market grounds or Bogambara grounds. In respect of the meeting on the market grounds on 18th May this application was originally made by Mrs. Illangaratne. She withdrew the application and Mr. A. Wijewardene, President of the U.N.P. Youth League made an application subsequently to use the Market Ground - that application I produce marked P38 (This production is also provisionally marked subject to proof of agency)

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Adjourned for the day.

Kandy Election Petition.

12th November 1952

11 to 12.30 p.m.

Same Counsel as before.

P.Hettiaratchi: Re-affirmed.

(Examination in chief by Mr. Stanley de Zoysa
in the absence of Mr. Nadesan.

In regard to these meetings payments were made
at Rs.5/- for meeting except for Bogambara Grounds
for which Rs.7/50 was the charge. Payments were
made for the meetings held at the different places

10 on various dates as follows :-

3rd May 1952, at Dangolla Receipt No.3135 payment
made by Mr. Senanayake amount to Rs.5/- (P39a)

I produce the Receipt Book marked P39.

On 13th May at Market Grounds, Receipt No.3178
payment made by Harasgama Rs. 5/- (P39b)

On 16th May at Suduhumpola Grounds payment made by
Harasgama, Receipt No. 3179 Rs.5/- P39(c)

On 14th May Deiyannawela Playground payment made by
Harasgama, Receipt No. 3180 Rs. 5/- P39(d)

20 On 20th May at Market Grounds payment made by
Harasgama, Receipt No.3152 Rs. 5/- P39(e)

On 22nd May at Market Grounds payment made by
Harasgama, Receipt No.3177 Rs. 5/- P39(f)

On 23rd May at Bogambara payment made by Harasgama
Receipt No.3711 Rs. 7/50 P39(g)

These receipts are made out by my assistant in my
presence in favour of the person from whom the
money is received. With regard to these meetings
applications are made for use of electricity for

30 microphones but not in all cases. For 13th and
22nd meetings at Market Grounds Mr. Harasgama
paid Rs.10/- covered by one bill. For the meeting
on 20.5.52. at Market Ground payment of Rs.5/- has

been made by the Secretary of Youth League of the U.N.P. Mr. Harasgama booked the ground.

(Receipt books bearing carbon copies of receipts issued for monies received in respect of current supplies for the operation of microphones at meetings are marked P40 and P41).

For 13th and 22nd May meetings at Market Grounds receipt is marked P40(a) For 20th May meeting receipt on behalf of the Secretary Youth League for Rs.5/- is marked P42(a). On 23rd May meeting at Bogambara

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payment made by Harasgama for Rs.5/- is marked P41(b)

One has got to get the permission of the Municipality for the erection of a temporary shed or building within the Municipal Limits. On personal application

we allow such permits. We recover Rs. 5/- for use of the ground. For erection of temporary sheds on private grounds for a short period we do not charge

anything. We recovered from Mr. Senanayake Rs. 15/- in respect of a temporary shed at Brownrigg St. Hill

Street Junction for use on 24th. There are no receipts

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in favour of Mr. Harasgama. This receipt book is

marked P42. The receipt in favour of Mr. Senanayake

is marked P42(a). Mr. Harasgama referred to is

Mr.S.T.B. Harasgama, the Kandy Proctor. I do not know

whether he is the brother-in-law of the Mayor, the respondent.

Cross-examination by Mr.Chitty

Shortly before the Nomination Day the respondent Mr. Senanayake relinquished his duties as Mayor and did not resume duties till after the election He did not resign but he wrote to the Commissioner and the Deputy Mayor signed the papers and performed all the duties of Mr. Senanayake until after the election was over. I do not know whether the letters which I produce marked P32, P33, P34, P35, P36 and P38 were received by post or by messenger. On P32, P35 P36 and P38 I made a minute.

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for submission to the Commissioner for approval.

I did not attend the meetings. I do not know whether the meetings were held or not on the specified dates. I do not know the signatures on those letters. None of the receipts was in my handwriting nor was any of them signed by me. The original receipts were taken by those who made the payments. Whether these particular originals were taken away or not I cannot say. I made out a receipt on the information given in the application. The
10 receipt is always made out in the name of the applicant. P39(g) is the carbon copy of receipt Rs. 3711 dated 23rd May 1952. That is a receipt for No. 7/50 plus Rs.25/- as a deposit. Besides the carbon copies I have no other record, as to who got the original or what happened to the original I do not know. The application in regard to the meeting on 23rd May is in relation to Bogambara Grounds which is about 1/8th of a mile from the Market Grounds. Meetings are usually held at Market Grounds and a few at Bogambara. The minute of approval for the meeting on 15th May 1952
20 was made by Deputy Mayor Mr. Udurawana. According to this Mrs. Illangaratne had both the Market Ground and Bogambara Ground for the 24th of May 1952. I also produced counterfoil of receipt book P41(a). I do not know what happened to the original of it. So far as P38 is concerned I do not know the signature of the person who signed. It is purported to be signed by Wijeyewardene, President of the Youth League. He has asked for the use of the Market Ground. He does not say whether it is in support of anybody's candidature or what it is for. (Shown P38)
30 I made this minute. Mrs. Illangaratne does not want the Market Ground on 18th May. Having made that minute I put it up to the Commissioner and the Commissioner allowed the application of the U.N.P. Youth League President on 17th May. I do not know M.A. Peiris nor do I know the person named Wijeyewardene on P38. The Municipality is not concerned with the person who made the application

If it is for a lawful purpose the ground is given. All those grounds are open spaces except the Bogambara Pavilion.

Re-examination.

(As the two receipt books are marked P39. One is marked P39 a to F and the other P39(g). No acting Mayor was appointed. I do not know whether the Mayor applied and obtained leave of absence. The Mayor remained in office. The Deputy Mayor was duly authorised to act for the Mayor. All these documents I produce are official documents among the records of the Kandy Municipality. I have come here on summons to produce or caused to be produced these documents. These documents came from the custody of the Commissioner the Kandy Municipality. I have been authorised by him to produce these documents. 10

L.I.de Silva: Sworn.

Superintendent of Police, Central Province. According to methods adopted by Police during the General Elections, the officers covering these meetings were instructed to report to the respective Superintendents, who report to the Superintendent C.I.D. 20

Their reports included among other things a precis of the speeches made. (To Court: Unless in a very special circumstance they take down precis of speeches of all speakers. These records of election meetings are kept in pursuance of practice and not as a requirement of law. I received the following reports :- 30

3.5.52. meeting held at Dangolle Playground reported on by P.S. 1881 E. Ratnayake.

8.5.52. meeting held at Bowala reported on by

- P.S.1881 E. Ratnayake.
- 11.5.52. meeting held at Lewella reported on
by P.S.1881 E. Ratnayake.
- 12.5.52. meeting held at Kotawala Government
School reported on by S.I. Amarakoon
- 13.5.52 meeting held at Kandy Market Square
reported on by P.S. 1881 E. Ratnayake.
- 15.5.52 meeting held at Asgiriya Sub Post Box
Junction reported on by P.S.1881 E. Ratnayake
- 10 14.5.52 meeting held at Deiyanawila Playgrounds
reported on by P.S. 1881 E. Ratnayake.
- 18.5.52 meeting held at Ampitiya Siddhartha School,
reported on by P.S.2545 Banda.
- 18.5.52 meeting held at Hekawatte Tenichumbura
reported on by P.C. 3552 Allapitchai
- 18.5.52 meeting held at Market Square reported on
by S.I.Vincent Perera.
- 16.5.52 meeting held at Aruppola reported on by
P.C. 3552 Allupitchai.
- 20 16.5.52 meeting held at Suduhumpola Playground
reported on by P.S. 2545 Banda.
- 18.5.52 meeting held at Kosinna Temple reported on
by P.S.1725 Dissanayake.
- 19.5.52 meeting held at Talapitiya Uduwalla
reported on by P.C. 3552 Allapitchai
- 19.5.52 meeting held at Gurudeniya Barn reported on
by P.S.2545 Banda.
- 20.5.52 meeting held at Market Square reported on
by P.S.1881 E. Ratnayake.
- 30 21.5.52 meeting held at Asgiriya Post Box Junction
reported on by P.S. 2545 Banda.

With regard to meeting held on 19.5.52 the
signature of the person who reported is not clear
and to be cleared later.

22.5.52 meeting held at Market Square reported on
by P.S.1881 E. Ratnayake.

23.5.52 meeting held at Bogambara reported on by
P.S.2545 Banda.

All these are meetings held in connection with
General Elections 1952 in support of the candidature
of Mr.E.L.Senanayake for the Kandy Seat.

I have no report of the meeting held on 21.5.52,
at Buwelikande Motor Garage.

Certified correct

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Sgd/ M.N.Peiris

Stenographer. S.C.

- In respect of the use of Loud Speakers application were made for the following dates:-
- 3rd May - Mr. Senanayake applied for use of same between 3 and 6.30 p.m. at Dangolla Play grounds. The application has been signed by Senanayake.
- 6th May - Application signed by S.T.B. Harasgama for use of same at Bowela Play Ground from 4 to 6 p.m.
- 10 11th May - The same applicant for use of same at Lewella.
- 13th May - For use at Market Square - permit not issued.
- 12-22nd May Application signed by Harasgama for advertising Meetings in connection with Parliamentary Elections - Permit given for Jeep C.L.3141.
- 12th May - Application by M.A. Peries of Kotawela.
- 13th May - Application by Harasgama for permit for same on (1) Market Ground 13/5 (2) Deiyana-wela Play Ground 14/5. (3) Suduhampola Play Ground, 16/5, (4) Aruppola Kamata of Mr. Uyanwatte 16/5.
- 20 17th May - Application by E.L. Senanayake for permit for use of same at Sri Rahula College ground.
- 18th May - Application by S.T.B.Harasgama for permit for use of same at the Sidhatha School. Ampitiya.;
- 30 19th May - Permit issued to B.A.D. Appuhamy for use of same at Talapitiya.
- 21st May - Permit issued to S.D. Samarasinghe for use of same at Asgiriya Post Box Junction.
- 22nd May - Permit issued to E.L.Senanayake for use

of same at the Kandy Market Ground.

Permits are issued in the name of the applicants. Mr.F.S. Schrenguival was the Superintendent then at Kandy. I have no papers hereto show who were the Police Officers on duty in respect of the Kandy Election, but those attached to a station would have been on duty within that area. B.A.D. Appuhamy had applied in person at Talatu Oya to the Sub Inspector. On the 23rd May there was an application by Mr.J.E.Senanayake on behalf of E.L.Senanayake but no permit was issued. The Office of the Superintendent of Police issue permits. I was not at Kandy at that time. 10

Cross-examined: Mostly men attached to the Special Branch with a special training are sent out to cover meetings. P.S. 1881 Ratnayake, P.S. 2145 Banda and S.I. Vincent Perera belonged to the Special Branch. They had had previous experience. They are told as to what should be reported, e.g. seditious speeches, and references to Government Policy. They had to make a brief note of the speech. They had also to make a note of grossly offensive speech, or what may cause on the spot a breach of the peace. A report of a meeting must reach the S.P. Central Province within 24 hours 20 and the latter must forward it to the C.I.D. within the next 24 hours. The report of the Goorudeniya Meeting is in Sinhalese. Most of the reports contain a precis of the speeches in English. It is not the practice to collect leaflets but I do not know if my predecessor had instructed that to be done. There are leaflets attached to the reports - attached to reports of various meetings pamphlets collected appear. These documents would have come into the custody of the S.P. within 24 hours of a meeting. Thus in respect of meetings between the 3rd May and the 23rd 30 of May some of the pamphlets issued had come into my custody there are about 25 here and they were attached to reports of respective meetings - some of them bear the signature

of the officer who collected them. (Note: It is understood that the production of any of these pamphlets cannot be considered proved unless the particular officer who collected each one of them is called. The 25 pamphlets I referred to are those which had been collected at the various meetings by some of the various officers. Pamphlets had been distributed at meetings held in support of Mr. Senanayake - some are in English and some in Sinhalese and one in Tamil. There are no translations in my file. The last pamphlet collected was on 10 20th May. There was one collected on the 22nd and one on the 23rd. There is no record of any pamphlets collected on the 24th and 25th May - nor is there any complaint of pamphlets distributed on those two days. I have brought here complaints made during that period in regard to Elections. Between 3rd and 23rd May there were 20 meetings held in support of Mr. Senanayake according to the reports. In respect of the same period, I have 14 reports of meetings held in support of Mrs. Illangaratne. In regard to the issue of permits for the use of Loud Speakers, it is entirely within the discretion 20 of the Gazetted Officer of a district. If application is made for permit to use a Loud Speaker in respect of a Political Meeting it is usually allowed unless there is the possibility of a breach of the peace. The Police issue permits for the use of P.A. System of (Loud Speakers) Only if conditions of the issue of a permit had been violated we would seize the Loud Speaker and then examine it - otherwise not. Loud Speakers cannot be used on any vehicle in motion or at main junctions. Once we have been satisfied that a site had been granted, we issue a permit.

30 Re-examined There is a complaint on 13.5.52. by Albert Konkage and it had been recorded by Acting Sub Inspector Silva (P.S.694)

Adjourned

Proceedings after Luncheon Interval

November 12, 1952.

G.W.Silva, affirmed.

Examined: Sub Inspector of Police, Kandy. On 13th May 1952 I was attached to the Kandy Police Station. On that day J.A. Konkage made a complaint which I recorded. I cannot recollect if there was a meeting that day at Market Ground (Square) (witness reads complaint - P43) If Mrs. Illangaratne was the candidate in the previous Parliamentary Election, the reference to the insult was a reference to insult to her by what was complained of. I was not aware that she contested Mr. A.C.L. Ratwatte but she was the Member for Kandy at the time Parliament was dissolved. On 24th May, I think, I was on duty at the Police Station. The complaint was made in Sinhalese. The term "false vote" which I had used was referred to by the complainant as "Hora Chande". I had no opportunity of going out on the 24th May. The whole of that week I was on Station duty.

Cross examined: The meeting referred to was covered by the Police - it may have been. I did not check Police Report to see if allegation made was true. The copy of the complaint was sent to the S.P. for action. The time of the complaint was 8.15 p.m. The meeting was said to have been at 5.30 p.m.

Re-examined: Nil

Samarakoon Mudiyanseelage Heen Banda, affirmed

Examined. 52, P.S. 2545 Kandy. I am attached to the Special Branch. That branch covered the meetings before the Election. I was a member of it. I was asked to report the substance of the speeches in a general way. If there were attempts to make speeches to overthrow Government we were asked to report - any reference to the Courts - contempt of Court, any statement calculated to cause a breach of the peace - in respect of the last item I mean something that would start off a row. I made such records and submitted reports to S.P.

I have here 5 reports of 5 meetings. I had also been asked to collect and forward hand bills and pamphlets - I had done so in certain instances. The first meeting I covered was of 16th May at Suduhampola - it was a meeting in support of the candidature of Mr. Senanayake. There were 300 people assembled. There was a Loud Speaker. Mr. Fred de Silva presided and spoke at that meeting. Mr. Senanayake spoke. One Mr. J.R. Ranasinghe H.B. Uduruwana M.M.C. D. Ramanayake (Petition Drawer) also spoke. Ramanayake is fairly well known and he used to speak at every meeting of the U.N.P. I do not know if he had any connection with Goonesinghe's Labour Party. One Wilson also spoke D. Pinto also spoke - I do not know who he is - he, I am told lives at Bogodawatte. I have seen Pinto before that day, Pinto lives in that area. T. Kurupane, A. Vedamahatmaya, who has a dispensary and who lives there i.e. at Trincomalee St. spoke.....

2.45 p.m.

The place where the meeting was held was decorated with posters and flags. On that date I did not collect any handbills. A Malay Lady called Hadji Beebee also spoke at that meeting. I produce marked P44 my report of that meeting.

The next meeting that I covered was held at Ampitiya School on 18.5.52 and it was presided over by Mr. Warakaula. The speakers at that meeting were Messrs. W.H.Peiris, Wimalasuriya, Dissanayake, K.B.Karunartne, E.L. Senanayake Romanis Perera, Shanti Sewa, William Fernando and Collin Wickramatunga. I collected one handbill at that meeting and I produce it marked P45(a). P45 is the report I have made regarding that meeting. I knew Mr.Warakaula generally. He was a Government Servant and how he is in retirement. Prior to that I had not seen him speaking at any meetings. Rajapakse is the V.C. Chairman of Ampitiya. I know that he was present at the meeting. I do not know anything about Wimalasuriya. W.H.Peries is a School Master at Ampitiya. My impression is that Dissanayake is a V.C. member at Ampitiya. I do not know Karunaratne. I know a little about Romanis Perera who is a petty trader. I do not know Shanti Dewa. I know Mr.Collin Wickramatunga who took part in the election campaign. He spoke at several meetings in support of Mr.Senanayake. I do not know whether he is related to Mr.Fred Silva. Mr.George E. de Silva who is now dead was the father of Fred de Silva. George de Silva was a Proctor and he had an office and it is in that office that Mr. Wickramatunga is working. I do not know in what capacity he works there. Messrs.George de Silva and Fred de Silva both contested Kandy Seat. There was a loud speaker at Ampitiya meeting. Romanis Perera is a hawker of medicinal oils and other ayurvedic medicines.

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Then I covered the meeting held at Gurudeniya which was presided over by Mr.A.C.L.Ratwatte.The following persons including Mr. Ratwatte spoke. Messrs. Kirinde, A.G.Banda, P.Gunawardene, Ramanayake, E.L. Senanayake A.C.L.Ratwatte and a lady. She was one J.P. Podihamy. She spoke on behalf of the Lanka Mahila Samithiya. There was a branch in Kandy. She spoke on behalf of the Samithiya (Mr.Chitty states that it is not a branch of the Lanka Mahila Samithiya, but that it is Mahila Samithiya of that village). There was no pamphlet distributed at that
10 meeting. I produce my report of that meeting held on 19.5.52. at Gurudeniya marked P46. This Ramanayake who spoke at this meeting is the person who has spoken at the other meeting as well. Mr.A.C.L.Ratwatte is one of the persons who contested the Kandy Seat on a previous occasion. Mr.Ramanayake referred to an incident alleged to have occurred when Mr.N.M.Perera spoke at the Ruanwella electorate. The allegation was that when Mr.Perera was speaking the amplifier was struck by lightning. I cannot say whether there was any pamphlet distributed regarding
20 this incident. I am not aware of any.

The other meeting was at Asgiriya near the post-box, and it was held on 21.5.52. On that occasion Mr. Ratnayake presided - no, Mr.U. Ekanayake presided at the meeting. The speakers were Messrs. Harischandra, K.P.S.Amerasekera, K.B.Senaratne, K.Edmund,U.B.Ekanayake D. Ramanayake, H.W.Kirinde and Kahapola. I do not know personally whether Mr.Amerasekera is a teacher at Dharmaraja College. Kahapola is a resident in the town, but I do not know him personally. Ramanayake is that same person about
30 whom I spoke earlier. I produce marked P47 my report of that meeting. I collected two pamphlets that day. I produce them marked P47A and P47B. There was a loud-speaker and the place was decorated with flags and posters.

The next meeting was at Bogambara Park and it was held on the 23rd May 1952. They expected Mr. Dudley Senanayake the Prime Minister, to preside. Several proposals were made and finally Mr. A. Ratnayake was elected to the chair. That is the present Minister of Home Affairs. At that meeting the speakers were, Messrs. A. Ratnayake, Dudley Senanayake, Mushoor, E. L. Senanayake, A. Godamune and W. A. B. Soysa. I produce marked P48 my report of that meeting. This meeting was very widely attended as the Prime Minister was there to address.

There were good amount of placards and flags and the place was decorated with them. I cannot remember the posters that I noticed. There were posters but I cannot say definitely whether this identical poster shown to me was there. There were posters similar to it - this may have been there. I collected one pamphlet at the meeting. P48A I think this pamphlet has got mixed up - it could not have been at this meeting. There was a loud speaker at this meeting. I was not on duty on the polling date.

Cross examined

Q. While these meetings are on people came to the platform and the people who take the chair changes and you do not record that? 20

A. No.

Q. By reference to your note in regard to any particular note you cannot say at what time any particular speaker came in and left?

A. No.

Q. The person apparently occupying the chair quite often change?

A. Yes. 30

Q. About these matters you made no note?

A. I made no note. I make a note of the fact of the person occupying the chair when the meeting commences.

At some meetings there were Platforms, and at some other places the meetings were held in open grounds without Platforms.

They have a table and some people sit near or round the table and hold the meeting. The meeting held at Suduhumpola on 16.6.52 was held in open ground. That is the one presided by Mr. Fred de Silva at the outset. J. Ramana-yake was one of the persons who spoke at that meeting of Suduhumpola. If I do not know the name of the Speaker I question somebody nearby and obtain his name. Mr. Ramana-yake is not personally known to me. I do not know Wilson. I may have got his name from somebody present at the meeting and made a note. Ulpone is an Ayurvedic Physician

10 I covered the meeting held at Gurudeniya on 19.5.52. and at that meeting there were six speakers. The meeting was started at 4 p.m. and it was over at 6 p.m. I remain there till a meeting is over. The Ampitiya meeting was held on 18.5.52. It commenced at 4 p.m. and it terminated at 6.40 p.m. That is the meeting that took the longest time. Generally a meeting which started at 4 p.m. is over by 6.15 or 6.30 p.m. None of the meetings went on beyond 6.40 p.m. If there are complaints to be made they would not be known to me. If a complaint has to be made to the

20 Police, it is generally made to an officer in Uniform. I was not in uniform. The business of keeping order was the work of the Police officers in Uniform. Sometimes at these meetings I see people who are supporters of the other candidates being present, at the meetings held in support of a certain (other) candidate. I knew some of the people who worked for the candidates. Sometimes these persons supporting the candidate come in a procession when they hold a meeting. I cannot remember whether those people who came in the procession or the

30 others who come there individually wear badges. During the election campaign there was considerable amount of enthusiasm. That was during the greater part of the month of May. During that period I noticed symbols hung across the streets - umbrella and wheel.

I also saw these posters with these symbols hung upon the walls of boutiques and houses. Symbols of both candidates were hung up. I cannot remember whether the houses and boutiques were decorated in that area. During the last day or two of the election I was at the Police Station, but I used to go off and on to the town. On the election day I cannot say whether I went to the town on duty. I noticed symbols and posters hung on buses and cars. They were done before the election. I covered only those meetings particulars about which I have spoken to now. I have attended one or two meetings held in support of the candidature of Mrs. Illangaratne. One of those meetings was held at Gurathalawa, about a mile away from the place where the meeting was held in support of the candidature of Mr. Senanayake. I covered seven or eight meetings in all during the month of May, I think. I made a record regarding each meeting.

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Q. You were given either general or special instructions as to how you should take down notes at these meetings?

A. The necessary instructions were given in regard to these meetings at the commencement by the Chief Inspector, and the Sub-Inspector, Vincent Perera, who was in charge of our section.

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I cannot remember whether any other person gave us instructions. I had no previous experience about recording proceedings at election meetings. Ratnayake also was given instructions as to how he should cover these election meetings. We were given special instructions to record notes of any speech made which amounted to be seditious or libellous. In P45 I made a record regarding Mr. Rajapakse's speech because he had spoken against his own brother.

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Q. In the same way if there is a speech made attacking a candidate would you have made a record of that?

A. If it is a relevant thing or important thing I may record

If it is essential I would record it, not otherwise.

Q. Can you say why in this instance you recorded that this particular speaker called his brother a leftist?

A. As the speaker was making references to his own brother I thought it was important.

(At this stage Mr. Stanley de Zoya makes an application to recall the previous witness

Mr. Silva to question him on one point so that he may be discharged from further attendance.

Later it was decided that he would be called if

10 necessary on a subsequent date)

(Cross-examination continued)

On the 16th May I find that the 4th speaker was Mr. Senanayake. I make these notes according to the order in which these speeches are made. I cannot say when Mr. Senanayake came and when he left on that occasion, and it is so in regard to the other speakers. It so happens that a candidate comes to the meeting, addresses the meeting and goes away (Shown P47) - The meeting held at the post-box junction at Asgiriya. If the candidate did not attend the
20 meeting I would have made a note of it. On that occasion Mr. E. L. Senanayake did not speak. My recollection is that he attended the meeting on that occasion.

Q. Are you sure?

A. I think he came. He has not spoken at the meeting. I should have made a note of the fact that he was present and he did not address the meeting. Looking at the record I am unable to say whether he was present there or not.

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4.05 p.m.
Adjourned for the day

Certified correct.

Stenographer S.C.

Same Counsel as before.

S.M.H.Banda - Reaffirmed

(Cross examination by Mr. Chitty continues)

I collected the pamphlet distributed at the meeting. I was not concerned with whether they were in support of any party or candidate. I collected them for the purpose of the Police use. I attached these pamphlets to the typed copy of my report and forwarded to the Superintendent of the Police. These documents would have been normally in the hands of the Superintendent of the Police the day after. Whatever pamphlets or handbills that were distributed at the meetings I collected (Shown P47(b) Pamphlet with a picture of a man woman and child with a heading "Our Fate". This was also distributed at one of the meetings. The largest attended meeting was held at the Bogambara Grounds on 23rd May the day on which Mr. Dudley Senanayake and Mr. A. Ratnayake were to speak. That meeting was over at 6.15 p.m. The time noted on P48 is correct, similarly the times noted on all those reports. Every one of the meetings I attended was perfectly orderly. I did not collect any of the posters which were posted on to doors, vehicles, walls etc. I just observed them for identification. I merely saw them in passing. Today if I look at any poster I cannot say a similar poster was posted at a certain place. That applies to posters of both sides. There was such a party as Labour Party. I knew some of the members of that Party in Kandy. Now that party is not in existence. I think at

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the beginning of this year the activities of that party ceased. By that I mean they held no meetings. I cannot remember of any meeting organised by the Labour Party either by advertisements or Loud Speakers. I am aware of cars going about with loud speakers about the time of the elections. I saw one or two cars going about with loud speakers and symbols and posters or respective candidates. I have also noticed public vehicles like buses carrying posters and symbols right through the election campaign. On 10 the election day I was in charge of the ballot boxes at the Kachcheri day and night. I had no occasion to visit any of the polling booths on duty or out of curiosity. I know nothing of what had happened at any of the polling booths or their condition at that time. I had no interest in that matter.

Re-examination by Mr. Nadesan.

On the election day I saw cars of respective candidates with symbols flags and posters carrying voters. I took particular care to collect the 20 pamphlets that were distributed at the meetings. The Chairman of the Meeting introduced the speakers giving their names. I could hear them when the loud speaker is in order. Whatever notes I have taken down are particulars. I have heard when the loud speaker was in order. At some meetings the Chairman continued to the end but if he had any other business he would vacate and give the chair to another. At a meeting chairmen were not changed one after the other. At the Bogambara meeting 30 when Mr. Dudley Senanayake who was expected to preside did not arrive the chair was taken by Mr. A. Ratnayake. When Mr. Dudley Senanayake arrived later he was received but I do not know whether Mr. Ratnayake offered the chair to him. As far as

I can remember there was no change of chairman at any other meeting. In almost every meeting I covered the respondent Mr. E.L.Senanayake was present. My recollection is that he did not attend the Asgiriya Meeting.

P. Siyadore Perera - Affirmed

52 years, printer, residing at Kandy.

I carry on business under the name of Malini Printers, 11, King's Street, Kandy. I remember the last General Election Campaign. I printed a large number of posters and handbills in connection with that elections. I have been summoned to produce my job sheets and account books in connection with the printing I did in connection with the election. I have brought them here. 10

(Shown P49) This is one of the posters printed by me.

(Shown P50) Another poster printed by me.

(Shown P51) Another poster which has been printed by me.

(Shown P52) This is also printed by me.

(Shown P53) Another poster printed by me. 20

(Shown P54) Another poster that has been printed by me.

(Shown P55) This is a handbill which has been printed by me.

(Shown P56) This handbill dated 22nd May 1952 is printed by me.

(Shown P57) This is a handbill printed by me.

(Shown P58) This is also a handbill printed by me.

(Shown P59) This is a handbill printed by me.

(Shown P60) This handbill is also printed by me. 30

(Shown P61) This is a handbill printed by me.

(Shown P62) This handbill which is slightly torn at the top has also been printed by me

Mr. Chitty wishes it to be noted that the translations are annexed to each poster and these are the posters referred to in the particulars. Allowed.

(Shown P48(a)). This is also a handbill printed by me.

I have got their account books which show payments I received in respect of these posters and handbills. P49 the poster which states "Give your vote to Mr.E.L.Senanayake who comes from the Kandy Seat
10 as a U.N.P.Candidate" and giving his symbol and dated 24th May 1952, was paid for by Mr. Collin Wickremetunga. He paid for all the work done. He paid for all the handbills and posters. He paid by two instalments. I produce my Cash Book marked P64. That shows on page 57 (marked 64(a)) on the 9th of June 1952, Mr. Collin Wickremetunga paid a sum of Rs.275/- That was a part payment in respect of all these handbills and posters. On page 58 (marked P64(b)) on 23rd June Mr. Collin
20 Wickremetunga paid a sum of Rs. 351/50

Q. When did you come to know that Mr. Collin Wickremetunga supported Mr.E.L. Senanayake?

A. As he was working I knew that he was working for Mr. Senanayake.

Q. When did you come to know?

A. After he entrusted this work to me.

Q. That is during the election campaign?

A. Yes.

Mr. Collin Wickremetunga is employed in Mr.Fred de
30 Silva's office as a Clerk. Mr. Fred de Silva is today an Advocate. He was once a Proctor in Kandy. He was the person who contested the Kandy Seat once after his father was unseated. In respect

of all these posters and handbills it was Mr. Collin Wickremetunga who placed the orders. I have got the Manuscripts in respect of these posters and handbills and also the proof copies. I have got the order book. In respect of this poster P49 dated 24th May 1952 bearing the title "U.N.P. Candidate who has come for the Kandy Seat" I have the proof (marked P49(a)) which I am producing from my file. The endorsement on P49(a) looks like "L.B.Ratnayake" 500 sheets 3.5.52. A person came and looked at the proof. After Mr. Collin Wickremetunga placed the order somebody else came and read the proof. This is the signature of the man who read the proof. The manuscript of that identical poster is marked P49(b). Mr. Collin Wickremetunga has signed it and it was handed to me by him. This order refers to a number of pamphlets. As this order was placed with me by Mr. Collin Wickremetunga en block I included it along with other items. Mr. Collin Wickremetunga did not place an order for handbills, pamphlets and posters at one and the same time. He placed the orders at different times. Though he placed the orders at different times I made the entries on the same page. P50 is a poster which has the heading "Big floods come not from Mahaveli Ganga but from India", also bore the symbol of Mr. Senanayake. I have no proof copy of that poster but I have the manuscript. I produce that manuscript marked P50(a). This manuscript is signed by Mr. Collin Wickremetunga. (Shown P51) a poster with the photograph of Mr. Dudley Senanayake with the heading "Youngest Prime Minister of the world". I have no proof copy for that. I have no manuscript for that either

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There was proof copy for P51). It must have got lost. I must have dropped it somewhere. I brought that from Kandy. Now I find proof copies of P50 and p51 are missing. I think I did not bring the proof copies of these because I had the manuscripts. I produce the manuscripts of P51 marked P51(a). That manuscript is signed by Mr.Collin Wickremetunga.

Certified correct.

Stenographer S.C.

10. 12.15.C.35

12.15 p.m.

November 13, 1952.

P52 is an English poster with the statement "For Kandy wheel is the symbol" - there - that - is also the symbol of the respondent - the wheel. There is no proof copy of P52 - a proof copy has the initials and a note of the number of copies expected this proof copy was examined by me only. I produce marked P52(a) the manuscript of P52. It is signed by Colin Wickremetunga who has sent it to me - he did not write that out in my office. I know Collin Wickremetunga's signature and I identify it on this document
P52(a) The previous manuscript also contained his signatures 10
and I identify them as his signatures. P53 is a Sinhalese poster with the heading "Kandy wheel, Nations Chakraudiya. P53(a) which is side lined in blue is the manuscript of P53. Collin Wickremetunga has signed the document at the bottom after noting down a number of manuscript including P53(a) I identify his signature. P54 is a poster with the heading "Wheel brings Kandy from darkness to light". P54(a) is the manuscript of the poster P54. P53(a) and P54(a) appear on the same paper and had been signed by Collin Wickremetunga, whose signature I identify. P58 is a hand bill with the title. "The winning post of Mr.Senanayake, 20 the person who had come forward for the Kandy seat". The manuscript of P55 is P55(a). I also produce P55(b) - a letter signed by Collin Wickremetunga asking me to print this pamphlet. I identify his signature on it. Mr.Wickremetunga paid for it. P56 with the head line "A Message to the Buddhist from the High Priest" - the manuscript of it is not with me - (witness states so after a search among papers in the file he has in hand). Mr.C. Wickremetunga paid for it at the time he paid for the other posters &c. Before the Election the police did not circularize all printers to keep manuscript proofs &c. I know the provision re- 30 garding that matter in the Printers Ordinance. I attend to my work alone and the papers have got misplaced. The document P57 is a handbill with the head note "Kind notice". I have the proof

of it but not the manuscript. I received summons in this case - that mentioned item by item of what I should bring with me. I checked and brought what I had with me. When I made the check I found some items missing. I came in a hurry and therefore did not make a note of what was missing. I came on Sunday night - since Monday I have been in Colombo. I have just found the manuscript of P57 - I produce it marked P57(a). A letter was sent with P57(a) I produce it marked P57(b). P57(b) is a letter signed
10 by Collin Wickremetunga and I identify his signature. P58 is a pamphlet (in red) entitled "A special Message from the Ceylon Labour Union, Kandy Branch". I have the manuscript in respect of it - P58(a). It is signed by Collin Wickremetunga. The hand bill P59 has the title "A Public Meeting at Dangalla Round About of the United National Party - Candidate E.L.Senanayake". I produce the proof copy of it. When the manuscript and draft are sent and corrections are made in the proof (draft) the copy - manuscript copy - is not sometimes sent back. In respect of P59 Mr. Collin
20 Wickremetunga made the payment. I produce the manuscript in respect of P59 - P59(a). It is signed by Collin Wickremetunga and I identify his signature. P60 is a notice in Sinhalese and Tamil and refers to a mass meeting at Tennecumbura on the 18th of May 1952 to place the U.N.P. principles before the public and in support of the candidature of E.L.Senanayake. Collin Wickremetunga paid for it. The manuscript of P60 is not here. P61 is a notice announcing a meeting at Goodunediya on Monday 19th May 1952. in that it is stated it was to explain U.N.P.principles and to support the member (E.L.Senanayake)
30 Copy of proof of the same was returned but not the manuscript P62 is a notice announcing a meeting to support the candidature of E.L.Senanayake on 21.5.52. at 4.30 p.m. at Boowelikade Garage there too the U.N.P. principles were to be explained. I have a proof copy of P62 - P62(a).

I also produce P62(b) - manuscript of P62 signed by Collin Wickramatunga - I identify his signature. It (P62b) appears on the reverse of a proxy in which the name of Sri Wickrama Tikiri Banda Harasgama appears - that is marked P62(c) P63 is a notice in Sinhalese and Tamil announcing a Public Meeting on 16th May 1952 at Suddukhimpola Play Ground. I have the proof of it. I produce the Tamil portion of the proof P63(a) and it is signed by Collin Wickremetunga. I identify his signature. I have the proof in regard to the Sinhalese portion of it - the manuscript is not available. (Have you in your file a proof copy of a Sinhalese notice announcing a Public Meeting on 11th May 1952 at 10 a.m. at Lewella?) No. (Shown P65) This is a poster printed by me. I was not asked to produce the manuscript of it. Yes, I had been summoned to produce the hand bill published on the 8th May (The poster bears that date). I have no manuscript or proof of it. Mr.Collin Wickramatunga paid for the printing of it. I have no other proofs here (in my file) in regard to work done in May 1952 (Shewn P66) Orders are taken in books with arrangements for carbon copies of same. When an advance is paid I hand over the original. When payments are made I issue receipts. I produce my receipt book - P67 is receipt No.496 for Rs.606/50. This is the receipt book I used during that period. Mr.Wickramatunga asked for a receipt earlier and I said receipt would be given when complete payment had been made. He made payment on two occasions. He came to my office and wanted the receipt on the earlier occasion. No. He did not ask for a receipt when he made the earlier payment. On 23rd June he came and paid me the balance in my office. On that occasion - on both occasions he paid me in cash and I handed the receipt personally to Wickremetunga

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Adjourned

2.15 p.m.

November 13, 1952.

P.Siyadore Perera: Re-affirmed.

Examination (contd) (Shown P66) P66(a) contains on leaf No.3222 all the orders given by Wickremetunga. In respect of all other orders only an order given on a particular date would be entered under that date and it will include the name of the person giving that order. In this case I had deviated from that practice as it related to orders given by one person - the same person (though on different dates). In the case of any other person each of the orders under the date it was given would appear on a page. I did this for the sake of convenience.

10 (Shewn P66(b)). This refers to orders on 2nd May, 1952. Collin Wickremetunga's signature appears in the carbon copy - that name appears in P66(a) - that is to show that Mr.Collin Wickremetunga had given the order. I wrote down his name on the order. In P66(a) he signed at the bottom in respect of all the orders He sent the order duly signed by him on a piece of paper. I did not get his signature on that occasion. After I had fulfilled all his orders I got him to sign one order. P66(b) has the signature of Collin Wickremetunga. In respect of the first two orders there is a carbon impression. The order for 2000 hand

20 bills had been altered to 1500 without taking a carbon impression. Apart from those two orders, there are certain orders entered without use of carbon. That may have been through an omission (oversight). I got Mr. Wickramatunga to sign after all the orders had been entered. To get the signature carbon had been placed - I see on three occasions the carbon had been used and on other occasions that had been done owing to an omission. I got Collin Wickramatunga to sign on 2nd May when he gave the order for 1000 and 2000 notices his name and address. It is correct to say that I got his signature after all the orders had

30 been given. On the 2nd May I got the orders for 1000 and 2000 notices. Then I got his name and address and got him to sign. That is the signature which appears on P66(a) and P66(b). Subsequent to that he gave other orders on various dates. On

those dates I got his signature on the orders and not on the book. (shewn P49(b)). This is one of the orders signed by him. It does not show the amount agreed on for the work. In P66(b) the order shows the agreed amount. After printing the 1000 notices his signature was taken for the amount. (Shewn P67 - Bill No.496 (P67(a)). This shows Rs.696/50 as money paid P67(a). The very next order No.is 333 (P66c). It is an order for 500 posters and the address of the person giving the order is shewn as E.L.Senanayake, Esq. Kandy. It had been written by me. This is in regard to a Temple matter - marked P66(d). I am a very busy printer. I have a large volume of work to do. 10

During the Election I had a large number of posters &c. to print. I could yet remember that the 500 posters was in regard to a Temple matter - it was not in connection with the Election. They were printed in connection with the appointment of the Ammunayake. Mr.Senanayake paid for it. I have no proof of that notice here. I cannot say if any is available in my office. That appointment was made during the Election - that was on the 6th or 7th of May 1952. Each poster was of the foolscap size. That poster invited the public to be present at the presentation of the Letter of Appointment. The manuscript was 20

handed to me by Clerk Ekanayake - a clerk of the respondent. I am quite sure of that (Shewn order - Ekanayake scored off and the name of Ratnayake written) I think I put down the name of Ekanayake by mistake and when I was later told that it was Ratnayake, a clerk of Mr. Senanayake I made the correction...

2.55 p.m.

Q. In the carbon copy why have you cut off the name of Ekanayake and put down the name of Ratnayake?

A. I made a mistake when I put down the name of Ekanayake, then I was told that it ought to be Ratnayake, not Ekanayake.

Ratnayake is Mr. E.L. Senanayake's clerk. I may have printed other posters for Mr. Senanayake. In this book P66 there are no other orders of Mr. Senanayake. In respect of the work shown in P66 on 2nd May 1952 the payment was made about two weeks later. If an advance was given I would have
10 made a note of it in P66.

In book P64(c) as against 1st May 1952 there is an entry of a sum of Rs.50/- as having been received from Mr.E.L.Senanayake. That was in respect of some work done before 1st of May - that was also not in connection with election work. I was not asked just now whether it was in connection with election work. I volunteered that answer because, that is not one of the items included in that bill. I cannot say for what work that I received the sum of Rs. 50/-. It was not work done in connection
20 with the election work. I printed some notices in connection with the Uduwela meeting. I did not attend that meeting, and I do not know what that meeting was about - that was in connection with his (Senanayake) election. I remember that it was in connection with his election. Mr.Senanayake did not pay me in respect of those notices.

(Mr. Nadesan shows to the witness an item in P67, and Mr.Chitty objects to its admissibility, and after submission made by both Counsel His Lordship makes the following order)

Order. Mr.Nadesan, Learned Counsel for the Petitioner,
30 in the course of the examination of this witness sought to elicit from him an item of expenditure alleged to have been incurred by the respondent in

connection with some printing posters or something printed for a meeting said to have been held by the respondent at a place called Uduwela.

Mr. Chitty learned Counsel for the Respondent, objects to Mr. Nadesan questioning the witness on any expenditure alleged to have been incurred by him in respect of any printing done in connection with a meeting at Uduwela, on the ground that, when the Petitioner submitted his answers to the particulars required by the Respondent, he (Petitioner) failed to specify this item said to have been incurred in connection with printing for a meeting at Uduwela as one of the items of expenditure omitted in the return sent by the Respondent to the Returning Officer by way of expenses of printing.

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Mr. Chitty drew my attention to the replies filed under the heading "amount omitted" the following appears: To the cost of printing done at the Malini Printing Press, Kandy, viz. under this head 15 items are shown as having been done by the Malini Printing Press of which this witness is the proprietor or Manager. Now, these items have been specifically mentioned here. Mr. Chitty says that he has come in order to meet those items contained in the replies filed by the Petitioner and that any expenses incurred with regard to the printing for a meeting held at Uduwela is not shewn

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Mr. Nadesan says that he was not aware of the particular item of expenditure till today. He says it came to his knowledge whilst he was examining the document of this witness. I asked him the question whether he has any copies of printing, such as, posters, handbills, pamphlets, issued by the respondent in connection with this meeting at Uduwela and Mr. Nadesan says that he has not any.

So that it looks pretty obvious that this is not an item which the Petitioner came to discuss about today; it is a matter that came within the knowledge of Counsel, if I may say so, accidentally. This trial is conducted upon

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definite issue in the sense that parties have applied each other the items that are in issue. It is very fair that this should not be thrust upon Mr. Chitty's client at this stage and Mr. Nadesan very properly mentions to Court, in the course of his submission that he is not now pressing the question of the expenses alleged to have been incurred for any printing in connection with this Uduwela meeting.

In view of the reasons given by me and in view of the statements made by Mr. Nadesan, I order that no further questions should be put to this witness with regard to any printing expenses incurred in connection with the Uduwela meeting.

Sgd. H.A. de Silva

Puisne Justice.

Examination of the witness continued:-

In P56A as against the 2nd May 1952, the original order was for 1000 notices and then for 2000 notices - later 2000 was altered to 1500. On the 2nd occasion Mr. Collin Wickramatunge's order is on the very first page. Having written the first page entries were made on the other side. The entries on the other side were made on a date subsequent to the entry made on the first page of P66A. Mr. Collin Wickramatunge's orders for printing were in connection with election.

I have a bill book in which I have bills entered in respect of various items of printing done by me. I produce that bill book marked P68. There have been bills written out in the name of Mr. Collin Wickramatunga. The Bill that appears at page 63 of P68 (It is marked P68A) dated 14.5.52 was cancelled on a later occasion. As the work is completed I used to send the bill, and I had already sent three bills, to Mr. Wickramatunga. Then Mr. Wickramatunga wanted me to enter up all the items in one bill and send it to him. When I sent the last bill

I cancelled the earlier bills.

The very next bill appears on page 64 - P68B - dated 15.5.52.

Then the next one at page 65 - P68C- dated 17.5.52

At page 66 - P68D ; dated 19.5.52. That is the next bill.

Next bill at page 67 - P68E - dated 21.5.52.

Next and Last Bill at 68 - P68F - dated

The last bill contains all the items of all the previous bills. That bill was with regard to the printing done, by Mr.Collin Wickremetunga in connection with the Last Kandy Election. 10

The first entry is, poster - 500 - Rs. 50/- P.68A. They were posters printed for the Election.

P68B contains all the entries in P68A and an additional item. The first item appearing in P68A and P68B is the same. In P68A against the entry Rs.500/- is "posters ordered by Mr. Ratnayake." That Mr. Ratnayake is Mr.E.L. Senanayake's clerk. That order was given by Mr.Ratnayake who is Mr.E.L.Senanayake's Clerk, I have put down to Mr.Wickremetunga's account. I have done so by a mistake. 20

I make my bills from the order book. In P66A the first item is 1000 notices, the 2nd is 1000 notices, 3rd 500 notices, 4th 1000 notices - Deiyawela, and 5th 1000 notices - Asgiriya. Those five items do not appear in the other bill as well. Yes, they appear in the other bill apart from the entry, 500 posters. In P66A the other items appear in the same order as in P68A.

(Adjourned for the day)

Certified correct.

Stenographer S.C.

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Same Counsel as before.

Court: Mr. Nadesan points out that in yesterday's proceedings the marking P49 immediately after "this order" in line 17 of page 50 should be deleted as the order referred to is not marked P49.

Mr. Chitty has no objection. This order refers to a number of pamphlets.

Mr. Nadesan points out that at page 52
10 line 17 the word "poster" immediately after the word "one" should be post and not poster. Mr. Chitty agrees to the correction. I make that correction.

Mr. Nadesan points out that in page 57
line 13 Rs. 55/- should read Rs. 50/- Mr. Chitty agrees. I make the correction.

On same page line 20 Rs. 55/- appears again. Both Counsel agree that it should be Rs.50/- I make the correction.

P.S.Perera Re-affirmed.

20 (Examination in chief continues)

P68(f) is the final bill presented to Collin Wickremetunga at page 68 and 69 of this book P68. That final bill is for Rs. 606/50 dated 22nd May 1952. I made these entries from the order book P66. I am quite sure of that. The order book in question is this and no other. I made use of nothing else in order to prepare this bill. (Shown P66(a). There are only 23 separate orders and not 24. (Shown P68(f). This is my
30 bill to Mr. Collin Wickremetunga with 29 items. (Shown P66(a). This contains six times more than what appears in this order of Mr. Collin Wickremetunga. The very first item which appears in P68(f) is for

500 posters for a total sum of Rs.50/- and the name against that item is Ratnayake as the order was brought by Mr. Ratnayake. That Mr. Ratnayake is a Clerk of Mr. Senanayake the Respondent in this case. In the order book P66 (d) shows that 500 posters have been ordered by Mr.Senanayake on 2nd May 1952.

Q. It is that order which you find as the first entry in P66(F)?

A. No.

Q. Now show me then the order in respect of this 10
500 posters in your book?

A. (Witness shows the reverse of P66(a) as the entry referring to that and he underlines it in red. He reads that entry as "500" demy half Rs.50")

I am quite sure that is the entry.

{P68(f) Counsel marks in red against the item 21
"for 500 posters galf demy for Rs. 50/-)

Q. If that is the entry which appears against this red cross in P68(f), then the earlier entry of the order by Mr. Ratnayake does not appear for 500 20
posters for Rs.50.

A. That must be an omission.

Q. If this entry of 500 half demy Rs. 50/- which appears in P66(a) is the actual entry which has been marked by me with a red cross on the bill P68(f) then the first entry 500 posters ordered by Mr. Ratnayake for Rs.50/- does not find a place in this bill?

A. That is so.

I wrote P66(a) in order of dates. Immediately before 30
the entry "500 half demy Rs.50/- is the entry for 2000 posters foolscap half Rs.100/- and the entry after the entry which I have underlined in red in P66(a) is the entry for 500 posters 1/4th size Rs.20/-

Q. Now what do you say is the entry which I have marked in red cross 500 demy half Rs.50 on P68(f) the same as the entry which you have underlined in red 500 Demy half Rs.50/- on P68(a)?

A. Yes. There are entries which were not inserted in the order book.

Q. Are you now satisfied that the entry which I have marked in red in P68(f) 500 demy half Rs.50 is the entry corresponding to the entry 500 demy half Rs.50 which you have underlined
10 in red in P66(a). Is that the entry you re-produced in the bill book?

A. Yes.

Q. If that corresponds to this item then there must be some other item of 500 posters ordered by Mr. Ratnayake?

A. I received several orders for printing 500 posters but I cannot remember now how I have entered them.

Q. There must be therefore an item corresponding
20 to the first item in P68(f) of 500 posters in Collin Wickremetunge's order P66(a)?

A. Yes.

Q. Show me a single like item in P66(a) except the item of 500 posters half demy Rs.50/- which is underlined?

A. I may have omitted that by an oversight.

(Mr. Nadesan moves for permission to cross-examine this witness under section 154) The question is asked to be formulated.

Q. I put it to you that the first item in document P68(f) corresponds to the order appearing in P66(d) which also refers to 500 posters?

(Mr. Chitty. If that is the only question I do not object) allowed.

A. I cannot definitely say that after the lapse of so much time.

Q. Show me any other order for any 500 posters for Rs.50 apart from P66(d) an order which you have already underlined in red 500 posters for Rs.50/- ordered by Mr.Collin Wickremetunga?

A. I cannot find.

12.30 p.m. C.S.

Certified correct

Sgd. M.N.Peiris.

Steno S.C.

10

12.30 p.m.

November 14, 1952.

At page 66(a) of P.66 I made a number of entries of orders given by Collin Wickremetunga. There are certain entries I failed to enter this Order Book. I made entries in the Order Book as the orders were received. Sometimes orders were brought by Collin Wickremetunga; sometimes he sent them by persons who were there. Sometimes they bring letters. When 2 or 3 orders are received (had been received) I enter them but I cannot say whether I entered them in the
10 order in which they had been received - but I entered them irrespective of how the orders came my practise was to enter them in the order book - Sometimes I may make an omission. Some items appearing in the Bill book may not have been entered in the order book sometimes some orders may not be entered in the Order Book but entered in the Bill book The orders stated coming from the 2nd May - that is Collin Wickremetung's - but the Bill was prepared on the 22nd May I extracted the particulars for such entry from the
20 slips when such entries did not appear in the order book. I have not brought the slips. In some cases a proof is returned requesting alteration in date - that is not entered in the Order Book but an entry is made in the Bill Book (Shewn P68(b)). This is an order for 500 posters by Ratnayake. It is correctly entered. Ratnayake was the Clerk of the Respondent. (That is repeated in P68(c)?) When I sent the first bill the money was not sent and this is the second bill. (In answer to my question in regard to P68(b) did you say that the 500 posters were put down as an order from respondent as Ratnayake signed the proof?) That is so.
30 That order was sent by Collin Wickremetunge but I put down Ratnayake's name as he had signed the proof (Shewn P49(a)) This is the poster signed by Ratnayake. He had put down "500 sheets" and dated that entry 2.5.52. It was sent signed.

This order was entered by me on 2nd May 1952. I cannot identify Ratnayake's signature. P49(a) refers to half demy size. This order P66(a) is dated 2.5.52 - it is an order for 500 posters Demy half. Rs.50/- it is an order from Ekanayake. I had cut off the name 'Ekanayake' and put the name 'Ratnayake' instead. This order P66(a) was in connection with the celebrations had with regard to the appointment of the Annunayake. By stating so, I want to show that this order was in respect of a different matter other than the Kandy Election - I thought that the counsel had thought that this order was in connection with an Election Poster. In regard to P66(d) I had made a mistake as I knew the 10 two clerks, of Mr.E.L.Senanayake but did not know their correct names. I put down the name 'Ekanayake' and then asked for the name and corrected it. It is difficult to read the signature on P49 (a) I cannot say whether Ratnayake or Ekanayake had signed it. P49(a) is the first item on Bill P68(b). The name of Colin Wickramatunge in regard to the same item appears in P68(c). In P68 (b) and P68(c) the words 'order by Mr. Ratnayake' appear without those words being cut off. These are correct entries. In P68(f) the words "order by Mr. Ratnayake" have been cut out. It was done as the order was sent by Mr. Collin Wickremetunge. After I 20 presented the original Bills Mr. Collin Wickramatunge came and told me that the orders were placed by him and not by Ratnayake Then I made the correction. I left the word 'Ratnayake' to remain for my own information. I said yesterday that payment was made 2 weeks thereafter in connection with the posters printed on the appointment of the Annunayake Thero.

(Witness is handed P64) The order was on the 2nd of May - I had not received any advance - if I had not received any advance I would have kept P66(c). No payment was received on the 2nd of May. Payment was made a month after the order was 30 given. I point to the entry of the payment by the Rev. S. Gunaratne of Rs.50/- a priest came and handed the money but I do not know whether the payment was in respect of it.

I cannot

be accurate about it. The money was paid by Ratnayake, the clerk of Mr. Senanayake. I find difficulty to trace the item on this book as it had been written by my Clerk. I do not supervise the writing. I look into accounts once or twice a month. I could read the bills here (Witness voluntarily states I cannot clearly remember this payment having been made) I remember payment was made by a Buddhist priest or by Ratnayake. I cannot trace the entry of payment for this work (P64 handed to witness he reads entries in English with ease) I cannot find a payment
10 by Ratnayake or Senanayake in respect of payment for the 500 posters which I allege were printed in connection with the appointment of the Annunayake Thero. If the 500 posters referred to in P66(c) are the identical posters referred to in P66(F) that is if that is the item - payment had been received for them as it is included in the big bill. I cannot say when payment was made in regard to the posters for the Temple function - payment was made after some months. Mr. Senanayake is not a poor man but payments are made by his clerks. I sent out bill every month they were small bills. I only brought this Bill Book. The small
20 bill book is in my office. I was summoned in this case to produce A/c books Bill books, Receipt Books Order Books and Job Registers for the period 1951 (Nov) to 31st October 1952 and to produce the Pamphlets hand Bills posters badges and notices of meetings printed in connection with Parliamentary Election (General) for the Kandy Seat bearing reference to Mr. E. L. Senanayake and or his candidature and manuscripts containing the above &c. This is the bill book which has reference to work done in connection with the election So I brought this. In connection with the Kandy election there was no one who came and got one or two items of
30 work done. I worked entirely for Mr. Senanayake. At the completion of work I send out the bill. If a bill is not met I send Bills and go and remind them. It was Collin Wickremetunge who gave me the work of Mr. Senanayake. Money is received from Colin Wickremetunge or some other person. P64 is the Ledger. I produce my job register. These are the books I kept. (It is marked P69) There is an ordinary Day Book -

I did not bring it. It is a rough book containing expenditure. Entries in Ledger have to be posted from some other book. I got entries from the other book - the rough book - I get entries from rough book and order book. If a person is in debt I do not open a page for him in the ledger. I enter it in the receipt book. If a person owes money or is given credit I do not open a page for him in the ledger - such things are entered in the receipt book. Only the receipt and expenditure are entered in the rough day book. In respect of the order for which I charged Rs.50/- P56(c) that amount had been paid by Mr.Senanayake. Up to October 10 there is no entry in ledger that money had been received from Ratnayake or Senanayake in respect of the bill for the 500 hand bills printed in connection with the appointment of the Annunayake. I will have to verify it further as the entries have been made in this book by my clerk (witness directed to do so during the interval)

Adjourned

E.S.Perera: Re-affirmed.

Examination: (cont) During the luncheon interval I have looked over P64 to find out if there is an entry of payment in respect of the order P66(c) from E.L.Senanayake, Yes, there is an entry at page 65(P64(c) with regard to that payment (Reads: E.L. Senanayake, Rs.50/- on 1st May 1952) The Clerk may have entered wrong in the ledger. The date should have been 2nd May instead of which he had put down 1st May (Shown P67. Receipt No. 476 marked P67(d). It is a receipt in favour of Mr. Senanayake dated 1st May 1952 - "E.L.Senanayake 200 posters - 200 hand bills. Rs.50" Yes, the entry I referred to is in regard to this order and had been correctly entered. In regard to the order of 2nd May I have not been able to find a single entry to show payment by Mr.E.L.Senanayake. I have no Day book but only a job book. From P69 (Job register) no entry is made into the ledger. When Jobs are entrusted we make entries in the job Register that very evening - sometimes it is entered once a week on Sundays. Because it is necessary to maintain this book entries are made in it. Entries are made to show that

such and such a job had been entrusted by such and such a person, the advance received and other payments made. My clerk makes the entries. When the other book P66 is entered the entries are copied into the job register. Such entries are sometimes made once in two weeks. Yes, I was not asked when the entries are made. I had made no entries in the book for the last two weeks and therefore I gave that answer voluntarily. I have been shown the ledger and the last entry is dated 8.11.52. That or those entries had been made two days before I left Kandy.

10 Sometimes entries are not made for 2 weeks. No entries have been made since I left Kandy and that is why I volunteered the statement that sometimes entries are made once in two weeks.

Q. Is P69 fabricated by you for the purpose of this case?

A. I deny it.

(Shown (69(A). There the jobs done for Colin Wickremetunge appears. The first item is an order for 500 posters under date the 2nd May. Corresponding with that entry, the job Register under 2nd May has a number of jobs given by Colin Wickremetunge. As all these jobs were entrusted by one gentleman, they were

20 entered consecutively but all the orders were not given on the same day - that inference does not necessarily follow because they had been all entered under one date. The next entry is a job work on 3rd May. The manuscript P62(b) was received by me on 3rd May. It has been entered in the Job Register under date 2nd May - as these works had been entrusted by one gentleman they were entered under one name. I have a compositor working under me by the name of M.A.Peries of Ketawela. I do not know if he is a Village Committee Member - he has not told me so. I know Mr.Harasgama, Proctor. During the election time I knew him as

30 Mr. Harasgama. I have not spoken to him & he is a Proctor. I did not know him before the Election. I had seen him at Sama Samaja Meetings. I am not a Sama Samajist. I attend those meetings. I have seen him there. I belong to the U.N.P.party but I am not

member, but I am a supporter of that Party. I think Mr.

Senanayake belongs to the U.N.P. Party I have no doubt whatsoever about it. I had not attended his meeting as I have had no time. Sama Samajist meetings are held after 6 p.m. and therefore I was able to attend them. After the dissolution of the last Parliament the nomination day book before the election I cannot say how many meetings of the Sama Samajist were held at Kandy.

When I go to buy meat after work I attend the meeting of the Sama Samajist at the Market Ground. I think there were two meetings between the time or period just mentioned. I saw Mr. Harasgama at one meeting. There were a number of people there. There were others present there whom I knew. Because I was asked the question whether I saw him there, I said I saw him there. I saw Harasgama travelling about in a car during the election. He flew a flag with the figure on an elephant - no, a Lion Flag. I do not know if he is related to the respondent. Mr. Harasgama is a Proctor - I do not know if he is a brother in law of the respondent (Shew P61) This is one of the hand bills in respect of which Collin Wickremetunge made payment.

Cross-examined I do not follow the American, Swedish or any scientific system of office management. My husband is not an extensive business - I had to attend to the whole business. It is run in a small way. I have a man for the machine. I have a compositor. I have to supervise the work - I have three compositors and three machine men. It is a foot press. My office is 10 by 20, No. 12 by 20 ft. - there is a room upstairs. I have produced all my account books. My office is in the ground floor I have no qualified accountant. All the entries are made by me sometimes my daughter assists me. A clerk comes on Saturdays.

The clerk is given the books and makes the entries.....

P.S. Perera: (Cross Examination continues)

Court: Mr. Chitty moves to ask certain questions from the witness regarding some answers given by the witness to Counsel for the Petitioner before the Court made order shutting out any further questions on Uduwila meeting.

He says that if he does not examine the witness
10 on them (the statements made by the witness with regard to Uduwila meeting) there might be some impression created which may be perhaps considered by the Court. He therefore moves that he be allowed to put some questions on that part of the evidence recorded regarding the Uduwila meeting.

Order:

Mr. Chitty can question the witness only as regards matters that arise on the evidence this witness has given in examination in chief in
20 regard to Uduwila meeting and on nothing else.

I have printed some notices in connection with the meeting held at Uduwila but I do not know the date (Shewn P67) page 437) This is in my handwriting. A contemporaneous record made by me for handbills supplied in connection with that Uduwila meeting. That is the printing I spoke of. That supply of posters for Mr. Senanayake was on 7th February 1952. (Marked R12 in book P67 at page 437). It was about
30 one and half months before the death of the late Prime Minister.

Q. That is the only printing of any kind that you did for Mr.E.L.Senanayake in connection with any meeting?

A. I cannot remember of any other work.

Q. In connection with a meeting held for certain celebrations at the temple owing the appointment of Annunayake Thero you printed some notices

A. Yes.

Q. Was that an important occasion?

A. Yes.

Q. Was it not an unusual occurrence?

10

A. Yes.

Q. Was that not a unique occasion with the Governor General coming to the Temple?

A. Yes.

Q. Are you a Buddhist yourself?

A. Yes.

Q. Did you yourself regard that as a very important occasion?

A. Yes.

Q. That is why you remember the fact that Mr. Senanayake got those posters printed?

20

A. That is so.

Q. Did you go to that function at the temple?

A. No.

Q. Was that event widely known in Kandy?

A. Yes.

Q. You said you remember also the fact the payment of the sum of Rs.50/- for those posters is not outstanding and that it has been paid?

A. Yes.

30

- Q. Can you remember whether Mr. Senanayake personally paid, a clerk paid, or somebody else came and paid?
- A. What I think is the amount was paid by a Clerk.
- Q. When such an amount is paid in cash at what stage do you enter that the amount has been paid, the same day, the next day or some time later?
- A. Ordinarily I would enter that payment in that book on the same day.
- Q. If such payment was made in your business
- 10 you receive that money?
- A. Whoever in the office takes charge of the money
- Q. I take it in due course that would be brought to your notice?
- A. Yes.
- Q. In this instance do you remember whether you took charge of the money or you later came to know about it?
- A. I cannot remember.
- Q. All you know is that the debt is liquidated?
- A. Yes.
- 20 Q. That payment can you remember how long after it was incurred it was met, weeks later or months later?
- A. I cannot remember.
- Q. In your book P69 at page P69(a) and P69(b) you were questioned about various items appearing against the name of Mr. Collin Wickramatunga?
- A. Yes.
- Q. In respect of all these entries in whose handwriting are they?
- A. My daughter's.
- 30 Q. Pages of this book are they machine numbered?
- A. No.
- Q. That is a bound book?
- A. Yes.

Q. Are there any blanks or interpolations in this book right down from 1st August 1950 to November 1952?

A. No.

Q. It is a continuous record?

A. Yes.

Q. Can you tell the Court this: does P69, this book, contain full list of all the orders received by you as far as you are aware?

A. All the jobs that were undertaken. There are outstanding jobs not accounted for.

10

Q. All the jobs executed?

A. Yes.

Q. In this book the only job for the whole of May 1952 the subsequent June 1952 and the previous month April 1952 outstanding in the name of Mr.E.L. Senanayake is 500 posters half demy for Rs. 50?

A. Yes.

Q. And that is the job you have already spoken in connection with the temple?

A. Yes.

20

Q. That job No.is 2007 appearing on page P69(b)?

A. Yes.

Q. On 22nd January 1952 you have done work for Mr.Senanayake for a sum of Rs.67/50 under job No.1771?

A. Yes.

Q. Has Mr. Senanayake been a customer of yours on a big scale or given casual work?

A. Jobs that could be done in my office.

Q. In 1950 or 1951 can you say the total amount of work you have done for him?

30

A. Within these two years I do not think I got more than 4 or 5 jobs valued at about Rs. 150/- altogether.

Q. What type of work have you done for him, estate, printing handbills?

A. No estate printing. Handbills in connection with public celebrations.

Q. Have you any way of showing which of these posters relate to any particular order by Mr. Collin Wickremetunge or are they all mixed up?

A. I am unable to say.

Q. Can you say which individual poster relates
10 to which individual order?

A. I cannot say.

The type of paper I used is called black paper or glazed paper. This paper is available to printers in the market. We take big size paper and cut to standard sizes known to the printing trade.

(Shown P49 and P50) (Witness reads P49 and P50)

P.49 "Give your vote to Mr. E.L.Senanayake who has come forward as an U.N.P.Candidate for the Kandy Seat" Symbol wheel 24.5.52.

20 (witness reads P50) "The big floods does not come from Mahaveli Ganga but from India. Vote for the U.N.P. Candidate to prevent that. Your symbol is wheel" Mr. Senanayake's name does not appear only his symbol. (Witness reads P51)

"The youngest Prime Minister in the world" with the photograph of Mr. Dudley Senanayake and nothing about Mr.E.L.Senanayake, and stating the Prime Minister's arrival is at 4 p.m.

on 23 May 1952 at the Bogambara Grounds. I
30 understand about public meetings of some kind.

(Shown P52) This is one of the handbills printed by me in English. In this there is no reference to Mr.E.L. Senanayake. (Witness reads the handbill) "Wheel is the symbol of the U.N.P. system of democracy".

(Shown P58) This is printed by me. (Witness reads P58)

"Special message from the Ceylon Labour Party to the voters of Kandy electorate" Under the names of H. Samaratunga and S.U.David, General Secretaries date: 22.2.52. For these posters among others Mr.Collin Wickremetunga paid.

Q. All the orders in respect of this were placed by him?

A. Yes.

Q. Proofs were referred to him for approval?

A. Yes.

10

Q. Delivery was given to him?

A. Yes.

Q. And he paid for them?

A. Yes.

Q. In respect of any of those posters which you have already produced you had no dealings with Mr.E.L.Senanayake?

A. No.

Q. Do you know whether Mr. Collin Wickremetunga is a member of the Labour Party in Kandy?

20

A. No.

Adjourned for the day.

Certified correct

Sgd. M.N.Peries.

Steno S.C.

17th November 1952.

Same Counsel as before. See Annexure A re correction.

P.S. Perera: reaffirmed.

Cross-examined:

Q. (Shown P68) Find the order of Mr. Collin Wickremetunge in this, in connection with the posters and so on?

A. At page 68 marked P68F.

P68F consists of pages 68 and 69.

Q. This is really the carbon copy of the bill which you gave to Colin Wickremetunge?

10 A. Yes

Q. Do you remember what you did with the original, did you give it personally? Did you post it, or did you hand it over to somebody to be given to him?

A. I went and handed it over to Mr. Colin Wickremetunga at his office.

Q. Did you recall, how long after the date, which appears on this 22nd May, that you handed over the original of this P68F?

A. The bill was written on 22nd May and handed over to Mr. Colin Wickremetunga on that day itself.

20 The figure '53' is an error for '52'. In the Original '195' must have appeared and by a mistake in the copy it is written 1953, instead of 1952.

Q. When the bill was handed over did you get the payment that day itself or later?

A. The payment was made about a week later.

Q. How did he pay?

A. He came to the printing office and paid a portion of it. He paid Rs. 200/- first and balance later.

Q. How did he pay the balance?

30 A. I went to Mr. Wickremetunga's office and got the balance from him.

Q. How did you get the balance? In one payment?

A. Yes, I got the balance at once.

So, I got the whole sum in two instalments. I gave only one receipt for the entire payment.

(shown P67A)

(Court: It is brought to my notice that on page 68 the document is marked P67D. It should be read P67B. The marking of the document should read P67B instead of P67D. I make the correction. At page 56 in the record the words 'Bill No.406; should be read as 'Bill No.496' and the document be marked as P67A. Next sentence at page 56 of the record after the words 'bill No.496' the record should read as P67A, and thereafter the words "This shows.....as money paid' P67B should be read as P67A).

10

Q. (Shown P67A) which is a carbon copy of receipt No.496 appearing in book P67 - The pages of P67 are all machine numbered? Carbon copies are also machine numbered?

A. Yes.

Q. Beginning from 402 up to 500. So 401 is missing. What has happened to 401?

A. 401 has been torn off.

The original and the carbon copy bear the same machine number. In book P67 both the original page 401 and the corresponding carbon copy in regard to No.401 are missing, and that is the first page of the book. These books are just left on the table in my room. The workmen have the opportunity of looking into these books.

20

Q. In connection with the present case did the Petitioner's Proctor or somebody on their behalf come to inspect your books?

A. No.

Q. They did not make an application to inspect your books?

A. No.

Q. Either from the Petitioner's side nor from the respondent's side was there an application to inspect the books?

30

A. No.

Q. Nor did anybody come and take a statement from you?

A. No.

Q. Nor did anybody question you?

A. No.

I have received summons to attend Court. As to what books I should bring I did not consult anybody. I brought all the books that were with me, for the relevant period.

I did not preserve any earlier books.

Q. Before coming to Court did anyone question you as regards bills or orders of Mr. Collin Wickramatunga and say that they
10 were really given by Mr. Senanayake and that your books were false?

(Mr. Nadesan states that he never made such a suggestion, but that he made the suggestion with regard to P39)

Q. Was such a suggestion made regarding any book, before you came to Court?

A. No.

Q. Is there any reason for you to fabricate any book?

A. No.

(shown P66) - This is the Order Form Book.

20 On payment of money a receipt is issued from P67 (shown P67) I call it 'Receipt book'

I do not have in Court the current receipt book, the one which I am now using. P66 is the book which I used during the election period. P66 is now over, and I have not brought to Court the current order book. In respect of every order taken down I have not issued a receipt and for every order placed in P66 there is no corresponding receipt in P67. For every receipt entered in this book P67 there is no corresponding order in P66. Mr. Wickremetunga placed orders at various
30 times. In some instances he placed an order relating to a change of date only. In some instance the order relates only to the alteration of the date only when the date is to be

altered I would enter that in the receipt book. When payment is made I enter that in the bill. I did not take down that as a different order. Sometimes Mr. Colin Wickremetunga came personally to give the order. On certain occasions I used to receive a message from him regarding the order. When I get such a message I used to take down his name as the person who gave the order. When he did not come to place the order he used to send a letter. As I was the only person who attended to the making of entries I did not adopt any particular method.

(Shown P55B) This is one of the specimen orders I received from Mr. Colin Wickremetunga (Witness reads the contents)

10

Q. He does not tell there where you have to forward the handbills?

A. Sometimes I sent them to him or sometimes he came to the press and called for them.

Q. Those are the two methods adopted by Mr. Colin Wickremetunga?

A. Yes. Sometimes he used to send a messenger.

Q. Is it possible for you to say to which individual poster this order relates?

A. I can say so far as I can remember.

20

Q. You have no such record?

A. No.

Q. If a number of posters are shown to you, you cannot say which poster relates to a particular order?

A. Yes.

Q. Do you annex to each poster the order you received, or do you file them separately?

A. I keep them together.

After finishing the work the specimen copy and the copy are filed separately. The manuscript and the specimen copy are filed together.

30

Q. Do you file the order together with the specimen copy?

A. I file them separately.

10.30 p.m.

Certified correct

P.S.Perera

(Cross examination continued)

Mr.Chitty says that the translation attached to the document are not sworn translations.

Mr.Nadesan says before the end of this week he will be putting in sworn translations.

Court: All documents that you are producing which
10 are not in English have got to be translated.

Mr. Nadesan: We are going to get the Mudaliyars of Your Lordships Court to do it.

(Shown P58) (witness reads P58) This is purported to be issued by two persons namely H. Samaratunga and S.U. David on behalf of the Labour Party. They did not come with Colin Wickremetunga. P58 is one of the pamphlets Colin Wickremetunga requested me to print. In respect of P58 he gave me the manuscript which was handwritten (Shown
20 P58(a). This is the manuscript in respect of that pamphlet P58 with the signature purporting to be that of H. Samaratunga and S.U. David at the bottom.

Q. Did you ask Colin Wickremetunga whether Samaratunge and David had authority to print this pamphlet?

A.No.

Q. In no case did you ask Colin Wickremetunga whether he had the authority to print these pamphlets?

A. No.

30 Q. That question never occurred to you?

A. Colin Wickremetunga was the President of that Labour Union Kandy therefore I had no occasion to ask,

Q. You had no reason for questioning him?

A. Yes.

Q. Would you kindly look at the date on P58(a) at the bottom. In whose handwriting is that?

A. Colin Wickremetunge's hand writing.

Q. What is the date?

A. 22.5.52.

Q. But the date on P58 is 22.2.52?

A. That date in the printed copy of P58 is a mistake.

It should be 22.5.52 and not 22.2.52.

Q. You are quite sure this poster was printed, 10
during the election campaign in May and not in February 1952?

A. Yes.

Q. In this document it is stated that the committee and members of the Kandy Branch of the Labour Union are supporting the Government?

A. Yes.

Q. Were you also aware of it?

A. No apart from what contained in the leaflet.

Q. Do you actually yourself read the contents of the leaflet before you print them or hand it to your compositor? 20

A. I read through the manuscript.

Q. When you read the manuscript P58 you must have realised that Colin Wickremetunga is acting on behalf of the Kandy Labour Union?

A. Yes.

Q. And you knew that he was the President?

A. Yes.

Q. For how long had you known him?

A. That I do not know. The persons who came with the letter informed me. That is the first time I came to know about it. 30

Q. Did you know that there was a Labour Union Branch in Kandy.

A. No.

Q. Would it be correct to say that you were not interested in local politics at all?

A. Yes.

Q. You were not interested in politics of any hue?

A. Yes.

Q. So far as Colin Wickremetunga was concerned you said that you knew him as Colin Wickremetunge for some time?

A. I knew him from the time of Mr. George E. de Silva

Q. You knew that he had been a Clerk of Mr. George E. de Silva?

10 A. Yes.

Q. Did you know that Mr. Colin Wickremetunge was interested in politics?

A. I do not know. Only after this transaction I came to know that he was interested in politics.

Q. From the fact that he placed these orders you inferred that?

A. Yes.

Q. Did you know his means of livelihood or what his occupation was?

20 A. Yes

First of all he was a clerk under Mr. George E. de Silva for about 10 or 15 years when Mr. George E. de Silva was practising as a Proctor. After George E. de Silva ceased to practice as a Proctor Colin Wickremetunge became a clerk of Mr. Fred de Silva, son of the late Mr. George de Silva. That was the time Mr. Fred de Silva was practising as a Proctor. I knew that because I frequently went to see Mr. George E. de Silva. After the death

of Mr. George E. de Silva Colin Wickremetunge was working under Mr. Fred de Silva in the same office of Karunaratne and Silva. Colin Wickremetunge had a table thereat which he worked.

Q. Were you aware Mr. Colin Wickremetunge working as a sworn translator?

A. No.

Q. Are you a friend of Colin Wickremetunge?

A. Whenever there is any occasion for him to get notices printed he came to see me and there was no particular friendship.

10

Q. Quite apart from politics and other things?

A. Yes.

Q. Was he in the habit of placing orders with you?

A. Yes.

Q. Had you any other dealings with him.

A. If he wanted to get letter headings printed I would print them for him.

I have not done any big jobs for him. Apart from my meeting him in the capacity of printing I had no other dealing with Colin Wickremetunga. We do not visit each other in our houses. I do not move about with him socially I have not discussed any politics with him.

20

Q. So you do not know whether he was a supporter of the U.N.P. or not?

A. After he entrusted this work I came to know it.

Q. That is to say you inferred from the handbills and pamphlets printed by you that he was interested in the U.N.P.?

30

A. Yes.

Q. And in the Kandy Labour Union. A. Yes.

I was aware that the U.N.P. and the Labour Party were working together. I was also aware that Mr. Goonesinghe of the Labour Party was a Minister under the U.N.P. Government. I do not know whether the Kandy Labour Union has an office in Kandy. There were meetings held by them but I did not attend this. On reading the handbills distributed in the place I knew that. P58 was printed by me. Even to attend that meeting I had no time.

10 I was only able to attend meetings held late in the evenings or at night. The only meetings so held were Sama Samajist meetings. I did not attend more than one Sama Samajist meeting I did not see Mrs. Illangaratne at that meeting. There were some people known to me. I saw Mr. Jayasena speaking at that meeting. I did not remain there long. I had not attended Mr. Senanayake's meeting as I had no time. Samasamajist meetings are held after 6 p.m.

20 I do not go particularly to attend them but when I go to the market I saw the meeting. I saw two meetings. I looked at and moved on from the red shirts, red flags and the emblem of banner and sickle I understood they were Sama Samajist meetings (shown P69) This is the job book which I enter up once or twice a week. The dates that are entered against particular jobs are also entered at that time.

Q. That date you enter from the written order or from recollection?

30 A. Yes

Q. If it was merely an oral order then you have to rely on your recollection for the date.

A. Yes, If I had not entered in the order form.

Q. What are the orders which you normally enter in your order form.

A. If a person wanted 10 memo books I would first enter that in the order book and then enter it in the job book.

Q. Somebody gives you an order today and it is written in your order form?

A. Yes.

Q. Tomorrow and day after some one else gives you orders and on Thursday the man who gave you the order gives you another order, would you write a fresh order or enter it in the old order? 10

A. If he paid me an advance I would give him the old order. If no advance is given the original order would remain in the book and I would write in the old form.

(shown page 3202 of P66 marked R13)

Q. By looking at R.13 can you say whether that is an order on which you received an advance or not?

A. No advance was received on this order. 20

Q. That is why the original is there?

A. Yes.

That is an order for certain printing in connection with the Maskeliya Seat. One Peter Appuhamy placed that order but no payment has been made up to date (Shown R13) page 3202 in P66) There are three items. They were all ordered on the same day.

Q. Can you show in your job book P69 the corresponding entry for this order?

A. (Witness shows 4 entries in P69 job register against the date 28 April 1952 job No. 1988. 30

This entry is in the handwriting of my daughter in the job register. She has written the name as Natty Appuhamy. Later this person came and corrected it. Then I cut off Natty and inserted Podi. The entries in R13 are in my handwriting. 3000 leaflets is the sum total of all the leaflets to be supplied at the cost of Rs.60/- The total amount of that bill runs into nearly Rs.400/- If money is recovered that entry would go into the cash book. This money was never recovered. I have made no claim

10 Q. This entry on 26th of April is made after the entry of 21st May in the job register P69.

A. This is a mistake committed by my daughter.

That April then should be May.

Adjourned for Lunch.

Certified correct

Sgd: M.N.Peiris.

Steno S.C.

November 17, 1952.

After Luncheon Interval

P.S.Perera re-affirmed

Cross-examination (contd). I said the mistake in P69 (job 1988) is against it. (Now you see the mistake is in respect of job 2905?), No, the mistake is in respect of the entry of 20.4.52. (Shown Job Entry 1949 onwards). The first entry under 21.4.52 instead of 12.5.52 is against job Number 1972 (1972) Then the entry against No.1988 and dated 28th must be a mistake because the previous entry is dated 29th. It should be 30.4.52. The entry in Order Form R13 (P56) Job No.2456 had been copied into the job Register under the same date. I do not check the entries made by persons other than myself. I do not check even my own entries. In short neither the Job Register nor the order Book P66 and the Receipt Book P67 are ever compared in order to see that the entries are correct. (You really make entries as time permits)? Yes. (have you ever made false entries?) No. (What is the practice in regard to making entries in P67 and similar entries?) Do you write out the entries, keep them and wait till customer comes or send the money? When the customer comes and makes the payment the receipt is written (If he comes or brings the money?) Whenever he comes and makes the payment the receipt is then made out. (Sometimes you receive the payment by post?) Payment made by Money order or cheque? Yes. (In such a case would your receipt book show what was received by post and what was sent by hand)? I would not be able to ascertain from my book what was sent by post by the person who placed the order or by some one else. (The entries in this Job Register P69 69 are not made out other than by your daughter or yourself). Yes (shown entries for 7th Oct. onwards) All these entries have been made out by the same person. One page is written

dated 1.7.52. It is a bill for work done for Mahatma Gandhi College. There are a large number of items. This work is not complete yet and therefore it was not entered in order From although the order was placed in May or June. It is entered in the other book in the office. P66 refers to the entries in May - there is the other book in office. I forgot the date and made the previous statement through error. I have entered the order in the other book which is in my office and I have not entered in here. I did not enter in the job Register this order (looks over book) No, that is so. There are many 10 entries here. (Witness refers to P69 and states that there are no entries with regard to the order in question in it)

Q. Do you still say there is no entry in respect of the order in question?

A. Yes.

(Shewn Bill R14 in P68) I wrote out that bill (It is for the purpose of getting payment or payment?) I wrote this out for my information. (Have you not entered this in the job Register or forgotten to do so) I asked the Clerk but he seems to have forgotten it - When I used the word "Clerk" I referred 20 to my daughter. (In short your daughter followed no system in entering up the book?) Yes. It is not an intentional omission, There are a very large number of items on that bill. I have not totalled it up - the total must be over Rs.500/- The order from Mahatma Gandhi College was in connection with Educational and not political work. (Counsel looks at Bill) This Bill is very well over Rs.1000/- I got some work from Mahatma Gandhi College - they are regular customers. I gave credit to even non regular customers. In regard to the Maskeliya Seat I did the work for a person known to me after getting 30 a letter from him that money would be paid. That person was a relation of mine by the name of Podiappuhamy. The candidate was Caldera - Podiappuhamy was his agent. Caldera was defeated. (Shewn R14 - Bill for Mahatma Gandhi College). They had given some money as an advance. It would have been entered in this

book P64. There is one entry at P64(a) under date 6th June - a payment of Rs. 40 from the Mahatma Gandhi College. There are certain other items of payment by them and I may have entered them in my book. I write bills to serve as a personal record and not for the purpose of submitting them for payment. The work had not been completed - they advanced me money to buy paper. This P64 does not show whether it was an advance, full payment or part payment For that I have to rely on my memory. The Manager Siva Gama Nanda paid the advances - I think there were two or 3 payments 10 on that account. The advance payment was on June 6 (Rs. 15 page 57 - this is the same as P67(e). On the same page you find payment by Collin Wickremetunge - Rs.50/- Mahatma Gandhi College order was given in May but I cannot say in which part of May. My impression is that this order was entered in May, somewhere about May. (Do you say that because of the advance paid in June? no, I asked for money - it was not an urgent work and it was given some months ago. The order was given before the 6th June as it was the impression in my mind I said that the order was given in May - I cannot 20 remember. The order should normally appear in order Book P66. in May but it does not appear. This order Book goes up to 20th May. I have no other book here going beyond that date I have no books here which I have not entered up. I was asked whether the entries in Job Register P69 went up to 8th November. I wrote this P69 last 2 or 3 days before I came here. I left on the 8th November for Colombo. Entries of orders received on that day were entered on that date. The 7th orders were entered on the 7th. These are written up on my instructions 30

Re-examined Q. You are living in a newly built house?

Yes, (Chitty objects - does not arise out of xxd. The matter is discussed - no ruling given pending questions.

Q. What did that cost you?

A. About Rs.15,000/-

Q. From where did you get that money?

A. I had Rs.3,000/- out of the business and I sold a property at King's Street and got some money.

Q. And do you send Income Tax returns?

(Chitty objects on two grounds (1) it does not arise out xxd

(2) Counsel is seeking to discredit his own witness.

These questions are being put because the answers witness gave in cross-examination were not favourable to him.

Nadesan - this arises from xxd for the purpose of questioning
10 witness as to what sort of books he keeps for Income Tax purposes - it would throw some light on the system of account keeping. Allowed.

I have sent Income Tax Returns for the past 5 years. There is a person called Muttiah. He goes through my books and prepares my Balance Sheet. My Income Tax return is for the period 1st April to 31st March of the following year. For that purpose my accounts run for that period (Shewn P64)
The order book was finished and I started this Book. That book was finished on the 31st December there was no space
20 left to fill up. I have not brought that book. I was summoned to produce account books from November 1951 to October. 1952. I started this letter in June 1952 Before that I extracted information from rough Cash books No. I had a ledger before this. I was under the impression that I could bring account books in which there were entries of Election work. I thought I was required to produce only account books for the Election period. I have the other ledger books. I went back to Kandy last Friday. I did not bring the Rough Day book with me on my return. I thought it was improper to bring those books. I
30 did not bring a poster in respect of the posters I was ordered to print in respect of the appointment of Annunayake Thero. I had said that before the 2nd May Colin Wickremetunge was my customer and had placed orders with me.

This order Book does not

show any work done for him before that date - 2nd May. It is perfectly correct to say that he gave me no work before that date (2nd May) (shown P64 at page 46 - P64 (D)).

As against 30th January 1952 there is an entry of payment by Mr.E.L.Senanayake of Rs. 27/- (Shewn P64 at page 52 P64E) Against 3rd April there is shewn a receipt of :
Rs.15/- from Mr. Senanayake. (Shewn P54 at page 55 - P54C)

There is a payment of Rs. 50/- from Mr. E.L.Senanayake entered here. R12 in receipt Book P57 shows that I had received Rs.27/- from Mr.E.L. Senanayake for 200 posters and 200 hand bills Rs.50/- was paid to me in respect of printing done for the Uduwela Meeting. That was a meeting at the Pansala. They wanted to start a Rural Development Society - No. I am not making a mistake regarding it. 10

(Counsel draws attention of Court to page 57 of evidence recorded - as to what witness had said about the Uduwella meeting.) Before last payment received from Mr.E.L.Senanayake there is an entry in P64C of a payment by him of Rs. 50/- under date 1st May. The very next day Collin Wickremetunge placed some orders. On the same day I had put down under the name of E. L. Senanayake an order for 500 posters. 20

Mr.E.L.Senanayake did not give me any orders after the 2nd of May 1952. After the 2nd of May Mr.Collin Wickremetunga who had never before given me any orders started giving me several orders. The job Register entries are in my daughter's and in my hand writing. I said so to Counsel for Respondent - that may be correct. My daughter Pearl Perera made entries in the job Register. I have another daughter called Irene - she does not make entries. Pearl is 14 years old. She studies at Mahamiya College. A clerk used to come once a week. I had no clerk on monthly pay who came daily to work (Shewn job Register $\frac{1}{4}$ job done under date 27th August - 2nd Sept.(Job Nos.3060-3085) These two pages are the handwriting of my daughter Pearl (who has made the entry on 8th November 1952 re job No.3254?) My daughter has made the entry. 30

17.11.52

Mr. Nadesan points out that in the proceedings on page 12 the very last question reads as it now stands "I asked you you did make the badges" and he states that after the word "you" the other word "you" should be deleted and the word "h~~o~~w" should be substituted.

Mr.Chitty agrees.

10 COURT: I therefore substitute the word "how" instead of the word "you" so that the sentence may read thus: "I asked you how did you make the badges".

Mr.Nadesan points out that on page 13 when he put the question "In this receipt book P26 turn to the carbon copy of the receipt in respect of this payment"? he did not use the word "carbon copy" but that he used the word "counterfoils" instead.

Mr. Chitty does not object to the alteration being made

20 COURT: I substitute the word "counterfoil" instead of the word "carbon paper" and sentence will read: "In this receipt book P26 turn to the counterfoil of the receipt in respect of this payment"?

Mr.Nadesan points out that in the next sentence "Mr.Nadesan says a carbon copy is an original document" - too the word he used was counterfoil, not carbon copy.

Mr. Chitty has no objection to the alteration.

COURT: The sentence will read thus "Mr. Nadesan says a counterfoil is an original document".

Mr.Nadesan points out that in the next sentence - "Mr.Chitty says that a carbon copy is by no means an original document" - The word used was counterfoil not carbon copy

30 Mr. Chitty says that there the record is correct.

Counsel suggests that the shorthand notes should be looked into regarding this matter.

To be verified later.

Mr. Nadesan points out that at page 15 proceedings reads - "Mr. Nadesan says that he was seeking to produce the counter-foil book as the evidence of the contents of another document. He was seeking to prove the contents of the original receipt" and he states that after the work "was" the word "not" has been omitted.....

40 Mr. Chitty does not agree.

On suggestion made by Counsel it is to be verified later from shorthand notes.

Mr.Nadesan states that at page 25 he can remember that P30 has been produced in examination in chief and that there one sentence has been omitted.

As Mr.Chitty does not agree, on suggestion made by Counsel, it is to be verified later from the shorthand notes.

50 Mr.Nadesan points out that at page 20 in the last but one sentence that "R.L.Senanayake" should be corrected as "E.L. Senanayake".

Mr. Chitty has no objection.

COURT: R.L.Senanayake should be deleted and substituted therefor E.L.Senanayake.

Mr.Nadesan points out that on page 35 in the sentence "12th May - application by M.A.Perera of Ketawela "the name M.A.Perera should be M.A.Peiris" Mr.Chitty has no objection.

The alteration to be made accordingly.

Following to be checked up from shorthand notes. Last line on page 29, and on page 30 the sentence "for 20th May meeting receipt....."

18th November 1952

11 a.m.

Same Counsel as before.

(Mr. Nadesan points out that at page 15 of the proceedings in the first line, before the word "seeking" the word "Not" has been omitted, and he wants that word to be inserted between "was" and "seeking". The shorthand notes shows that the word "Not" has been omitted in transcribing. Similarly in third line of the same page the word "Not" has been omitted before the word seeking.

10

COURT: I therefore add the word "not" before the word seeking in the first line, and in the 3rd line).

P.S.Perera: Re-affirmed

After accepting orders in respect of election work from Mr. Colin Wickremetunge he has not given me work subsequently.

(Shown page marked P69(c) in book P69 as against date 22.1.52) There are four orders here by Mr. E.L. Senanayake, as against Job No.1771. The first two orders refer to 100 posters and 500 handbills.

20

Q. There is also mentioned Uduwela?

A. Yes.

Q. Do you know anything about the Uduwela meeting?

A. Yes. It was a meeting in connection with the Rural Development Society at Uduwela.

The very next two orders refer to 200 posters and 200 handbills in connection with a meeting at Malwatte. It was in connection with a function regarding the Sangarajah. That has nothing to do with the election.

30

Q. In regard to the Uduwela meeting did Mr. Senanayake come personally and place the order?

A. A man of that village placed that order saying that the order was sent by Mr. Senanayake.

Mr. Senanayake sent the manuscript through that person. I cannot remember whether it was signed by Mr. Senanayake. In regard to the Malwatte meeting he sent that order through another person.

40

Q. Did Mr. Colin Wickremetunge on some occasions come and take delivery of posters and handbills personally?

A. When the work was completed he used to send his men. He used to send various people at various times.

Q. He did not send any letters through these persons?

A. No.

Q. On some occasions you delivered some of these pamphlets and handbills at his office?

A. Yes. I used to send them to his office through a peon - to his office at Colombo Street.

10 He works at Messrs. De Silva and Karunaratne Proctor's office, Colombo Street. At the time of the Kandy Election Mr. Wickremetunge was working as a Clerk in that office, and I used to send these to his office.

Mr. Harasgama, Proctor, also work in the same office, (Where Mr. Wickremetunge works)

Q. You told my learned friend that in respect of that labour-pamphlet P58 the two persons mentioned as authors of that document...what are the names given in that document?

A. H.Samaratunga and S.U.David.

20 I said that those two did not place the orders but that they were given by Colin Wickremetunge. Those two did not come to read the proof.

Q. The men who read the proof signed the document P49(a)?

This is the signature of the man who read the proof?

A. Yes.

Q. Why do you say that it is the signature of the man who read the proof?

A. I sent this proof to Mr.Colin Wickremetunge and when it was returned it bore this signature and this endorsement

30 Q. Later on having found out the names you put down the names in the bill book

A. Yes.

Q. How did you find out the name?

A. I read it and took it to be Ratnayake.

Q. Are you familiar with Mr. Ratnayake's signature?

A. No.

Q. You do not know what transactions there were between Colin Wickremetunge and E.L.Senanayake in respect of the printing of these election literature?

A. No.

I know that one of the petitioners in this case is Mr. Navaratne. He did not come and speak to me about this election.

Mr. Navaratne did not come to my house along with Mr. Gamage. 10

I do not know whether they came to my house during my absence.

Q. You remember there was a poya ceremony in the temple about two months ago?

A. Yes.

Q. On that poya day at about 7.30 p.m. you were in the house?

A. No.

My son-in-law is Gunapala. My son-in-law and I were not in the house about 7.30 p.m. that day.

Q. Did you tell Mr. Gamage that you cannot say what evidence you would give and that you will not show the documents to him but that you would give evidence in Court? 20

A. No.

Q. Nobody on behalf of the petitioner spoke to you about your evidence in this case?

A. Yes.

Q. Did anybody speak to you on behalf of the respondent?

A. No.

Cross-examined (with permission of Court)

Q. Are the two persons mentioned by my learned friend, Navaratne and Gamage, seated in Court and have they been seated in Court all the while you gave evidence? 30

A. Yes.

They are in court today also

Polwatte Liyanage Belin Fernando: Affirmed.

41 years, proprietor of a printing press, residing at Cross Street, Kandy. I remember the last general election in which Mr.E.L.Senanayake contested the Kandy Seat. I did some work for him I printed 1000 posters in Sinhalese and 300 posters in English (Shown P70) This is a poster printed by me. It is in Sinhalese (Shown P71) This is the English poster I printed. I have got a copy of that Sinhalese poster P70. I produce it marked P70(a) from my file. I have got the manuscript of that (Manuscript handed over to counsel)

10 It is marked P70(b). Mr.E.L.Senanayake personally brought the manuscript P70(b) and handed it to me. In respect of the English copy P71 I have got my copy which I produce marked P71(a) and the manuscript of that is marked P71(b). The manuscript P71(b) and the manuscript P70(b) were handed to me by Mr. E.L.Senanayake at the same time. The manuscript P71(b) is on the back of a proxy form bearing the name of Sri Wickrama Tikiri Banda Harasgama. I cannot identify the handwriting on this P71(b). In this manuscript P71(b) there is a circle and in that the figure 300 is written

20 and below that I find some characters - they look like my clerk's initials. The driver came in Mr. Senenayake's car and the posters, P70 and P70(a) were delivered to him On this poster P70 there is a symbol of a wheel. That is Mr. Senanayake's symbol for his election. The poster P71 also has a symbol, the wheel. The poster P70 is torn. P70(a) has the date of the meeting printed on it as 20th May. Thereafter the date of the meeting was changed. I printed the new date on a strip of paper and gave it to them. The altered date is 23rd May. On P70 there is a

30 piece of paper pasted having the date on it, 23rd Friday

Q. Who printed that '23rd Friday'?

A. There is a difference between the slip we printed and the piece of paper pasted on P70.

The piece of paper Pasted, bearing the date 23rd Friday. on P70 was not printed by us. It may have been printed by somebody else. On P70 there is another piece of paper pasted on it "Bogambara time 4 in the evening" - this slip appears to have been printed by us.

Q. You yourself printed some correction slips and gave them?

A. Yes.

Q. Have you got a job opened out for the correction slip you printed?

A. Yes.

(Shown P72 - correction slip)

10

(To Court: I handed this P72 over to counsel at the time I was asked about the correction slip)

All relate to one correction slip. I printed 300 correction slips. I handed them over to the driver of Mr. Senanayake's car along with the posters.

Q. In respect of these orders by Mr.E.L.Senanayake did you prepare any bill?

A. Yes, I gave him a bill.

Q. Was that bill given to him after he placed the orders in respect of posters P70 and P71.

20

A. Yes.

Q. This is the bill P3 given to Mr. E.L.Senanayake?

A. Yes.

It is dated 7.5.52. It also shows that I received a sum of Rs.25/- from Mr. Senanayake. I actually received that money. As Mr. Senanayake entrusted the work to me he paid an advance then and there. The date on which he placed the order for posters P70 and P71 is the date given in the bill - 7.5.52.

Q. Thereafter he handed you the balance Rs. 257/-?

30

A. He paid my Rs. 275/- including the cost of printing the correction slips - the sum of Rs.18/-.

When he paid the money I gave him this receipt P12. That is a receipt of a sum of Rs.275/- That includes Rs. 257/- in connection with the bill P3 and also in connection with the additional work, the printing of correction slips. P12 is dated 17.3. but it ought to be 17.5. I produce my counterfoil receipt book marked P73 and I point to the counterfoil of this receipt P12, No.397 marked P73(a). That counterfoil also shows that the date is 17th March but it is a mistake for 17th May.

Cross examined. My name appears at the left bottom corner
10 of P70, and similarly my name appears at the left bottom corner as the printer of P71. I was informed that the date of this meeting was to be changed and that another meeting was to be held. I had a telephone message from Mr. Senanayake. That is why I printed the correction slip. That is the item for which I charged Rs.18/- I attended that meeting. That meeting was held at the Bogambara grounds. It was not held at the Market grounds as stated in the poster. Nor was it held on the date as stated in P71. The 2nd line of P72 appears to have been cut off and pasted on to the poster
20 P70. I cannot say whether P70 was posted on a wall or anywhere else.

Q. Are the words in that manuscript the same as the words in the poster (shown manuscript P70(b))?

A. Except for the difference in the date it is same.

It was left to my discretion to print the letter to any size, but I was given the size of the paper that ought to be used. This type of paper for the purpose of printing is available anywhere, and this green ink too is available anywhere.

Q. There is no difficulty in anybody printing anywhere
30 a poster similar to this?

A. No.

I think both manuscript were handed on the same date. I filed both manuscript. At the time Mr.Senanayake

handed those manuscripts he did not tell me anything apart from asking me to print, and he gave me Rs. 25/- as advance. I asked Mr. Senanayake to pay for the posters on delivery. The balance payment was paid at the time of delivery. The driver who came to take away the posters paid the balance money. He paid Rs.275/- The receipt No.397, P12 was written by my clerk. The body of the receipt contains this: "Received from E.L.Senanayake Rs.275/- only being full payment on account of printing". This was signed by my clerk on a six cents stamp. It was signed by Murugesu my Clerk. I was not there at the time the final payment was made. I am not personally aware whether the receipt was handed to the man who brought the money. That is what I infer from the receipt itself. This P3 was written by my clerk at the time I was there. After my clerk wrote out the bill the money was given to me. There the balance due written was Rs. 275/- I did not make a separate bill for the correction slips printed. But P12 was made out for Rs.285/- that is, another 18 rupees included in it.

10

Q. And that was paid by a messenger?

A. Yes.

Q. This original bill P3 - was that kept with you or did you hand over to Mr. Senanayake? That is the original Bill?

20

A. Yes.

I got Rs. 25/- on that bill. There is a carbon copy of that bill. (Witness hands over the carbon copy of the bill P3) (It is marked P16(a) in the receipt book P16. I had this carbon copy with me. It is written in ink. It was written by my clerk As the carbon impression was not clear it has been written over by my clerk. This carbon copy was written in that book in that day itself.

P3 was handed over to Mr. Senanayake when the order was given. This calculation - 18 added to 257 together with the words 300 slips are in the handwriting of my Clerk. Those are the 300 correction slips. The date of full payment has been on 17.5 and it is in my clerk's handwriting. My clerk has entered the name E.L.Senanayake in the carbon copy.

30

Baling Fernando.

(Cross examination by Mr. Chitty continued)

For the English poster I have a manuscript which I produce marked P71(b). (Witness reads P71(b) as follows: "The Prime Minister at Kandy. Come in your thousands and listen to Mr. Dudley Senanayake. He will explain the clean policy of the U.N.P. Place: Market Grounds. Time and date: 10 3.30 p.m. 20th May. Chairman: Senator W.A.B. Soysa We shall lay our cards on the table". I have a compositor to set up the types. I hand over the manuscripts to him to compose. About six days prior to the 20th of May I handed over the manuscript of this poster to be set up. I handed over both the manuscripts together. It took about four days for the printing. The posters were ready before the 20th of May.

Q. At that stage did you give delivery of the posters?

20 A. No. They were lying in the office.

Q. When did you give delivery?

A. As they were lying in the office, the slip altering the date was handed over about the 19th

Q. How long did the printing of the correction slip take?

A. The work was entrusted in the morning and it was completed in the evening.

Q. If that is so how was the payment for it made on the 17th? Did you include their cost in advance in the bill dated 17th, or to your recollection wrong regarding the date?

30 A. I think my recollection regarding the date is

wrong.

I received a telephone order to make the correction slip, probably on the 17th.

(shown P12) Q. Are you certain of this that the receipt P12 for printing was made out after all the printing was completed?

A. No.

This receipt was given by my Clerk. I noted in the duplicate on the day the payment was made. Then this receipt was issued a few days after the delivery

Q. Then is it your position the receipt R16(a) was written on the 17th of May? 10

A. The balance was received on the 17th.

Q. Therefore I take it that the inked entry was made on the 17th?

A. Yes.

Q. On the very day the Rs. 275/- was paid?

A. Yes.

Q. Now on the day Rs.275/- was paid no fresh bill was submitted?

A. No.

Rs. 275/- was paid on that receipt P12. I am certain that on that day no fresh bill was submitted to the driver or to Mr. 20

Senanayake, nor was a separate bill submitted for the correction slips. I carry on my business under the name of Baling & Co. Printers. I am the sole proprietor of this business. I know the last witness P.S. Perera who gave evidence. He and I were never working together at any time. I know him generally.

Re-examination

There is a block of the Prime Minister in P70, P70(a) P71 and P71(a) (shown) This block was brought with the manuscript. There is also a block of a wheel in these four documents. Wheel 30

is the election symbol of Mr. E.L.Senanayake. That is our block. (Shown P70) There is a smear of ink inside the wheel between the outer and inner circle of the wheel. I find the same smear repeated in P70(a) (shown) P71 and P71(a). That smear is due to a defect in the block. Therefore I say this is my block and the same smear appear in P70, P70(a) P71 and P71(a). The change in the date is P70 as 23rd Wanne Friday and in P72 as 23 Wanni Friday are both correct.

10 Q. The delivery of these posters corresponding in respect of the orders placed by Mr. Senanayake was made by you before the 17th when you received payment?

A. Money was paid at the time of delivery

Q. Was the delivery made on the day of payment?

A. Yes.

Q. You did not paste the correction slips?

A. No.

Q. Am I to understand from you that the correction
20 slips and the posters were delivered on the same day or on different days?

A. Both were delivered on the same day.

My name is W.Baling Fernando. That name does not appear in any one of these posters but my business name Baling & Company appears. It is not a limited liability company.

To Court: I have registered my business under the name Baling & Company, Kandy.

W.D.Wimalasena: affirmed.

30 55 years, proprietor, Gamini

Printing Works, Kandy. I know the Respondent E.L.Senanayake During the last General Election I did some printing work for him. I printed for him both posters and handbills. (Shown P74 poster). This is printed by

me. It is now torn. I produce my copy of P74 marked P74(a). This order was placed on behalf of Mr. E. L. Senanayake. According to this notice P74 Mr. A. C. L. Ratwatte was the Chairman of that meeting. (shown handbill P75) with the heading "Left to Right")

This is a handbill which has been printed by me.

I produce my own copy of P75 marked P75(a). I did not receive a manuscript for this. I received a printed piece of paper which I have not got here and I reproduced it. I cannot remember who brought that printed piece of paper. Mr. Wijeyanayake

10

Secretary of Mr. Senanayake telephoned to me and asked me to put the work in hand. I think he telephoned to me from Mr. Senanayake's office at Castle Hill Street, Kandy. I am unable to say whether that was the office from which the election was conducted by Mr. Senanayake. After he went into occupation of the new building he may have done the election work there.

Q. During the month of May did Mr. E. L. Senanayake have an office at Castle Hill Street?

20

A. Yes, he did.

Q. Did Mr. Wijeyanayake ring you up from the election office?

A. I do not know whether there was a telephone in that office.

Q. How many of these pamphlets P75 did you print?

A. 7000 handbills of P75

Q. When did you finish the printing of this 7000?

A. I cannot remember.

Q. Do your books show when you completed that work?

30

A. No.

Q. Did you enter this order when the Secretary of Mr. Senanayake rang you up?

A. No.

Q. When did you first make an entry with regard to

this order?

A. I did not enter in any book the order to print P75.

Q. Did you enter it in the bill book?

A. Yes.

Q. When did you write that order?

A. I have issued the bill dated 26.5.52.

Q. That is after the election?

A. Yes.

(Shown P76) This is a handbill printed by me.

The order was given by Mr. Wijeyanayake, Secretary
10 of Mr.E.L.Senanayake on behalf of Mr. E.l.

Senanayake. I have not got the manuscript of this
order. I was given a cutting from a newspaper and
I copied it. I printed 10,000 copies of P76.
I cannot remember whether I did it in one print or
two. The printed material from printing P76 was
sent by a messenger from Mr. Wijeyanayake's office.
Mr. Wijeyanayake was working in Mr.E.L.Senanayake's
office. That is the election office I have already
referred to. I cannot remember nor do I know the
20 messenger who brought it. Besides doing this
printing work I have also printed a Sinhalese
manifesto for Mr.E.L. Senanayake (shown P77)
This is the manifesto I printed. That order was
also given by Mr. Wijeyanayake, Secretary of Mr.E.L.
Senanayake. The material for the printing was
brought by Mr. Wijeyanayake. I produce that
manuscript marked P77(a). It is in 4 sheets of
paper. P77(a) is paged in blue pencil 1 to 5
(Witness reads a portion of P77(a). Apart from
30 doing printing work for Mr. Senanayake I have also
supplied him with stationary and writing material
Mr. Wijeyanayake placed the orders in respect of
these materials. I delivered these materials.
When they were in the Aerated Water Co.

I used to deliver them there, thereafter when they went into occupation of the new building I delivered them there. Earlier the election office was at the Aerated Water Co.

Q. Was there an election office in Castle Hill Street Kandy in May?

A. What I can remember is that the work was done in Castle Hill Street for a few days before the polling day.

Q. Prior to that was it done there?

A. Mr. Wijeyanayake used to telephone to me with regard to this work from the Aerated Water Co. office.

10

Q. Was that the office you delivered the order before they went to Castle Hill Street Office?

A. Yes.

I know these posters (shown) I printed 500 of them. I cannot remember whether I delivered them at the Aerated Water Co. or whether they came to my office and took delivery. Thereafter in respect of all articles supplied as well as printing done I rendered a bill to Mr.E.L.Senanayake (shown P9 bill dated 26th May 1952 which is in 2 pages). This is the bill I presented to Mr.E.L.Senanayake. My Clerk may have given this bill to Mr. Senanayake at his office. I am unable to say whether it was posted to his office.

20

Certified correct

Sgd. M.N.Peiris.

Steno S.C.

Adjourned for Lunch.

November 18, 1952.

Proceedings after Luncheon interval.

W.T.D.Wimalasena - re-affirmed

Examination: (cont) I had said earlier that I submitted Bill P9 to the Respondent, E.L.Senanayake. The first item in that Bill was "5,000 Manifestos. 1/8 4 pages Glazed" (Shown P77) They were not manifesto's like this. I stated earlier, in the morning, that P77 was a manifesto printed by me. In respect is the reference in the Bill P9 to them appear as the second and 3rd items (page 1) - "1600 Manifestos, 1/8 4 pages....Rs. 10 350/-, 400 Manifestos, 1/8, 4 pages...Rs.90" In respect of P74 I had issued a separate bill for printing it. (Shown P1 This is the bill in reference to it. I had issued P14 to the Respondent Mr.E.L.Senanayake. (where is the entry in your Bill corresponding to the printing of the hand bills P75?) It is shewn in Bill P9 as one but the last item at page 2 "7000 leaflets, 1/8, P.75A which I produce is my copy of P75 (shewn me the entry in this bill corresponding to P76?) Item corresponding to P76 is the 4th item on the second page of bill P9 which reads "10000copies of Vedulusariya, Rs.100/-" (In respect 20 of P74, 500 posters have you already received payment?) I have received payment. (Did you issue a receipt in respect of that payment?) I receipted on the bill itself on a 6 cents stamp. That is an entry on P14 "Received with thanks" and signed by my Clerk Hetimula. The total amount of the bill was Rs.110/- that amount includes the cost of 500 postares (P74) The entire amount has been received from the respondent. In respect of the bill P9 the total is Rs.1659/09 Against that bill I have received Rs.1000/- from Mr.E.L.Senanayake, the respondent. I cannot remember how the payment was made - my clerk, brought the 30 money but I cannot say how the payment was made - the clerk may have gone - he is the person who goes to collect bills (dues on bills) I cannot say if he went to the bungalow or the office I gave a receipt in respect of the Rs.1000/- paid by Mr.E.L.Senana- yake - that is P13 I had supplied him 250 printed figure (1-250) that entry in P9 is marked with a cross in red.

Those figures were to be affixed to cars. (Chitty objects - says this is hearsay evidence. (do you know what those numerals had been used for?) Those numerals had been used on the cars - Mr. Wijenayake placed the order with me for them. He did not say what they were for - he gave the size - I did not ask him what they were for. I went to the Poll - I saw the respondent's cars taking I saw the figures I had printed on these cars. I executed an order for the respondent for 25 x 20 sets block letters (500).. ink they were to be used on cars. I have a copy here of the block letters - P78 - the manuscript for the block letters appear on the back of a portion of a proxy form. I saw these block letters used on the cars of Mr.E.L.Senanayake on Election day. On the 2nd page of bill P9 there is an item reading 150 straw boards. It was supplied to Mr. Senanayake for fixing posters, I had also supplied 1 lb twine to him. My name was registered in respect of the polling booth which adjoined my place of business - that poll booth was housed in the Puspadanada Society Building (which party did you support at the last election? Chitty objects - discussion follows. The court allows Mr. Nadasan to put the question to the witness. Nadasan says that he does not want to put the question as the witness is an English speaking witness).

10

20

Cross-examined: I was questioned about orders given over the Phone - I cannot now recollect which orders were given over the phone and which otherwise. Most of the orders were received in manuscript form like this. Sometimes orders are given over the phone but the majority of orders come like this in the hands of messengers. All the orders were signed orders. With regard to the manner of payment or mode of payment I did not make any stipulation (you were asked from what building the telephone messages originated)? Yes. Most of the messages were sent from the office of the Aerated Water Co. as Mr. Wijenayaka resided there I inferred that. He could go elsewhere and telephone. (You were questioned about Mr.E.L.Senanayake's Election Office?) Yes. (Did you previously go to any Election Office of Mr.Senanayake to see what Election work was being done?) I did not go to any such office for any purpose whatsoever. (Have you any recollection when the

30

Castle Hill St. building of Mr. Senanayake was completed?) I have no clear recollection (I put it to you that the building was completed in July?) I cannot say. (I put it to you that there was no Telephone connection till July?) It may be so.

(Counsel states that the Castle Hill St. building houses Mr. Senenayake's Estate Office) The Aerated Water Factory is also in Castle Hill Street, Mr. Senanayake had an (Election) Office there. Mr. Senanayake had an Election Office in Victoria Drive, next to the S.C. Judges' Bungalow. I cannot say for how long the premises of the Aerated Water Factory had been used as an office

10 Before the erection of the new building at Castle Hill St. Mr. Senanayake's work was done in the Factory premises. I cannot exactly say but it may have been used for 6 months before Election time. I may have gone there but I cannot recollect the occasion. In connection with printing work I had done for Mr. Senanayake during the Election I did not go to any office of Mr. Senanayake I submitted Bill P9 dated 20th May, 1952 in respect of printing done and articles sold to Mr. Senanayake. I sent the bill to him on the date as appearing on the bill. I did not make out the bill but my clerk did so. I included in this Bill P9 all the work I

20 had done for Mr. Senanayake except the item appearing on P14. Those two bills contained the grand total for the work that I had done for Mr. Senanayake during his Election time. I did not separate out from the bill items of stationery &c. The total with all that included came to Rs.1,659/09 plus Rs.110/- Part payment was made of Rs.1,000/- in respect of bill P9 and the full sum of Rs.110/- due on P14 was paid to me. On receipt P13 I have stated that I had received Rs.1000/- in part payment of bills Nos.41,42 and 43. My clerk wrote out P13 and P14. I cannot remember if I was present when P13 or P14 was written out. (Kindly look at P9 again) (on

30 the top left hand corner there are two numbers 42 and 43?) Those are the numbers of the Bills. I have my Bill Book. (Witness hands it over to Counsel). The carbon copies of P9 appear on pages 42 and 43 of the bill Book (Look at the

The receipt P13 and you find a reference to Bills Nos. 41, 42 and 43 (Is that a mistake?) On page 41 of the Bill book entries were made but they were scored off ; they contain the same items as appearing on the first page of P9. Page 41 of the Bill book is in my hand-writing. I started writing but did not complete. The same thing was copied by my clerk and he scored off my entries on page 41 of the bill book. What he has done is instead of continuing from where I stopped he made the bill afresh in his handwriting and scored off what I had written on page 41 of the bill book. It was by a mistake that there is a reference to bill 41 in receipt P13 - there was no such bill. 10

I produce R17 the bill book - I produce R17(a), i.e. page 41 of bill book - I also produce R17(b) and R17(c) which are pages 42 and 43 respectively of the bill book R. 17 P75A covers the item 7,000 leaflets with the caption left to right. (Mr. Nadasen states that this witness is being called only in respect of the charge that the name and address of the Printers and Publishers had not been given on the face of documents produced. In other words to prove charge 3 (c). I had never an intention of concealing or fabricating any item. No suggestion was ever made to that effect. 20

Re-examined: Some of the orders were given orally and some in writing. I produce P79 which the written order in regard to printing P74.

P.D.S.Lanorole, Sworn.

Examined: I am the secretary of the Municipality of Kandy. I remember the last Parliamentary Elections - that was in May 1952. The election for the Kandy seat was on the 24th May. At that time the respondent was the Mayor of the Kandy Municipality and I was between January 17th and May 29th in addition to my duties acting Commissioner of the Kandy Municipality. There are various Play Grounds and Parks and they are rented out for Public meetings &c on applications made. 30

In support of the candidature of Mr.E.L.Senanayake a number of meetings were held. Application was made by H.T.S. Harasgama for the use of the Municipal grounds - he is a relation of Mr. E.L.Senanayake. Letters P32 (7th May). P33 (7th May, P34 (7th May, P35 (9th May) and P36 (10th May) were letters received from him and I identify his signature on those documents. (shown P32) There are certain Minutes on this - the clerk had been asked to take action as indicated. I cannot remember if Mr. Harasgama had come to see me with regard to these applications - he may have seen me. I had also allowed
10 the applications P33, P34, P35 and P36. (Shown P29) I identify the signature of Mr. Harasgama (shown P37) In regard to this, Mr. Senanayake wanted the use of the Market Ground or the Bogambara ground - I made a minute and sent it up to the Deputy Mayor - the meeting was fixed for the 23rd May. My recommendation as set out there was approved. I have set out the facts correctly in my minute. I know Mr.Senanayake voice - he telephoned to find out if the ground was available After the Deputy Mayor had accepted my recommendation I passed on the paper to the clerk for necessary action. Mr. Harasgama
20 is a brother in law of Mr.E.L.Senanayake. Mr. Senanayake lived in Gregory Road at the time of Election he was living in Victoria Drive. After the 26th April I had been there once to see him. Before that I had not been to his house. I went there for a special purpose after the 26th April.

3/30 p.m.

Cross examined.

Q. During the election campaign Mr. Senanayake did not perform duties as Mayor?

A. Yes, from 26th April up to the date of the election

He informed me of his intention of not being able to attend to his work about the 24th or 25th April. He informed me that he would not be able to attend to his work until after the election. On the 26th I made a minute to that effect in my pocket diary, "to instruct the deputy mayor to attend to the work". If there was anything important I telephoned and informed the Deputy Mayor. That was from the 26th until the election was over. He never attended the office during that period, otherwise he (Mr. Senanayake came practically every day, but not at any particular time. I cannot say how these application P.34, P35.....came.

10

Q. As regards P37 - this meeting was on 23rd May,

A. I believe that to be so.

Yes, that is hearsay evidence. It was not publicised to my knowledge. I did not take any part in the election.

20

Don Wilmon Kalubowila Affirmed.

34 years, Electrician and radio repairer. No.200 Trincomalee Street, Kandy. My business place is called "Silver Star Radio Service". I hire out microphones and loudspeakers. In connection with the last general election I hired out microphones and loudspeakers to Mr. Senanayake Mr. Senanayake discussed with me at his office at Castle Hill Street, Kandy about the hiring of these microphones and loudspeakers. I went to his office response to a message sent by him. He told me why he wanted them but he did not tell me when he wanted them, but he asked me to be in readiness to give them to him when they

30

are wanted, and that he would send for them and remove them
(Shown Job sheet P8 dated 17th May 1952) - This is my job sheet.
It is signed by me. That is also signed by Mr.E.L.Senanayake. It
was signed by Mr. Senanayake on the 17th May 1952. I cannot remember
when I had the conversation with Mr. Senanayake regarding the hiring
of these microphone and loudspeakers. According to the job sheet I
have supplied these for nine meetings. I supplied microphones and
loudspeakers for each of those nine meetings. The total amount Mr.
Senanayake had to pay according to the bill P8 is Rs.455/- I re-
ceived the payment and gave the receipt P10. I have been summoned
10 here to produce my account books. I keep a carbon copy of P8. I do
not keep an account book in which I enter the payments I receive
and expenses I incur. When I spent some money I do not enter it
anywhere. I pay the rent by cheque and I do not enter it in a book.
I am not intelligent enough to keep proper accounts. When I buy
articles for my business I do not make an entry showing the amount
I spend for the articles. I enter in these books (shows three books)
the amounts I spent on materials I purchase. (To Court: I have a
book in which I enter articles that I possess in the shop)
(Witness shows two other books) This book P80 contains entries
20 from 1945 April to March 1950. I call this book cash book. I call
P81 (ganan potha) and it contains entries from 16th April 1945 to
March 1950. In this the first entry is Silver Star Radio Service,
Capital account Rs.2000/- From March 1950 up to date the pay-
ments received are entered in these books (shows 3 books). From
March 1950 up to date I have not written any account in any book
similar to P81. I have here 3 job sheets books with carbon copies.
I have not entered in anyone of these books the expenses I have
incurred.

Q. Did you tell me a while ago that these are the books in which
30 you enter your expenses as well?

A. Why I paid 12 rupees for purchasing a material.

Job Book No.15 at 437 - P82 - contains a number of items, but it
does not contain any purchase by me.

4.05 p.m.

(Adjourned for the day)

19.11.52 - 11 a.m.

Same Counsel as before - except Mr. Nadesan who is absent today.

(Court: As the Court was about to adjourn yesterday my attention was drawn by the clerk on duty that he found pages 401 and 402 of the book produced marked P67 lying on the Bar table, detached from the book. Witness P.S.Perera was questioned about the absence of pages 401 and 402 from the book P67. It seems to me that these two pages may have got detached from the book whilst P67 was being handled at the Bar table. The two pages are now pasted on to the book P67. 10

Mr. Chitty draws my attention to the proceedings of Friday the 14th instant at page 75. In line 23 following appears: "My symbol". Mr Chitty says that it should be "Your Symbol" Mr.De Soysa agrees that the word should be "Your" instead of "my" I make the correction by deleting the word "my" and substituting the word "your")

.....

Don Wilmon Kalubowila: Re-affirmed. 20

(Examination in chief contd)

The articles that I purchase are entered in this book P82. (Witness refers to page 437 of Page P82) It is marked P82(a). The document I point to is a carbon copy of a bill given to my customer. My customer pays me according to the amount as set out in the bill. Although the customer pays me according to the amount depicted in this, when I buy these articles I get a commission. From the customer I charge the market rate. I did not enter in any particular book the commission, I received on the articles. Repairing, 30 radio sets and etc is not my main source of income. I make substantial profits on hiring out amplifiers. I charge

for repairing radio sets. Such charges are also entered in this bill book P82. (Witness shows page 437 of P82) The last item on that page is "repairing and services charged Rs.5/-" I have no assistants. I do the technical work myself. If necessary I engage an outsider to help me but I do not have any regular person to assist me. Sometimes my brothers used to come there and assist me. My brother is yet learning electrical work. I do not employ permanent hands in my establishment, but I do engage casual labour from outside when I have work in connection with
10 amplifiers and microphones. My brother and I do all the work in connection with my business. I give him a small amount as his pay. I have not recorded anywhere regarding my brother's pay.

Q. The work you are engaged in, whatever the type may be, is it your position that you do all the work?

A. This work is done only by me.

This bill (page 437 of P82) refersto repairing of radio sets and when I answered the last question I was speaking about this bill.

20 When necessity arises I do get assistance from outside. That is to do work in connection with amplifiers and microphones. I pay them whenever I get some work done by them but I do not make a record of that anywhere. I pay house rent for my premises, and the landlord gives me a receipt for the payment received by him. Since 1950 I have not entered anywhere the amounts I had paid as house rents. The person who used to keep books for me did not turn up after 1950. He must have got another job and left my services. As there was not much of an income I did not keep accounts
30 thereafter. I did not keep any accounts.

Q. P80 and P91 are written in detail?

A. That is how the person who kept accounts for me has made the entries.

I am the sole proprietor of this business from its inception.

Up to date I have not given my brothers share of my business D.A. Kalubowila is my brother. I do not know whether there is any other Kalubowila who is interested in my business. I do not know. A.H.Kalubowila (shown page 17 of P81) - That page shows the account of A.H. Kalubowila. I do not know him Page 13 of P 91 set out the account of D.A. Kalubowila. That is how it is given there. Having seen this page I said that I used to pay a salary to my brother. I cannot remember what I paid to my brother those days. Page 13 of P81 shows that my brother is paid Rs.30/- a month. (This page 13 is marked P81(a). There are 10 entries made by the person who kept this book for me. I never looked into these books. Thinking that I should keep an account I got these entries made. He posted these entries according to the bills. The entries made in the bill books shows the amounts I have received from my customers. I gave the person who posted these accounts these bill books.

Q. From where did he get the entry that your brother was paid Rs.30/- a month?

A. I told him that I used to pay him about Rs.30/- a month, 20 and the person who works the book said that it must be entered in that way.

Therefore, this book is not strictly correct.

He used to take the book away and write it and bring it back. I did not find fault with him for writing this book.

Q. It has been repeatedly entered in P80 and P81 that your brother was paid Rs. 30/- a month?

A. Yes (Counsel shows various items in P80 and P81) I can see that - those entries appear in the book.

P81 shows that each month D.A. Kalubowila had 30 received a monthly salary of Rs.30/- from March 1946.

I did not pay Income Tax. Mr.Senanayake asked me to keep the amplifiers and microphone ready for him and he took them from time to time. I did not receive payment from time to time but I received payment at once. A person who

came to the shop wrote out the bill for me. Mr. Senanayake was given this bill and he paid the bill. Apart from Mr. Senanayake, Mr. Ratnayake's son also came to get the amplifiers. That Mr. Ratnayake is son of Minister Ratnayake. That was not for the Kandy Election. I supplied Mr. Ratnayake microphones and amplifiers and presented a bill to him similar to the bill given to Mr. Senanayake.

(Mr. de Soyza says that the witness has not brought all the books into Court that had been kept by him)

Page 518 of P83 shows the carbon copy of the bill presented to Mr. Ratnayake. P.B. Ratnayake is Minister Ratnayake's son. Mr. Ratnayake did not ask for a receipt. In the bill book I write over one and the carbon impression is left over in the 2nd page. The Job book or the bill book is so made. Normal practice is to insert a carbon copy underneath the bill and obtain an impression of the writing. So that what is left behind is the carbon copy of the one on which I write the bill and give to the customer. In this book P83 the job sheet starts on page 501. From page 501 to page 517 the carbon impression of the bills are left behind. Page 518 has been written in ink. That was due to the fact that when writing the bill the carbon has been placed upside down and thereby the impression of the carbon did not appear in the sheet underneath the carbon. Then I got Mr. Ratnayake himself to enter it up. Having entered it up Mr. Ratnayake's son took away the original of the bill. Apart from Mr. Ratnayake and Mr. Senanayake I cannot clearly remember who else placed orders for amplifiers and microphones. I cannot remember whether I have undertaken any other job to install microphones and amplifiers. I engage other people to accompany these equipments when they are taken to various meeting places. Sometimes I went. I did not go to the meetings held at Katwela or Kossina, but I went to the meetings held at the Market Square, Katugastota Rahula College premises and Ampitiya near the bo tree. I went to

the market square only once, to install the equipments.
The carbon copy of the job sheet of Mr. Senanayake appears
in this book, P84 at page 601. There were three contestants
for the Kandy Seat. I did not supply amplifiers or micro-
phones to any other candidate. Mr. Harasgama or Collin
Wickremetunge did not get from me microphones or amplifiers
during the election period. When I went to these places where
the meetings were held I cannot remember whether there was a
large crowd because I was busy near the equipments. I cannot
say who were the speakers at these meetings. I remember
Mr.E.L.Senanayake was one of the speakers. Some others also 10
spoke but I cannot remember their names. I did not pay any
attention to the speeches of the speakers. In P82 all the
pages have been used. There are some pages in the middle
of the book and they have not been used. In one page only
the name has been written and in the other pages entries
have been made but they have been not torn off. Those are
only 'pink' sheets that have not been torn off. This
P82 begins with an entry dated 24.7.51 and continues up to
the last page of the book. But the last page is not dated,
but the last page is dated 9.4.52. That is in bill Book 20
No.5 P83 is bill book No.6 which begins on 10.4.52.
It is my practice to finish one book and get on to the
other. P83 is from page 501 and the last date -
14.11.52 - appears on 579. Page 580 is dated 16th
instant. From 581 the pages are unused up to 500. Page
517 dated 13th May 1952. Next page is dated 16th
May 1952. That is the page written in ink. The next
page 519 is dated 17th May 1952.....

B.W. Kalubowila.

(Examination in chief by Mr. Stanley de Zoysa continues).

P84 has only one used page and that

is Mr. Senanayake's job sheet dated 17th May.

Cross-examination by Mr.Chitty

Microphone is the instrument to which
you speak and that is connected by wire to the
amplifier which in turn is connected to a loud-
10 speaker. What is spoken into the microphone
is amplified and comes out of a loud speaker.
A large volume of that transformation is done by
the amplifier. Amplifier is the thing which
contains the condenser and transformer. All
these articles are referred to in different parts
of P82 and P83 as valves, condensers, transformers
and also materials required for wireless sets
This is the trade of doing radio service which
required some kind of material and some kind of
20 knowledge. I carry on this business in the
verandah of my residing house. The verandah is
my workshop. I pay Rs.30 a month for my house.
I live with my wife and three children. My house
consists of two rooms and the verandah. I have a
temporary shed made of zinc sheets which I use
as a kitchen (shown P80 and P81 account books)
When my clerk comes I give him the job books and I
ask him to enter upon these books. He comes once
in six months or a year. He did not come once a
30 week. (shown page 46 of P80). There is an entry
at the bottom of this page dated 10.8.48. 1947
accounts have been entered on 10th August 1943.

That is the way I kept my accounts. In some months I earn about Rs. 50 or Rs. 60 and in some months Rs.150/- or Rs.200/- I am unable to say my average income for a month. (To court: Apart from election meetings I supply amplifiers for weddings, at home etc. I supply amplifiers for "Nadagams" and theatres (shown page 421 of P.82).

That is for amplifiers music or repeating Jayamangala Gatha at weddings. A microphone is valued at Rs. 80 Rs. 85/- or Rs. 90. An amplifier is worth about Rs.300/- and a loudspeaker between Rs. 30/- and Rs.300/- 10

A secondhand set of microphone, amplifier and loudspeaker can be bought even for Rs.100/-

Q. Shown page 601 of P84 dated 17.5.52. receipt issued to Mr. E.L. Senanayake) How is that this did not appear in P. 83? Was there any reason for that?

A. My brother had locked this book in the drawer and gone away. When Mr. Senanayake came I could not trace this book. Then I took this new book and wrote Mr. Senanayake's bill as he wanted to pay the amount due to me and I was in need of money. P84 was the last unused book I had at that time.

In P83 I continued to enter my jobs. I have produced before Court all my job sheets beginning from 24th July 1951 P82 right up to 14th of November 1952. I left Kandy for Colombo on 16th November (Sunday) for this case. There is not a single page missing from any of the books I have produced.

Re-examination

To the ordinary man microphone means the loudspeaker and amplifier as well. The item for Rs. 455/- which Mr. Senanayake described as microphone really means all the parts needed for

20

30

the amplifier and loudspeaker. I have a bank account. I had it from the time I began this business. My book P80 shown among other things the various deposits in my bank. In 1945 I had a credit balance of Rs. 1,368/20 On page 46 of P80 I do not say the endorsement marked entered under date 10th August 1948 is the date on which this book was entered. I did not see him writing or the entry under reference till it was pointed out today. That endorsement is not in the handwriting of the person who entered the accounts.

10 There is a difference in the ink. A return was prepared for income tax purposes in 1948 in regard to my income in 1947. This endorsement was made in 1948 when my clerk filled up that return. The books themselves had been written earlier. The income Tax Department did not send me any forms after that and I was not asked to pay any income tax. This P83 was locked up in the drawer by my brother at the time Mr. Senanayake came.

That is the first time such a thing occurred. That was the one occasion on which the bill book was not
20 available. Usually payments are made when my brother was present by customers because I cannot write.

Sometimes I get my customers to write the bill. I can only write broken English. My brother knows more English than I. (Shown the first two pages 501 & 502 in P83 the witness points out his signature on them)

Q. When did you last see this book before Mr. Senanayake came in?

A. I saw this book the day previous to the day on which Mr. Senanayake came.

30 Q. Did you see it on the day Mr. Senanayake came;

A. No.

Q. You didnot look for it on that day before Mr. Senanayake came?

A. No.

Q. You did not ask your brother in the morning.

Where the book was?

A. No.

My brother before he went that morning did not tell me that the book was locked up in the drawer. We do not inform each other when we go out that the book is in the drawer. My brother stays at Ampitiya. He came the following day.

Q. Are you quite sure that the bill given to Mr. Senanayake was written on the day appearing on the face of it, 17th May?

A. Myay is written by mistake.

10

Q. Then when was it?

A. On 17th June 1952.

Q. Who wrote that bill?

A. Two boys had come there to meet me. I got it written by one of them.

Q. On 17th June you say?

A. Yes.

Q. On 17th of June you used that book because the other book was not available?

A. Yes.

20

Q. This was the only business that day and you discovered that the book was not available when Mr. Senanayake came?

A. I cannot say whether I had any other work on that day.

To Court My brother was there in the morning. I went out and when I came my brother had gone away. Mr. Senanayake came in the absence of my brother.

Certified correct.

Sgd. M.N.Peries

30

Steno S.C.

Adjourned for lunch.

November, 19, 1952.

Proceedings after Luncheon interval.

M.D.F. Perera Affirmed.

Examined: 35, Manager, Lanka Printing Office. I reside in 34 King's Street, Kandy. In May this year I was carrying on the same business - during that time I did some work for Mr. Senanayake, who was a candidate for the Kandy seat. He came in his car and placed the orders - he came and gave me stitched cloth and asked me to print flags on those pieces of cloth. He gave me white and green cloth. It may be that Green
10 was the colour of the U.N.P. Party. He gave me 360 pieces of stitched cloth (pieces) white and green. They had been cut and edges had been stitched (shown bill P15) This is a monthly statement which I had presented to Mr.Senanayake. It has been receipted with a 6 cents stamp - the amount is Rs. 168/65. That was recovered as printing charges for printing done on the pieces of cloth. I printed his symbol and his name - the words "vote for E.L.Senanayake" were printed on top of each of the flags. The symbol was the mark of the wheel. I made the block for the symbol. There was nothing
20 on the pieces of cloth when they were brought to me. -they were new clean pieces of cloth - there was no printing on them when I received them. I printed some flags in English and the others in sinhalese character. Rs. 168/65 was the cost of printing only. There were 3 sizes of flags - 92 of 1 x 9½ 62 large green flags 8 inches by one foot. 199 Car flags -they were the smallest - just a little smaller than the green flags I am making a rough guess of sizes - I did not measure. The word "supplying" in the Bill P15 does not indicate that I supplied the cloth. I sent them through a subordinate of mine
30 to Mr.E.L.Senanayake's office. I obtained no receipt for the parcel - delivery was not disputed. Mr.Senanayake per

sonally paid me the money. Apart from this I had no orders from Mr. Senanayake previously or after. I addressed the bill to "the office of Election of Mr. Senanayake" The Office was at Castle Hill Street - it was the new building. I cannot say if the new building was occupied before the Election. My subordinate may have delivered the bill to the Aerated Water Co. of the other building. The office was in Castle Hill Street. I said it was the new building and not the Aerated Water Co. building. I knew that Mr. Senanayake's office was in the new building. I referred to work in connection with the election after the Election - then it was carried on in the new building. 10

Q. You had described the new building as the Election Office?

A. Yes.

Q. You had also said that it was the place where the work in connection with the Election was carried on?

A. Yes, I meant after the polling day. I received payment after the Polling Day and somewhere about June. I sent the bill at the end of the month i.e. after the Polling Day. The Bill was written on the day the work was completed but it was sent on a subsequent day. I saw the new building before the Polling Day. I cannot exactly say whether I saw the new building when it was being constructed or after it was completed. It was occupied a day after the Election. (Was any part of the building occupied before Polling Day?) I cannot say. I have dated the bill on the 22nd May but I sent it at the end of the month. I do not know if building was occupied before Election or not. 20

Cross examined (shown P.15) I wrote out the bill myself.

As soon as the work was completed I wrote out the bill.

I sent it by a messenger. Payment was made personally by Mr. Senanayake when I went to his office. He was having his 30

office in the old building on 3rd June - I mean the Aerated Water Co. premises. I went there, met him and he paid the money. I receipted on the bill itself on a 6 cents stamp - I signed and dated the receipt. I brought the bill back to the office, used the Rubber stamp to indicate receipt and sent back the receipted bill through one of my subordinates. I went to receive payment on a message from Mr. Senanayake. It was a personal message. The car flags were oblong in shape. (Were not the car flags triangular in shape?) They were not pointed at one end - one side small and two sides long. They were of the
10 size of my Bill Book. Rectangular means two sides small and two sides long. I know what a square is - all sides equal. (witness is asked to draw a sketch of the oblong flag he referred to - he draws that Diagram and Chitty marks it R.18 - shape of it is rectangular (Counsel draws a diagram and shows it to witness - it is marked R.19) This was not the shape of the flag. All the flags were alike. All the flags were rectangular in shape - I now see that what I refer to as oblong is actually rectangular- The smallest flags had the hem stitched on one side to admit of a pole or string being passed through. The big flags had both
20 ends hemstitched to run twine or pole through either at ends. The material had not been used before - it was not dirty - I cannot give the age of the material. I made a block for printing the wheel. The total cost for printing was Rs.158/65 - no additional charge was made for the block.

Re-examined: Nil.

Deiyapalagoda Guru Wedagedera Jayasinghe. Affirmed.

Examined: 43, Proprietor, Ananda Press, Kandy. It is also known as Ananda Yantarala. (Shewn P.85) This was printed by me. This hand bill advertises a Public Meeting in support of the candi-
30 dature of E.L. Senanayake on 20th May. I have the office copy - I produce it - P85A. I have put down at the bottom of it "Copy 2000" I printed 2000 copies of this. I have the manuscript of that hand bill - P85B. Mr. M.W. Thomas Perera brought

the order - he is a trader in the Kandy Municipal Market - he is a stall holder there and deals in vegetables. The notice is signed "under the aegis of the Traders". He paid me Rs.20/- for the work. I cannot say if that meeting was held (Q. Do you know whether a meeting in support of the candidature of Mr. Senanayake was in fact held on 20th May?) I do not know (Q. Are you aware of any meeting held in favour of Mr. Senanayake?) I saw notices advertising various meetings but I do not attend any of those meetings. I saw posters all over the town. There were so many posters and of different kinds that I cannot now identify any. Thomas Perera brought the photoblock. I returned 10 the block to him. From the notice I gathered that the meeting had been called for by the traders. I am not aware who else were interested in that meeting apart from Thomas Perera. Thomas Perera himself came and removed the hand bills. I did not do any other printing in connection with this or any election. This is the only printing I did in connection with the Kandy Election I went out on Polling Day and gave my vote in Brownrigg St. Polling Booth. I did not notice any decorations - there was heavy rain. As I had an umbrella I did not go into any shelter or take shelter from the rain anywhere. No provision had been 20 made for the voters to take shelter. Voters went along the pavement to the Polling Booth. I went to other Polling Booths - I went near Wales Theatre and from there came towards the booth opposite the Maligawa. I had no work that day and went sight seeing.

Cross-examined: No questions.

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FRANCIS PERERA Sworn.

Examined: 58, Clerk and Manager, Eksath Printers, Ltd.

I live at Weralagama. The Co. is a limited Co. and has been 30 registered as such. During the Kandy Election I printed two pamphlets - same matter with a slight difference (Shewn P86) This is one of them. I have the office copy - P86A. I also produce the manuscript Copy - P86B. (Shewn P87) This is

the other one. I produce my copy P87(a). The manuscript for both P86 & P87 is P86(b). The chief difference between P86 and P87 is in the last line in the verse. P86 says "so we will send the Kumari to India by post". In P87 it is "We will send this same by post". We have put down the name of the Printing Press where the work was done. (Chitty states for the purpose of a sworn translation would be necessary - do Zoysa states that the translation has been done by a sworn translator of the District Court - The Mudaliyar of this court has been asked to make translations of documents produced).

10 Mr.H.G.Perera placed the orders. I do not know him personally but I have seen him several times. I do not know from where he comes or his address. I have been a printer for a long time. I know the risk a printer runs in making publications. Three persons names appear in this pamphlet - they had signed it. The other two - viz: Rajeen and Perera did not come to the office H.G.Perera said that all three are printing the pamphlets and they had consented to the printing being done. I did not ask him to get the other two to sign. H.G.Perera has signed the manuscript. I do not know to read and write Sinhalese and there-
20 fore I could not read the manuscript. In respect of P86 H.G. Perera paid an advance of Rs.2/50 and paid the balance Rs. 17/50 at time of removal. In regard to P87 he paid an advance of Rs.5/- and the balance Rs.70/- when he removed the pamphlets Cross-examined. The Managing Director of our Press is K.W. David - there are altogether 3 Directors - the other two are A.R.Suwaris and P.S.Sirisena. I had seen H.G.Perera several times in Kandy. I do not know his occupation or address. I cannot say if he is still alive. I last saw him when he removed the second set of pamphlets (P87). When I got the summons I
30 got some one to read the pamphlets to me.

To Court: The sachier or compositor read the sinhalese manuscript and decides if they could be printed.

Re-examined No question

M.G.Vincent Perera, affirmed.

Examined: I am 34 years old. I am a Sub-Inspector of Police stationed at Kandy - In May, 1952 I was holding the same office at Kandy and was attached to the Special Branch. I had to cover the meetings in connection with the then impending General Election. I detailed my men to cover the meetings and write out the gist of the speeches made by various speakers at each of the meetings. I had specially instructed my men to make a note of statements which might result in the breach of the peace and to make a note of statements amounting to contempt of court - speeches against the courts. I was present at several meetings with my men. I was present alone at one meeting. Reports have to be sent to the Supt. of Police. I reported one meeting on the 18th May - this is a report of the meeting (P88) 10

That meeting was held at Kandy Market Square. It was an Election Meeting to further the candidature of Mr. E.L. Senanayake for the Kandy Seat. Mr. Wijeyawardana, Secretary, Kandy U.N.P. Youth League presided. Loud speakers were installed. One could not use Loud speakers lawfully without a permit from the Police. The permits are issued by the police and by no other authorities. I have set out the speakers in my report - Ratnayake, Seneviratne and others. I cannot remember if Mr.E.L.Senanayake attended the meeting. My report is dated the 18th May - P88. This was the only meeting at which I was present right throughout. I must have covered 3/4 of the meetings in respect of the Kandy Election but I could not have waited more than a minute or two at each meeting place. I could recall to mind some of the meetings I attended if particulars are given to me. 20

Adjourned for the day.

10th November 1952.

Kandy Election Petition

Same Counsel as before.

M.G.Vincent Perera. Re-affirmed.

Examined: Apart from the meeting which I personally attended, I remember having attended certain other meetings. I attended about 2/3 of the meetings. Apart from the meetings of the 18th of May at the Market Square which I covered, I paid visits to meetings covered by our men. I visited the meeting at Bogambara when the Prime Minister was present. At that meeting the crowd
10 was so great that I could not see whether E.L.Senanayake was present or not. Mr. Dudley Senanayake spoke at that meeting. Apart from what he spoke about the U.N.P.Government I cannot say whether he spoke about Mr. Senanayake. Loud speakers were used at that meeting. I did no election duty on Polling day but prior to that date I did certain amount of Election duty. I had to visit about 6 polling Stations on the night previous to the Election about 10 p.m. I remember visiting the Esplanade Polling Station opposite the Maligawa, Thennakumbara and Brownrigg road Polling Stations. Without seeing the Police Information Book I
20 cannot remember the other Polling Stations that I visited. At every polling booth I visited I saw temporary huts put up by the candidates for the convenience of voters who came to vote the following day. There were three candidates. I only saw the temporary huts. I am not certain whether there was more than one hut by each polling station. I visited them between 10 and 11 p.m. on the night previous to Polling day and I was not able to notice the colour of the flags in the hut/huts. There were lights in 2 or 3 Polling centres to recognise the colour of the flag used. There were blue and green flags. I
30 remember seeing the temporary shed at Brownrigg Road Polling Station, which was by the main road. Where there

was light I saw the colour of the flags but I cannot say definitely the colour of the flags in the booths I visited where there was no light. My job was only to see that the police men were on duty. On the Polling day I was sick and in bed.

Cross-examination: (Shewn P88) This is the report of the meeting I attended at the Market Square on the 18th May. It was a meeting held by the U.N.P. Youth League. It was presided over by Mr. Wijeyawardena, Secretary, Kandy U.N.P. League. He is not personally known to me. From the pamphlets and other speeches I gathered that Mr. Wijeyawardena was the Secretary of the U.N.P. Youth League and it was an U.N.P. Meeting. I did not know whether he was the Secretary or President of the Youth League of the U.N.P. (Kandy Branch) This is the information I obtained at the spot. From all the surrounding circumstances and from what was said I gathered that it was a meeting in support of Mr. Senanayake. Mr. Ramanayake said : "Vote for Mr. E.L. Senanayake." Mr. D. Ramanayake said "Vote for Mr. E.L. Senanayake, the U.N.P. Candidate" Mr. Wijeyawardene appealed to the crowd to vote for the U.N.P. candidate I knew at that time that Mr. E.L. Senanayake was the U.N.P. candidate. This was the only meeting covered by me. I have noted down the names of all the speakers. I had to take particular note of anything said which was likely to cause a breach of the peace. I may or may not have noted anything said about the personal conduct or character of a candidate during the meetings. In this instance I have made a note that Mr. Wijeyawardena from the chair spoke good of Mrs. Illangaratne, which is rather a rare thing - otherwise I would not have noted it. I was struck by the fact that the Chairman of this meeting who was an official of the U.N.P. had spoken well of Mrs. Illangaratne. That is why I made a note of it. He also said one has to consider the suitability of the candidate. He appealed to the crowd to vote for the U.N.P. candidate. As far as my note goes

there was nothing said in favour of the candidate Mr.E.L. Senanayake. The chairman also mentioned that at a meeting held in those grounds the day before by the S.L.F.P. individuals had been criticised and that the gathering should not be misled by such criticism. Mrs. Sarachandra and D. Ramanayake spoke of the policy of the U.N.P. and described what democracy was. Mr. Kirinda compared democracy with dictatorship. Mr.Piyasena deplored at what would happen to Ceylon if the S.L.F.P. came into power. All the notes which I made of the speeches truly represent my summary - my
10 report contain the substance of what was said. This meeting was concluded at 6 p.m. It began at 4 p.m. The shed I referred to as erected at Brownrigg St. was a permanent building used as a Polling station by the Department of Elections. At Brownrigg St. there was no temporary structure. I saw a temporary structure at the Esplanade opposite the Maligawa. I cannot describe it. I can only remember the Cadjan. I did not vote. I had no vote for the Kandy seat. I was in no way interested in the Kandy Election personally and I was only interested in performing Police duty
20 in connection with that election.

Re-examined: The leader of the U.N.P. is the Hon.Mr.Dudley Senanayake. The entirety of my report P88 is correct to the best of my knowledge and belief. I had recorded only matters of interest from a police point of view and according to my judgment. A great deal was said at this meeting which has not found a place in my report. That was a propaganda meeting held by the Youth League (U.N.P) in support of the candidature of Mr.E.L.Senanayake. Mr.Ramanayake said at the end of his speech "Vote for Mr.Senanayake" Mr. Seneviratne appealed to the
30 crowd to vote for the party candidate. Mr.Saraschandra said "Vote for the correct party". Mr. Kirinda went on to say "People like Dr. Wickramasinghe and Mr.Keuneman expressed their delight when the Premier died" He also praised the Government formed by the

late Premier and wanted the people to support that Government. Mr. Wijeyawardena wanted them to vote for the U.N.P. candidate. There was no doubt at all that Mr. E.L. Senanayake was the U.N.P. candidate. I noted Mr. Wijeyawardena's praise of Mrs. Illangaratne because it was very unusual. The usual thing at Election meetings is to criticise the opposing candidate or party.

.....

Edward Ratnayake: Examined.

Examined 45, P.S.1881, attached to the Special Branch of the Kandy Police. Among other things it was my duty to cover certain Election meetings. I was expected to report to Govt. anything said or done to incite the people or to create a breach of the peace or anything to subvert the government. I sent my report to the Suptd of Police through the usual channel. In these reports I gave a full list of speakers at the meetings and a brief precis of what each speaker said. My precis did not contain everything a speaker said. I reported the meeting held on the 3rd May at Dangalla play ground. I produce marked P89 my report of that meeting. I referred to this meeting as a public meeting in support of Mr. E.L. Senanayake for the Kandy Seat. I described it as such from the information I gathered from the speakers, pamphlets and the permit issued for the use of Loud speakers at the meeting. There was no doubt that this meeting was in support of the candidature of Mr. E.L. Senanayake for the Kandy seat. It was presided over by Mr. Fred de Silva who is a son of the late George E. de Silva who represented Kandy at one time. I remember the late Mr. George E. de Silva's office - the one which he used when he was practising as a Proctor. Messrs. Karunaratne, Harasgama and Collin Wickramatunga are now working in that office, Mr. Fred de Silva himself when he was a Proctor worked in that office. Loud speakers were used at this meeting. The speakers were Fred de Silva, Collin Wickramatunge, E.L. Senanayake, the candidate

date and Mr. Cooray. These names were announced on the microphone. Messrs. Delaswela, Ramanayake and L.B. Ekanayake spoke about the suitability of Mr. Senanayake and the party he professed. Each speaker praised Mr. Senanayake profusely personally referring to him in very flattering terms. I cannot say whether they said anything disparaging about the opposing candidates. Mr. Collin Wickramatunga said "What has Mrs. Tamara Illangaratne done for Kandy. She can only read out what her husband prepares for her". He actually said that. Other speakers may have referred to Mrs. Illangaratna but I have no note.

(12.10 p.m.) (Examination of Mr. Ratnayake continued)

I produce marked P90, my report of the Bowela meeting held on 8.5.52 at the Bowela Play grounds. It was a meeting in support of the candidature of Mr.E.L. Senanayake, presided over by Mr. Dolaswala. There were loud speakers installed and the following spoke at the meeting: D. Ramanayake, Piyasena, Colin Wickremetunge, Wimalasena, E.L.Senanayake and Dolaswela. This Collin Wickramatunge is the person who works in that proctors office. I have given here a precis of what they said. To the best of my ability it is a fair precis of what they said. I have not included in this all what they said. 10

Q. You have naturally left out a lot of what they have said?

A. Yes.

Q. That applies to all your reports?

A. Yes.

I produce marked P 91 my report of the meeting held at Lowella on 11th May 1952. It was presided over by Mr.A.C.L. Ratwatte. He was the gentleman who contested the Kandy Seat on a previous occasion. Loudspeakers were used at this meeting. The speakers were:- Paulis Alwis, 20 Kulupane, Colin Wickramatunge, Saraschandra, Fred de Silva, E.L.S.Hussain, H.G.Perera and A.C.L.Ratwatte. I know H.G.Perera. I have seen him in town but I do not know what he is doing. He is very fluent in Sinhalese and he used to recite verses. He was present at a number of meetings.

Q. He was closely associated with Mr. Senanayake's election campaign?

A. Yes.

This Colin Wickrametunge who spoke at this meeting is the same person that had been referred to earlier. 30

I produce P92 my report of the meeting held on the 13th May 1952 at the Kandy market square. That was also a

meeting held in support of the candidature of Mr.E.L. Senanayake. There were loudspeakers installed at the meetings, and the meeting was presided over by Mr.A.C.L. Ratwatte. I cannot recall to my mind now whether there was a good deal of talk at this meeting about the India questions.

Q. As a police officer it was not a matter of importance to you?

A. Yes.

Athugoda was one of the speakers at the meeting.

I have reported Mr.Athugoda as having said "Kandy was in
10 darkness". I do not know whether Athugoda is a village
Committee member of Gandaha. I do not know him. At the
meeting he spoke about the state of his village, Gandaha.
He spoke of: lack of roads, lack of schools, and lack of
bridges, and he complained that Mrs.Illangaratne had done
nothing for them. He exhorted the people to send even a
skeleton with the U.N.P. ticket. I cannot remember any
further details of what Mr. Athugoda said at that meeting.

I produce my report of the meeting held at the
Deiyanwela play grounds on the 14th May 1952, marked P93
20 That was also a meeting held in support of the candidature
of Mr.E.L.Senanayake. I have given a full list of speakers.
Amongst the speakers were Fred de Silva, Colin Wickramatunga and
Dharmasena. Fred de Silva and Collin Wickramatunge are the
gentlemen about whom I have spoken earlier. E.L.Senanayake
the candidate also spoke at the meeting. I know Mr. Dharmasena. He is a member of the Municipal Council. I cannot
say whether the Dharmasena who spoke at the meeting was
that identical Dharmesena. A Mr. Dharmasena spoke at the
meeting. I was not close by. I cannot remember when
30 Dharmasena spoke. The names of the speakers are announced
by the loudspeaker. A native physician called Appusingho
was the president of that meeting. The loudspeaker
announcement does not always give the qualification of the
speaker.

I cannot remember whether the Chairman in introducing the speaker to the gathering said who this Dharmasena was. I cannot recall that.

I produce marked P94 the report of the meeting held on 15.5.52 near the Asgiriya Post box junction. Senator W.A.B. Soysa was the chairman of that meeting. There were loud speakers. Colin Wickramatunge spoke at the meeting. I know him, and there is no mistake about that.

I produce marked P95, the report of the meeting held at the Kandy Market Square on 22.5.52. It was presided over by Mr. Colin Wickramatunge himself. That is the same Wickramatunge who spoke at the other meetings and he is the person who works at the Proctor's Office. 10

I produce marked P96 my report of the meeting held at the Kandy Market Square on 20th May 1952. This was presided over by Senator Mr. Soysa. There were loud speakers at the meeting. Amongst those who were at the meeting there was Mr. Harasgama. That was also on behalf of the candidature of Mr. E.L. Senanayake. One Karunaratne spoke at the meeting. I do not know him. I know Fred de Silva who was one of the speakers at the meeting. Kirinde and E.L. Senanayake also spoke at the meeting. I do not know Kirinda. 20

Q. Proctor Harasgama also spoke at the meeting?

A. Yes. The gentleman who spoke at the meeting was not Mr. Harasgama, Proctor.

Mr. Harasgama, Proctor, to my recollection had not spoken at any meeting that I had covered.

Q. You say that without a shadow of doubt?

A. Yes.

I do not know who that Mr. Harasgama is who spoke at the meeting 30

Q. How are you sure that Mr. Harasgama, Proctor never spoke at the meeting?

A. Because I know him.

If Proctor Harasgama had spoken at a meeting I would have seen him. We usually see most of the people who speak at a meeting. Sometimes we see the speakers when they speak, and sometimes we do not see them. There may have been instances when there were large crowds and I could not have seen the faces of the Speaker. When there is a large crowd I have to be far away sometimes. Generally at the Market Square the crowd is always big. At the market grounds generally there is a crowd of about 1000 people. Then I would call that a big crowd. When there is
10 a crowd like that we would be far away and we would not be able to see the faces of the speakers. We get the names of the speakers when they are announced on the loudspeaker, and sometimes we verify the names of the speakers from the crowd and also from other Police Officers. When there is a small crowd we can get closer to the speakers and we could see their faces. I know Mr. Harasgama Proctor, and I did not see him speaking at any meeting that I had covered. To my recollection Mr. Dharmasena, the M. M. C., never spoke at a meeting that I had covered.

20 Q. You are positive that neither proctor Harasgama nor Mr. Dharmasena ever spoke at a meeting that you covered?

A. Yes.

(Shorthand notes re 14th May meeting read)

I was questioned earlier about Mr. Dharmasena's identity - that Dharmasena who spoke at the meeting. I was asked whether that Dharmasena was a M.M.C. I recall the answer I first gave when I was questioned. The answer I gave was that Dharmasena who spoke at the meeting is not that Dharmasena the member of the Municipal Council. I heard
30 the shorthand notes being read out. That is not correct. Neither Dharmasena nor Proctor Harasgama spoke at a meeting covered by me - I am positive about it. I say that because I had every opportunity of seeing them, and I know them very well. There were instances when I could not

have seen the speaker. At a small meeting there were about 200 to 300 persons present. (The meeting at which a Harasgama is reported to have spoken, according to your report, had an audience of about 1000 people?) This is not Proctor Harasgama

Q. You reported a meeting at which some Harasgama spoke and according to your report there was an audience of about 1000 persons? A. Yes.

Q. (Shown P93) Your report of this meeting, at which one Dharmasena spoke, shows that there was an attendance of about 200 persons? A. Yes.

Cross-examined.

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(To Court: We go to the meeting in mufti).

When the meetings are held at the market grounds we get to the meeting place before the meeting starts, then we go round and come back to the station, otherwise we go to the meeting place when the "music" starts. When the meetings are held at the Market Square we remain sometimes in the Police Station compound itself and follow the meeting. When the meetings are held at other places we go to the place before the meeting starts, and we wait there till the meeting is over. For the purpose of making a record of the speeches we remain away from the crowd. Sometimes we take down notes whilst we are seated in the van. Generally the names of the speakers are announced. When a name is announced I take down the name as announced. If the person is visible I naturally look towards the person who speaks. I make a note of matters that strike me as important. I cannot remember at which meeting I saw the speakers and at which meeting I had not seen the speakers. Some of the names I have noted here are not known to me. If I know the initials or if I ascertain the initials I note down the initials of the speaker. The chairman does not give the initials of

20

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the speaker. Sometimes the chairman gives a description of the speaker in introducing him to the audience, but that is not done always. Regarding the meeting held on the 3rd May I have not noted the initials of some of the speakers. I know Ramanayake's initials. He is D. Ramanayake (Shown P89) - This was the report of the meeting over which Mr. Fred de Silva presided. The report does not show the order in which the speakers made their speeches.

(To Court: I do not take down the gist of what the speaker says as he speaks. I take down the names of the 10 speakers, then I go home, and then I note down the gist of what each speaker had said according to my recollection.

My original notes are not available. The order of the speakers as given in the report is not the order in which the speakers spoke. It may be or it may not be. When I attend a meeting I make rough notes on a piece of paper or sometimes on an envelope. When the speaker is actually on his feet I make some points as they strike me. Sometimes we just note down only a part of a sentence or a few words on which is said in any matter that interest us.

20 Having done that I rely on my memory and reconstruct the rest of the sentence according to the best of my ability.

Q. You have noted down that Mr. Fred de Silva has said: "Do not think of his individual worth,.....but of the party which he professes" How would you make a note of that?

A. I would have noted: 'individual' poor, party, professes'.

Q. You were asked about what Colin Wickramatunge said: "What has Mrs. Illangaratne done to Kandy? She can only read what her husband prepares". How would you have made a note of that?

A. 'Mrs. Illangaratne not done anything Kandy - husband prepares

30 (Shown P90) - I was asked about: "For the last 4 years Kandy was in darkness". That appears in a speech of Mr. Colin Wickramatunge. It continues: "As the voters do not exercise the franchise and Vote for the correct man".

Q. Mr. Ramanayake said according to your note: "Use your vote intelligently without....." How would you have noted that?

A. 'Vote intelligently without party consideration'.

All the speakers were asking the people to vote for the party. Proctor Wimalasena spoke at that meeting and said: "The question of vote is not an individual one. It is not a fight between E.L.Senanayake and Thamara Illangaratne".

(shown P91) The speech of Kulapane is :

"Select the party candidate, not the individual". Paulis

Alwis also spoke according to my report: "We do not want 10

E.L.Senanayake but the party which he professes". It was

always stressed that it was not the individual that matters

but the party he professes.

1.30 p.m.

(Adjourned for lunch)

Certified Correct

Stenographer S.C.

November, 20, 1952.

Proceedings after Luncheon Interval.

E. RATNAYAKE. Re-affirmed.

Cross-examination (Contd) I have previous experience of making notes - experience of 3 or 4 years - did this work even during the previous election - yes, in all I have 5 years experience. Between General Elections I cover all Political and other meetings - I have done it on a considerable number of occasions. From the notes I make I write complete sentences. On points I have not noted I would not
10 write sentences. The sentences are mine and I give the gist of what speakers had spoken on. During the Election time I did no other work in connection with it except the usual Police work in addition to this work. I have a vote for Kandy. I was not interested in the Kandy Election. I did not use my vote. (Shown P93) These are notes of a meeting held on the 14th May and one of the speakers was Piyasena. I noted that he had said that Kandy is in darkness - he said so. Fred de Silva was the other speaker who stated so. At different
20 meetings that phrase was used - the Sinhalese words used were "Maha Nuwara Andakari". Most of the speeches were in Sinhalese. I understood by that statement that the Member for Parliament had not done anything for the town. Kulupane is a Native Physician and he resides in Trincomalee Street. I do not know Charachandra. His name was announced on the microphone and I put his name down. I do not know what particular candidates had done during the Election except in regard to meetings I had attended. I do not know what H.G.Perera does. I have seen him in town. Except speaking, I had not seen him doing anything else in connection with the Election. He spoke at
30 2 or 3 meetings and that is why I said that he was a supporter of E.L.Senanayake. I do not know a person called T.B. Wickramasinghe. D. Ramanayake is a Petition Drawer. He has his office in the Maligawa premises - he has his table and a typewriter there. He is a professional Petition Drawer.

Whenever he speaks at a meeting I made a note of it. I do know Atugoda - his name was announced on the Microphone. P94 is in regard to a meeting at Asgiriya on the 15th May. I do not know Banda or Senaratne. Senator E.B. de Soysa presided at that meeting. Fernando is a vegetable merchant - he received several Sinhalese verses and spoke at several meetings. In regard to my report P93 one of the speakers at that meeting was M.G. Perera. I do not know who he was - his name was announced over the loud speaker. There Piyasena again said that Kandy was in darkness. I produce leaflet marked R20 which was distributed at the meeting to the audience. 10

(A translation of R20 to be put in) Arising out of a manifesto issued by the respondent a number of questions were listed in leaflet R20. There appears the name of B.V.E. Abeynayake, Castle Street, Kandy at the bottom of that leaflet. I do not know such a person. Vide my report marked P95 in regard to a meeting held at Market Square, I collected the pamphlet referred to in that report - that meeting was held by the Kandy Branch of the Labour Party. I produce the pamphlet - R21. Mr. Collin Wickramatunge was present at the meeting - he is an official of the Kandy Labour Union. When that branch of the 20 Labour Party was functioning, he was the Secretary. It is not functioning now - during the past 2 years it was functioning. I made a note that it was organised by the Kandy Branch of the Labour Union. They came from Bogambara to the Market Square, a distance of a quarter of a mile in procession carrying placards (Plenty of red flags) A number of women carried Lion Flags and anti red flags. There was a large number of people present at that meeting. Ramanayake said that he was a Labourite and not a U.N.P. man but supported the U.N.P. as it had a clear policy. Walter Weerasinghe is a labour worker. I knew him. I 30 cannot say who distributed these pamphlets. If there had been other hand bills distributed at that meeting I would have collected them. I cannot say if Mr. E.L. Senanayake was present at this meeting, but he did not speak at the meeting. At the meeting

where he (Mr. Senanayake) was present, I heard him speak. Speakers are not accommodated on a platform. There was a small platform at places of meetings. Wherever there was a platform provided I do not remember a candidate not being provided with a seat on it and when they were present, a candidate spoke. Generally 3 or 4 members of the force performed duties in uniform at these meetings - they remain on the road controlling traffic. A person in plain clothes covers the meeting - others - (i.e. members of the Force) who have no work and listen to the proceedings. P96 is a note of
10 the meeting held on the 20th May at the Market Square - I made no note of the speeches. All the speakers criticised the S.L.F.P. stating it had no policy or principles &c. The speakers said to safeguard religion, race, language, culture and the future generation to vote for the U.N.P. candidate without taking into consideration cast, creed, race, sick or poor or low or up-country. These pamphlets (R22 printed in green and R23, printed in red) were distributed at that meeting. The Labour party and the U.N.P. were working together.

Re-examined: My notes are accurate - I can vouchsafe
20 for their accuracy. I take responsibility and say speakers stated things to the effect I had made a note of. With regard to special phrases, they were actually used - 'kandy in darkness'. (Shown P69) Here I have stated that Cooray had stated in the course of his speech that "Kandy is in darkness". I cannot say at what stage of his speech he used this phrase. This phrase was very frequently used at the meetings in support of the candidature of E.L. Senanayake. I cannot say whether it was intended as a slogan of the U.N.P. I have attended meetings of the leftists and I have
30 heard the slogans used by them. I cannot say whether the sentence 'Kandy is in darkness' was used similarly. Most of the speakers wanted the voters to vote for the party candidate and said who it was - they said vote for

Mr. Senanayake. (shown P89) There is a reference to Mrs. Illangaratne by name by Collin Wickramatunge: "What has Tamara Illangaratne done for Kandy. She can only read what her husband prepares for her". My report P95 referred to the meeting of the Kandy Branch of the Labour union. I describe it as a Propaganda Meeting to further the candidature of E.L.Senanayake although organised by the Kandy Branch of the Labour Party. Similarly I have in P96 given a list of persons who spoke. All the meetings were for the purpose of furthering the candidature of Mr.E.L.Senanayake for the Kandy Seat who ever organised them. The labour party ceased to function after the meetings at the Market Square just before Mr. Gunasinghe left Ceylon. He said it was scattered and that it must be recognised under his son. The Kandy branch of the Labour Party is not functioning - it ceased to function 2 years ago. (What do you mean then by saying that the Labour Party organised the Meetings?) The former members get together and organised the meeting. I do not know who the former members were. I remember the old officials - Collin Wickramatunge, Martin Silva and Walter Weerakoon. 3 or 4 of the principal members of the party attended the meeting. The others were also of the labour party. (and do you mean that they were members of the Labour Party?) They came in a demonstration and they wanted to see the Minister when labour was stopped. There was a Labour Union that was not functioning. It was not in existence at the time of the Election at Kandy. The former Labour leaders led the demonstration and held a meeting in support of Mr. Senanayake. My report P96 does not show who were present and who did not speak. There were over a thousand people present. I have no note of meetings where E.L. Senanayake was present and did not speak.

JAYASINGHE KAHUNATILLEKE RAJAPAKSE WASALA MUDIYASELAGE

PUNCHIRALA JAYASINGHE. Affirmed.

Examined: 65, Cultivator, Goorudeniya. I was at one time village headman, Gurudeniya - I held that office for 8 years. Thereafter I was Chairman, Village committee of my Division - Gandiya Korle N continuously for 6 years and after a lapse of 3 years again functioned for 3 years as such. I was also Inquirer into Sudden Deaths for 4 years. I am a voter of the Kandy Electorate. I took an active part in the election campaign in connection with the recent election. I interested myself on behalf of Tamara Kumarihamy. About a week prior to Polling day (election) Mr.E.L.Senanayake and two others in trousers, Collin Wickramatunge Covis Appuhamy and two or three others of Goorudeniya met me on the road leading to my house. They were canvassing in that area. Mr. Senanayake knew me. He asked me to help him. I told him that he had come too late to get my help, that I had already promised to help another. I had promised Tamara Kumarihamy. She had come to my house in April and asked for my support. I said I would give her what ever help I could. Subsequently I told my friends whom I met to vote for her. When I replied to Mr.Senanayake he quietly went along the road - canvassing. (Did anybody who was with him say or do anything?) When Mr.Senanayake solicited my help, Collin Wickramatunga handed me two pamphlets. I took them home and read them. (Did anything in these documents strike you?) In one pamphlet there was a verse that Kumara would be sent to India by post. It was stated that she voted to get the Indians to Ceylon. Two or three days later Mr.Gamage came and inquired about the voters in that area (who is Gamage?) (Witness points out as Gamage the person seated behind counsel for the Petitioners) Gamage inquired about Tamara's position. My impression was that Gamage worked for Tamara Illagaratne. He came

to see me on 2 or 3 occasions and from the conversation I felt that he was working for Tamara Kumarihamy. I gave one of the pamphlets to Gamage, one that contained the verse. He took that away with him. (shown P86 and P86A) These are the identical documents. I have now read the two verses in P86 and P86A. I was given one like P86A by Collin Wickramatunge. I say so after reading the verses in P86 and P86A. (In these two verses is there any difference. There is no difference in the verses contained in P86 and P86A. (Shown P87 and P87A). The words in the last line of the verse in P87 is different from these in P86A. (having regard to that in mind do you still say that P86 was given and not P87. Collin Wickramatunge gave me pamphlets which contained the word "Kumariya" in the last line of the verse. Lower down in that pamphlet the reason was given why she was to be posted to India. That is here in P86 - (it is side lined in blue) 10

Adjourned for the day.

21.11.52 11 a.m.

Same Counsel as before.

J.K.R.W.M.P. JAYASINGHE: affirmed.

Examination by Mr. Zoysa continued: Yesterday I identified one of the two pamphlets that had been handed to me on that occasion. I said that it was a pamphlet like that. The other was handbill containing the photograph of Mr. E.L.Senanayake. When Mr. Gamage came I handed over to him the pamphlet which contained the verse - Kumari; and the other I have misplaced. I canvassed voters on behalf of Mrs. Illangaratne

10 On the Polling day I stood outside our polling station - the polling station at the Gurudeniya school. That Polling Station served an area on both sides of Gurudeniya Road. It served Gurudeniya, Tennekumbura and Kossinna, Whilst remaining outside the Polling Station I asked the people who came from outside to vote for Mrs. Tamara Kumari. There were others similarly working on behalf of the other candidate - Mr. Senanayake. Voters arrived at the Polling Station either in cars or buses, and some of them came walking. These cars served different candidates, but a

20 large number of cars worked for Mr. Senanayake. When the voters are brought in cars that worked for Mr. Senanayake, his supporters go up to each car, open the door of the car, take the voters to his booth check the tickets and ask them to go and vote. Tennekumbura people came from one side of the school and the people of Gurudeniya and Kossinna came from the other side of the school. Mr. Senanayake had two Polling booths and similarly Mrs. Illangaratne also had two polling booths. The other candidate had no polling booth. I was near the polling booth on the road leading from

30 Gurudeniya. When people come Mr. Senanayake's men go to them, take them to the booth, their tickets are checked and they are asked to go and cast their votes. Mr. Senanayake's booth was decorated with

with flags and placards containing Mr. Senanayake's photograph. Most of the decoration consisted of placards containing Mr. Senanayake's photograph. The booth itself was surrounded by cadjans. The area round about the booth was also decorated with white cloth flags with the symbol wheel. Near about Mr. Senanayake's booth there were four or five such flags. There were altogether about four or five flags. There were two big flags and the others were somewhat small.

Q. People working for Mr. Senanayake took the voters to these booths. How do you know that they worked for Mr. Senanayake?

10

A. They had badges.

There were about ten or fifteen people wearing badges. The badge was in the shape of a shield with the letters 'U.N.P' at the top and Mr. Senanayake's photograph and the symbol wheel printed on it. I can identify the badge. (Shown badge P25) - Q. Was it a badge like this?

A. This is the badge.

That was the shape of the badges - same colour and same size and device on the paper.

The candidate himself, Mr. Senanayake, came to the Polling Station at about 2 p.m. He came with another person. When Mr. Senanayake came there, a person who was near me said that the other person who came along with Mr. Senanayake was Mr. Dharmasena. The person who was near me at the time was Somadasa de Silva. (Mr. Zoysa says that he is calling Somadasa as a witness). Having come there Mr. Senanayake went into the polling station whilst the other gentleman went into the polling booth, - that is, one of the sheds put up for Mr. Senanayake. Later on Mr. Senanayake came out of the polling station and went away accompanied by the other gentlemen.

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(Mr. Chitty makes the following application;
He asks the Court to give him the opportunity
of cross examining this witness some day
next week as today he (Mr. Chitty) is not ready
with a certain document that he requires to
cross examine this witness. He further says
that there are a large number of witnesses whose
names are given in the various lists and that he
was not aware that this witness would be
called at this stage. Mr. Zoysa has no objection
to the cross examination of this witness some day
next week.

The Court allows the application -
witness to be cross examined on Monday, 24th).

(P86, P86A, P87 and P87A have been initialled by His Lordship
and returned to the Petitioner's Proctor to submit a correct
translation certified by a sworn translator).

L.I.de Silva. Sworn.

Superintendent of Police, Kandy. When I gave evidence
last Friday I was questioned with regard to these permits
for loud-speakers. I was asked to give a full list of
permits issued, and before I left Court I mentioned the
fact that I had inadvertently omitted to speak with
regard to some of the permits.

I produce marked P97, the application for a permit
to use a loudspeaker by Mr.E.L.Senanayake dated 20th
May 1952. The application is signed by Mr.J.E.Senanayake
for Mr.E.L.Senanayake. The application is for a permit
to use loudspeakers at a meeting to be held on the 23rd May
at the Bogambara Grounds. On this application he had asked
for permits for loudspeakers for three other meetings, namely,
one on 20th May from 3 p.m. to 6 p.m. at the market Grounds,
second, on the 21st instant at the Boowelikade Grounds, and
the other on the 22nd May at the Market Grounds. One
permit was issued for the 23rd May.

(Mr. Chitty objects to these documents being produced unless they are produced in the proper way. The question is discussed

Mr. Chitty withdraws his objection to the production of a certified copy of the permit issued by the Police to the respondent and to the other persons making applications for the use of loudspeakers at meetings in support of his candidature).

I produce a certified copy of the permit marked P98 issued for the use of the loudspeakers at the Bogambara grounds on the 23rd May. 10

I produce a certified copy of the permit issued to Mr. E. L. Senanayake for the use of the loudspeakers at the meetings at the Market Grounds on 20.5.52. and on 22.5.52. marked P99. One permit was issued for both dates.

An application for a permit was made by S. B. Samarakoon for the use of loudspeakers at the meeting held at Askiriya Post box junction, dated 21.5.52. I produce it marked P100. (This document is produced subject to the proof of agency). 20

(It is agreed between Mr. Chitty and Zoysa that all applications for loudspeaker permits made to the Police by persons other than the respondent be admitted subject to proof of agency and the signature of the applications).

I produce a certified copy of the permit issued to S. B. Samarakoon, Marked P101, for a meeting on 21.5.52. at Asgiriya post box junction.

I produce marked P102 application made by B. A. D. Appuhamy for a permit for a meeting at Talapitiya on 19.5.52. from 2 p.m. to 6 p.m. 30

I produce the certified copy of the permit marked P103. He has signed the application.

The applications say that the permits are needed for meetings in support of a particular candidate. When a permit is issued upon such application then that permit would be for a meeting in support of a particular candidate.

In two instances permits have been issued but the connected applications are missing from our file. I produce loudspeakers permit marked P104 issued to Colin Wickramatunge for a meeting on 19.5.52. at Gurudeniya Barn. The connected application is missing from our file. The permit is issued in the name of the person who makes the application.

I produce marked P105 the permit issued to Rev. P. Chandananda of Kossinna Temple, Kossinne, for an election meeting at Kossinna Temple on 18th May. The connected application is missing from our file.

10 In the earlier permit, P104, Colin Wickramatunge's address is given as No.5 Colombo Street, Kandy.

P.105 - The permit was handed over to and received by a man called Malhamy. Sometimes when the actual applicant is not there we ask the person who calls for it to sign the book so that we may have some proof of having issued the permit.

P106 is the application for a permit made by Colin Wickramatunge dated 16.5.52. His address is given there as 22 Victoria Drive, Kandy. His application is in 20 respect of three meetings at Tekkewatte on 18.5.52. at Uduwela, Udugama on 18.5.52 and at Galtenne on 18.5.52.

I produce the permit marked P107 issued to Colin Wickramatunge for those three meetings to be held on that date - 18.5.52.

(Continued on next page)

Certified correct.

Steno S.C.

L.I.de Silva.

(Examination in Chief by Mr. Stanley de Zoysa continues)

Application made by A.W.H. Wijewardene President U.N.P. Youth League for meeting to be held on the Market Grounds on 18.5.52. is marked P 108 and the loudspeaker permit issued in respect of it is marked P109.

Application made by S.T.B. Harasgama
22 Victoria Drive Kandy for a meeting to be held on 16.5.52. is marked P110, the leaflet which was attached to this application is marked P110(a) and the permit issued to Mr. Harasgama is marked P111.

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Application made by Donald Perera in respect of a meeting to be held on 18.5.52 in support of the U.N.P. candidate is marked P112. The address of the applicant is not given. The permit issued on it to Mr. E.L.Senanayake, 22 Castle Hill Street, Kandy is marked P113.

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Application made by S.T.B. Harasgama, 22 Victoria Drive, Kandy in respect of a meeting to be held at Aruppola Kamata on 16.5.52 is marked P114 and the permit issued on it to Mr. Harasgama is marked P115.

Application made by Mr. E.L. Senanayake for a meeting to be held on 3.5.52. is marked P116 and the permit issued to Mr. Senanayake in respect of it marked P117.

Application made by S.T.B. Harasgama
of 22, Victoria Drive, Kandy, for three permits:
one for a meeting to be held on 8th May 1952 on Bowala
Playgrounds, another at Lewella on Sunday the 11th May
and the 3rd at the Market grounds on the 13th of May
is marked P118. The permit for the Bowala meeting
is marked P119. and the permit issued for theLelwella
meeting is marked P120. These permits were issued
in the name of Mr. Harasgama. There is no record
of a permit having been issued for the meeting on the
10 13th of May 1952 on the Market Grounds, Mr. Harasgama
has made another application for the meeting on
13.5.52. on the Market Grounds and this application
is marked P121. He made two applications for the
Market Ground meeting on 13.5.52. On the first
application marked P118 no permit was issued. He
subsequently made another application which is
marked P121. He gave the address No. 22 Victoria
Drive, Kandy, in his applications P118 and P121.
The permit issued in respect of the meeting on
20 13.5.52. on the market Grounds Kandy is marked P122.
The same permit authorised the use of loudspeakers
at Deiyangolla Playground meeting on 14.5.52 and
at the meeting at Sadahumpola Playgrounds on 16.5.52.
Permits were also issued authorising the use of
loudspeakers at three meetings, one at Asgiriya
Sub Post office Box junction, next at Mahaiyawa and
another at Thekawatte-Tennekumbure. With regard
to the Thekawatte-Tennekumbura meeting on the 18th
referred to in P106 and P107 Mr. Colin Wickrematunge
30 had already obtained permit for the same meeting
That is to say from my record it would appear that
both Mr.Harasgama and Colin Wickramatunge had
made applications for permits for loudspeakers had
to be used at Thekawatte-Tennekumbura meeting on 18.5.52.

Mr. Collin Wickramatunge was issued a permit and not to Mr. Harasgama. I also issued a permit to Mr. Harasgama on his application (marked P123) in respect of Jeep CL 3141 authorising the use of loudspeakers for propaganda purposes in support of the Candidature of Mr. E.L.Senanayake. The application does not give the number of the Jeep but I found attached to the application a piece of paper with the number. There are two such permits issued for the same Jeep CL 3141 (marked P124 and P125) Application made by E.A. Oeries for a meeting at Ketawella on 12.5.52. is marked P126 and the permit issued to that application P127. This meeting was in support of Mr.E.L. Senanayake's candidature

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Cross-examined:

Q. When did all these documents to which you have spoken to come into your custody?

A. When I assumed duties as Superintendent of police Central Province on 1st August 1952.

Q. Until that time in whose custody were they?

A. They were in the custody of my predecessor. Mr.S.G. Scharanguivel, Superintendent of Police Central Province.

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Q. Who was the authority issuing permits during that period?

A. Several A.S.P.s and S.P. himself. At that time the S.P. was Mr. Scharenguivel and the A.S.Ps were S.S.Joseph, W.E.Poulier, J.F.B. Johnpulle and T.B. Weerapitiya.

I produce the carbon copies of the permits issued to the parties. It is from these carbon copies that I produce the certified copies.

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Q. Is there anything here to show to whom any particular permit was actually handed, whether it was sent by a messenger, sent by post, or if someone had called for it?

A. In one or two cases the actual receiver has signed on behalf of someone else. Invariably, in most cases, we actually hand a permit over to the person in whose name it had been entered up. Some times we send by post.

If it is sent by post it would be sent to the address given by the applicant. Sometimes the applicant himself waits for the permit and collects it. Sometimes the applicant sends a messenger with a note, in which case, we get the man to sign a receipt.

10 In some instances the permit is posted

to the applicant. In some instance the applicant would call and take delivery later personally.

As to which of these things had occurred in regard to any particular instance there is no note at all. The

Police are not aware as to whether these meetings were actually held or not, and whether the loudspeakers had been used or not. A person may apply for six meetings and hold three and the Police would have no objection to that. If a

20 loudspeaker is used without a permit at a meeting it is an offence and the police would take action.

Sometimes verbal permission is given by the Superintendent. There is provision for a Superintendent or an Assistant Superintendent to grant verbal permission to use loudspeakers.

We normally ask an applicant to make a written application. If for instance, a meeting is to take place suddenly, and he cannot make an application, and we cannot issue a permit in time,

30 or an application is made on a Sunday or Saturday afternoon when the books are not

available, the Superintendent takes upon himself the responsibility to give a verbal permission. No permission is necessary for the purpose of obtaining either oral or written permission. We sometimes ask the applicant to produce a letter of authority or sometimes to produce the receipt of payment made for booking the grounds in order that we may be satisfied that there are no two rival meetings at the same time and in the same place to avoid a clash and conflicting notices from the two sets of loudspeakers. If two people apply for the same ground at the same time, the person who applies earlier would get the permit. There had been no prosecution so far for using loudspeakers without permits. In issuing a permit we are not concerned whether the person applying for the permit owns or whether he hires out the loudspeakers. Even if a person uses his own loudspeaker he has to get permission. (shown P126 application made in Sinhalese by M.A.Peries, V.C.Member). (Witness reads P126). It is an application to use loudspeakers at a U.N.P. Propaganda meeting by the inhabitants of Ketawala-Ampitiya. That application does not mention the name of Mr. E.L. Senanayake. Some application mentions his name. I have no knowledge outside the application itself. (shown P97 and permit P98). P97 is one purporting to have been signed by J.E. Senanayake on behalf of Mr. E.L.Senanayake and it contains reference to four meetings. (shown P100 application on behalf of the U.N.P. Candidate purporting to have been signed by S.B. Samarakoon. This only says that the meeting is to be held on behalf of the U.N.P.Candidate. Apart from that there is nothing to show what that meeting was about or if it was to be in support of anyone. In the event of the name of a Candidate being referred to in the application sometimes a permit is issued in the name of the candidate himself

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although the application itself is by someone else.

(Shown Application P102 purporting to have been signed by S. Appahamy of Talupitiya for a meeting on 19th May from 2 to 6 p.m.) On that application the Inspector has notes; "No men to cover the meeting". (Shown P104 Permit issued in the name of Colin Wickremetunge for a meeting at Gurudeniya Barn. No written application appears to have been made. (Shown P105) Application for this permit is also missing. The permit is in the name of Rev. P. Chandrananada, Kossina Temple, in respect of the meeting on 18th of May.

10 It says only that it is to be an election meeting. It does not say anything about the U.N.P. That permit has been taken away by a man called Malhamy, Secretary of Rural Development Society. (Shown P106) This is an application by Colin Wickramatunge, 22 Victoria Drive, in respect of 3 meetings proposed to be held at certain places on certain days. (shown P107) There is nothing to show who took this permit away or whether it was posted to No. 22 Victoria Drive. It appears to have been issued because the carbon only is here. (shown P108 & P109 application and permit

20 respectively.) The application purports to be from Mr.A.W.H. Wijewardene who states that he is the President of the Kandy U.N.P.Youth League. There is nothing to show that the permit was handed over to the applicant or whether it was posted. (shown P110) This is an application purporting to have been signed by S.T.P. Harasgama giving the address No. 22 Victoria Drive. I am aware that this address is the residence of Mr.E.L. Senanayake at that time. It is possible that this permit had been posted to that address or that a messenger had come and taken it away. (shown P110(a)) - This

30 is a leaflet about a meeting on the 18th at 4 p.m. to decide for whom to vote. The leaflet is signed by the inhabitants Ampitiya Pallegama. (shown P111) This is a permit in respect of a meeting to be held at Sidhartha School Ampitiya dated 17.5.52. This permit had been issued the day before the proposed meeting.

Adjourned for Lunch.

November 21, 1952.

Proceedings after Luncheon Interval.

L. I. de Silva, Re Sworn.

Cross-examined: (Contd) (Shown P113) This is a permit issued to E.L.Senanayake. The corresponding application was made by Donald Perera - that is marked P112. Although the application purports to have been signed by Donald Perera the permit has been made out in the name of E.L. Senanayake. In fact E.L.Senanayake is not mentioned in P.112. All that the application says is that the meeting is in support of the U.N.P.Candidate. Donald Perera has merely signed the application as Donald Perera. There is nothing to show on the face of these papers why the permit was made out in favour of E.L.Senanayake. There is nothing to show who removed the permit. In regard to P.114 that is an application purporting to have been signed by S.T.B. Harasgama and the corresponding permit P.115 is in favour. That has been applied for on the very day of the meeting itself..... 16th May, 1952 (shown P.116 and P.117). These applications have been made by E.L.Senanayake personally and the corresponding permit is in his name. That is in respect of the meeting at Dangolla Play Ground - I do not know where it is. Application P.118 is by S.T.B. Harasgama on May 6th in respect of meetings on 8th, 11th and 13th May. Within that same period on the 12th there was another application by S.T.B. Harasgama - that is P.121. The address given is 22 Victoria Drive on that application - 121. That is the place where E.L.Senanayake resides. 6 proposed meetings are referred to and that includes what was referred to in earlier application, viz. meeting on 13th May. Permits on P.118 were issued for two meetings and not for the market ground one P.121 the Market Ground meeting - the permit is in favour of S.T.B. Harasgama. Application P.122 was in respect of meetings on 13th 14th and 16th. Permits for meetings on the 15th and 18th were not issued. The position was that we issued permits

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normally for a day or two - if arrangements had been made for the grounds and there is no possibility that other meetings could be held on these grounds, we would issue permits. Our idea is to avoid clash of parties. Both Harasgama and Collin Wickramatunga had applied for the 18th May - that was for the meeting at Tekawatte - Collin Wickramatunge was given the permit. Application P106 is dated 16th May and is addressed from 22 Victoria Drive. Application P.121 dated 12th May is addressed from the same place made by some one purporting to be Collin Wickramatunge. P.107 is a permit
10 issued in respect of that application for a meeting to be held at Tekawatte-Owners of ground had given permission to hold meeting there. Application P.123 and permits Numbers P.124 and P.125 are in respect of the same jeep.

Application P.124 for permit for use of loud speaker on Jeep from 12th to 22nd May. Application P.125 for the 23rd May.

Application P.123 does not give the period during which the permission is applied for. The A.S.P. has made a minute "Issue up to 22.5". There was no subsequent application. There appears to have been a verbal application in regard to the 23rd May.
20 The permit was allowed. Those loud speaker permits are subject to conditions shown on the permits - we sometimes add conditions (shown P.102) The Application has been made by one Appuhamy - he does not say in what capacity he applied for it - it says it is to support E.L.Senanayake, the U.N.P.candidate. P.103 is the permit issued to B.A.D.Appuhamy. He has given no address or designation - the application has been addressed to S.I. Talatū Oya - the meeting in respect of that request was to be held in the Buddhist Society Hall at Talapitiya. Appuhamy is not known to me at all. Roughly permits were issued
30 for 25 or 30 meetings of Mrs.Illangaratne - permits were issued to E.L.Senanayake and his supporters for 20 or even less meetings. During the Election period complaints were received by the police on 5 or 6 occasions during May, 1952 from Mrs. Illangaratne. Some of them were over the telephone and one personally, I cannot say if there was any written complaint.

I have a summary made of these complaints. 6 complaints were made from 9th May to the 24th May - both days inclusive. The officer recording a complaint would know about them. On 9th May P.S.694 Silva made the record of complaint. There was a written complaint on 10th May - P.S.823 whose name I find it difficult to read dealt with that complaint. Mr. Schrangual, S.P.dealt with the complaint on the 18th May. Mrs.Illangaratne had made a complaint on the 18th May over the Telephone at 10.15 a.m. That message would be in the Telephone Register which is now not with me. On the 24th May my predecessor dealt with a complaint over the telephone. Between the 24th and 31st May there was one complaint

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on 25th May by one Perera. There were complaints up to the 31st but none by Mrs. Illangaratne. There were no complaints either on the 13th or 14th May by Mrs. Illangaratne. On 21, 22 and 23 May there were no complaints. Yes, Sergeant 694 Silva dealt with a complaint on 22nd May - it was a complaint made by Andrew Wijenayake

Certain actions were taken - investigation by S.I. Taylor.

There was complaint by Hettiaratchige Podi Mahatmaya

on the 22nd May at 3.45 p.m. That has been looked into by S.I.Taylor. Sejt. Silva(694) is now acting Sub Inspector of

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Police. He has given evidence here earlier. He has made a

minute that he informed S.I. Taylor and S.I. Karunatilleke

about the matter. I have with me the leaflets and pamphlets

collected at meetings held in support of Mrs. Illangaratne -

there are about 25 of them. The officers I now mention

attached to their reports certain leaflets and pamphlets:

S.I.Silva in respect of the meeting on 16th (Apr) P.S.

1881 Ratnayake in respect of the meetings held on 29th

April, 1st May, 18th May, 17th May, 16th May and 23rd May. P.S.Banda

(2545) in respect of the meeting held on 18.5.52 - P.C.5429

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Abeyasinghe in respect of the meeting held on 15.5.52. and

P.C.Ala Pitchai in respect of the meetings held on 21st May.

Leaflets and pamphlets were collected up to polling day. No

leaflets and pamphlets were collected on

polling day. No leaflet or pamphlet was forwarded to the police in regard to any complaint - that is to the best of my knowledge and other than what was collected by men who covered the meetings. There was no complaint of or about any pamphlet or leaflet and there was no inquiry by the police in regard to any of them. My predecessor would know about the traffic arrangements made on Election day.

Re-Examined:- I have produced and referred to various official documents from the office of the Superintendent of Police, Kandy. They have come into my custody from my predecessor or by virtue of my office. Some Loud speaker permits could possibly have been issued on verbal applications - that is possible. There is no necessity to keep a record of such applications for permits could be issued on verbal application. The permit could be in favour of the person making the application. On rare occasions there are last moment applications made verbally and they could be dealt with by the A.S.P. He need not inform the Superintendent about allowing such applications. He need not make any note in any diary in regard to them but if there turns out to be any trouble he would be called upon to explain the reason why he had issued a permit. Sometimes for his own guidance or in anticipation he would put down on paper why he had made the order - they are rare instances. I have issued permits without making a note. There need not be ordinarily a record when an oral application has been made. When an applicant is personally known and it is felt that he is making a genuine application, permit could be given on verbal application. Before a meeting scheduled to take place, takes place, the officer covering that meeting or the station concerned is informed that permit for the use of Loud speakers had been issued and that such a meeting would be held. Plain cloth constables would act beyond their sphere of duties if they go out to question whether a permit for the use of Loud speakers had been obtained. If that happens he could report the matter to the S.P. or A.S.P.

Action would be taken if a loud speaker had been used without a permit for its user. Where oral application had been made, on a complaint there would be a note that permit had been issued on oral application. An officer would not cover a meeting unless he had been informed that there would be a meeting held at a certain place - more often than not information would be given to the officer or area concerned that a loud speaker permit had been issued whether it was issued on oral or written application. I would enter the name of the person making the application and not the name of the candidate on whose behalf a meeting was to be held. If the applicant comes direct to the office of the S.P. or A.S.P. and applies for a permit orally in the name of a particular person, that would be done. We will inform the person covering the meeting the name of the person in whose favour the permit had been issued. There was no complaint that by subterfuge a permit had been obtained for the use of the loudspeakers at a meeting of a candidate other than the candidate on whose behalf the permit had been obtained. If there was any such thing the Superintendent of police would have been informed. (shown P.112 and P.113). On the back of P.112 there appears an endorsement by the Principal of Sri Rahula College that permission had been granted for the use of the College premises to hold the meeting. On P.112 there is nothing to show that a permit had been issued to Donald Perera. On that application a permit was issued in favour of E.L.Senanayake. Mr.E.L. Senanayake did not call for it or make a verbal application for it. P.112 bears date 17.5.52 - permit was issued on the same day and Inspector of Police, Katugastota within whose area Sri Rahula College is situated was informed by Telephone - so runs an entry on application P.112.

(Mr.de Silva is directed to hand over the application and to issue copies of permits on printed form on payment of charges).

Samy John Sylvester Perera. Sworn.

Examined, 52, Director, Lanka Trading Co.Ltd., 1st Cross Street, Colombo. I reside in Moratuwa. Our firm did certain printing for Mr.E.L.Senanayake. The Printing Press is housed at 1st Cross Street. We printed some posters for him in English, Sinhalese and Tamil. Mr.E.L.Senanayake himself placed the order. I have brought the office copies of those posters. (shown P.128 - a poster in Sinhalese). We printed this - I produce the office copy P.128A. (shown Poster P129 - a poster in English). This was printed at our printing
10 Press - I produce the office copy (P.129A). I have here the office copy of the Tamil poster - P.130. All those were printed at our Press on the order placed by Mr.E.L.Senanayake (shown white paper P.131) There is some printing in Tamil on it - a flag This was printed at our Printing Press. I produce the office Copy P.131A - this was printed on grease(water) proof paper. (shown P.132 - same kind of paper) It has been printed in English by us - I produce the office copy - P.132A (shown P.133) - Similar paper as used for P.131 and P.132 has been used and the printing has been done in P.133 in Sinhalese. P.131, P.132 and P.133
20 contain Mr. Senanayake's symbol. These were printed on an order placed by E.L.Senanayake. Mr Senanayake's father is a share holder and Director of our Company. Mr.E.L.Senanayake has a running account with our Firm. In connection with this printing we sent him a statement of account. (Examines bills P.5 and P.6) In Bill P.5. certain items are mentioned - 1 and 2 items on it refer to 2 blocks of the value of Rs.32/50 and that is dated 3rd June, 1952. On 13th June,1952 we submitted bill P.6 In that the first item is Rs.34/25. This item is made up of Rs.32/50 (the cost of two blocks shown on P.5) plus Rs.1/95 being value of two pads and 50
30 envelopes sold in 1950 to Mr.Senanayake. But for those items the rest of the claim in P.5 and P.6 are identical. In P5 and P6 the flags I mentioned are the grease(water) proof paper printings - the posters referred to in those bills are those

that I have produced.

Cross-examined:- I call them - P.131, P.132 and P.133
as flags as they have been printed on transparent paper.
(shown P.131) This is grease paper which is water proof.
They are meant to be put up - hung up - on strings.

Re-examined:- Although they were intended to be
hung up, they had, it appears from those produced, been paste

Adjourned for the day.

24.11.52 - 11 a.m.

Same Counsel as before.

J.K.R.W.M.P. Jayasinghe - reaffirmed.

Cross-examined: I ceased to be headman in 1915. During the Martial Law I was arrested and tried by a Military Court and sentenced to death.

Q. You were charged with robbery and unlawful assembly?

A. I was charged with creating a disturbance or raising a revolt or rebellion against King George V.

Q. Were you not charged with robbery and breaking into
10 a boutique?

A. I was charged with going with a crowd of persons and breaking into a boutique, and loitering.

Q. Were you not sentenced to life-imprisonment?

A. I was sentenced to be hanged by the Military Court.

While I was in prison my wife forwarded a petition to His Excellency The Governor and His Excellency commuted the sentence to life-imprisonment.

I was arrested and kept on remand, and thereafter I remained in prison till I was released altogether. I was
20 on remand and undergoing imprisonment for a period of one year and ten months. During that period I was in Jaffna Jail. I was released on 15th May 1917. After I came back, after that period of imprisonment, I did not apply for the headmanship again. Since 1917 I was looking after my lands and cultivating them

A. When did you first become interested in politics?

A. Some members came forward during the election, and they came to canvass our votes.

Q. When did you get interested in local politics?

30 A. So far as I could from 1937.

In June 1951 Mr. Richard Rajapakse contested me for the village Committee Chairmanship and I was defeated. I do not know whether Richard Rajapakse worked for the U.N.P.

I do not know whether he was a keen supporter of the U.N.P. I do not know which party or whom he supported. He lives about 7 miles away from my house. He and I were elected as V.C. members and Mr. Rajapakse was a member when I was the Chairman. This year also he is a member of the V.C. both were elected as members in 1948 or 1949, and that year I was elected Chairman. Mr. Rajapakse contested me for the Chairmanship and he was defeated. In 1951 I got defeated and he became the Chairman. I resigned from V.C. Membership after Mr. Rajapakse became the chairman. During the election period there was a U.N.P. branch formed at Gurudeniya. That was formed somewhere in April.

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Q. Who were the moving spirits of the U.N.P. branch?

A. There were four or five active members.

Rajapakse was not one of the active members.

Some of the active members were Gunawardene, Dharmadasa, Podimahatmaya and others. I saw them actively working for the U.N.P. Rajapakse did not come that way at all. I did not see Rajapakse taking an active part at all in his area or at Gurudeniya. I did not meet him during the election campaign. I promised to give all the support to Mrs. Tamara Illangaratne. I said that I would give all help I could give. I told her that I would give her all possible support. That was a sincere promise. I did not sign her Nomination Papers for the by-election. In 1948 my wife signed her Nomination Paper. That was when she contested after her husband got unseated. During the previous election I did not sign Mr. Illangaratne's Nomination Paper. When my wife signed Mrs. Illangaratne's Nomination Paper she had my approval. Mrs. Illangaratne is not related to me. It was when she came forward for election that we came to know her. From 1948 it was well known that we were supporting Mrs. Illangaratne.

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Q. Were you a keen supporter?

A. We did not spend any money on her behalf.

I did not take special interest in her candidature but whenever we met a friend we used to ask him to support Mrs. Illangaratne.

Q. During the last Parliamentary Election too you and your wife were canvassing for Mrs. Illangaratne?

A. Mrs. Illangaratne and I went round the village. I accompanied her when she went round the village.

Q. During the 1948 election when your wife signed the Nomination paper, on that occasion too you canvassed votes for Mrs. Illangaratne?

10 A. I did not go from house to house.

Q. You canvassed your friends?

A. Yes.

Q. During the last campaign in May this year you went from house to house to canvass for Mrs. Illangaratne?

A. I accompanied her only one day.

I supported Mrs. Illangaratne's candidature quite openly. I think Mrs. Illangaratne's election campaign started towards the beginning of May. She came to my house and told me that she was contesting the Kandy Seat.

20 Q. Do you have much influence in the village?

A. I think I have some influence in the village.

Q. Is it not the fact that you had become extremely unpopular in the village for various reasons?

A. No.

Q. I put it to you that so much so it was a doubtful advantage - somewhat in the nature of a disadvantage - in your village?

A. I am unable to answer that question.

Q. That was partly due to your conduct as V.C. Chairman?

30 A. No.

Q. During the time you were Chairman the paid clerk was your son?

A. He was there only for a short time.

I think the clerk, my son, was paid about Rs.113/- a month.

He was a clerk from 1937 till 1949.

Q. Was there much opposition regarding his continuance as paid clerk when you were Chairman?

A. No.

I have no telephone to my house. I had no telephone to anyone of my house. I never had the use of a telephone. There is a telephone connection to the Post Office. I cannot remember whether anybody spoke to Kandy during the election campaign. I cannot remember whether I was in telephone communication with Kandy during the election campaign or not. I met Mr. Senanayake that day quite unexpectedly. During the whole election campaign that was the first occasion I saw Mr. Senanayake coming to Gurudeniya. That was about a week prior to the polling date. I cannot remember the date well. It might have been six or eight days before the polling date. I cannot remember whether it was a Sunday or a week day. When I met Mr. Senanayake I was returning from my estate known as Hali-ela which is about 1/8 mile away from my house. I met Mr. Senanayake on the High road. He was walking and I was also walking at the time. I met him quite close to my house - within sight and not even 100 yards away from my house. I was walking alone at the time. When Mr. Colin Wickramatunga gave me the two pamphlets Mr. Senanayake was aside. Those pamphlets were handed over not only to me but also to all those whom he met. He Mr. Wickramatunge had a bundle of Handbills and there were some others who were there with bundles of handbills. The handbills were not bundled up but were being carried in their hands. One of the men who accompanied Mr. Senanayake and Colin Wickramatunge was Kavisappuhamy. I do not know the other two. Mr. Wickramatunge was wearing national dress, Mr. Senanayake was wearing trousers. Besides Mr. Senanayake there were two others who were wearing trousers.

Q. Did Mr. Senanayake come to your house on any occasion and ask for your vote or did he pay a courtesy call?

A. Not while I was at home.

Q. Mr. Senanayake had neglected coming to you till six or seven days prior to the election?

A. Yes.

Q. That day when he asked for your support did you tell him that you were supporting Mrs. Illangaratne for the last four years, and ask him why he had come to ask for your support?

10 A. I did not talk at length. When he asked for my support I told him that he had come too late. Mr. Senanayake asked me to help him, and I told him that it was too late to help him.

Q. At that time the person who gave the pamphlet was close to Mr. Senanayake?

A. Before Mr. Senanayake uttered those words those two pamphlets had been given to me.

As he saw me he (Mr. Colin Wickramatunge) gave me those two pamphlets and it was thereafter that Mr. Senanayake asked for my help. I was given the Pamphlets before
20 Mr. Senanayake asked for my help.

Q. There was no point in giving you the handbills if you had refused to support Mr. Senanayake?

A. Yes.

I took the leaflets home and read them. When I was reading the leaflets I felt that there was something improper, and because I realised that, I handed over the leaflets to Mr. Gamage. I did not think that there was something illegal in anybody getting those printed. The
30 pamphlets may have been with me for two or three days.

Q. During that period you must have kept them with you carefully?

A. Yes.

Mr. Gamage was working for Mrs. Illangaratne and Mr. Gamage came to see me twice or thrice. I met him on one occasion about two or three days after I received these pamphlets and I told him that such and such a pamphlet had been distributed and because of that the voters may change their ideas and vote for other side. Mr. Gamage came to see me two or three times in connection with the election and he used to question me and others who were supporting Mrs. Illangaratne's candidature how the campaign was.

Q. Are you aware that Mr. Gamage is a professional inter-
meddler in election petitions for a number of years?

10

A. No.

Q. Are you aware that Mr. Gamage had taken part actively in election petition ?

A. No.

I came to know one of the petitioners only after I came to Court. That gentleman seated behind the Petitioners' Counsel is not one of the petitioners, and I came to know it only after I came to Court. When Mr. Gamage met me about two or three days after I got the pamphlets I handed over one Pamphlet to him. Mr. Mollegoda came to see me after filing the Petition. Then he asked me whether I handed over a leaflet to Mr. Gamage, and he further asked me if evidence is required in connection with a election petition whether I would be prepared to give evidence, and I said that I would state that fact. Mr. Mollegoda did not ask me who had given that pamphlet to me, nor did I tell him about it. I had told Mr. Gamage that Colin Wickramatunge had given me the leaflet. Mr. Gamage did not show me similar pamphlets when I handed over the pamphlet to him. When I handed over the pamphlet to Gamage I did not realise what Mr. Gamage would make out of it.

20

30

When I handed over the pamphlet to Gamage I did not think that the matter was of any importance. I thought that when these pamphlets were distributed among voters we would lose some of our votes. I gave this pamphlet to Mr. Gamage about two or three days before the polling date. I did not expect Mr. Gamage to take any action at once. I thought that there would be a split in our votes. I did not know that Mr. Gamage had the power or the authority to act on it.

Q. Did you think that the statement about the Indians
10. was false or true?

A. Indian Citizenship Act was passed in 1948 - I believe so. Tamara went to Council in 1949. Therefore I thought that she had not participated in the passing of the bill, and I felt that the pamphlet contained a false statement.

I thought that the pamphlet would adversely affect her election campaign. I was following the Indian question myself, in the papers.

Q. Although this happened in middle of 1952, you remember that the debate regarding the Indian Citizenship Act was in 1948?

20 A. My impression was that.

Q. Did you get that impression after discussing this matter regarding the Indian question with Mr. Gamage?

A. I did not discuss the question with him.

I did not tell Mr. Gamage that something must be done to counteract the distribution of this pamphlet. I did not ask him to publish a counter pamphlet. There was an election petition when my wife signed the Nomination Paper. Mrs. Illangaratne did not inform me about that petition I read about it in the papers.

30 Q. That petition was heard for seven weeks. Did you not read it in the paper?

A. I read it in the paper.

Q. Were you aware that one of the allegations against her was that false statements against the opposing candidate had been published in the form of pamphlets?

A. There was an allegation that Mr. Illangaratne attended the meetings of Mrs. Illangaratne.

Q. Was there any allegation that false statements had been published against the opposing candidate?

A. I do not know. There may have been.

Q. Do you know that one of the grounds of the election petition against Mr. Illangaratne too was, he had published false statements against the opposing candidate?

10

A. I do not know.

Q. Do you know that one of the grounds of voiding an election is publication of a false statement against the opposing candidate?

A. I came to know it quite recently.

Q. I put it to you that it was well known to you over and over again in connection with the Kandy Election Petitions, against Mr. George Silva, against Mr. Illangaratne and Mrs. Illangaratne, and the allegation made was that false statements had been made in the form of pamphlets against the rival candidate?

20

A. That allegation was made in all the Kandy election petitions.

Q. I put it to you that you had been procured by Gamage in order to give this evidence?

A., It was Mr. Molligoda who asked me to give this evidence.

I do not know anything about Mr. Gamage's antecedents and what he is doing now or what he was going I do not know whether he had interested himself in more than one election petition before this or not.

30

(To Court: I knew that after I came to this Court that Mr. Gamage was interesting himself in this petition).

Q. Right throughout the periods you were in the witness box Mr. Gamage had been seated next to the Proctor for the Petitioner? A. Yes.

There is no petitioner present in Court now, but there was one petitioner present in Court a little while ago. (Witness points out that one of the petitioners walked into Court just now). I was here the whole of last week. I was summoned to attend Court on the 17th. On Thursday when I came to give evidence I saw Mr. Gamage in Court, and on Friday too I saw him in Court.

10 (Mr. Nadesan states that Mr. Gamage has been in Court from the beginning rendering whatever assistance he could and he will continue to do so till the inquiry is over)

Since last Monday and Thursday I did not speak to Mr. Gamage. There is no reason for not speaking to him. When I came on Monday I inquired from the Proctor whether I would be called. The Proctor told me that I would not be called on that day: so I went home. On Thursday I asked the Proctor and returned home. When I questioned him on Wednesday he told me that I would be called on Thursday.

Q. Did you give a written statement to your proctor regarding the evidence you would give?

20 A. I went with the proctor to the Advocate on Thursday morning and said what I evidence I could give.

12.33 p.m.

Certified correct.

Stenographer S.C.

12.33 p.m.

J.K.R.W.M.P. Jayasinghe.

(Cross examination by Mr. Chitty continued)

That is the first time I gave a statement to anybody. That was on last Thursday morning. I did not give a statement to Gamage earlier. I informed Counsel about this leaflet but until it was shown to me in Court I did not see it.

Q. Is it your position that the pamphlet you gave Gamage was the identical one or was it a similar pamphlet?

A. One similar.

Q. So far as the pamphlet which you alleged you gave Gamage is concerned, you do not know what happened to that? 10

A. Why, Mollagoda asked me whether I was prepared to give evidence that I gave that pamphlet to Gamage.

Q. Did you learn from Gamage that the pamphlet you gave him is to be produced in Court?

A. No. Mr. Mollagoda told me that the leaflet would be produced in Court. That was after this election petition was filed.

As a village headman I may have led evidence in Court. After that I had no private litigation. 20

Q. I put it to you, you came here at the instance of Gamage for the purpose of giving false evidence, and that no such incident as you described ever occurred. You never met Mr. Senanayake on the road with Colin Wickramatunge?

A. I deny that.

Q. I put it to you also that your evidence concerning Mr. Dharmasena that you saw him at the polling station is utterly false?

A. I did not know Dharmasena. A person who was near me told me that he was Dharmasena. 30

It did not strike me as an important matter that a person called Dharmasena was at the polling station. I

did not mention his presence that day to anybody.

Similarly I did not mention to anyone about Mr. Senanayake's supporters wearing badges. What I thought was that the people who were wearing badges were the people who were carrying on the election campaign. I spoke about these badges as I remember but I did not think then that it was an important matter. I did not realise that this question of badges is important for this inquiry. That is also one of the matters regarding which I did not make a statement to anyone. Counsel questioned me at his bungalow on Thursday
10 last as to whether anybody had badges and I said yes.

I was not shown any badges or any design of badges till I entered the witness box. In short from the time of the election until I gave evidence in this Court on last Friday I did not see a similar badge.

Q. During the course of the last four or five years when there were about four election petitions have you acquired any village knowledge of election law?

A. I know generally that if a candidate made a wrong allegation against the character of an opponent at
20 an election that the candidate would be disqualified.

There had been an allegation against Mrs. Illangaratne that her husband worked for her and because Mr. Illangaratne was disqualified from voting for seven years he was not competent to work in that election. I did not know that if an agent did anything wrong a candidate would be disqualified.
Re-examined. I became Chairman of the Village Committee in 1937 and 1938. In those days the Chairman had the right to employ a clerk whom he liked. In 1942 or 1944 the Local Government Commission started to make these appointments.
30 Till about the year 1951 my son continued to be the clerk till he was transferred to Urban Council Matale by the Local Government Commission. Mr. Rajapakse contested me for the Chairmanship of the village Committee but he did not

contest me for the ward I represented. I was uncontested as a member for my area Gurudeniya. At the beginning only in one election I was contested and I won and in respect of the other two elections I was returned uncontested.

P.B.Amarakoon. Affirmed.

Sub Inspector of Police. Wattegama. During election time I was stationed at Galatuwa in Kandy, one of the duties I had was to cover election meetings in my area. I had to be present at meetings and make short reports of them to my Superintendent. I covered only one meeting 10 which was held on 12.5.52. at the Government School. Ketawalla. That was a meeting held in support of the candidature of Mr.E.L.Senanayake for the Kandy Seat. The meeting started at 5 p.m. and terminated at 6.45 p.m. Loudspeakers were used at this meeting. The speakers were Jayasundera, Ex-village Headman of Wattawala, P.B. Wickremesinghe, W.E.Perera of Lewella, M.A.Perera who had some business in the Kandy Market, Colin Wickramatunge, Secretary to Mr.Fred de Silva Advocate, E.L. Senanayake, W.R. Rajapakse and D. Ramanayake whom I came to know as a petition drawer 20 in Kandy. Mr.E.L.Senanayake was the U.N.P.Candidate. He got elected - he is the respondent in this case. I have here the report I sent to my Superintendent in respect of the meeting I covered and I produce it marked P134. In Mr. Senanayake's speech he said that he was speaking early at that meeting as he had some other business. Colin Wickramatunga said that he was no stranger to most of them but that no one had invited him to be present at that meeting. Mr. Senanayake left the meeting early. I have no recollection whether he was accompanied by Collin Wickrama- 30 tunga or with whom he came to the meeting.

Cross examined by Mr.Chitty: Mr. Senanayake in the course of his speech complained that certain defamatory statements concerning him had been made and he asked the people not to be misled by such false statements, and Mr.

Ramanayake who also spoke said that he had come to the meeting without being invited. That is the first time I saw M.A.Perera of the Kandy market. I had some information that he had some business in the Kandy Market. I made a true record of the main points in some of the speeches. I did not collect any pamphlets at that meeting. This was the only election meeting I covered in support of any candidate. There were about 500 people present at this meeting. I also said in my report that people of Ketewala, Kossina, Ampitiya, Uduwala and Gurudeniya were present because I knew most of those who attended that meeting. I saw posters pasted here and there but I did not see any pamphlets being distributed. I arrived at the meeting at about 4.30 p.m. and remained there till the end about 6.45 p.m. - it was then almost dark. It was quite an orderly meeting.

Re-examined: nil.

T.M.Allapitchai: affirmed.

P.C.3552 attached to the special Branch, Kandy Police. I covered certain meetings during the last General Elections. I attended three meetings. One on the 16th May, propaganda meeting held in support of Mr.E.L.Senanayake at Aruppola presided over by P.B. Ratnayake, head Teacher of Wellapuluwa Christ School. The meeting started at 5 p.m. and terminated at 6 p.m. Loudspeakers were installed and the speakers were Kirihamy, Piyasena, M.A.Perera, E.L.Senanayake and P.B. Ratnayake. I sent a report of that meeting to the Superintendent of Police which I produced marked P.135. I covered another propaganda meeting held on the 18th of May at Thekewatta - Tennekumbura, in support of Mr.E.L.Senanayake, presided over by Kulupana, Ayurvedic Physician and later by Mr. Fred de Silva, Advocate, son of the late Mr. George E. de Silva, The speakers were William Fernando, Godapola, Ramanayake, Mrs. Jadji Beebee and Colin Wickremasinghe, whom I have seen in the Kandy town near the Court House. I produce the report

which I sent to the Superintendent marked P136. I also reported the meeting held at Thalapitiya, Uduwela, on 19.5.52 in support of Mr.E.L.Senanayake. I produce my report which I sent to the Superintendent of Police marked P137. At this meeting among the speakers were Fred de Silva, Collin Wickramatunga, Sobana Kangani, Hunukotuwa James and Dharmadasa. The place was decorated with green flags and the symbol of Mr. Senanayake. At this meeting Mr. Dharmadasa said all the religious leaders like Jesus Christ, Lord Buddha, Prophet Mohamed had enemies, likewise the U.N.P. also have opponents but we will face them and come into power

Cross-examined by Mr. Chitty I have reported approximately what the speakers. At two of these meetings Mr. Senanayake was not present - at the meeting at Thekewatte-Tennekumbura and the meeting at Thalupitiya Uduwela (P.136 and P137). At the meeting at which Mr. Senanayake was present he spoke. The names of the speakers were announced over the loudspeakers. At the meeting held at Aruppola on the 16th (P135) I knew only one of those present - Mr. E.L.Senanayake. At the meeting held at Tekkewatte-Tennekumbura (P136) I knew out of those present Mr.Fred de Silva, Colin Wickrematunge and E. Ramanayake. At the meeting held Thalupitiya, Uduwela, I knew out of those present Mr. Fred de Silva and Colin Wickremetunge.

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Certified correct.

Sgd. M.N.Peries.

Stenographer S.C.

(Adjourned for lunch)

November, 24. 1952.

Proceedings after Lunch Interval:

Madapatahenidige Somadasa de Silva. affirmed.

Examined. I am 32 years old, village Committee Member residing at Tannekumbura, I worked for Mrs. Tamara Illangaratne (Tamara Mumari) for the last Election. I went to see the voters did canvassing and was present at the polling station. I canvassed at Talata and Tennekumbura. I was outside the polling station at Gurudeniya. (Q. Was there any canvassing for the U.N.P. Candidate, Mr. Senanayake?)

- 10 Yes. (Who were the local residents who did canvassing for him?) William Fernando, James Dissanayake, Mrs. Gunasinghe they are residents of Tennekumbure and Talwatte. (Witness volunteers the statement "from Kandy Harasgama"). The Others from Kandy who worked in that area are: Collin Wickramatunge, Piyasena, Kulupane, Kulupane is an Ayurvedic Physician residing at Beewelikade he has a dispensary at Trincomalee St., Kandy - he was at one time Secretary of the Communist Party.
- Collin Wickramatunge works in Mr. Karunaratne's office - the same office where George E. de Silva worked and here now Fred E. de
- 20 Silva works. Harasgama works in the same office as Wickramatunge. Opposite to my house there is a Branch office of the U.N.P. and Harasgama visits it. I had every opportunity of seeing these who visited it. Harasgama used to come once in two days or some times daily. I saw him mostly visiting that office with William Fernando by Jeep. I do not know to whom that jeep belonged - it was used in connection with the election - a loud speaker was fitted - to it and announcements were made over the loud speaker in regard to meetings to be held in support of Mr. Senanayake.

That was the work done with that jeep. Collin Wickramatunge, Samba (a person who works for Mr.E.L. Senanayake and who lives at Talwatte) went about in that Jeep. On polling day I was speaking to the voters of Talwatte Thenakumbure outside the Gurudeniya Polling station. I asked the voters to vote for Mrs.Illangaratne. The voters came by car, bus and on foot. The cars bringing voters had the placards of the Candidates. Mr.E.L.Senanayake has two polling booths to accommodate his voters - similarly Mrs. Illangaratne had two. When voters came and got down workers of one or other of the candidates will take them to their respective booths. The workers had badges - the workers of both candidates had badges 10 There was a wheel and a print of the photograph of E.L.Senanayake in badges used by his voters. They were of the shape of a Bo leaf - similar to it and in size 1 1/2 x 2 inches. There was no tail in the badge such as is found on a bo leaf. (Q. Was there any writing on them that you were able to notice?) There was some writing which I could not read. I can identify design of the badges if one is shown. (Shown the back of P.25) They were of this shape (Shown the face of P.25) Badges like this were used by 12 or 15 people - they were workers near the polling station they took voters to the candidate's booth - they checked up something and sent the 20 voters to the polling station. I knew Mr. Jayasinghe - he was outside the polling station. Mr.E.L.Senanayake came to the polling Booth he came with Dharmasena, M.M.C. and 2 or 3 others. They got off the car - went near Mr.Senanayake's booth and thereafter to the polling station. Dharmasena and others were inside the polling station and remained some time. Dharmasena is a member of the Kandy Municipal Council and I knew him by sight. I cannot say which Ward he represented. There is no more than one Dharmasena in the Municipal Council, Kandy. I could recognise him without difficulty and I recognised him when he came with 30

with Mr. Senanayake. I was with Herat, Jayasinghe and Danny - they were people who were working for Mrs. Illangaratne. Jayasinghe was a former Chairman of the V.C. who gave evidence a little while ago. My companions Danny and Herat recognised them. Jayasinghe asked me who was going into the polling station. I said it was Dharmasena, M.M.C. Mr. Senanayake's shed was built of cadjan and bamboos and were 5 x 10 in size. These sheds would each cost Rs. 40/- or Rs. 50/- that is my view. As they were working there there must have been chairs but I did 10 not see them. I saw flags with the wheel symbol and the print of the photograph of Mr. Senanayake on them - they were made of paper and cloth - there was green print on white back ground. I had visited places outside my area during the election time. I noticed flags like that in other parts of the electorate - the paper flags were drawn alongside the road but the cloth flags were at intervals. There were booths opposite the Maligawa - I saw them being constructed on the day previous to the election

(Q. Never mind other candidate. Were any constructed for 20 Mr. Senanayake?) I did not walk about so much to see if other booths had been erected for Mr. Senanayake. The booths opposite the Maligawa bore flags with Mr. Senanayake's photograph imprinted and with his symbol.

Cross-examined:- There are no writs against me by Afgans and other professional money lenders. There are writs against me by others. An Afgan had sued me to recover Rs. 500/- lent to me in 1948. I have not settled that claim - judgment was taken in 1949 - there was a discussion for amicable settlement and in 1950 I was 30 served with a 219 notice. I gave evidence in Court on affirmation. I said I had no property moveable or immovable in my name. Up to date I have no property in my name. I am a trader - I bring firewood and sell - I

go to fairs; buy country rice and sell - I go to gardens, buy coconuts and sell. I have Rs. 300 or Rs. 400/- In 1950 I had no money. There is a decree against me for house rent - Rs. 150/- I am living in that house still. I paid the outstanding on 21.4. 52 - that is money due on that decree. There is a judgment against me in favour of Chettiar for Rs. 300/- That debt was incurred in 1949. That judgment too is still unsatisfied. I could have settled these debts but I could not have sacrificed myself respect in doing so. I borrowed money, did business and failed. It is a virtue to pay your debts. Mr.E.L. 10

Senanayake and Dissanayake Bandara came and told me that at all my outstatanding liabilities would be settled if I supported Mr. E.L.Senanayake. I did not agree to that. I ran a boutique at Tennakumbura in 1949. One H.L.D. Appuhamy owned that building. I paid him the full rent. That building is now not occupied. I handed the building to H.L.D.Appuhamy as I lost in business and had to close the business. I had no dealings with one Marikar. I owed money to two muslims but they had not sued me. I owed them Rs. 800/- in all. Those debts were incurred in 1949. They have not been settled 20

Shortly before Sinhalese New Year 1952 I deny I went to E.L.Senanayake's house. I have never been to his house. You know his house) I know his house at 34 Gregory Road.

(Q. Did you ask him for Rs.2,000/; promising to help him in his Election?). I deny that (Q. Do you know Mr. Senanayake? How did you come to know him?) When he came forward as a candidate for the Municipal Seat. I knew him. Personally I did not associate with him. I have never been to his house. We invited him to a meeting of the Gramawardana Society - he took the Chair and we all spoke to him but I had no personal 30

dealings with him or tell him of my debts. When he offered to settle my debts Dissanayake Bandara knew about them and told E.L.Senanayake of them in my presence - Mr.Somadasa

has some trouble, well, if you make arrangements and allow him to live in peace, he would work for you. Mr. Senanayake said he would settle the debts and assist me to re-open the boutique.

At.3.30 p.m. the Court is adjourned till tomorrow.

25.11.52. 11 a.m.

Same Counsel as before.

M.P. Somadasa de Silva - reaffirmed

Cross-examined: Yesterday I said that one Dasanayake Banda in my presence had suggested to Mr. E.L.Senanayake that he should pay my debts. This suggestion was made at my house Mr. Senanayake came to my house. Dasanayake Banda knew all about my indebtedness. Dasanayake Banda on his own told me that I was in difficulty and that he could speak to Mr.E.L.Senanayake and get him to settle my debts. Dasanayake Banda told me that two or three days before 10
Mr. Senanayake came to my house, I did not agree to that suggestion of Dasanayake Banda. I told Dasanayake Banda that Mr. Senanayake, if he had the desire, could pay my debts but if it was to be done in connection with the election, I did not want him to pay my debts. I gave him that qualified approval. Dasanayake Banda told me, "You are in difficulty; I can get some help", I have been actively supporting both Mr. .Illangaratne and Mrs. Illangaratne in three elections. At the time Dasanayake Banda made the suggestion to me my debts amounted to something between Rs. 1,500/- 20
and Rs. 2000/- At that time I was the Manager of the Mawilmade Co-operative Stores Society. I am not the Manager now. When I got the post I had to keep a sum of Rs.500/- as security. The society has not returned the security to me yet. I ceased to be the manager in March 1951. There was a shortage of Sundries to the value of Rs,250/- When I was the manager. I was not running a sundry boutique at the time these goods were lost. I gave up my business as sundry boutique keeper and I got myself appointed as Manager of the Co-operative Stores. Jayasinghe (the witness 30
Herath and Dannie were with me at the polling station. They are people of the same village and I associate with them. We work together in political matters as well. Herath is the Secretary of a Gramasanwardena Samitiya. Dannie is a trader and he lives in a rented
-184-

house. Herath's house and garden in which he lives belong to him. We all were supporting the candidature of Mrs. Illangaratne. At the time I recognised Mr. Dharmasena and gave his name to Jayasinghe we were not together. I gave Dharmasena's name only to Jayasinghe. Mrs. Illangaratne came to the Polling Station that day with one Mrs. Jayasena. She is the wife of Senator L.B. Jayasena. I am not a member of the Communist Party. I am now a member of the Sri Lanka Party. Before that I belonged to no party. I was never a member of the Samasamaja Party. I am not a
10 fellow traveller of the communist Party or the Samasamaja Party. I have given evidence at an election petition inquiry on a prior occasion too. I gave evidence at the last election petition inquiry against Mrs. Illangaratne. I gave my name then as M.P. Somadasa de Silva. In fact I gave my full name Madduma Patahandige Somadasa de Silva. I did not give my name then as Somadasa only. In the previous inquiry against Mrs. Illangaratne there was a charge that Mr. Illangaratne went with me to canvass the vote of Dissanayake for Mr. Illangaratne's wife. I gave
20 evidence to the effect that no such thing ever happened. I admitted that I was with Mr. Illangaratne that day and I spoke to what I did with him that day - we attended a funeral house but we did not go to canvass votes. I cannot remember the exact date on which I gave evidence. I gave evidence about three years ago. Mrs. Illangaratne was elected to Parliament in May 1949. At that time I had two boutiques. That was before I got into debt. In 1949 I obtained goods, on credit and carried on the business. At that time my assets exceeded the liabilities. It was after
30 1949 that I became indebted. On the polling day those who worked for Mrs. Illangaratne wore badges. They were paper badges with the umbrella and the picture of Illangaratne printed on them. I cannot remember whether Mrs. Illangaratne was wearing a badge. I cannot remember whether Mrs. Jayasena was wearing a badge. I had a badge. Generally

those ten or 12 persons who were working for her wore badges. At that stage I did not regard that the question of wearing badges was of any importance. I did not think of the question of badges until I came to give evidence. Similarly I did not think that the polling booths were of any importance until I came to give evidence. I do not know who constructed those booths. Nor do I know who demolished those booths. I live about two miles away from the Polling Station.

Re-examined. I have seen four elections being conducted including the last election. Excluding this inquiry I have given 10 evidence in one election inquiry. Mrs. Illangaratne won in that inquiry. I got married from Panadura. My mother is alive and she has properties. The badges of candidates are important matters in election campaigns to identify the supporters.

Tikiri Banda Tennekoon: Affirmed.

41 years, printer, residing at 15 Lake Road, Katukele. I am a member of the Municipality, Kandy. I have been a member for six years. I represent the Deiyannawela Ward. The other members of the council today are Messrs. 20
Wimalasena, Karunaratne, Fred de Silva, W.A.B. Soysa, D. Ramanujan, A.A. Dharmasena, P.B.A. Weerakone, A.C.L.Ratwatte, E.R.Senanayake, E.L.Senanayake, P.L.P.Alwis H.A.C. Wickramaratne, Hadjee Usoof Ismail and H.B. Udurawela. Mr.E.L.Senanayake is the Mayor and he is the respondent in this case. E.R.Senanayake is his younger brother. During my six years in the Council there were six mayoral elections. This year too there was a mayoral election. This year and last year Mr.E.L.Senanayake became the Mayor. He had been Mayor for three consecutive years including 30
this year. Mr. W.A.B. Soysa contested Mr.E.L.Senanayake for the Mayorship this year. The Mayoral election is conducted by open ballot. Except W.A.B. Soysa,

P.L.P.Alwis, H.A.C. Wickramatne and I, the others voted for Mr. Senanayake. All the elected members were present for the Mayoral election. My impression is that Fred de Silva was in England at that time. Except Mr. Fred de Silva all the other members were present for the election of the Mayor. In 1951 there was talk that both Senanayake and W.A.B. Soysa wanted to come forward, and in that connection there was a conference at the Queen's Hotel at which I was also present. Though both of them wanted to come forward it was the wish of the Majority that

10 Mr.E.L. Senanayake should be elected Mayor without a contest. On that occasion too, with the exception of the four persons whom I mentioned earlier who did not support Mr. Senanayake for the Mayorship in 1952, the others supported his candidature for the mayorship. There was no such conference in 1950 for the Mayoral election. Originally we heard that both Mr.E.L.Senanayake and W.A. B. Soysa would contest for the Mayoral Seat, but after that there was an agreement between Mr. Soysa and Mr.Senanayake and then Mr. Senanayake was not contested for the

20 Mayoral Post/Seat. On that occasion too Mr. Alwis and I promised our votes to W.A.B. Soysa, and the people who supported Mr. Senanayake in 1952 supported him in 1950 and 1951. During the last Parliamentary Election I was living at Katukele - No.278 Peradeniya Road, during the six years I had been a member of Kandy Municipal Council, besides the two places I mentioned I had been at No.248 Peradeniya Road. All those three places are not within the Deiyannewela Ward. In the 1952 Parliamentary Election Kandy Seat was contested by Mr.E.L.Senanayake,

30 Mrs. Tamara Kumari Illangaratne and Mr. Somasunderam. The nomination day was 28th April and the election was held on the 24th May. The noise of the election started from somewhere in March, but the actual election campaign was from about a week or two prior to the election. Between the 28th April and 24th May I was living at 378 Peradeniya Road

My place of business is at the junction of Trincomalee Street and Kings Street. I came to Trincomalee Street daily for my business. I noticed election campaigning going on. A large number of people worked for and supported Mr. E.L.Senanayake. Mr. Colin Wickramatunge, A.A.

Dharmasena, A.C.L. Ratwatte, H.G. Perera, M.W.Podisinghe, M.Wilson, Martin Perera and many others supported and worked for Mr. Senanayake. All three candidates who came forward for the Kandy Seat had posters. There were also decorations on behalf of the candidates. The photographs of the candidates were decorated with lights and flowers. When I come to my place of business I come along Peradeniya Road, get on to Yati-nuwara and get on to King's Street. Many people of various places canvassed votes for Mr. Senanayake. Nobody came and asked me to give my vote to Mr. Senanayake. I canvassed votes for Mrs. Illangaratne. During my canvassing voters for Mrs. Illangaratne I met some people canvassing for the opposing candidate.

10

Q. When did you meet?

20

A. I saw Simon Perera canvassing for Mr. Senanayake.

Q. Who are the others?

A. A person called Podisinghe.

Q. You told us among Mr. Senanayake's supporters there were Messrs. Colin Wickramatunge, H.G. Perera, A.C.L. Ratwatte and A.A. Dharmasena?

A. Yes.

Q. What did you see them do?

A. Saw them going in cars carrying Mr. Senanayake's posters.

30

(To Court: I also saw them taking voters to the Polling Station)

Q. What did you see Mr. Colin Wickramatunge do? Did you see him going about in that ward?

A. Yes.

I also saw Dharmasena going in those cars, but I did not see Mr. A. C. L. Ratwatte going in those cars. I saw Mr. H. C. Perera also going about in those cars. I cannot say how many cars Mr. Senanayake had for his private use. I know that he had two cars - one a red car and another car. In each of Mr. Senanayake's cars he had a flag. I have often seen Mr. Dharmasena going about in Mr. Senanayake's cars.

Q. Did you see Mr. Senanayake canvassing?

A. I have seen him getting down from his car and entering houses at Trincomalee Street.

10 On those occasions a crowd of people followed him, but when he entered a house the crowd remained outside. I cannot give the names of any persons personally known to me of that crowd who followed Mr. Senanayake to those houses. I have seen handbills and leaflets in publicizing meetings in support of the candidature of Mr. Senanayake. Children take them and paste them on walls.

Q. How were they distributed?

A. They got the distribution done by the people of the area.

20 Q. Were any loudspeakers used in publicising these meetings?

A. Yes.

Loudspeakers are fixed on to vans and are taken about announcing the meeting. There was a jeep. I do not know to whom that jeep belongs. The loudspeakers were taken in this jeep announcing the meetings. On the Polling Day I went early in the morning to Deiyannewela. I assisted those who were working there for our party. I stood outside our polling booth. At Deiyannewela the Polling Station was at a School. Outside that Polling Station there were
30 Polling Booths for Mr. Senanayake and for Mrs. Illangaratne. Mrs. Illangaratne had a small shed made out of cadjan, and Mr. Senanayake had a bigger shed - that too was made out of cadjans and bamboos. They were temporary sheds. Mr.

Senanayake's polling Booth was decorated with posters and flags made out of cloth and paper with the wheel and photograph of Senanayake on them. I went to Katukele to give my vote at about 9 a.m. I was at the Katukele Polling station too for about half an hour. There the polling Station was at the Mahatma Gandhi Vidyalaya. Mr. Senanayake had his polling Booth there in front of a house on the pavement. That place served as his polling booth. Mrs. Illangaratne has a table and an umbrella to serve as her polling booth. Mr. Senanayake's polling Booth here was much more elaborately decorated than that at Deiyannewela. This jeep I spoke of also had one or two posters on it. This jeep was used for about twenty days.

10

Cross-examined

Q. In 1940 you were an itinerant Vendor of books in the streets of Kandy?

A. From 1925 to 1940 I did that.

I know Sinhalese well. I make my living by composing verses, getting them printed, and selling them in the streets of Kandy. When an important event occurs in Ceylon I immediately compose a leaflet of verses, get them printed and sell them in the streets of Kandy and at the bus stands. I formed an association of poets with a number of youngsters in the Kandy Town.

20

Q. Under the guise of poetry you took to politics as time went on?

A. No.

Mr. Illangaratne is also a member of this association. He also composed verses in Sinhalese.

P.G. Simon Singhe is not a member of this association. I have no recollection of a man by that name. I do not know Alutgedera Amerasene Kariapperumal. I have not heard of either of them.

30

In 1940 I started my printing press, in the month of July. I have been carrying on that business

in partnership up to date.

Q. Is Alutgedera Amarasena Kariappuerumal one of your partners in your business?

A. It is not Kariapperumal, but Kariapperma.

Alutgedera Amarasena Kariapperuma is a partner of my business. I said that I did not know him because the name given to me first ended with "l". I was questioned about the members of the Poets' Association, and then when I was asked about Kariapperumal I was thinking of him in connection with the Poets' Association.

10 Q. According to what you heard you thought the name was a Tamil name, not a Sinhalese name?

A. There are Tamils and Muslims having ge-names like the Sinhalese.

When I was asked about Kariapperuma I did not pay much attention to the first two names. I could not recollect the two names earlier,

(shown certified copy of business Registration, marked R21). I registered that business. I carried on the business for 12 years in partnership. I got confused about
20 the name because I was questioned about the members of the Poets' Association.

Q. You have forgotten your partner's first two names?

A. Yes.

Q. Did you share your profits with your partner or did you forget that?

A. If there is a profit we share.

From 1940 the business is run at a loss. I am the manager of the business. From 1940 I got no profits to be shared because the income was hardly sufficient to cover
30 the expenses

Certified correct.

Stenographer S.C.

We were not carrying on the business as a profit sharing business. My partner Kariyaperumar does not expect a profit from the business. He joined me to help me - he gave me a Rs. 1,000/- He gave it as a benefactor to assist me as I was in a destitute and helpless position. He was registered as a partner as I told him it would be better if that be done. It was not to share liabilities but to show that he was a partner of the business. On my own initiative I did so but he was aware of it. Sometimes he looks into the books of Accounts. He used to come once a month or so for that purpose - even this year he has done that. He never asked for profits during the 13 years. He comes just to see me - not to see if the machinery had been removed. Out of the goodness of his heart he came to see me. Owing to the addition to the name by the last letter, I got misled and believed that there was a reference to a Muslim. My other Partner was Tikiri Banda Ratnayake, an ex Clerk of a Proctor. He comes off and on - he is now working in the town. He comes daily and after sometime, there isa break and then he starts coming. Whenever he wants money he comes and takes money from me on the business a/c. If he wants 5/- or Rs 10/- he comes to see me - he does not take 2/- he takes either a 5/; or 10/- Rupees at a time. There have been occasions when I had given him Rs. 50/- or Rs. 75/- at a time. On several occasions he has taken such sums. He took the last Rs. 50/- about a year ago and thereafter a Rs.5/- or Rs.10/- at times. Those payments to him are not entered in the books. Books had been kept but I do not sometimes enter payments made to him - sometimes I do and sometimes I do not. I make these entries as if the moneys had been taken by me although he had been given those moneys. I gave my occupation here as a Printer. Even now I compose verses but I do not print and sell them now. In 1940 I ceased selling composed verses. From 1940 I did printing Even now I could compose verses and on any topic. At the instance (request) of any one I could print

verses in my press. (shewn R.25 - Rajasingham objects -
objection over-ruled) I did not compose these verses. I am a
Member of the Sri Lanka Freedom Party. I, as I have already
said, am a supporter of Mrs. Illangaratne. Before I joined
the S.L.F.P. I was an ardent leftiest worker. There was not
much of a friendship between Mr. Illangaratne & I - we were not
against each other. Some people may think that we are friends
from the way we go about, I have right along supported the
Illangaratnes. During the last Kandy Election no literature was
printed in my press. My press is known as the "Hentha Hitha"
10 press. (In respect of the Election Petition filed against Mr.
Illangaratne and on which he was unseated leaflets printed by
you were produced?) I may have printed them. Those leaflets
and even Kavies had been printed by me for the Illangaratne Party
This is a thing that happened 4 or 5 years ago and I have no
clear recollection of things. Yes, I ran a Printing Press without
making profits but I printed verses for Mr. Illangaratne (Note:
The question which led up to the last answer was objected to but
the objection was overruled and the question allowed to be put).
(Including leaflets containing attacks on Fred de Silva and
20 others ? - Question objected to - overruled and question allowed
to be put to witness) I did not print such leaflets (Did you
print a leaflet with the caption "Fred de Silva's New Mask")
I cannot remember if I did so. I do not pay Income Tax and
never paid Income Tax. I always claimed a loss on the Printing
Press,

Adjourned for Lunch

Before the proceedings commence after the Luncheon
interval Chitty files an additional list of witnesses and
moves for summons on them. Mr. Rajasingham objects. Allowed
30 subject to consideration of any objection if so desired
at the time a witness on this list is called.

Tikiri Banda Tennekoon, affirmed

Cross-examination (Contd). I had consistently shown a loss in business since 1940. I make a nett profit of Rs.200/- to Rs.250/- a month - that is from 1952. From 1940 - 1952 we had no nett profit. I admit that personal expenses would have to be out of profits. At the end of some years there was profit and at the end of some years there was loss. By profit I mean about Rs. 1,500/- at the end of a year and by loss I mean approximately about Rs. 400/- or Rs.500/- a year. I never earned sufficiently to pay income Tax. My profits now is below taxable amount. I own no property. I have several chairs and a bed/table in my house. I have a large family and I eaked out a precarious existence. I do not know how to find a living. There was nothing else for me to do - I had to support my children and so had to carry on the Printing trade in spite of the recurring annual loss. I formerly had an old machine (hand machine) worth about Rs. 2,000/- Recently I purchased one for Rs. 4,400/- that was in February, 1952. To pay for it I had to borrow from several people. I borrowed from my relations - some moneys on notes - those notes remain unsettled I cannot remember the names of all my creditors I own Thalayan & Co. Rs. 400/- I could remember some of my creditors and some not. I have not given them any security. My total liability now is about Rs. 4,000 to Rs. 5,000/- My intention is to improve the business and to pay off my creditors. We propose to introduce a new method of working and to improve the house. I deny that I keep the machine for leftiests' political work. I deny that leftists had advanced me money to get the machinery. There is much printing work available, during an Election, people do not give us work as we cannot turn out clean work. Although there was new machinery, other things necessary are not with us. I did not do much work for Mrs. Illangaratne during the previous Election. I do not ask work from anybody - I have other things to attend to

that I undertake only small Printing jobs, not big jobs. I did not ask from Mrs. Illangaratne small printing work she did not offer such either. I did not ask her why I was not given work - it did not strike me to do so. I cannot remember who placed the orders on the previous occasions, i.e. during the previous Election Mrs. Illangaratne came twice to see me - she came to ask me to speak at some of her Election Meetings. I spoke at 4 or 5 of her meetings. On the 17th May I spoke to her meeting. (shown R.26 - objected to - objection overruled) I occupied the 10 chair at the meeting as I was a member of the Municipal Council. The speakers at the meeting were Senator Jayasena, Jusuma Gunawardene, Vikundavasana. I cannot say if the last named is a leaflet or if he has gone to Russia - (sic: leftist) the others were leaflets. (sic: leftists) Stanley Geogerly was a speaker yes, he went for the peace conference to Russia and is a leftiest. I have not seen Vikundavasan. The meeting was held to get the leftiest people to support Mrs. Illangaratne Labour Unions are run by Sama Samajists, Communists and by Mr. Gunasinghe. In regard to the Labour Union run by 20 Goonesinghe (continued by another officer)

formerly one Martin Silva was the President of the Kandy Branch and then one Weerakoon was a supporter of that Union. I have seen Collin Wickramatunge speaking at these meetings. I cannot say whether he represented that Kandy Branch at Conferences. During the last Election Campaign members of the L. S. S. P. the Communist Party and the Labour Party worked for one candidate or other. I did not see any meeting sponsored by any Party. I did not see any party Meeting at all in connection with the Kandy 30 Election. I presided and spoke at a meeting in support of the Candidature of Mrs. Illangarante who was supported by persons of various parties. Members of the L.S.S.P. and the Communist Party were present at that meeting. C.A.

Mathew, L.B. Jayasena and Stanley Gogerly were present

There was no one representing the N. L. S. S. P. so far as I could now remember. Ordinary people were the prominent supporters of Mrs. Illangaratne. I am a member of the Kandy Municipal Council representing a ward. Mr. T. B. S. Bodamune, Chairman of the village Committee, who is also a Printer and who runs a Printing Press known as the Sittumine Press also supported Mrs. Illangaratne. One Albert Appuhamy a tailer also supported her. He used to address meetings. Ex Aratchi Jayasinghe of Gurudeniya also spoke at Meetings in support of Mrs. Illangaratne. I canvassed for Mrs. Illangaratne. It is difficult for me to say now who else canvassed for Mrs. Illangaratne besides myself. I knew the two Petitioners. I cannot say if they canvassed for Mrs. Illangaratne. They attended meetings in support of her but did not speak at these meetings. They were seated near the platform during those meetings. I had notices from them on two or three occasions I have known Mr. Navaratna and Mr. Molligoda for the last 10 years very well but I had no close association with them. I spoke to them whenever I met them. Mr. Molligoda was a Government Servant. I do not know he is doing now. He suddenly ceased to be a Government Clerk. I cannot say if he had been dismissed from the Government Service. I made no inquiries about it. I do not know if he is a person against whom there are a number of unexecuted writs. I do not know if he had been sued on a number of occasions for the recovery of unrecoverable debt. I do not know anything about his antecedents or character. I know Mr. Gamage. He is in Court seated immediately behind Counsel and Proctor for the Petitioners. I saw him going past me about 11 a.m. I did not speak to him then, I spoke to him last at Kandy about 2 weeks ago when he was going past my place of business saluting - Aibon! I received summons on Saturday 22nd November. Sometime ago Mr. Molligoda asked me whether I could give evidence in this matter. I then presumed that my name was on the list of witnesses.

He did not tell me on what topic I was to give evidence. I agreed to give evidence. The next thing that happened was that I got summons. Between the date Mr. Molligoda spoke to me and the day I got my summons nobody spoke to me about this case. I did not meet Molligoda on Polling Day. I met him during the Election Campaign in the Kandy Market Square. I spoke to him then on various matters. It was just casual talk. We may also have talked about the Kandy Election. After that I met him on Sunday the 23rd November. I talked to him then, I spoke to him about the Election. I told him that I had received summons. (Q. Then he told you on what topic he wanted your evidence?) He wrote down what evidence I would give. (Did he show you what he wrote?) Yes. (You told him that you were willing to give evidence on these matters?) Yes. (So that was the first time - that is on November 23, Sunday that you stated what you were going to say in Evidence?) Previous to that also I had spoken about my evidence but only on that day a record was made. Mr. Gamage did not get a statement from me. I did not know that Gamage was taking an active part in the Election. I saw Gamage's name once or twice in the papers -- it was stated that he was seated behind Counsel. Up-to-date I did not know that he was taking an important part in this inquiry. I know that he worked for Mrs. Illangaratne during the Election campaign. He canvassed votes for her at Mawilamada, his residing village. I saw him going about in cars with flags. I thought that he was intensely interested in the candidature of Mrs. Illangaratne. I thought so as a result of his conduct. I am unable to say if he took an active part during the hearing of the last Election Petition - I also do not know that he took an active part in the one before that either. In 1948 I was summoned as a witness and attended Court. I was summoned to produce all the Election literature printed at my Press "Henda-Hitha", and I did so, I cannot say if among those leaflets there was one referring to Fred de Silva's New Mask.

Fred de Silva's New Mask. (To Court:) I cannot remember. I cannot say if I printed any literature making scurrilous attack on Mr. Fred de Silva. (I put it to you that from 1948 and up to date the Illangaratnes and their supporters have had a free run on your Printing Press to print anything they want?) I have refused work from them when they wanted things done in one or two hours. If it was physically possible for me to have done any work for them, I would never have refused to do any work for them. Molligoda, Illangaratne and Gamage were Government Clerks and suddenly ceased to be so. I do not know the reason why 10 I do not know whether Gamage had been a Store keeper in charge of a sugar and chillies Store. I am aware that they - these articles were stored at Kandy by Government. I cannot say if Gamage was in charge of the Sugar Depot. From 1943 onwards I have not been a bitter Political opponent of Mr. E. L. Senanayake. I started opposing him from 1948. In 1943 Mr. Senanayake for the first time contested a Municipal Seat. I had a vote in the Ward that he contested. (I put it to you that that was the first time that you started opposing Mr. Senanayake?) I deny 20 In 1949 I contested for the Deputy Mayoral post with another candidate who was supported by Mr. Senanayake. I only got 5 votes and was defeated. I deny that it was the first time that my feelings against Mr. Senanayake became bitter. I was neither pleased nor displeased about it. In 1952 I tried again to get elected as Deputy Mayor and Mr. Senanayake supported the rival candidate - he won that - that was in January, 1952, I received 6 votes and my opponent got 8 - one member was absent. Whenever Mr. Senanayake contested for the Mayorship I was on the 30 other side. I remember a certain occasion - in 1950 - when I invited Mr. Senanayake to come to a meeting of the Poets' association. I told him that it was a non-political meeting.

At that meeting a Buddhist Monk spoke - at that stage I was not present. At the start of the meeting I told the speaker that they should not attack the Government and that it was not a political meeting. I was the chairman but I vacated the chair for Mr. Senanayake. I invited him in order to get him to preside. I gave him the chair and sat by him. At that time the police brought a permit for the use of Loud Speakers and I went near the fence to receive it. Before I returned Mr. Senanayake had vacated the chair and bolted as he did not approve the speech of the .0 Buddhist Monk. Thereafter I occupied the chair.

Adjourned for the day.

26.11.52 (11 a.m)

Same Counsel as before:

Tikiri Banda Tennekoon: reaffirmed.

Cross-examination continued:-

One of the Petitioner is Molegoda not Mollegoda. I told Molegoda - that is the person I referred to - that I agreed to give evidence. I was at my uncle's place at New Maligawatte, Colombo, this morning. Yesterday after I finished giving evidence I went direct to my uncle's place. The whole of last evening I spent in my uncle's house and I slept there. I came here this morning from my uncle's house. Before I came to Court I went to the New Grand Hotel at Norris Road. I do not know whether that is the place where some of the witnesses are staying. Whenever we come to Colombo we go to that hotel for tea as the manager of the hotel is known to us - he was at Kandy one time. We went there to have a cup of tea.

10

Q. Why did you go all the way from Maligawatte to Pettah to have a cup of tea?

A. I wanted to go some book shops at Pettah. I walked all the way from my uncle's house to Norris Road.

20

That is a distance of about two miles. My uncle's house is at Drieberg's street.

Yesterday I said that Molegoda met me and obtained a statement from me.

Q. When M. Molegoda met you did he tell you on what topics he wanted your evidence?

A. No.

At that stage I knew that the election petition had been filed.

30

Q. You did not know how You could assist him in regard to the petition?

A. No.

Q. But whatever assistance you could give you were willing to give?

A. Yes.

Q. For that purpose you made a statement to him which he wrote down?

A. Yes.

When I was making the statement he asked me to say what I knew, and I told him I knew what I knew about this election matter.

Q. What do you mean by that about this election matter?

A. As to the persons who had helped, what I did see, and where and where I had gone.

He did not question me but I stated what had happened. He wrote down the statement on a foolscap paper. He wrote only on one side of the paper. (Shown a half-sheet) - It was on one side of a paper like this. He wrote on two sheets like this. He wrote in Sinhalese. He showed me what he wrote down, and what he wrote was correct. I did not know at that time that evidence was being collected for this inquiry. I knew that the election petition had been filed. I read that in the paper. Mr. Molagoda told me that he was one of the petitioners.

20 Q. Did you ask him from whom he was going to find money for this expensive litigation?

A. No.

I do not know whether Mr. Molegoda is a person who could afford expensive litigation. I knew him for 12 years. During that period I had spoken to him. He is not a friend of mine. I do not associate with him intimately as a friend.

Q. Did you associate with him at all?

A. During the election campaign I had spoken to him

30 Q. You mean as a co-worker for Mrs. Illangaratne?

A. Yes.

We did not keep in touch in regard to what each of us was doing during the election campaign.

Q. So that he did not know what you were doing and you did not know what he was doing during the election campaign?

A. Yes.

I do not know what his (Molegoda's) occupation was. I knew that from 1946 he ceased to be a Government Servant. He lives at Uduwattakule Road. I know his house.

Q. Has he any visible means of livelihood?

A. I knew he had a house to live in. I do not know whether it is his own house.

I do not know anything more about him. I had seen him going about in a car. Even before the election campaign I had seen him going in a car about once a week - sometimes he goes along Trincomalee Street towards Queen's Hotel.

10

I have not seen him frequently in the precincts of the Courts. I do not know anything about his personal affairs. I do not know whether he was discontinued from Government Service in 1946. I did not talk to him about that.

Yesterday I said that I knew Mr. Gamage also for about ten years. I do not know Mr. Gamage's means of livelihood. He is residing at Mavilimade. I have been to his house. Mr. Gamage is in Court. He is seated by the Petitioners and behind the Petitioners' Counsel.

20

Mr. Illangaratne ceased to be a Government Servant in 1947. I do not know Mr. Illangaratne's means of livelihood. I get about Rs.1,000/-; in all as my nett income for six months. I expect to give a share to my partners only when the nett income exceeds Rs.200/- per month. My partners make an allowance for managing the business, and they agreed to divide the income if the nett income exceeds Rs.200/- per month. That was an oral arrangement.

Yesterday I said that I could not remember what pamphlets were printed in my printing press.

30

(Shown R.27 - a pamphlet) This shows that this was printed at my press.

Q. When was this printed?

A. As the name of my printing press is printed here, it may have been printed in my press, but I cannot say in which year it was printed.

(Witness reads the document) I cannot say whether this pamphlet had been printed in my press. When I read this document nothing strikes me.

Q. Look at this document R.27 was not this the document that you were summoned to produce at the inquiry when Mr. Illangaratne was unseated?

A. I have no recollection.

10 In that election I worked for Mr. Illangaratne. In that petition against Mr. Illangaratne one of the charges was the publication of defamatory pamphlets. I do not know whether the allegation was that the pamphlet was published by me. I cannot say whether I was interested or not in the fate of the candidate whom I supported. I came to Court on that occasion only on two dates. I did not meet Mr. Illangaratne. I did not discuss with him one of the charges against him. Mr. Illangaratne did not ask me what evidence I would give.

20 Q. You told us yesterday that you were Mr. Illangaratne's printer and supporter for a number of years?

A. Somethings were printed by me.

(Shown R.28) - I did not compose these verses. The leaflet bears the name of my printing press as printers of it, but I cannot say whether it was printed in my press. I have no idea of having seen a pamphlet like this R.28. I find it difficult to say whether it was a document like this R.28 that I was summoned to produce at the inquiry into the petition filed by Mr. Fred de Silva. I cannot
30 remember what Mr. Illangaratne's symbol was at that election. There were several symbols. I see the symbol - umbrella - in the document R.28, I now recall that this symbol umbrella was Mr. Illangaratne's symbol at that election. Umbrella was the symbol of Mrs. Illangaratne at this election.

Q. During the recent Election this symbol - the Umbrella - was distributed widely in Kandy.

A. That distribution did not represent a 1/10 of the distribution of the Wheel symbol.

Mrs. Illangaratne's symbol - the umbrella was printed on big posters and pasted on to walls. The umbrella symbol reproduced on paper were hung across the streets of Kandy (in some places) during the last election campaign. They were also hung up in the Bazzar areas (in several places). They were hung up in several places in Peradeniya - in shops and boutiques. I was not assigned to do any particular work during the election time but I was asked to address certain meetings. I addressed a meeting held on the 23rd of May at the Kandy Market Grounds. That was on the day before the Polling day, that meeting was in the afternoon, about 2 p.m. Yesterday I spoke of the meeting on the 17th May. Besides those two meetings I also addressed two other meetings. I addressed 4 meetings in all. In support of Mrs. Illangaratne there were about 25 meetings, but I attended only 4 meetings during the Election campaign I met Mrs. Illangaratne almost every day. I did not meet Mr. Illangaratne. I did not see him at all during the Election campaign. 10 20

Q. On the occasions that you met Mrs. Illangaratne you must have asked her how her election campaign was progressing

A. No.

I cannot say where Mrs. Illangaratne is now. I have not seen her today. I last saw her when I attended the funeral of Mr. Illangaratne's father. I think that was on the 12th of this month. That funeral was at Hatheraliadde, Tumpane.

Certified Correct.

Stenographer S.C.

30

26th November, 1952.

12.15 - 1.30 p.m.

T.B. Tennekoon (cross examination continues)

I met Mr. Illangaratne there. I went to the funeral about 2.30 p.m. Mrs. Illangaratne was also there. She was not ill. After that I did not see her. I do not know whether she was interested in this Election Petition. I have not spoken to Mr. or Mrs. Illangaratne about this petition. I do not know whether any money is being collected at Kandy ostensibly for the expenses connected with this inquiry. I do not know if 10 Mollagoda or Gamage collected any money. I was not asked to contribute towards the expenses of the election petition inquiry. I am quite uninterested as to how this inquiry is being financed. I know that since 1947 there have been 4 election petitions from Kandy in connection with the 4 Elections during that period. I do not know if Gamage and others collected any money to meet the expenses of those petition inquiries. I had not collected any and I have not given any contribution in respect of the financing in relation to those petitions. I have no recollection of 20 seeing any press notices calling for contributions to defray the expenses connected with these 4 Petitions. I deny that that Mollagoda, Gamage and I collected any money from an unsuspecting public to meet the Election Petition Inquiries (To Court: I have no information about the collection of funds for Election Petition expenses. I do not know whether that was a notorious fact in Kandy. I sell a paper called "Sinhale" I was selling that paper for about a year I cannot say whether it is a political paper (To Court: Sometimes I had read that paper) I cannot say whether it published any 30 defamatory statements against certain Ministers or whether the publisher of that paper figured in a case (To Court: I do not know where it was printed. I got the paper down from Sinhala Kariyala at Maligakande Road, Colombo. I know that the printer of that paper was prosecuted for criminal

defamation of certain Ministers. That case was during the time I was selling that paper at Kandy. I cannot say if it was a leftiest paper. (To Court: that paper supports the policy of the Sri Lanka Freedom Party of which I am a follower). I was selling the paper on a commission basis. Sometimes I do not see (read) the paper - sometimes I read it when I had the time. I did not see in it a notice prominently displayed appealing for funds to meet the expenses of this election Inquiry - I say I had not seen it on the days I read it. I had not seen in any other paper or document an appeal for funds in connection with this Election Petition Inquiry. I deny the suggestion that Mr. Illangaratne Gamage Mollagoda and I collected subscriptions for this inquiry from the general public. I also deny the suggestion that I had seen published in the "Sinhala" an appeal over the name of Mr. Mollagoda for contributions towards the expenses of this inquiry. I keep books of accounts in connection with my printing business. That contains the account of moneys realised by the sale of the paper. I keep a job Register where work undertaken by me is entered. All the books are regularly kept by me. "Sithumine" is the name of the Printing Press run T.B.S. Godamune who was one of the supporters of Mrs. Illangaratne Mr. Godamune may have gone canvassing apart from speaking at Election Meetings of Mrs. Illangaratne. I know his house at Bowala. During the Election campaign I had gone there once or twice. I did not report to Mrs. Illangaratne the work I do for her in connection with her election campaign but she used to come and invite me for her meetings. She did not tell me how her campaign was progressing. One Dissanayake who is a student at Gandhi College used to keep me informed of the progress of Mrs. Illangaratne's election campaign - he used to do that whenever I met him. I have no recollection of any complaint by Mrs. Illangaratne during the Election campaign.

I went to witness a meeting held in support of

E.L. Senanayake at the Market Square presided over by Mr. Ratwatte. I remained on the road and heard the loud speaker transmission of the speeches. About 4 or 5 people spoke at that meeting - Ratwatte, Fred de Silva, Attugeda and Collin Wickramatunge. After that meeting was over I went home. I did not go that day to see Mrs. Illangaratne or any of her supporters. Nobody came to see me after that meeting. I took no action with regard to anything said or done at that meeting. (shown R.28) If the manuscript of this had been given to me and I had no other work I could print 100 copies of it 10 in 3 hours. The paper on which R.28 is printed is available anywhere. (shown P.87) It would take 4 hours to print 100 copies of this 4 hours from the time of the receipt of manuscript. Once the matter is set up printing takes a few minutes. I have seen P.87 before. It is about the Kandy Election and the preserving of our heritage. It was shown to me by Mr. H.G. Perera last Saturday as I was going past his house. I did not see this during the Election campaign. For the first time I saw it last Saturday. I cannot say whether the broad issue on which the election was fought between the leftiest and 20 the U.N.P. was on the Indian question. I cannot say whether at our meetings any reference was made to the Indian question. I knew for the last 7 or 8 years this question was before the public. In fact during the whole of the period that I had been a politician and particularly in Kandy this question was agitating the mind of the people. In Kandy the problem was acute owing to the presence of the Indian labourer and the unemployment of the indigenious population. The U.N.P. and the Government had taken a strong view on the matter - some leftiests were in favour of that view and some against it.

30 To Court: some leftiest supported the U.N.P. and some did not. All the leftiest were not supporting Mrs. Illangaratne I cannot say how they were divided on the Indian question. S.L.F. Party's policy is not the policy of the leftiest. I include the S.L.F.P. among the leftiests. The policy of the

S.L.F.P. on the Indian question is to grant the Indians citizenship rights in respect of those Indians who are permanently settled down in Ceylon and who have no connection with India. I ascertained that from the contents of the manifesto issued by our Party after it was formed.

(shown R.29) This is not that manifesto. (To Court: I had a copy of that manifesto. I have not brought it. I do not know whether it is now with me or not at Kandy) I have no idea if I had seen R.29 previously. That manifesto was printed at Karunadara Press, Maligakande Road, Maradana and distributed by the Propaganda Branch of the S.L.F.P.

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This manifesto enumerates 22 points of Policy but it is silent on the Indian question. With regard to the Indian question the policy of the U.N.P. and S.L.F.P. is the same. The S.L.F.P. was inaugurated a year ago. I do not know the policy of the leftists on the Indian question. Leftists are those who sit on the left of the speaker. That is how I understand the term leftists.

Adjourned for Lunch.

November 26, 1952.

Proceedings after the Luncheon Interval.

Before the last witness is re-called to be further cross examined Mr. de Zoysa points out that in yesterday's proceedings at page 196, 12th and 13th line the sentence as it stands now reads thus: "He wrote down what evidence I should give Mr. de Zoysa points out that the word "should" in this sentence not correct but that the word should be "would" He moves that the word "should" be deleted and the word "would" be substituted therefor. Mr. Chitty has no objection. The stenographer who
10 took down the evidence of this witness states that in transcription he had made a mistake and that the word used by the witness was "would" and not "should". The Court directs the word "should" be deleted in that sentence and the word "would" substituted therefor in that sentence.

Tikiri Banda Tennekoon Re-affirmed.

Cross-Examination (Contd) I stated yesterday that the N.L.S.S. and the L.S.S.P. were the two leftist parties. I said also that one of them supported Mrs. Illangaratne. I am unable to say if the N.L.S.S.P. took any part in the Election for the
20 Kandy Seat. In regard to the L.S.S.P. Mr. Philip Gunawardana Mr. Mathew, Mrs. Kusuma Gunawardana (Mr. Philip Gunawardana) and W.J. Perera are some of the leading people in that party. In regard to the N.L.S.S.P. Party Dr. N.M. Perera, Dr. Colvin R. de Silva Mr. Reggie Perera and Mr. T.B. Sunasinghe are some of the leading persons of that party (Kindly tell us what was their joint policy towards the Indian question? I am unable to say I have heard their speeches in public (at public meetings) held at Kandy and I have read their speeches in Parliament in regard to it. All the 8 persons that I have mentioned did not
30 speak in support of the candidature of Mrs. Illangaratne at meetings held in support of her candidature. I know that two of these spoke. Out of the 25 meetings held in support of her (Mr. Illangaratne's) candidature, I attended only 4 and

the 8 people I have mentioned two spoke at those meetings. I cannot say if the others or any of them spoke at any of the remaining 21 meetings. On the 23rd May I attended a meeting held in support of the candidature of Mrs. Illangaratne at the Market grounds. At that meeting Mr. Philip Gunawardana and I spoke in support of her candidature. Senator L.B. Jayasena, a Communist, also spoke. I cannot remember if Stanley Gogerly spoke at that meeting. (was the Indian Question discussed or not at that meeting?) I cannot remember. (Pressed for a definite answer - witness is reminded that he has been a Member of the Municipal Council, Kandy and as a man who knew things he should give a definite answer). I cannot clearly remember if that question was discussed. (That was the burning question in the country. What were you getting onto the platform to say?) I cannot remember if that question was discussed at that meeting. At that meeting Mrs. Illangaratne was present and she spoke. (Did you realise during the Election campaign that the view on that question was of importance?) It struck me that that question was an important factor during the Election campaign. (Did you concern yourself with that question?) I cannot say if I thought about that question at that time. 10

Court: (Did you think about the question at any time as a public man?) I did think of that question as a public man. (During Election time you took it out of your mind?) When I read in the papers of Indian illegally landing in Ceylon, I gave thought to that question. (That has been going on for the last 4 or 5 years?) During the last 4 or 5 years I had given thought to the question. (You had given thought to it over a cup of tea and thereafter you had forgotten the problem?) 20

Different problems crop up at different times and I gave no thought to it at the time of the Elections. The Indian question was discussed in the Municipal Council, Kandy - now I remember that. I cannot now remember who moved the resolution which led up to that discussion (can you remember what attitude you took?) 30

Witness hesitates and after hesitation gives the following answer:
That too I cannot remember (Are you a man of weak memory?)
I cannot remember some things and could remember some things.
My memory is not weak. (On the 25th October was there a
meeting of the S.L.F.P. at Kandy and which you attended?) There
was a meeting last month but I cannot remember the date that
was roughly a month ago. That meeting was held at the market
square, Kandy. Mr & Mrs. Illangaratne spoke at that meeting
Kindly remember and tell us if a hat was passed round for
a collection said to be for expenses in connection with this
10 Election Inquiry?) No, not when I was there. I left before the
meeting was over. I had an urgent business - had to attend
a wedding function. No, I cannot remember if the Illangaratne
called for subscriptions to meet the election petition expenses.
From 1947 - 1952 the Ceylon Indian Congress Party supported
first Mr. Illangaratne and then Mrs. Illangaratne.
I remember at the previous election campaign - the time that Mr.
Illangaratne came forward - in 1948 Mr. Thondamanam, a former
member of Parliament and a member of the Ceylon Indian Congress
supporters Mr. Illangaratne, Mr. Asiz also supported. (he
20 is a communist?) My impression is, that he is a
member of the Ceylon Indian Congress. I know Mr. Rajaper, but
I do not know if he supported Mr. Illangaratne. I cannot
remember who else supported him. In 1949 they all supported
Mrs. Illangaratne. They spoke at her meetings. I know that
the Ceylon Indian Congress has been agitating for a change
of the Government Policy in regard to the Indian question
for a long time because of the fear of disenfranchisement
of the Indians in Ceylon. In the 1947 election no less than
8 Indians were returned as members for the Kandyan districts.
30 In the present Election 1950 - I cannot say if Ceylon
Indian Congress members addressed meetings for Mrs. Illangaratne

I say so because they did not address the 4 meetings I attended as they had done previously. So far as I am aware they the members of the Ceylon Indian Congress did not help Mrs. Illangaratne in the 1952 Campaign. I cannot say if Mr. Illangaratne was on the side of the Ceylon Indian Congress during the time he was in Parliament, before he was unseated I did not ask Mrs. Illangaratne what her attitude or policy was on the Indian question. I had and still have my ideas on the Indian question. (What are your views on that question?) From the time I began to think about it, I have not changed my ideas. (What are your views?) My idea is that these Indians 10 who are permanent settlers in Ceylon should be given citizenship rights provided they have nothing to do with India. That is also the view of the S.L.F.P. My view is the same as they of the U.N.P. Government (Now try and remember if you took an opposite view when the matter was discussed in the Municipal Council did you express an opposite point of view?) Now I cannot remember what attitude I adopted during the discussion of the Indian question in the Municipal Council, Kandy - I think it was to grant citizenship rights to Indians who are permanently settled down in Ceylon. I think the party for whom 20 I voted lost on that question. I can remember who voted for me - Messrs. H.A.C. Wickramaratne, D. Ramujan - only 3 voted on my side. D. Ramujan is a prominent Indian who has settled down in Kandy. He is a former member of Parliament, and a member of the Ceylon Indian Congress. The majority of the Municipal Councillors did not want the attitude of the Government changed. In the 1949 election Mrs. Illangaratne expected large Indian support to enter Parliament. In the 1949 Electoral Register there was no less than 5000 Indian Voters.

As I had then canvassed for Mrs. Illangaratne I realised that she had the support of the majority of the Indian Voters. 30

I know that she continued the political policy of her husband and the continuity of it; she continues to follow his policy up to date. In 3 more years her husband's disqualification

would and (Mrs. Illangaratne was hoping to keep the seat warm for her husband). I have no idea of that. My idea is that Mr. Illangaratne would carry out his policies better than Mrs. Illangaratne.

Re Examined:- I have expressed my views on the Indian question. I have also said that they were as I understand it the views of the S.L.F.P. I cannot say if the S.L.F.P. has a different view to that of the U.N.P. on this matter. I do not know the U.N.P. Policy on the Indian question. The S.L.F.P.'s view was expressed in their manifesto (shown R.29)
10 That manifesto was published when the Party was inaugurated. The Office of the S.L.F.P. was then at Rosmead Place. Now it is at Rajagiriya. Shortly before the election the office was moved there (into Rajagiriya). (shown back of R.29) The address of the S.L.D.P. as given here is Rajagiriya R.29 has been published long after the S.L.F.P. was formed. The original manifesto I referred to is different to this. I think the earlier manifesto of the S.L.F.P. set out its policy on the Indian question. At the four meetings in support of the candidature of Mrs. Illangaratne at which I
20 was present, the Indian question was not discussed. I am a member of the S.L.F.P. and a member of the Committee of the S.L.F.P. (Kandy Branch). I am also a member of the Central Executive Committee - that is the executive Committee for the whole Island. I received notices of the meetings of the Central Committee but I could not attend. I do not know if the omission of the policy reference to it - in regard to the Indian question in R.29 was accidental or intentional (deliberate). It may have been by oversight or accident that there was no reference to the Indian question
30 at the 4 meetings of Mrs. Illangaratne which I attended I remember that allegation has been made that the S.E.F.P. has been silent on the Indian question. In regard to the 1948 election petition although I was summoned to give evidence, I did not give evidence.

The summon to me specified the documents I was required to produce. I brought all the documents that I was summoned to produce. I cannot say if documents R.27 and R.28 were amongst the documents I brought to court. My partner P.B. Ratnayake is a brother of the Minister for Home affairs. L.B. Ratnayake, Proctor, is another brother of the Minister P.B. Ratnayake never advanced me money for my

business to share profits. He only took Rs.5/-; or Rs.10/- at times and sometimes Rs.50/- or Rs.75/- I am related to Minister Ratnayake. I have done printing for him. The Ceylon Indian Congress supported the Illangaratnes. I have no idea if the Ceylon Indian Congress supported candidates in respect of any other Electorate/Electorates.

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Adjourned for the day.

27th November, 1952.

11.12 15. p.m.

Same Counsel as before.

Mr. Nadesan states that he is not pressing charges 3(d) and that he is prepared to withdraw it. Mr. Chitty states that in that case that that charges must be struck out.

Court: My order is that the charges 3(d) in the original Petition be struck out.

D.B. Monnekulama affirmed

Examined. 32 years. Student-at-law, at present residing at 10 Norris Road, Colombo. I remember the last General Elections. During those elections I worked for Mrs. Illangaratne at Kandy for Mr. Sri Nissanka at Kurunegala and for Mr. Rasanayake at Nikewaritiya. I went to Kandy on the 23rd May, the day before the polling. On the Polling day I went round the Polling stations supervising the arrangements to see whether there were sufficient cars, workers &c. Mrs. Illangaratne had only 16 cars and I thought that was inadequate. I directed more cars to be sent to the polling stations where Mrs. Illangaratne had more voters. At all polling stations, polling booths 20 had been erected by the respective candidates for the convenience of the voters. These polling booths were constructed of cadjan and decorated with posters, banners and streamers. The respondent had a large number of cars to carry voters. I was able to make them out by the placards and symbol displayed on his cars. His cars carried posters and green flags with the words "vote for Mr. E. L. Senanayake" printed on them. These flags were out of cloth that appeared to be new. If old cloth had been used for that purpose it would have attracted my attention. At all those three elections no candidates used 30 old cloth to make flags. The respondent had plying for him at each polling station at least 15 or 20 cars. Both sides had the use of cars. The respondent's workers wore green caps, green shirts and green bush coats. Each of them wore a badge

of a small shield shape with the photograph of Mr.Senanayake
They wore the badge on their cap, shirt or bush coat. I might
be able to identify a badge used by the respondent's workers
if I am shown one. (Shown P25) badges like this were used
by the workers of Mr.Senanayake. At each polling booth there
were about 15 or 20 flags with the symbol of the wheel on the
back ground of white cloth. Immediately after the polling was
over I left Kandy. In 1947 I supported Mr. Sri Nissanka's
candidature for the Jurunnegalla Seat. My native place is Moone
Kuluma which is 32 miles away along the Kurunegalle Puttalam
road. In my experience these badges are usually used in order
to identify the workers of the candidates at the polling station
All the workers of the different candidates wore badges.

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Cross-examined In 1947 I was 27 years old. I joined the Law
College in Sept.last year. Immediately before I joined the Law
College I was the Secretary to the Editorial Directors Board of
the Associated Newspapers of Ceylon, Messrs.L.M. de Silva and
C.L. Wickramasinghe on a salary of Rs.350/- plus dearness
allowance and subsequently I was promoted as Sub-Editor of the
Ceylon Daily News. I left Lake House in Sept.last to join the
Law College. (To Court: I was not able to join the law College
earlier as I had not passed in Latin and when that requirement
was withdrawn I joined the Law College. I took an academic
interest in politics. In 1947 I supported Mr.Sri Nissanka for
the Kurunegalle Seat and Mr. Herat for the Nikavaratiya Seat.
Both these candidates had the support of the L.S.S.P. and the
Communist Party although they had come forward as Independents.
I do not know whether they had leftist persuasion. For those
elections I took 4 days leave on personal grounds. I worked on
the polling day and the day before that. In 1947 I was not at
Lake House. I was then employed as teacher at the Anglican
College, Kurunegalle, In 1952 I was in complete charge of Mr.
Sri Nissanka's election campaign at Kurunegalle for about 3
months. In 1952 Sri Nissanka was nominated as the S.L.F.P.
candidate to contest.

20

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the Kurunegalle Seat. I spent three months in that Electorate. While I was working for Sri Nissanka I also helped Mr. Rasanayke who was the S.L.F.P. Candidate for the Nikawaratiya seat by accompanying him by appointment when he visited my relations in that area. (To Court: This time Mr. Herat contested the same seat as the U.M.P. candidate) I was not an appointed agent but I worked for Sri Nissanka strictly in an amateur capacity. In 1947 I was not a member of any party and I held no political views. Thereafter from 1947 to 1952 I was against the U.N.P. Policy. Apart from being Anti U.N.P. I had no political views.

10 I was a sympathiser of the leftist group. During that time I did not speak at any meeting. I saw printed badges at all three elections. I did not see any other badges at the recent Kandy election. Badges made of coloured silk ribbons would be very convenient as badges Rosettes could be used as badges. Coloured paper Rosettes could be used as badges. In 1947 I remember paper badges being used by workers of both sides. In the last Elections coloured paper rosettes, rosettes made of ribbons and sames to be worn round the head were used. Neither this time nor on the last occasion had I any reason to note the type of

20 badges used. I have been reading the proceedings of this inquiry in the newspapers occasionally. I met Mr. Mollagoda at the funeral of my brother on the 6th of Oct last and while I mentioned to him that I had read about the Kandy Election Petition, I also mentioned that I had gone round the area myself and that I was prepared to give evidence, if necessary, I had known Mr. Mollagoda since 1942 and his brothers were my class mates at St. Anthony's College, Kandy. I left that college in 1942. Mr. Mollegoda asked me if I could identify the workers who worked for the respondent and I said I could not, but that

30 I could speak to what I had seen. He said he would contact me if necessary. When I spoke to Mr. Mollegoda no particularly point on which

I could give evidence struck me as important. At the time I met Mollagoda I had read the Election Petition. After that I was in hospital and in great pain. I did not consider that my evidence would be useful on any particular topic set out in the Election Petition. Next I met Mollagoda last week and he took me to Mr. Devarajan's office and I made a statement. That may have been on Monday the 16th or Tuesday the 17th November. He met me at the Law College. That was the first time I made a statement. I do not know that my name had been put on the list of witnesses on the 6th November. In the course of my statement I mentioned about the badges to Mr. Bevarajan. He asked me to describe the badges. I did not ask him how the badges mattered nor did I realise the significance attached to them. Up to date I do not know the significance attached to them. I just told him i.e. without being questioned that the cars carried new flags. I did not know that the use of flags was a significant fact to be considered at this inquiry. I saw the new flags on the 24th morning. By looking at them I could have said whether they were of washed cloth or not. The cloth used for the flags of the respondent did not appear to have been washed. I did not go up and examine them but I was quite close to them. There was continuous rain from 6 to 8 a.m. I saw the flags at about 11 a.m. I fixed my flag to the car after the rain (To Court. The polling started at 8.30 a.m. The cars may have started to ply about 6 a.m. and the flags must have got wet for the rain) Mr. Nissanka had 280 cars, supplied by friends and supporters.

12.15 Mr. Jayamaha.

Cross examination of Monnekulama continued

When the cars came I counted them because I had to allot the cars to various places as I was in charge of Mr. Nissanke's election campaign.

I did not count Mrs. Illangaratne's cars, and I was not directly in charge of her transport. The cars were parked in front of her house when I went to her house, and at that time I noticed about 16 cars there.

I did not know whether the cars were parked at some other places as well. I knew that the cars parked in front of her house were being sent to various places. After the election was over I went back to Kurunegala. On the 23rd May I did not go to Kandy at anybody's request. I had informed Mr. Illangaratne that I would be coming on the 23rd to help them. I am a friend of Mr. Illangaratne. I have been a friend of his from my childhood. I am not related to them. I have not received summons in this case. I discussed this election petition with Mrs. Illangaratne about two or three weeks after the election petition had been filed, I went to Kandy Maligawa and from there I went to Mr. Illangaratne's house. Mr. Illangaratne was not there. I discussed the election petition with Mrs. Illangaratne. I told her that I could give evidence. I did not tell her on what topic I could give evidence. Until I mentioned to the Petitioners' proctor the topic on which I could give evidence I had not mentioned about it to anybody. I did not subscribe toward the expenses of this election petition. I did not discuss the question of expenses with Mr. Illangaratne. I am aware of the appeal that had been made for funds for the expenses of this petition inquiry.

30 Q. During what period were the appeals made for subscription?

(At this stage the witness is asked to withdraw - witness leaves the witness box and goes out of court.

Mr. Nadesan objects to the question.

Objection overruled).

(Witness comes back and the cross examination is resumed)

Q. During what period were the appeals made for subscription?

A. About three months ago I saw an advertisement in the paper known as "Sinhale"

The collectors did not come to me for funds. During the Kandy Election there was considerable enthusiasm on both sides. There was considerable display of the respective colours of the candidates. There were huge symbols made of paper and also of cardboard. Some Symbols were made of wood. Some people were wearing the colours of the respective candidates whom they were supporting. I did not see any embroidery symbols being worn by anybody.

10

I saw banners across the road. I also saw paper streamers. On that occasion I spent less than 24 hours in Kandy. I was not there at the time of the Prime Minister's meeting. I did not see the procession.

Re-examined: Sometimes rosettes made of ribbons and paper have been used as badges. I saw such rosettes being worn by people at Kandy during the election. Most of the badges were worn by people who stood opposite the polling booths and polling stations. I saw some people travelling in cars and some people near polling stations and polling booths wearing rosettes, but I did not see any particular persons wearing them. Banners and flags that I saw were made mostly of cloth and paper. I saw banners of both candidates, but the green flags, the green banners and the symbol of the wheel predominated.

20

Nimal Karunatilake: affirmed

26 years, under-graduate, University of Ceylon, Jayatilake Home, Peradeniya. I joined the University in July this year. I am an Arts Student. At one time I was a

30

member of the communist party. In 1947 I resigned from the party. After that I was in the staff of the Lankadipaya. I had already left the Communist Party when I decided to join the Lankadipaya. I resigned from the party because I lost faith in Communism. After 2½ years I resigned from the staff of the Lankadipaya. I then edited the Sinhalese Magazine called "Gurukula" with the commissioner Mr. Julius de Lanarole. There after I left the Gurukula and I joined the Times of Ceylon as the Night news Editor of the Times of Ceylon and the Lanka dipaya, and I was there for one year and three months. There
10 after I left that to study for my University Entrance Examination. I left the Times of Ceylon in March 1951 and the University Entrance Examination was in December that year. I was successful at the examination and the new academic year started in July this year. When I was a student for my university Entrance Examination I was staying with my brother in Kandy and thereafter I continued to stay with him till July this year. During the last general election I supported the candidature of Mrs. Illangaratne. I know the respondent Mr. Senanayake, Mr. Senanayake had a large number of prominent supporters, W.A.B.
20 Soysa, A.C.L. Ratwatte - practically all the members of the Municipal Council, a good section of the Kandy Bar, practically all the people who had money in Kandy. A Dharmasena Charles Silva, P.S. Fernando and various bus magnates of the place I know Mr. Collin Wickramatunge. He was supporting Mr Senanayake, I knew Harasgama for a long time. I knew him as a Law student and I knew him as a school boy. Mr. Harasgama had written to me several times. We were very closely associated but I cannot say whether he had signed anything in my presence (shown P.110) - This is Mr. Harasgama's signature.
30 (shown P.114) This is Mr. Harasgama's Signature. (shown P.118, P.121 and P.123) I find Mr. Harasgama's signature in each of these documents.

Mr. Harasgama was supporting Mr. E.L. Senanayake. Mr. Harasgama is Mr.E.L.Senanayake's brother in law. Mr. Harasgama had an office in Colombo Street. That was used by Mr. G.P. de Silva and some others. That was Mr. Harasgama's Proctors' office. During the election campaign Mr. Harasgama's office was an election office. I have seen Mr. Harasgama in the company of my brother in law Piyasena, who was also a supporter of Mr. E.L. Senanayake. I have also seen them - Mr. Harasgama and Piyasena in the company of Colin Wickramatunga, my printing office was opposite the office of Mr. Harasgama, and from the printing office I could see my brother in law Piyasena, Mr. Colin Wickramatunge and Mr. Harasgama in Mr.Harasgama's office On a number of occasions I have seen Mr.E.L.Senanayake going in and going out of that office of Mr. Harasgama.

10

Q. Do you know anything of a jeep which was fitted with a loudspeaker which was working for Mr. E.L. Senanayake?

A. Yes.

I think its number was C.L. 1341. I remember that number because I was involved in a case about that. I was charged with being a member of an unlawful assembly which damaged the jeep - because I decided to carry a person who was wounded. I was acquitted. This happened about a week before the election. This particular jeep is CL 1341. P 138 is a certified copy of the certificate of registration of the jeep. The owner of the jeep is Chellapperumage Upali Fernando. P.139 is a certificate of registration of a Flat Car. No. C.L.3141 belonging to Andrew Perera of St. Anthony's Bandarawela. Jeep CL.1341 was a left hand one. This jeep was carrying placards and pasted posters - fitted with a loudspeaker, and announcing the meetings that were to be held. I noticed Mr,Colin Wickramatunge speaking through that loudspeaker,

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I found sometimes my brother in law also in the jeep in the company of Colin Wickrematunge. In the night it was transporting Mr. E. L. Senanayake's supporters. In this jeep I had often seen Mr. Colin Wickrematunge announcing Mr. Senanayake's meetings. It was driven by that person who used to drive Mr. Senanayake's Mercedes Benz car. I had seen Mr. Senanayake going in that car driven by that same driver. I had seen Mr. Senanayake going in that car with Mr. Dharmasena - I used to see them all together with two or three supporters. Mr. Colin Wickramatunge was a supporter of Mr. Senanayake Mr. Colin
10 Wickramatunge went in that jeep and announced meetings in support of Mr. E.L.Senanayake. I have seen Dharmasena and E. L. Senanayake canvassing together. About ten days before the election, at Katugastota, where there are two Petrol sheds - I used to live opposite to those sheds - I saw Mr. Senanayake and Dharmasena coming into one of the sheds which belongs to Mr. David. I was driving a car myself and I went into the other shed. Then Mr. David came up to Mr. Senanayake's car. I saw them talking. I was interested to see what they were doing. Then 7 or 8
20 others joined them. . Then Messrs. Dharmasena, Senanayake and David canvassed Votes of the people in a row of houses I saw them going into the houses and coming out of them I have also seen Mr. Dharmasena at Mr.E.L.Senanayake's office at Castle Hill Street. On my way from Mr.Illangaratne's I have seen Dharmasena in that office at various odd hours. I was present on the Nomination day at the Kachcheri. I saw Mr.E.L.Senanayake at the Kachcheri. His supporters, Mr.Fred de Silva, Mr.W.A.B. Soysa, Mr. Colin Wickramatunge, Mr. Dharmasena and number of others were there. On that day after
30 the nomination paper was handed over Mr. Dharmasena garlanded Mr. Senanayake. So far as Dharmasena was concerned I thought that he was Mr. E.L. Senanayake's Lieutenant I thought that Dharmasena and

Mr. Harasgama were two lieutenants Mr. Senanayake had.

The day after the official opening of the Parliament, near the Ambepussa Rest House, I saw Mr. E.L.Senanayake and Mr. Dharmasena travelling together in Mr. Senanayake's Austin Car. After the opening of the Parliament I have seen Mr.E.L.Senanayake and Dharmasena together at least twice in the Refreshment Room of Parliament House.

On the polling day itself I was asked to go round and hand over seals, sealing wax, and keys to the polling agents of Mrs. Illangaratne. I went round ten polling Stations. I did not know all the Polling Agents of Mrs. Illangaratne. I had to ask the Presiding Officer for permission to speak to Polling Agents, and I could easily find out who were Mr. Senanayake's Agents and who were Mrs Illangaratne's agents. There was no difficulty at all in finding out Mrs. Illangaratne's Agents. After going to these various Polling Stations I noticed the Polling Booths of the respective candidates. There were workers at the Polling Booths. All the workers of Mrs. Illangaratne had badges, and Mr. Senanayake's workers also had badges. Mr. Senanayake's workers wore crests bearing the photograph of Mr. Senanayake and Mr.Senanayake's symbol. I think I can recognise Mr. Senanayake's badge. (Shown P25)- it was something like this. While going round the Polling Stations I saw a large number of cars plying for the Respondent.

All the cars carried flags and posters. Those flags had a wheel symbol, with the words "Vote for Senanayake" in English and in Sinhalese. With regard to the election I looked after the printing of leaflets and getting them distributed, for Mrs. Illangaratne. This is all I did in support and the candidature of Mrs.Illangaratne. I did not address any meeting. While I was doing this work I collected a large number of pamphlets and posters of Mr. Senanayake. I took the posters out of the walls, I took a poster like this, P128 There were 1000 to 2000 posters like these. I recognise

this as a poster - P129. I think this poster P.130 was there but I am not quite sure. I recognise this P132 and this P133, and also P74. I also collected a number of handbills and pamphlets of Mr. Senanayake.

Cross-examined: I did not receive summons in this case. I have come to court without summons. I am on leave from Monday. Mr. Molegoda contacted me and requested me to attend Court. He met me on Sunday and asked me to be here on Monday. I got leave only for Monday. I told my Warden that I could not say how long I would be away. I
10 did not tell my warden that I received summons to attend Court. I told him that I was wanted to give evidence at the Kandy Election Petition Inquiry. I thought summons was a formal thing. Mr. Mologoda told me that I would be able to get back on Monday itself. If I was asked to stay for two weeks in Colombo by Mr.Mologoda I would not have consented to remain so long. I came to know Mr. Mologoda during the Kandy election campaign. I knew him as a supporter of Mrs. Illangaratne. I have met him near Mr. Illangaratne's office. I remember him
20 working in his Polling area at Mawilmada. I know him as Mr. Mologoda. I knew him by sight. I met him for the first time during the election campaign. Sometime after the election I met him in the Kandy Town and he told me that he wanted to file an election petition. That was about a week or so after the election. That was towards the end of May. I met him in Kandy at my brother's place. My brother is E.S.Karunatillake. My brother is working on Uduwela Estate as a conductor.

My Brother is not in charge of a Communist Group on the
30 estate. He is not a Communist. I was a member of the Communist Party from 1944 to 1947. Ever since I joined the party I had disputes. I did not fight with any individual, but were discussing various political views at the meetings. I left the party.

because of my political views. I regard myself as a
leftist. I came to know Mrs. Illangaratne in 1948. For
the first time I came to know her socially. In 1948 Mr.
Illangaratne fought an election. I did not take part in
that election. I was then working for the Lankadipaya. I
was interested in the Kandy election on this occasion
because I was then in Kandy. I collected certain posters
at the request of Mrs. Illangaratne. I did so because we
had to reply to what the posters and the pamphlets
contained. I did not collect them for any other reason,
Where a poster contained something that called for a
reply I collected such posters. They were collected
and left in Mrs. Illangaratne's Office. I did not collect
other posters; but, sometimes, I collected whatever I
came across and I left them in Mrs. Illangaratne's Office.
There is something in P128 which calls for a reply. It
contains a slogan and we have to think of some other
slogan to catch the vote of the voters. I collected a
poster like this P128. I cannot remember how I replied to
that. Throughout the campaign it was a case of replying
to posters. I do not think I collected one like this
P130. I collected one like this - 133. I collected that
because it is in Sinhalese. I knew the language. (Witness
reads the contents). That needed a reply. I had to
get a better lay out in our posters. I do not think
that particular poster P133 needed a reply, but I
collected it because I was concerned in laying out our
posters in a better form. I think I collected one like
this P132. (Reads the contents). I thought
that needed a reply. If we had money we would have
got a poster printed. We did not print a poster
for that. I did not collect them for the purpose of
filing an election petition. It was I who told Mr.

Malogoda that if he wanted he could get the posters and
pamphlets of Mr. Senanayake from Mrs. Illangaratne's office
(Adjourned for lunch) 1:30 p.M. Certified correct

November 27th 1952.

Proceedings after Luncheon Interval.

Nimal Karunatileke, re-affirmed.

Cross-examined. I mentioned to Mr. Mollagoda that I had collected some posters and pamphlets and had left them in the house of Mrs. Illangaratne. He met me a week or two after polling day, about the end of May or the beginning of June. He said he was going to file an Election Petition - I did not ask him for details - I did not have a lengthy talk on that occasion with him. He said there were a number of issues involved but I did not ask him what those matters were. I thought that the 10 posters were important as I knew particularly the fact that most of the pamphlets carried the name of the Printer and the address Kandy. I thought that there should be the name and address of the publisher - that is why I told Mollagoda that some of the posters and pamphlets were available - that was because I had read the Order in Council - as a newspaper man that was my knowledge of the Election Law. When I was a Newspaper man, I had read the Order in Council. When I collected the posters and pamphlets their importance had struck me. I thought they could be made available if an Election Petition 20 was filed. I left them on the top of the cupboard in the office of Mrs. Illangaratne - she had her office in her house. I gave no particular instructions to preserve them. I did not go to the house of Mrs. Illangaratne with Mollagoda but I told him they were in her office - 855, Peradeniya Road. I was in charge of her printing and publication work. That part of the campaign was entrusted to me. (Shown R.26) This is not a document that I had got printed and published. It advertises one of Mrs. Illangaratne's meetings. This purports to have been printed by the Situmine Press, Maha Nuwara. It 30 does not bear the name of the printer and publisher. I have not seen this particular poster. It is likely that I might have seen one like this. We placed most of our printing orders with the Situmine Press. I visited the Situmine Press almost

daily. I went there because I was attending to Mrs. Illangaratne's printing work. I started doing so from a little time before Nomination day and till the Election was over - I made visits like that for a little over a month and till the Election was over. This exhibit R.26 purports to advertise a meeting on Saturday the 17th May at 2.30 p.m. at the Market Grounds. I remember the meeting of the 17th May. I remember to have seen posters similar to this. I remember to have seen posters similar to this but I cannot remember if I saw this. I remember the colour and lay out of our hand bills which I had got printed for our meeting - I do not particularly remember the lay out and colour of any of the hand bills. My memory is poor about hand bills but not about posters as they - the latter - meant more. Mr. T.B.S. Godamune is the Proprietor of the Situmine Press. I do not know if he was an ardent supporter of Mrs. Illangaratne. His support, Mrs. Illangaratne had for the election but I do not know how he supported. He asked me various things about Mrs. Illangaratne's campaign, appeared to be very sympathetic and appeared to be supporting Mrs. Illangaratne. He went about town but I cannot say what it was about - he went about in a car but I cannot say if he went about with any one. Mrs. Illangaratne did not have many supporters who were prominent people. I do not think he was an ardent supporter of Mrs. Illangaratne. I do not think he was one of the chief supporters of Mrs. Illangaratne. He spoke at one or two of her meetings - his name was advertised but I do not know if he spoke. I did not attend the meeting of the 17th May but of the 23rd May. Most of the time I was in Mrs. Illangaratne's office doing Office work. I might have casually gone to her meetings when I pass that way and stop a little to see what was going on and then proceed my way. I was an honorary worker. I do not say that I collected all the posters - I got

some collected by street boys - I never did it personally. They were collected on my instructions but not by me. Mr. Godamune asked me a number of questions, I gave answers and I also asked him a number of questions and got his answers. I cannot remember if he went about with Mrs. Illangaratne. I crossed him in and out of the polling Stations - I remember meeting him at the Howala Polling Station. I knew he was Chairman of the Village Committee at Bowala. That was so to speak his stronghold (How long have you
10 known him? Nadesan states that he objects to every of these questions. The only issues are those flowing from the 2 charges - Chitty replies - objection overruled). I say he was not an ardent supporter of Mrs. Illangaratne as he remained in his office and 44 attended to most of his work as he was ill and was just recovering from some disease. The S.L.F.P. desired him to contest the Kadugannawa Seat but owing to his state of health, he did not do so. He expressed regret that he could not work for Mrs. Illangaratne, I met him on the road from Bogala to Mulgama on Polling day. I knew he was
20 scheduled to speak at some meetings held in support of Mrs. Illangaratne. I was not there to listen to him. Certainly Mrs. Illangaratne's election campaign interested me. Owing to the special knowledge of printing I had the work I spoke of was entrusted to me. Some of the handbills are on pink paper - some type of paper as used for the printing of R.26. Mrs. Illangaratne's handbills and posters were put up on walls and trees. I did not look after that portion of work - I gave them over to be posted and satisfied myself that was done. I performed the self imposed and
30 voluntary duties whenever I was free. I lived then at Uduwela in my brother's house - it is 4 miles from town. I used my friends cars to go up and down. Generally practically every day I went to the Printing Press but for the most part I was at the house of Mrs. Illangaratne - that is 2½ or 3 miles from the Press - I had no routine in

regard to my work in connection with the Election. I did not go every day to the Press, Uduwela and Illangaratne's house I went to Illangaratne's house and the printers daily but sometimes I stayed over with Rambukwella at Katugastota. I used mostly Rambukwelle's car. I was very interested in the Election - I wrote the manuscript, I had talks with Mrs. Illangaratne - I wrote with material supplied by her and after she had read and approved of it is sent out. I attended to her written propaganda. I did no canvassing. I did not visit the supporters of Mrs. Illangaratne. I had to work - support - Mr.P.B.W. Rambukwelle of Katugastote - he was 10
contesting Minipe - I wrote some hand bills for him. A great part of the work was sedentary - I spent my time largely at Mr. Rambukwelle's, Mrs. Illangaratne's houses and at the press. I start very early daily - as early as I could and sometimes finish off at 12 midnight or 1 a.m. I have met the supporters of Mrs. Illangaratne at my working place i.e. Mrs.Illangaratne's office. I have overheard conversation and I have suggested matters connected with the campaign. I did everything indoors. It was no part of my duties to arrange meetings. A number of people did so and I drafted the leaf- 20
lets - among these who did arrangement of meetings were: H. Dissanayake, A.B. Ekanayake, Wepala, Mollagoda, Navaratna; there were 50 to 20. - also Gamage. I have met and talked to them and others - they were amongst the others to whom I have talked. I was in touch with them amongst others. I do not want to disassociate myself from them in any way. They told me what was happening. I said what was happening and we jointly planned the Election campaign. I had by then got the result of my examination. Nobody asked me to work during the Election. I lived with my brother on Uduwela Estate. My 30
native place is Kegalle. I was at Dharmaraja College and left in December, 1943. I knew Mr. Harasgama as a student. He was at St. Thomas' College, Matale and later at St. Sylvester, Kandy. We were never in the same school. After

I left school I lost contact with him. In 1948-49 I met him in Colombo - he had then joined the Law College. I used to be about Hultsdorp and met him very often. I might be able to trace the letter that he had written to me a year back from today. I cannot now give the date of that letter. After he passed out he sent me a note to attend a party. He is Sydney Harasgama. I address him as "Sydney" and he addresses me as 'Nimal'. I met him mostly at Mr. Nugapitiya's at Matale. We had gone to see films together. Whenever I wrote to him I addressed him as "My
10 dear Sydney" and whenever he wrote to me he addressed me as 'My dear Nimal' I end up as Yours or Yours Sincerely. I sign my name - he might have signed some letters as "Sydney" I never bothered to know how exactly he signed. I cannot remember any particular document that he had signed in my presence. (Mr. Sydney Harasgama called into Court) I have seen Mr. Sydney Harasgama who had been called into Court. (Mr. Chitty states that Mr. Sydney Harasgama had never seen this witness until today). He is the Sydney Harasgama whom I referred to earlier and he is my friend.
20 He must be of the same age as myself i.e. 26. I think he passed out a year ago. The note that Mr. Harasgama sent me last year might be at home. As I have already stated that was a note inviting me for a party at Kandy. It was a note posted to me in an envelope. He addressed me I think as "My dear Nimal" - I think he signed the letter "H.T.B. Harasgama" or it might have been as "Sydney" A.B. Nugapitiya is a very close family friend of both Sydney and myself. He is now Sanitary Asst. Somewhere at A'pura. Ukkuwala is 4 miles from Matale town. I went for my vacation to
30 Nugapitiya's and Sydney comes and spends a day or a night and leaves. We climbed hills including Muhasgiriya together. We were then 15 or 16 years old and we met very frequently In 1948-49 although he was at Colombo he used to visit Kandy.

During the interval I did not see him sign. I have seen his signature on his Excise Book - I have one or two Excise Books of his - they were books that he had used while he was at the Law College. I have borrowed novels and books on fictions from him - some I have returned, some I may be having or they may have been borrowed from me by others. Given time I would be able to get back to the University and my brother's place, search for the note written to me by Harasgama a year back and produce it - I would be able to produce it by Wednesday if it is there. I usually put the letters I receive into some drawer and therefore this note should be available. I did not attend the party though invited - I thought it was to celebrate his passing out - the fact of his passing out was then fresh in my mind and when I got the note I put 2 and 2 together - the note was received by me soon after he passed out as a Proctor. I think he addressed me that letter as "My dear Nimal" but I cannot be sure. It was a hand written one. It is not necessary to address "My dear...." or "Dear - I would merely put down the name "Sydney" and he would put down "Nimal" or "Karunatilleke"- that is something in the letter to identify to whom it is addressed - that it was addressed to me. I cannot remember now the style or the signature (in relation to that last note from Harasgama.) I have familiar association with his handwriting. I thought the function was at Mr. E.L.Senanayake's - the note was addressed from Castle Hill Street, Kandy. He was aware that I know that he had passed out. I acknowledged the receipt of his note when I met him later at Colombo. I had not acknowledged it before. He had addressed the note C/o Times of Ceylon. Since I received that note I had not attended any function of his. I have met him often getting out of his office at Colombo Street and wished him. I do not know when he took his oaths. He did not after that note send me any invitation for any party. While in Colombo he was in the Law Hostel for

sometime and then in some boarding house. I have not been to see him in either of these places. I think the boarding house was at Bambalapitiya - I have seen him very often queueing up to take the bus to Bambalapitiya. He used to come to the Times Office to meet me and I used to meet him at the Law College. I do not know anything about any Communist cell at the University - I have nothing to do with it. I never organised it. I know of a Meeting of the Parents Teachers Association presided over by Sir, Tikiri Banda Panabokke, Kt.I. did not break up that meeting. I was not questioned by the
10 Police in regard to that meeting - I am definitely sure about it. I was not questioned by the Police on any matter about that time. I was not questioned by Superintendent de Saram on any topic this year. I made a number of complaints to the Police during the Election campaign - made these complaints at the Katugastote and Kandy Police Stations. I did not telephone to the Police any complaint on behalf of Mrs. Illangaratne. My complaints were taken down in writing. I could remember one complaint. That was about a week, 10 or 15 days before Polling day. I think my complaint on that occasion was on behalf of
20 other people. - supporters of Mrs. Illangaratne. I cannot now remember who these people were on whose behalf I made the complaint. I went on that occasion to the Katugastota Police Station in Mr. Rambukwelle's car - the people were at the Police Station or were on their way. I went by myself and met the people at the Katugastote Police Station. Somebody gave me a telephone message from Katugastote (not from the Police Station) I drove the car myself. I met a number of people there but I cannot remember them. I complained to Mr. Robert Perera, Sub-Inspector. I think I read over and signed
30 the complaint - it was taken down but I cannot remember if I signed it. There were 2 or 3 more complaints the details of which I cannot now remember. I might have made 6 complaints. I cannot remember any complaint on my own behalf. I do not think I made any complaint my own behalf to the

Police. I had spoken to Mr. Scharnguival, S.P. but I cannot remember making any complaint to him. I cannot remember making any complaint to any other officer. There was a complaint by the Police to the University authorities. Consequently I was questioned by Sir Iver Jennings but I was not warned by him. There was only one complaint and that was a week ago. The Meeting of the Parents Teachers Association (or the old Boys Association of Trinity College) was abandoned I did not break up that meeting. I was not present throughout - I was only there for 2 or 3 hours. I heard that the meeting was abandoned. I did not shout from the balcony and 10 prevent the meeting from being held. It was a public meeting. The meeting was held a day before the 2nd term of the University commenced. I cannot remember when the 2nd term commenced. I went on foot to the meeting. I had left bag and baggage and returned to Kandy by car with a friend. I had lunch at the Green Cafe. The speakers at the meeting were Sir T.B. Panabokke, Fred de Silva, A.M.K. Coomaraswamy, two or three teachers including Gunawardena and others. I am violently opposed to the sentiments expressed at that meeting. As there was much shouting, I knew there were 20 others opposed to the sentiments expressed at the meeting. On a number of occasions there were voices heard. They wanted Sir T.B. Panabokke to speak in Sinhalese. I gathered that the people were opposed to the view of the meeting. I did not shout. I cannot say if the Police turned up. The Police may have been there but I cannot remember. I did not see de Saram or L.I. de Silva, S.P. I thought the meeting had to be abandoned. As there was loud protest I thought it would be abandoned. I was in the audience. I remember the incident about the jeep. I cannot say if the jeep was 30 broken up and abandoned. I remember counsel questioning about it. Between 12 midnight and 1 a.m. I happened to pass the jeep and saw an injured man. That was a week before the polling day. This incident I noticed was either on the

15, 16 or 17th. There was a jeep - No.1341 between the bridge and the turn off to the University Junction. I was returning from a boutique where I had had dinner. I went there from Mrs. Illangaratne's as it was situated closer than the town. I saw a man bleeding - he was by the side of the road. I put him into my car and then discovered that he was a cousin of mine - A.B. Herat. I took him to the Hospital and thereafter informed his relations. Herat is distantly related to me. I think he supported Mr.E.L.Senanayake. He did not support Mrs. Illangaratne. In consequence
10 of that he said I took it he worked for Senanayake. I saw him do no work, for Senanayake. I did not look at the jeep or note if it was abandoned. Herat was conscious - I did not assault him. He said the jeep hit a lorry and he got injured. I heard he gave evidence in Court. I was charged along with others for being a member of an unlawful assembly, rioting and causing damage to the jeep. I cannot remember if I was charged with any other offence. (Were you charged with having caused G.H. to Herat?) I was charged also with having caused grievous hurt but I cannot remember to whom according to
20 the charge grievous hurt had been caused. There were a number of charges and I mentioned as I recollected them. I was questioned several times whether I caused grievous hurt to Herat, I think I was charged with having caused grievous hurt to the occupants of the jeep. I cannot remember if Herat was mentioned - there had been four people in the jeep. (So that what you had originally stated that you were charged only with having been a member of an unlawful assembly, rioting and causing damage to the jeep is not correct. Yes. I stood charged on the 27th or 29th August
30 3 months after polling day. I have a vague recollection of the 1947 Election Petition against G.E.de Silva. I did not come to Court in connection with that. When I was a student at Dharmaraja College, Kandy, I came to know Mr. Illangaratne. Of recent times I have been in and out of his house - that is from a little before the recent Election time.

Before that I did not visit his house frequently. He contributed articles to the Lanka Dipaya. We are very good friends

Re-examined: I say R.26 has not been published by us as it does not bear the name and address of the Printer and publisher. I was specifically put in charge of the work I have mentioned - the printing and publishing of Election leaflets, posters, pamphlets &c. In the case of every one of them which I sent out I was very careful that the name of the Printer and Publisher were there. It was the rule that till I approved the printed leaflet, pamphlet or anything else they were not to be released. The address of the printer and publisher appears in every one of the documents I had sent out.

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Adjourned for the day.

28.11.52 11 a.m.

Same Counsel as before.

Dharmapala Wijesekera Dammanpilla: affirmed

37, Notary Public, residing at Mawatagama. Mawatagama is not within the Electoral District of Kandy. In the last General Election I supported the candidature of Mrs. Illangaratne. I know the respondent, Dr. E. L. Senanayake. I know Mr. Dharmasena, the M.M.C. Dharmasena supported Mr. E. L. Senanayake's candidature, I have seen Mr. Dharmasena and Senanayake going together along Trincomalee Street to
10 canvass voters. I saw them going from house to house. I saw that about five or six days prior to the polling day. I saw a jeep from which announcements were made about the meetings on behalf of Mr. Senanayake. That jeep was working for Mr. Senanayake. All sorts of people travelled in that jeep. I can remember Mr. Colin Wickramatunga travelling in that jeep. On the polling day I was working at the polling booth at the junction from which you turn off to the Municipal Council Building. I worked for Mrs. Illangaratne that day. Mrs. Illangaratne's workers wore badges containing the
20 umbrella symbol and the photograph of Mrs. Illangaratne. The badges were given the day before the polling day, that was, on the 23rd. It was one like this, P140. I was also wearing one like this. Mr. Senanayake had his polling booth opposite to ours, on the other side of the road. Mr. Senanayake's workers were also wearing badges. It was a shield shape badge with the photograph of Mr. Senanayake on it. (Shown P25) Mr. Senanayake's workers were wearing badges like this. A large number of cars carried voters for Mr. Senanayake. In those cars there were posters, and flags
30 made out of cloth.

Cross-examined. Those flags were made out of new cloth. I saw the flags on the 23rd and 24th. I saw the flags in the cars conveying the voters on the 24th. I went at about 7.30 a.m. to work at the polling booth at the junction

from which you turn off Municipal Council Building. I did not remain at the polling booth during the whole day. After staying at the polling booth for sometime I went to register my vote at Weveldeniya, which is about a mile away from that place, where I was working. The rain started before dawn and it continued to rain until about 2 p.m. There was heavy rain. Sometimes the workers who got wet remained in their wet clothes whilst the other changed their clothes. It rained so heavily that even an umbrella was not a sufficient protection. The flags in cars too got wet.

10

The polling booth was not by the straight road, it was at the bend, and therefore I could not say how the flags appeared to me when the cars were coming at a distance. When the cars came near the booths I saw the flags and they were wet and drooping. Nobody gave me instructions to observe the flags and badges.

Q. When did you first come to know that the question of badges or flags was of any significance?

A. I did not think of it.

Q. Until your counsel questioned you today you did not realise the importance regarding badges or flags?

20

A. Yes.

I saw handbills like R26 posted on walls. They were pasted all over the walls. I did not see them pasted on vehicles. I remember the meeting that was advertised in this handbill I am not related to Mrs. Illangaratne. I know Mr. Illangaratne for about five or six years. I came to know Mrs. Illangaratne when she came forward at the by-election, either in 1948 or 1949. My impression is that it was in 1948. Mr. Illangaratne contested in 1947. At that election I did not work for Mr. Illangaratne. I was not interested in anyone of the previous elections, of Mr and Mrs. Illangaratne. The election of Mr. Illangaratne was in 1947. Mrs. Illangaratne contested either at the end of 1948 or at the beginning of 1949. I remember the two by-elections

30

were in 1948 and 1949. My permanent residence and the place of my business are at Mawatagama, but my wife and children live at No. Lady Torrington Drive. I was licensed to practice at We-uda Hatpattuwa, but now my licence is for the Kurunegala District. According to the licence my house is at Mawatagama, which is about 18 miles away from Kandy. My permanent residence is at Mawatagama, and I work there, but in most of the days of the week I used to come to Kandy, as my wife and
10 children are there. I used to travel almost daily to Kandy. I was practically living in Kandy from 2nd June 1947, and I knew Mr. Illangaratne from that period. I was not interested in his election in 1947. I volunteered to work for Mrs. Illangaratne this year. I told whom ever I know that I was working for her candidature. There was no necessity to inform either Mr. Illangaratne or Mrs. Illangaratne that I was supporting her candidature. I do not know whether there were others who worked for her like me. Mrs. Illangaratne came forward as a member of the
20 Sri Lanka Freedom Party and I was also a member of the Sri Lanka Freedom Party, and therefore there was no necessity to inform her that I was supporting her candidature. I assumed that she knew that I was working for her. Other members of the Sri Lanka Freedom Party may have worked for her. I knew all the members of the Sri Lanka Freedom Party worked for her. I do not know whether they worked for her and informed her that they were working for her. I saw Mr. Godamune working for her. I saw him speaking at a meeting. I did not attend
30 all the meetings held on behalf of Mrs. Illangaratne's candidature. I attended three meetings. I attended the meeting held on the 23rd day. I attended a meeting held at Ampitiya some days before the 23rd May. I did not address any meeting. On the 23rd May among the speakers there were Mr. Bandaranayaka, Mrs. Illangaratne, Mr Sri

Nissanka and others. I cannot remember the names of the other speakers. At the previous meeting at Ampitiya I remember Mr. Rajapakse, the Principal of the Rahula College, Speaking. A teacher also spoke at that meeting but I cannot recall his name. I cannot remember the other speakers. I attended another meeting held at Bowela. Mr. Dharmadasa Kodipila spoke at that meeting. I think that meeting was on the 18th or 19th. It could have been on the 21st May. A lady by the name of Pandita Jayasuriya also spoke at that meeting. Teacher 10

Mr. Rangamuwa also spoke at that meeting. Mr. Rangamuwa spoke at the Ampitiya meeting also. Several others spoke but I cannot remember their names. Bowela meeting was over about 7 or 7.30 p.m. The Ampitiya meeting was over about 6 or 6.30 p.m. All the meetings that I attended were terminated round about sunset. I attended the meeting after they had started. I went to the meetings about 5.30 p.m. but on the 23rd I went there about 4 p.m. I do not know when the meetings started. I was right throughout at the meeting place except when I left the 20

place for a cup of tea. I knew Mr. Colin Wickramatunga for about six years. He was at one time a clerk of Mr. Fred de Silva, I came to know him at that time. That was in 1947 Thereafter he worked as a sworn translator, for about two years. That was round about 1950. Before 1950 he was working in Mr. Fred de Silva's office. I do not know whether there is a Firm of Proctors known as Messrs. de Silva and Karunaratne, in Kandy. That was Mr. George de Silva's office at one time. That Office is in Colombo Street, in an upstairs building. I know that office continued to be a Proctor's 30

office. I know Mr. A.S. Karunaratne, Proctor. He is a senior proctor in Kandy. I do not know where he was having his office. I knew Colin Wickramatunge's occupation personally

11.50 a.m. Certified correct

Stenographer S.C.

November, 28, 1952.

Kandy Election Petition

12 to 1.30 p.m.

D.W. Dammanpila: (Cross examination continued)

He was a Proctor's clerk. I know he was working as Fred de Silva's clerk and he is now working as a clerk under Mr. G.V. de Silva, Proctor. I am surprised to hear that at least for the last 5 years he has not functioned as a clerk under either Karunaratne, Fred de Silva or G.V. de Silva. I do not know that long before Mr. G.E. de Silva became a Proctor Karunaratne and
10 the late George E. de Silva were working together as partners. What I mean to say is that Collin Wickramatunga is working in Mr. G.V. de Silva's office. I have been practising as a Notary for the past 13 years at Kosgama, Nawalapitiya and Mawattegama. I moved from one place to another to better my prospects. I am a Sinhalese Notary. I have paid Income Tax for the past 5 years I spent most of my time at Mawattegama and did not come to Kandy frequently. I have been to a few Proctors' offices at Kandy. I have been to many proctors' office at Kurunegala and other parts of the Island where I had worked. I have seen in
20 Proctors' offices and verandahs Petition drawers and sworn Translators working at tables. I do not know Chelliah, Viebedda Halkewella, Gunasinghe and Kitchell clerks working under the firm of Sinva & Karunaratne, Proctors. I had been to that office before the death of George E. de Silva. I went there early in 1952 for the last time. Then I did not see a board with the name of de Silva & Karunaratne written on it in English, Sinhalese and Tamil. I also went there at the end of 1951 to see Mr. Collin Wickramatunga to get a deed translated by him. I did not go to the office of de Silva and Karunaratne
30 I went to the office of Fred E. de Silva. Mr. Fred de Silva has been practising for about 3 or 3½ years as a Proctor before he became an advocate. That office is a busy office with a number of Proctors and clerks working there. There were Fred de Silva and G.V. de Silva, Proctors with 3 or 4 clerks. I

I have no recollection whether I had seen any board at the entrance to that office with the name Collin Wickramatunga on it or any board with the name of any Proctor on it. I do not know if Mr. Harasgama works in that office. I have never seen him there. After Fred de Silva left that office about 3½ years ago, I saw Mr. G.V. de Silva in that office. One Stephen Fernando informed me that Mr. Collin Wickramatunge is a sworn Translator. For the purpose of getting a deed translated by him I went there last year. Before that I did not know Collin Wickramatunge. I went to two Polling Stations on the date of Polling, to one for the purpose of casting my vote and to the other to work outside it. I left the polling station (outside) where I was working about 10 a.m. to cast my vote; after doing so I went home and returned to my place of working at 11 a.m. and remained there till evening. I was asked by Mrs. Illangaratne to search for the numbers of the voters on the voters' list and to give the voters cards with their numbers entered in each of them. I was not her Polling Agent, One Mohideen was her Polling Agent and there was another, whom I knew but not by his name. At the Polling Station where I went to work there was no Polling Agent for Mrs. Illangaratne but there were workers outside - students of Vidharta College. I saw two Polling booths of Mrs. Illangaratne with cadjan roofs supported on 4 posts each. One would take about an hour to construct such a booth. Mr. Senanayake's booths were of Galvanised zinc. They were made of material which could be removed and re-used. They were temporary sheds. What was used for the cadjan sheds too could be removed and re-used I saw the Polling booth of both candidates decorated with streamers, posters and flags. I saw workers and supporters wearing ribbons, sashes and caps of the colours of the respective candidates. Coloured material was worn only by supporters of one party.

Q. In what form was the coloured things used?

A. Ladies wore green sarees and some people wore green caps,

green shirts and badges.

There were no green coloured badges and coats. The workers on the other side never used any coloured material - they only wore badges. Green was worn by Senanayake's supporters. I know that it is also the U.N.P. colour. I knew the S.L.F.P. uses blue as their colour. The colour used by the L.S.S.P. is red. I went on Polling day for the Kurunegala seat. The S.L.F.P. candidate displayed the colour in various ways - there were flags of blue colour - I did not notice blue banians and 10 shirts but I saw - noticed blue caps. I noticed blue flags stuck on to cars. The voters in Kandy did not display blue as did the candidate of the same party at Kurunegala. On Polling day I did not go round Kandy. I did not see any blue flags in Kandy on that day. I have seen notices in blue print. I saw only the voters who came to me. Some of them were Mrs. Illangaratne's badge of blue colour. I did not see any of them in blue caps or sashes. I saw supporters of Senanayake displaying green in various forms in some places - that is at the polling Station outside which I worked and outside the Polling Station where I went to 20 vote. Women wore green sarees and men wore green caps and green shirts. I have a hazy recollection of having seen some persons with green rozettes. Senanayake's supporters were easily recognizable by the colour they displayed but Mrs. Illangaratne's supporters were not easily recognizable owing to the absence of the blue colour. I was able to recognise her workers by the badge they wore - (P.140) Those badges were worn on the breast on the coat, shirt or banian. At the Polling station where I worked Senanayake had a large number of voters. That area was not regarded as a stronghold of Senanayake.

30 Q. Was the Kandy town so regarded?

Mr. Nadesan: Objects to the question and proceeds to formulate his objection. He states witness could be asked how he regarded Senanayake's position in Kandy Town.

Mr. Chitty: Amends his question as follows: Was it regarded by you and your fellow workers that in the Kandy Town area

Mr. Senanayake had far more supporters than Mrs. Illangaratne?

Mr. Nadesan: No objection.

A. No.

Q. I suggest it to you that it was so regarded?

Mr. Nadesan: I object. That is not a question.

Court: I overrule the objection.

A. I say so.

Q. I put it to you further that almost all the Municipal Councillors, supported Mr. Senanayake?

A. No.

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As far as I am aware except Mr. Tennekoon, all the other members supported Mr. Senanayake. There are altogether 15 members in the Kandy Municipal Council.

Q. Are they people with influence in that area?

A. I cannot answer. If I am given more details

I will be able to say whether they are influential or not. Some people exercise influence, by reason of virtue of their wealth, some by purity of character, and some by thuggery.

Q. Taking all these things comprehensively can you say if the members of the Municipal Council are influential?

20

A. They could be.

I did not go canvassing for Mrs. Illangaratne. Whenever I met my friends I told them that I was supporting Mrs. Illangaratne I did nothing else. I was not actively working for Mrs. Illangaratne. I kept to attending to my normal office work. Normally I leave Kandy at 8 a.m. and return at 4p.m. I have gone to see Mrs. Illangaratne and asked her what deficiencies there were in her campaign in order that these deficiencies may be remedied and I also gave her advice. I am one of the people who planned her campaign - to some extent I was responsible for it. I thought she was in a stronger position than Senanayake everywhere - in rural

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as well as Urban. I did not ask Mr. Tennekoon to use his influence in his area. As he is a person of good character he is influential in his area. He moves with the poor. I did not try to get the support of any other member of Municipal Council. Messrs. E.R. Senanayake, Udarawana, A.C.L. Ratwatte, Fred de Silva and some other members of the Municipal Council worked for Senanayake. They went about in cars with Mr. Senanayake and canvassed votes - I only saw Dharmasena canvassing. About 1½ months ago I came to Mr. Devarajah's office for the first time
10 in connection with this Inquiry and made a full statement to him of what I knew about the matter. He recorded it in narrative form. Next I came into Colombo the day before yesterday in the morning. I did not learn from any one that the question of Mr. Dharmasena having been an agent of the Respondent was a matter which was sought to be proved by the Petitioners at this Inquiry. Up to date I do not know that Mr. Mollagoda spoke to me about the election Petition at Kandy - he lives half a mile from my house. He said he was going to file Petition and asked me to give evidence, that was about a fortnight after the Petition was filed.
20 I read a report of the Petition in the Papers. I did not then think that my evidence would be of any use on any point. I did not think that anything I knew about the badges would be useful. Nor did I think that anything about what I knew of Dharmasena's connection with the Election would be useful. I did not think about Collin Wickramatunga or about any jeep. I knew that Mr. Dharmasena and Mr. Collin Wickramatunga had done no wrong but the jeep had done wrong. I subscribed towards the expenses of the Inquiry. Subscription papers were taken round in Kandy, appeals for funds were widely advertised. Towards the end of Oct. a
30 Public Meeting of the S.L.F.P. was held at Kandy. When I was present at that meeting Mr. & Mrs. Illangaratne did not speak at the meeting. No collection was made when I was there. I left before the meeting was over as I had to come up to Colombo with a friend. I did not come across any literature issued by the S.L.F.P. in connection with that meeting.

Q. Not by the Party itself, but, by the supporters of the Party?

Mr.Nadesan: objects to the question.

Court: The objection is overruled.

A. No.

Re-examined: Nil.

At this stage the Court stands adjourned till

December, 4, 1952.

M.N. Peiris.

8th December, 1952 12.10 p.m.

Same Counsel as before.

Correction slip.

Mr. Nadesan points out the following mistakes, and of consent of the Counsel for the respondent the necessary corrections are made:-

- At page 21 - line 11 - the word 'sum' to be inserted between the words 'full' & 'due' to read "the full sum due..."
- 10 At page 25 - line 24 - The document 'R31' is to be deleted and 'P31' is substituted therefor.
- At page 28 - 4th line from bottom - P39 is deleted and P38 is substituted therefor.
- At page 29 - 10th line - P38 is deleted and P39(a) is substituted therefor.
- At page 29 - 21st line - After the words 'receipt No. 3177 Rs.5/-' P39(f) to be inserted.
- 20 23rd line - After the words "Receipt No. 3177 Rs. 7.50", P39(g) to be added.
- It is also agreed that at various places where Deiyannewela has been wrongly spelt the correct word should be substituted, namely, Deiyannewela.
- At page 136 - 5th line - 19.5.52 to be deleted and 15.5.52 to be substituted therefor.
- 30 At page 33 - 8th line - The date 16.5.52 to be changed into 15.5.52.
- At page 34 - last line - Poowelikande to be changed into Boowelikande.
- At page 35 - 4th line - Dongolla to be changed into Dangolla.
- At page 35 - 8th line - Bogolla to be changed into Bowela.
- At page 35 - 22nd line - Arupothakandhi to be changed into Aruppola Kamatha.
- 40 At page 35 - 7th line - H.T.B.Harasgama to be changed into S.T.B. Harasgama.
- At page 40 - 4th line - To insert "I produce mark P44 my report of that meeting" after the words "at that meeting".
- At page 41 - 4th from bottom - To insert the sentence: "I produce marked P47 the report of that meeting" after the sentence "Ramanayake is that same person about whom I spoke earlier".

- At page 42 - 8th line - To insert the sentence "I produce marked P48 the report of that meeting", after the name "W.A.B.Soyasa".
- At page 53 - 15th line - Dodangolla to be changed into Dangolla.
- At page 54 - 8th line - After the word 'proof' P63(a) to be added.
- At page 93 - 19th line - 2nd May to be changed into 1st May. 10
- At page 149 - 1st Para - 25th line - "a certified copy of" to be deleted.
- At page 151 - 19th line - "a certified copy of" to be deleted.
- At page 152 - 7th line - from bottom - Arukkala to be changed into Aruppola.
- At page 157 - line 3 - After the word 'Ampitiya' the word 'on' to be deleted and 'dated' to be substituted therefor.
- At page 158 - Dangolla is to be substituted for Dongolla. 20
- At page 152 - 14th line - "At the Siddhrtha School Ampitiya" to be deleted.
- At page 145 - line 13 - After the word Wickramatunge the words "in trousers" to be deleted.

(Adjourned for lunch)

1.30 p.m.

2.15 p.m: (After the luncheon interval)

Richard de Alwis: affirmed.

(Examined by Mr.Nadesan): 62, printer, Trincomalee Street, Kandy. I am the proprietor of the Lanka Pradipa Printing works of No.183 Trincomalee Street, Kandy. During the last general election I did some printing work for Mr.E.L. Senanayake, the respondent. I sent him a bill. (Shown P7) This is the bill I sent to him dated 31.5.52. This bill relates to 500 posters in Sinhalese and 5000 notices
10 re Mass Election Rally, 23rd May, 1952, in English, Sinhalese and Tamil. I have with me a copy of the 500 posters in Sinhalese which I printed for Mr. Senanayake. I produce it marked P141. It is the Sinhalese poster I referred to in my bill P7. I have another copy of P141. I always keep two copies. I produce the manuscript, of P141 marked P141(a) This has been signed by Mr.L.B.Ratnayake of the Aerated Water Manufactory of Mr. Senanayake, the respondent. The manuscript is signed, and dated 1.5.52. Mr.Ratnayake wrote there "500
20 copies". He signed it in my presence. I always get signatures for election manuscripts when orders are placed. I do not know in what capacity Mr.L.B. Ratnayake was employed, but know that he was employed under the respondent. P49(a) bears the same signature, that of Mr.L.B.Ratnayake. In respect of the second item of 5000 notices re mass election rally, P142 is the leaflet referred to in P7 as 5000 notices, re mass election rally of 23rd May 1952. I produce my office copy of P142 marked P142(a). The manuscript of P142 is in Sinhalese, English and Tamil. I produce marked P142(b) the
30 Sinhalese Manuscript of P142, and that appears on the back of a portion of proxy form of Sri.Wickrama Tikiri Banda H rasgama. P142(c) is the manuscript of the English and Tamil portions of P142. P142(c) also appears on the back of a portion of proxy form. In respect of this notice P142 Mr.S.T.B. Harasgama sent the order through a man. I produce that marked P142(d). The letter sent by

Mr. Harasgama to me is dated 14.5.52. In respect of these posters P.141. the delivery was taken at my office. I got a delivery book, and I produce it marked P.143. There is a page in my delivery book with the heading E.L.Senanayake Esq.

I produce that page marked P143(a). On that page the first entry is dated 2.5.52, and it is for 500 posters in Sinhalese. Mr.L.B. Ratnayake has signed in my presence, in my office, and taken delivery of the posters. In respect of the 5000 notices the entry is dated 19.5.52. and entry reads: "5000 notices regarding the mass election rally...."One piyasena has taken delivery having signed in my presence. I sent a bill for Rs. 175/- to Mr. E.L.Senanayake, and he paid on 23.6.52. I produce marked P144 my counterfoils of the receipt book. I marked the counterfoil of the receipt No.142, dated 23.6.52. as P144(a). This counterfoil shows that I wrote a receipt for Rs.175/-. Money was sent to my office. I write my receipts in foil and counterfoil. P144(a) is in my daughter's handwriting. I have initialled it. I sent a bill to Mr. Senanayake for a sum of Rs.175/- This P144(a) refers to an identical sum referred to in my bill. I have these accounts in a bill book and in a Job Register. I produce marked P145, my Job Register. At page 46 of my Job Register P145 against Job No.2527 dated 2.5.52 appears the entry, E.L. Senanayake Esq. Kandy, 500 posters in Sinhalese - Rs.100/- That page is marked P145(a). After the payment was received I have inserted in the column the date payment as 23.6.52. I produce marked P145(b), page 48 of P145 On that page against Job No.2582 dated 17.5.52, appears the name of E.L.Senanayake Esq. with the entry 5000 copies re Public Meeting of 23.5.52 - Rs. 75/- Subsequently I inserted the date of payment as 23. 6. 52.....

(Certified correct).

Stenographer S.C.

Cross-examined: In the case of election literature orders the signature of the person placing the order is taken. I am always in the office.

(To Court: These orders were brought when I was in the office) In the case of other printing works I don't get the signature of the person placing the order. This is the only time I got Mr. Ratnayake to sign in my presence. (Shown P49(a)). The reason why I say P49(a) has Mr. Ratnayake's signature is because it is like his signature. P49(a) was signed in my presence. Previous 10 to that day Mr. Ranayake had not signed in my presence.

To Court: previous to these three occasions Mr. Ratnayake had not signed in my presence).

Mr. Ratnayake is an employee of Mr. Senanayake. I had seen him in the Aerated Water Factory. I do not know whether the Aerated Water Co. is a limited company. Mr. Piyasena is not personally known to me. He brought a letter and signed as Piyasena. The Rs.175/- was given to me. A certain person whom I do not know brought it to me together with the bill and paid it. I sent the bill by post. I have no record as to whom the bill was posted. 20 I put the address "Castle Street, Kandy", and the name. It was a person whom I had seen at the Aerated Water Co. who paid the money to me. Whether the person who brought the money was working at the Aerated Water Co. or not I do not know. I handed the receipt to the person who gave me the money. I am the sole proprietor of the Lankapradipa Press. (Shown Job Register P145). Entry relating to the order in question is on page 46 of this Job Register - Job Work No.2527. That is the entry for the 500 posters in Sinhalese. The entry for the 5000 notices regarding the Public Meeting is at page 48 and Job Work No.2582. The bill 30 that I posted containing these two items is P7. I cannot remember whether I sent any reminders about this bill. I send other people reminders but not to Mr. Senanayake, for the reason that Mr. Senanayake's office has been in the habit of placing orders with me. In regard to election matters these are the only two items of work I had done for Mr. Senanayake. In regard to other printing matters I had done the printing of labels for the Aerated Water Co.

I generally send the bill together with the labels and the money is paid on the same day, I have been doing this for some time for two or three years prior to May of this year. (Shown counterfoil No.101 in Bill Book B144). This is a counterfoil for Rs.35/- for printing of 10,000 ginger beer bottle labels, work which did for the Kandy Aerated Water Co. of which I understood that Mr. Senanayake was the proprietor. I sent one of my men with the labels to the Aerated Water Co. at Castle Street, (P7 shown) The word "unpaid" was not written by me. I don't know by whom this is written. The only item of expenditure for any kind of printing regard to the Election incurred by Mr. Senanayake were the items of Rs. 100/- and Rs. 75/- Neither of these two orders was placed by Mr. Senanayake. I handed over the receipt for payment to the messenger who brought the money. The Receipt on P7 was handed over to the person who came and paid the money - I do not know who he was. Apart from this work which I did in connection with the Kandy Election I did work in respect of Elections for the following (1) R.S.Pelpola Gampola; (2) Dassanayake - Vauvania, (3) P.M. Dharmasena - Wategama, (4) N. Nadunge, (5) E. Wanigasekera - Talawakele, (6) D.P. Setunge - Nawalapitiya, and (7) H.L. Ratwatte. You will find all this in the delivery book P143. They are consecutive entries in P.143. That was not done because they all relate to Election work there are other matters also entered in that Book (Delivery Book P143). I reserved the second half of the book for Election Printing the first half relates to Mis.work. But the Job Register (P145) has all the work according to dates. At the bottom of P141/^Iprinted the name of the printing press - in relation to Sinhalese hand bills there appears the Sinhalese words at the bottom of the same reading as follows: "Lankapradipa, Mahanuwara" in regard to the English hand bills - "Lankapradipa, Kandy" Whatever I print, these words are printed under. The name of my Press is the registered name of the Printing Press. Under the Printing Presses Ordinance you have to put the name at the bottom of anything you print. That is not only the reason - it is an

Advertisement of the business as well. I printed these words according to usual practice. In respect of labels printed for Aerated Water bottles, we do not print our business name as the labels are very small. If the name of the business is printed in Sinhalese, we printed "Lankaparadipa, Maha Nuwara" - if this business name is printed in English we print the words "Lankapradipa; Kandy". In regard to work turned out in Tamil, we print at the bottom our business address in English:

10 "Lankapradipa, Kandy". My printing Press is well known. The business had been run for 70 years - my father was the proprietor. Everybody (every printer) puts down the name of the printing Press at the bottom of any printing done. I have been 35 years in business - I took up the business on my father's death. It is the common practice to put down the name of the printing press where any particular work had been done to identify where the document had been printed. (Shown P142(d) This letter has been signed by S.T.B. Harasgama. It was brought

20 by a messenger, but I cannot now say who the messenger was. I am aware that S.T.B. Harasgama is Mr. Senanayake's brother-in-law and a Proctor. I am aware that he is a member of the firm of de Silva & Karunaratne, Proctors. I have known him for about a year - I think he passed out an year ago. At the start he practised by himself. I do not know when he joined the firm. He did not meet me in connection with the printing. I was satisfied that the printing was genuinely required and so did it. I did not attend any Election Meeting - I was not well and I am not interested

30 in politics in Kandy. During the period of the election at Kandy I did not go about at all. I have a vote for the Kandy Seat. I did not go to Register my vote - I was in bed - Mr. Senanayake's brother came twice to see me. My residence adjoins my printing works. I did not go about the town in May. I do not know anything about the actual

Election activities. I was in bed during that period - even on polling day I was in bed. (Shown P.144(a)). This bears in red ink two job numbers and those numbers appear in my Job Register - they relate to the two items I have spoken about. This has been entered by my daughter. The entry in counterfoil has been made by my daughter and I have initialled it (the counterfoil). In respect of original receipt I stamp and sign it and use my seal on it. The payment to me in respect of this work was made in cash. Payments are carried into the Job Register and the date of payment too is entered. A receipt will be written out after the money is brought. The name of the party to whom a receipt has to be issued could be taken from the bill and Job Register, we do not make endorsement of receipt of payment on a bill itself. The receipt and bill are handed over to a person who paid the money. There is nothing on the bill to show whether it had been paid. The Bill P7 has no endorsement of the receipt of money. Sometimes I endorse the receipt on the bill itself, stamp and seal it - I think this bill had not been brought - no, I cannot remember whether it had been brought or not when payment was made. If money is brought in my absence, my daughter signs on my behalf. On every counterfoil my initials would appear even if my daughter received the money. Two of my daughters assist me in my business. When my daughter receives the money she would sign the receipt and initial the counterfoil. (Shown Counterfoil No. 118 of P144). The due for which this receipt had been issued, had been paid by cheque - the Principal, Ampitiya College to whom this had been issued always sends cheques by post against bills sent. (Shown counterfoil 129 of P144) A.S.Lazarus pays his dues sometimes by cheque and sometime by cash the amount referred to here has been paid in cash for very seldom he pays by cheques. I think this amount was paid to me personally. Wherever my initials appear on the counterfoil, that indicates that I had received the money. If a payment is brought when I am in the house, my daughter brings it with the receipt.

book and gets me to sign and initial the receipt and counterfoil. When my daughter receives the money in my absence she signs the receipt and initials the counterfoil - she seldom has to do so P144(a) has been initialled by me. If I had gone to Colombo she would receive the money and account to me later for it. My elder daughter writes out the bills the other daughter returned home only a month ago. When a receipt is written, the foil and counterfoil would be written out at one end the same time in the presence of the customer concerned the person who had brought
10 the money.

Re-examined: (Shown P144(a)) My initials appear on this counterfoil - it indicates that I would have received the money and that I had issued the receipt.

Galaketiyawage Simon - Affirmed.

Examined: 39 Lawyer's clerk. Old Matale Road, Kandy.

There is a Proctor's Clerks Association in Kandy of which I am the Assistant Secretary. I knew Mr. Collin Wickramatunga for the last 18 years. I have come in connection with him regarding translations. He is a sworn translator. I have got translations
20 from him for the last 18 years. These sworn translations were signed by him. I have seen and can identify his signature.

(Shown P106) This has been signed by Mr. Colin Wickramatunga.

I identify his signature. I am very well acquainted with his signature. (Shown P.49(b)). This is Mr. Colin Wickramatunga's signature. (Shown P.50(a), P.51(a), P52(a), P53(a), P55(b), P57(b), P58(a), P62(b), P63(a), the witness identifies the signatures as of Mr. Colin Wickramatunge, Shown P.59(a) I find it difficult to identify the signature. There is a portion of it smudged.

Cross-examined. I got summons last Saturday. I got the summons on the 6th instant. I knew I was to be called as a witness about 10 days ago. Mr. Molegode informed me that I was wanted as a witness to identify the signature of Mr. Colin Wickramatunge. Mr. Molegoda did not tell me that he wanted me to identify.

the signature of Mr. Colin Wickramatunga. He said he would
summon me as a witness. He did not tell me what I was to speak
about. I knew he was summoning me for the election case. A
few days after the election he told me that he was making
preparations to file an election petition and that he would
require me as a witness. For what he would want me he did not
tell me. I said that I would give evidence on anything I knew.
I didn't tell him what I knew nor did he ask me. That was
somewhere in June. After that Mr. Molegode next saw me about
10 days ago. So that there was an interval from June of about 10
five months. I used to see Mr. Molegode going in his car. I
did not speak to him between June and November. When he saw me
about 10 days ago he came to my office. I am referring to
Mr. Ranarajah's office. When Mr. Molegode came to Mr. Ranarajah's
office he told me to come and see Mr. Devarajah. I knew it was
about the case. I did not know on what topic I was to give
evidence. He merely came to office and asked me to see
Mr. Devarajah. I went with him. He brought a car to take me
to Mr. Devarajah without telling me what evidence I was to
give. I didn't ask Mr. Molegode what I was to state in evidence 20
I knew it was about the election petition. I knew that the
election petition was filed with various charges.
Besides Bribery, intimidation and making false statements
about the opposing candidates, I don't remember any of
other charges. I didn't know that it was on any of the
three charges of bribery, intimidation or making false
statements that I was to give evidence. I took leave from my
employer to come. I told my employer where I was going but
not on what I was giving evidence. I left Kandy at 4.30 this
morning by car and reached Colombo about 8.15. The day 30
Mr. Molegode brought me to Colombo I started in the afternoon
and reached here about 4.30. Then I was taken to Mr. Devarajah's
office. He asked me whether I was familiar with Mr. Colin
Wickramatunge's signature. That was the first time I knew
for what I was wanted as a witness. That was the only topic

on which I was questioned by Mr. Devarajah. I knew that I was to be shown a number of documents and asked whether they were Mr. Colin Wickramatunge's signature. I knew that a number of documents had been produced and that it was necessary to identify Mr. Colin Wickrematung's signature. Thereafter I went back to Kandy. The next thing I knew was that I got the summons I got a lift and I came along with Wijepala. Apart from the question asked i.e. whether I was familiar with Mr. Colin Wickrematunge's signature, no other question was asked. I spent 10 not more than five minutes in his office. There was only one question and one answer. I have known Mr. Mologode for the last 5 or 6 years. I knew him when he contested a seat for the Municipal Council for the ward where I resided. I did not know Mr. Mologoda as a friend. I was one of Mrs. Illangaratne's polling agents at the polling. I was attached to the polling Station at Mapanawatura. That was known to Mr. Mologode. He saw me working there. He was working for Mrs. Illangaratne. During that period I met Mr. Mologoda often. I knew Mr. Gamage. He was working for Mrs. Illangaratne. I was not present at the 20 filing of this petition. I did not ask him where he was going to get the funds. I do not know Mr. Mologode's occupation I do not know whether he has any means of livelihood. I do not know whether Mr. Mologode is a man involved in a lot of litigation. I have not come to know Mr. Mologode as a frequenter of the courts. I have known Mr. Colin Wickramatunge as a sworn transfer from the time I knew him. I remember the time he was employed. I knew Harasgama of Messrs. de Silva & Karunaratna I knew that he was at first practising on his own. He practised for about six months and thereafter he joined the 30 Firm of Messrs. De Silva & Karunaratne, I knew that there is, in the office of Messrs. de Silva & Karunaratne, a table where Mr. Colin Wickramatunga works. I can't remember seeing his name board on the wall or door of the office. There are four clerks working in the office three of whom

Names are known to me. They are Messrs. Gunasinghe, Banda, Kitchil. One person's name I don't know.

Re-examined Nil.

Court adjourns till tomorrow 11 a.m.

9.12.52 - 11 a.m.

Same Counsel as before.

Mr. Nadesan moves to recall one Hettiarachchi for the purpose of producing a certain document. Mr. Chitty has no objection.

P. Hettiarachchi - affirmed - recalled.

Examined by Mr.Nadesan: I am a clerk in the Municipality. (Shown receipt No.4507, marked P41,(c), in the receipt book P41). This receipt P41(c) shows a payment
10 of Rs.5/- by S.T.B. Harasgama for the supply of current to the amplifier in respect of a meeting. The receipt is dated 22.5.52. A receipt is given when the payment is made. That is done before the meeting.

Cross-examined: P40(a) shows a payment of Rs. 10/- purporting to be for installing a loudspeaker at the Market Grounds on 13th April and 22nd May. P40(a) is a carbon copy of a receipt. P40(a) is in the handwriting of the Electrical Department Clerk. I have nothing to do with the preparation of the receipt - the writing of the
20 receipt. It is entered in the receipt, P40(a), that the payment was a deposit. I do not know anything about the use of the market grounds on the 13th April and 22nd May. I do not know whether they were used at all. I do not know who paid it or how it was paid. P41(c) is also a carbon copy of a receipt and it is also in the handwriting of one of the Electrical Department clerk. That is not the same clerk who wrote P40(a). The last line in P40(a) is 'payment for amplifier' it is not clear, but I think the first word is payment. There the words 'electricity dues' has been struck out and
30 something had been written under that. The first word in the last line of P40(a) may be 'deposit'. It could be deposit. (To Court: I cannot say whether before the word 'for' is 'payment'. That word is illegible.) I cannot say personally who made the payment of this sum of Rs.5/- on P41(c) I do not know personally to whom the receipt was issued. As regards P41(b) I cannot say personally who

made the payment and to whom the receipt was issued. The document shows the payment was made by S.T.B.Harasgama. If a messenger comes the receipt is given to him. When I said the payment was made by Harasgama I meant that was the name appearing in the receipt, not that I was personally aware of it.

Vidanagamage Bala Mahatmaya: affirmed.

26 years, Proctor's Clerk, Mavilmada. I am working under Proctor K. Wijeratnam, Kandy. His office is at No. 23 Pavilion Street, Kandy. His office is in the upstairs. I know Proctor Harasgama. Immediately after he started his practice he had his office two offices away from ours in the same building. His office was also in the upstairs. My impression is that he worked there for about eight months or one year. Usually he used to entrust me with typing copies of deeds, writing letters to his clients, and etc. I occasionally did work for him. I know his signature. I saw his signature as he signed documents and letters. When I applied for a job in Colombo I had to get a letter of recommendation from Mr.E.L.Senanayake, Mr. Harasgama's brother-in-law. Mr. Harasgama gave me a letter of introduction to his brother-in-law. I took that letter of introduction to Mr. Senanayake. When I took the letter Mr. Senanayake asked me to come and see him a short while later. When I went again he gave me a certificate. Besides that I have seen his signature on a cheque that he gave me to be deposited at the bank. I saw his endorsement in that cheque. I am well acquainted with his signature. The signature of Mr. Harasgama appears in P.110. I identify his signature in it. I identify his signature in P114. I identify his signature in P118, P121, P123, P142(d), P29, P32, P33, P34, P35 and P36.

Cross-examined

A. (Shown P118) - Is that Mr. Harasgama's signature?

A. (Witness hesitates).

Q. Why do you hesitate?

A. This is like his signature, but I cannot be sure.

There is something in the letter 't'. It is like his signature.

10 (Mr. Chitty requests the Court to note the hesitation with which the witness identified the signature on P.118 when it was shown by him, and the rapidity with which he identified the signatures when it was shown by Mr. Nadesan).

I was in Kandy during the election period. At that time Mr. Harasgama was working alone. Now he is working alone as a proctor. Mr. Harasgama worked in the firm of Messrs. de Silva & Karunaratne as well. When Mr. Karunaratne went to England for three months, during that period, Mr. Harasgama worked in that Firm. I cannot clearly remember whether Mr. Harasgama worked alone or in
20 the Firm during the election period. I do not know when Mr. Harasgama passed out as a Proctor and when he started work. He started work about two doors next to ours. That was about 8 or 12 months ago.

Q. Would it be correct to say that he started the work in Kandy in November 1951?

A. I cannot be definite.

Q. It may have been November 1951?

A. It may have been.

I cannot definitely say whether he joined the
30 Firm of de Silva & Karunaratne in March 1952. I know that he does not work in that Firm now. When I went to that Firm one day I learnt that he was working at the Lake Building, I learnt that from one of the clerks in the Office. That is the reason why I say he is not now working there. Mr. Mavilmada is the chief clerk in our office. Though I am permanently working under Mr. Wijeratnam I hope to secure employment elsewhere. Now I am permanently

employed as a clerk under Mr. Wijeratnam. I got employed there on 19th November 1949. I am paid a monthly salary of Rs. 45/- I type his letters. I can read and write letters. I can speak in English and generally I speak in English. Mr. Wijernatnam has a Malay gentleman who isa clerk. He is A.R.J.Abdeen. I am a junior clerk. From the time Mr. Harasgama came to that office in our building I knew him. I used to see him talking to Mr. Wijeratnam. At that time Mr. Harasgama had no clerk of his own. He did not entrust me with special work. He used to come into our office and ask me to type copies of deeds and letters. I have typed one deed for him. Apart from that I used to do some trivial work for him. I typed letters for him. Sometimes he used to ask me to post his letters. There is a Post box close to our building and I used to take his letters and put them into that Post-box. That is all the work I did for him. I knew Mr.E.L.Senanayake by name and sight. I have never spoken to him. I took a letter of introduction from Mr. Harasgama, on 14th February 1952 I remember the date very well because I have the letter given to me by Mr. Senanayake. I wanted a job in the Colombo Municipal Council Office, as an attendant in the Library. I wanted an introduction from Mr. Senanayake to my prospective employer. I know Mr.Gamage. He is now seated behind Petitioner's Counsel. I have known him for about two years. I live about five hundred fathoms from his house. Mr.Gamage did not tell me that I would be wanted to give evidence in this case. Nobody told me that I would be wanted as a witness in this case. I got summons on the 2nd of this month. About 15 days before I received summons I met Mr. Mologoda at our office. It may be that he came to see me. After he came there he told me that he had come to see me. Mr. Mologoda knew that I had worked for Mrs. Illangaratne. I have worked with Mr. Molegoda and I have worked separately as well for Mrs. Illangaratne.

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At the last election I worked only on the polling date. I did not meet Mr. Molegoda on that date. At previous elections I have worked with Mr. Molegoda for Mrs. Illangaratne. That may have been in 1949. I have known Mr. Molegoda for well over three years. I came to know him first as a fellow worker for Mrs. Illangaratne. In that capacity during that election we worked together for Mrs. Illangaratne. On the occasion previous occasion to that I worked for Mr. Illangaratne. I cannot say whether Mr. Molegoda worked
10 with me when I worked for Mr. Illangaratne, I am not a friend of Mr. Illangaratne. I have worked in three consecutive elections. I worked for them (Mr & Mrs. Illangaratne) of my own accord. I came to know Mr. Illangaratne when he came forward for election. That is since 1947 I knew him. When he contested Mr. George de Silva I did not work for Mr. Illangaratne. I came to know him subsequent to that election. Through the papers I came to know that an election petition has been filed. I knew that moneys were being collected for this petition. I do not know who collected the money. I did not
20 contribute money for this petition. I did not give any monetary help but I was prepared to give whatever other help I could give. When I met Mr. Molegoda in our office I told him that I was prepared to give whatever help I could give. At the office when I met Mr. Molegoda he asked me whether I knew Mr. Harasgama. I told him that I knew Mr. Harasgama. Thereafter I told Mr. Molegoda that as Mr. Harasgama was not having a clerk I used to do work for him. I cannot say whether Mr. Molegoda knew that I had done casual work for Mr. Harasgama. Sometimes he may have known
30 that. I did not mention anything about the signature of Mr. Harasgama. I told him that I did trivial work for him. He asked me what work I did for Mr. Harasgama. I told him about the work I did but I did not tell him about the signature. He did not question me about the signature. As I could not come to Colombo I gave a statement to Mr. Molegoda to be handed over to Mr. Davarajan. I came to know

Mr. Devarajan only three or four days ago. When I gave that statement to Mr. Molegoda I did not know Mr. Devarajan. Thereafter I received summons. About 15 or 20 days before I received summons Mr. Molegoda came to see me. I was summoned to appear in Court on the 4th of this month. Summons was served on me on the 2nd or 3rd when I was in Court in Kandy. Mr. Molegoda spoke to me on the 15th or 16th November.

Q. Do you know that your name was in the list of witnesses, on the 6th November?

10

A. I knew that my name was being put down in the list of witnesses.

Q. (Question repeated)

A. I did not know that.

Re-examined: Mr. Molegoda came to Mr. Wijeratane's office and he first spoke to Mr. Mavilmada. That was on the 15th or 16th November. Then Mr. Mavilmada gave some information to Mr. Molegoda. Then as a result of what Mr. Mavilmada had mentioned to Mr. Molegoda, Mr. Molegoda spoke to me. I gave a statement to Mr. Molegoda. I made that statement voluntarily because I had been included in the list of witnesses. 20

There was some trouble at home and I could not come down to Colombo. On some occasions Mr. Harasgama used to give me letters to be posted. He used to sign the letters and ask me to post them. I take the typed letters to Mr. Harasgama

Q. Then he signs the letters?

A. Yes.

Thereafter I type the address on the envelope, put the letter inside the envelope, affix a stamp on the envelope and post the letter.

30

Mr. Nadesan closes the case for the Petitioner, putting in evidence the documents P1 to P145(b).

12.25 p.m.

Mr. Chitty makes an application to Court to give him the opportunity of calling evidence tomorrow, so that he may read through the evidence given on behalf of the petitioners and that he may curtail the evidence he intends calling as much as possible.

Mr. Nadesan objects to it.

Mr.Chitty withdraws the application.

Mr.Chitty: I call no evidence. I mark the documents

R1 to R29

10 Mr.Nadesan objects to the following documents being produced: R20, R21, R22, R23, R25, R26, R27, R28 and R29, because they have not been proved.

(Correction: Page 190 about the 12th line from bottom R21 should read R24).

Court: I shall make my ruling on each document that
is sought to be produced and which is objected to.

Mr.Chitty: submits that the objection comes too late
and further submits the moment a document is marked that
document is produced in evidence. The documents were
objected to, argued, and objections were overruled. He
says that the objection does not touch the admissibility
of the documents. It may be the probative value of the 10
use of those for any particular purpose may arise.

Every document is a fact, as well as evidence of a fact,
and it may also be evidence of a fact if it contains
another fact set out therein. If it is sought to be
used as another fact, then the evidence of the existence
of that fact must be proved. He submits that every
document is perfectly admissible as articles found in a
particular place but not as evidence of the truth of the
contents of those documents. To prove the truth of those
documents further evidence is necessary. Everyone of these 20
documents is relevant. The objection raised is
singularly inappropriate at this stage.

Mr. Nadesan says the objection at that stage was taken
not on the question of admissibility or otherwise.

When the document was shown objection was taken and the
Court rightly overruled that objection. When a document
is put in evidence the document and its contents are
matters before the Court as part of the evidence in the
case. When a document is marked it does not mean that
it has been proved. As the documents produced by the 30
Police are to be used for a limited purpose, he with-
draws his objection to documents R20, R21, R22 and R23.

Adjourned for lunch.

Resumed after lunch.

Mr. Chitty withdraws documents R25 and R29.

Order

Mr. Chitty in closing his case moved to put in evidence documents R1 to R29.

Mr. Nadesan, Counsel for the Petitioner, objected to the production of documents R20, R21, R22, R23, R25, R26, R27, R28 and R29.

10 In the course of the argument with regard to the admissibility of these documents, Mr. Nadesan withdrew his objection to the production of R20, R21, R22 and R23.

Mr. Chitty moved to withdraw the documents R25 and R29.

I am called upon to make order only with regard to R26, R27 and R28. I have heard the arguments urged by Counsel with regard to R26, R27 and R28. I upheld the objection of Mr. Nadesan and the documents R26, R27 and R28 are rejected.

20 The documents Mr. Chitty relies upon are R1 to R24.

I allow the objection of Mr. Nadesan in regard to documents R26, R27 and R28.

The documents admitted are R1 to R24.

Mr. Chitty addresses Court.

Adjourned for the day.

Certified correct.

Stenographer S.C.

ELECTION PETITION NO. 3 of 1952.

KANDY ELECTORAL DISTRICT (24)

HELD ON 24th MAY 1952.

Present: H.A.de Silva, J.Election Judge.

Counsel: S. Nadesan with Stanley de Zoysa, A.I.Raja-
singham, V.S.A. Pullenayagam, and C.Manorharan
instructed by T. Thevarajan for Petitioners
G.E.Chitty, with C.C.Rasa Ratnam, G.T. Samara-
wickrema and Izadeen Mohammed instructed by
Ranjit Hewagama for Respondent. 10

Argued: 10th November, 1952, to 19th December, 1952.
13th January, 1953 to 16th January, 1953.

Decided on February 13th, 1953.

1. Herath Mudiyanseelage Navaratne of 251/7,
Trincomalee Street, Kandy.
2. Herbert Sydney Molagoda of No.6, Lady
Torrington Road, Kandy.

PETITIONERS.

Edward Lionel Senanayake of No. 54 Gregory
Road, Kandy. 20

RESPONDENT

H.A.de Silva, J.

There are two petitioners in this case,
namely, H.M. Navaratne and H.S. Molagoda, They ask in
their petition for a declaration that the respondent
(E.L.Senanayake) was not duly elected or returned as
member for the Kandy Electoral District in the House of
Representatives. The petitioners allege that they had

the right to vote and voted at the said election. The election took place on the 24th May, 1952. At this election Mrs. Tamara Kumari Illangaratne, Mr. E.L. Senanayake and Mr. T. Somasunderam were the candidates who came forward for election.

The returning officer declared the respondent duly elected. The petition was filed originally on the 16th June, 1952, setting out the grounds upon which they asked that the election be declared
10 null and void. The grounds are set out in the petition as 3(a), 3(b), 3(c) and 3(d). Thereafter on the 24th July, 1952, the petitioners filed papers and asked for leave under section 83(2) of the Ceylon (Parliamentary Elections) Order in Council of 1946, to amend this petition dated 16th June, 1952, in the manner set out in their petition dated 24th July, 1952. The matter came up before Gratiaen, J., who allowed the amended petition to be filed. In the amended petition filed on 25th July, 1952 in addition to the charges contained in the original
20 petition, a further charge has been brought in. That is charge 3(e) in the amended petition. Thus the respondent had to meet five charges brought against him.

At the commencement of these proceedings the petitioners moved to withdraw charges 3(a) and 3(b) contained in the petition dated 16th June, 1952. They are the same as the charges 3(a) and 3(b) in the amended petition. The Court allowed those charges to be withdrawn. In the course of the proceedings after the evidence of several witnesses was recorded, learned counsel for the
30 petitioners moved that charge No. 3(d) in the original

Petition be struck out as he was not pressing it.
Accordingly Court made order striking out charge No.3(d).
The charges for the determination by Court are 3(c) and
3(e). I shall reproduce here charges 3(c) and 3(e).

3(c). That the said respondent or his agents
and/or other persons with his knowledge
or consent did print, publish, distri-
bute or post up or cause to be printed
published, distributed or posted up
advertisements, hand-bills, placards 10
and posters which referred to the said
election and which did not bear upon
their faces the respective names and
addresses of their printers and pub-
lishers and thereby committed the
offence of corrupt practice within the
meaning of section 58(1)(c) of the
Ceylon (Parliamentary Elections) Order
in Council of 1946.

3(e). That the respondent above-named was 20
guilty of a corrupt practice under
section 58(1)(f) of the Ceylon(Parlia-
mentary Elections) Order in Council of
1946, in that being a candidate and his
own election agent he knowingly made
the declarations as to election
expenses required by section 70 of the
said Order in Council falsely.

Mr. Nadesan, learned Counsel for the petitioners,
placed before Court the oral evidence of several witnesses 30
and produced a large number of documents, P1-P145.

Mr. Chitty learned counsel for the respondent, called no oral evidence and produced in evidence documents marked R1-R24.

I may, at the very outset, acknowledge my indebtedness to counsel for both parties who presented their respective cases before Court with ability. They have undoubtedly taken great pains over their respective cases, and I have received much assistance at their hands, which has made my task easy. Counsel for both
10 parties are agreed that the trial of an election petition is in the nature of a criminal proceeding, and that the petitioners are obliged to prove their case beyond reasonable doubt. This admission was undoubtedly made having regard to the judicial pronouncements both in Ceylon and in the United Kingdom vide, P.Saravanamuttu Petitioner and R.A.de Mel Respondent (1) and Aluwikare, Petitioner, and Nanayakkara, Respondent (2)

I shall consider first the charge 3(e). The respondent has supplied certain particulars asked for by
20 the Petitioners which are filed of record. A good portion of the evidence relied on by the petitioners bearing on charge 3(e), and I may say in passing, bearing on charge 3(c), is contained in the documents produced to which I shall in the appropriate place refer. If I may put the position taken up by the petitioners briefly; it is their case that the expenses incurred by the respondent and paid by him through his sub-agents, namely, Mr. Collin Wickramatunge and Mr. S.T.B. Harasgama and Mr.Dharmasena have not been included in the return of expenses which
30 the respondent sent the Returning Officer.The respondent

was his own election agent, so that no difficulty arises in the case as to any activities of the election agent of which the candidate was ignorant. Section 70 of the Order in Council requires the election agent of every candidate at an election to transmit to the returning Officer a true return referred to in this Order as the "return respecting election expenses", substantially in the form P in the First Schedule to this Order, containing detailed statements as respects that candidate of (a) all payments made by the election agent together with all the bills and receipts referred to in sub-section (1) of section 63, which bills and receipts are in this Order included in the expression "return respecting election expenses" and details of payments of all sums for which no receipt is attached; (b) the amount of personal expenses, if any, paid by the candidate; (c) the disputed claims so far as the election agent is aware; (d) all unpaid claims, if any, of which the election agent is aware in respect of which application has been made or is about to be made to an election Judge or Judge of the Supreme Court, (e) all money, securities and other valuable considerations received by or promised to the election agent from or by any candidate or any other person for the purpose of expenses incurred or to be incurred on account or in respect of the management of the election, naming every person from whom the sum may have been received or by whom such sum may have been promised, showing as to each sum whether it was received as a contribution, loan, deposit or otherwise.

I shall reproduce here section 70(2):-

"The Return respecting election expenses shall be signed by the election agent and

shall be accompanied by declarations by the candidate and his election agent which shall be respectively in the forms Q and R, in the First Schedule to this Order and shall be on oath before a Justice of the Peace".

Both charges that are being tried come under section 58. Charge 3(e) comes under section 58 as well as section 70 of the Order in Council. Section 58(1) (c) reads thus :-

10 "Every person who prints, publishes, distributes or posts up or causes to be printed published, distributed or posted up any advertisement, handbill, placard or poster which refers to any election and which does not bear upon its face the names and addresses of its printer and publisher....."

Section 58(1)(f) reads thus :-

20 "Every person who being a candidate or election agent, knowingly makes the declaration as to election expenses required by section 70 falsely, shall be guilty of a corrupt practice, and shall on conviction by a District Court be liable, in the case referred to in paragraph (a) of this subsection, to a fine of not less than Rs. 250/- and not exceeding Rs. 1000/- or to rigorous imprisonment for a term not exceeding 12 months or to both such fine and such imprisonment, and, in any other case,
30 to a fine not exceeding Rs. 500/- or to imprisonment of either description for a term not exceeding 6 months or to both such fine and such imprisonment....."

The declarations that have to accompany the return respecting election expenses shall be respectively in the Forms Q and R in the First Schedule to this Order.

The declaration that the candidate has to send which is in form Q runs as follows :-

"I.....being a candidate for election in the Electoral District, do hereby solemnly affirm (or swear) that the above return of election expenses is true to the best of my knowledge and belief, and that except the expenses therein set forth, no expenses of any nature whatsoever have to my knowledge or belief been incurred in, or for the purposes of my candidature. 10

.....
Solemnly affirmed (or sworn) before me .. Candidate.

.....
Justice of the Peace.

The Respondent being his own election agent has sent the return of his election expenses on the 27th June, 1952, which was received by the Kachcheri on the same day, P1. This return was accompanied by the declaration signed by the respondent before a Justice of the Peace which has been produced marked P2. It is this return which has been supported by the declaration sent by the respondent, which is attacked as being one made knowingly and falsely. 20

It was conceded by learned Counsel for the petitioners that the onus of proving that the respondent made the declaration as to election expenses knowingly and

falsely with a knowledge of its falsity; in other words, the petitioners have to prove a corrupt motive. He further submitted that the charge which the petitioners have to bring home to the respondent is like one of perjury. He also submitted that the respondent, when he sent in his return accompanied by the declaration, has omitted to include in its various items of expenditure incurred or paid by him through his agents and servants and that the respondent omitted those items falsely, knowing that
10 the omission was false.

The various witnesses called by the petitioners are:-

- (1) M.R. Ganapathy, Clerk, Kandy Kachcheri.
- (2) D.B. Abeysekera, Photographic - Artist, Proprietor of Chitra Studio, Trincomalee Street, Kandy.
- (3) P.Hettiaratchi, Land Clerk, Kandy Municipality.
- (4) L.I.de Silva, Superintendent of Police, Central Province.
- (5) G.W.de Silva, Sub-Inspector of Police.
- 20 (6) S.M.H.Banda, Police Sergeant No.2545, Kandy.
- (7) P.Siyadore Perera, Printer and Proprietor Malini Press
- (8) P.Balin Fernando, Proprietor, of a Printing Press in Cross Street, Kandy.
- (9) W.T.P. Wimalasena, Proprietor, Gamini Printing Works, Kandy.
- (10) P.D.Lanerolle, Secretary Kandy Municipality.
- (11) D.W.Kalubowila, Electrician and Radio Repairer, Trincomalee Street.
- (12) M.D.F.Perera, Manager, Lanka Printing Works, 34,
30 Kings Street, Kandy
- (13) D.W.Jayasinghe, Proprietor, Ananda Printing Press, Kandy.

- (14) Francis Perera, Clerk and Manager, Eksath Printers Ltd.
- (15) M.G.Vincent Perera, Sub-Inspector of Police, Kandy Police.
- (16) Edward Ratnayake, Police Sergeant No.1881, Kandy Police.
- (17) Punchirala Jayasinghe.
- (18) S.J.S.Perera, Director Lanka Trading Co.Ltd. 1st Cross Street, Colombo.
- (19) P.M. Amarakoone, Sub-Inspector of Police, Wattegama. 10
- (20) T.M. Allapitchai, Police Constable.
- (21) Somadasa de Silva.
- (22) T.B. Tennekoon, Member of Municipality, Kandy and others.

Messrs. Collin Wickramatunge, S.T.B. Harasgama, Proctor and Dharmasena M.M.C. Kandy are, according to the petitioners, some of the closest associates and agents of the respondent in his election campaign. Some of the activities of these three persons mentioned are relied upon by the petitioners in order to bring home to the respondent the two charges levelled against him, particularly the charge 3(e). It is in order to prove the respective parts played by these three persons in the election campaign of the respondent that most of the evidence is called in this case. The petitioner's counsel has sought to prove that these three persons played the part of agents, emissaries or servants under the respondent for his work. It was admitted that the Kandy Electorate consisted of 27,700 voters whose names appeared in the electoral register. Mr. Chitty stated to Court that the

respondent has sent in his return of expenses a sum of Rs. 5308/69 as spent by him. Mr. Nadesan did not contest that statement regarding the amount of expenses shown in the return.

Section 65 of the Order provides that a candidate at an election may pay any personal expenses incurred by him on account of or in connection with or incidental to such election to an amount not exceeding Rs. 2000/- but any further personal expenses so incurred by him shall
10 be paid by his election agent. Section 66(1) provides "subject to such exception as may be allowed in pursuance of this Order, no sum shall be paid and no expense shall be incurred by a candidate at an election or his election agent, whether before, during, or after an election, on account of or in respect of the conduct or management of such election, in excess of Rs. 7500/- or of an amount equal to thirty cents for each elector on the register which ever amount shall be the larger; provided that there shall not be included in such amount any expenditure
20 incurred by the candidate for his personal expenses, nor the fee, if any, paid to the election agent not exceeding Rs. 1000/-" Section 66(2) "Any candidate or election agent who knowingly acts in contravention of this section shall be guilty of an illegal practice".

The question of any payment by way of fee to the election agent does not arise in this case as the candidate was his own election agent. The respondent was thus permitted to spend a sum of Rs. 8310/- over and above his personal expenses incurred by him. But the amount shown
30 in his return sent by him is only Rs. 5308/69. The

The respondent thus had a margin of Rs. 3001/31 cts in which he may have included these items of expenditure which he has not shown in his return. Naturally the question that will immediately strike one is why did not the respondent include these omitted items of expenses in his return when he could have conveniently done so without any risk of exceeding the permitted amount?

Mr. Nadesan argues that it is not for him to supply a motive for the respondent's act, but that it is sufficient for his case if he successfully proved that those items which should have been included, were not included by the respondent knowingly and falsely, for section 58(1) (f) makes it a corrupt practice for a candidate or election agent to make knowingly the declaration as to election expenses as required by section 70, falsely. He argued that if he succeed in proving that these expenses were incurred to the respondent's knowledge, and that he omitted to include same in his return falsely, he has committed the act of corrupt practice, he further submitted that many motives may have been present known to the respondent which may have induced him to omit these items, and he particularly put forward the theory that the respondent may have refrained from showing these items for the reason that, if he entered these items, he would have found himself on vulnerable ground, for that, in all probability, he got his agents and servants to incur expenses which, if all totalled up, would have exceeded the permitted expenditure. Be that as it may, one need not venture upon an expedition of exploration to find out the reasons which actuated him from doing what he did.

There was another pertinent observation that Mr. Nadesan made, and that is, that the respondent had set before him a certain method when he sent in his return, he only showed expenditure incurred and paid by him personally. Any expenses incurred or paid by him through his agents, emissaries and servants were not shown. Perhaps an analysis of the evidence, both oral and documentary, will reveal if this submission has been substantiated. The respondent was at the material date a member of the Muni-
10 cipality of Kandy and its Mayor. He is still a Member and the Mayor of the Council. His candidature was sponsored by the United National Party of which he was a member. One of his opponents at the election was Mrs. Tamara Kumari Illangaratne who was supported by the Sri Lanka Freedom Party. Thus these two political parties put forward these candidates respectively.

The parts played by Messrs. Collin Wickramatunga, S.T.B. Harasgama and Dharmasena respectively in furtherance of the respondent's candidature loom large in this matter.
20 Mr. Collin Wickramatunga, a petition-drawer who used to work in the office of Messrs. de Silva and Karunaratne, was at one time a clerk working under the late Mr. George E. de Silva and his son Mr. Fred de Silva, Proctors. Mr. Fred de Silva has now ceased to practice as a Proctor, and is now practising as an advocate. The late Mr. George E. de Silva was contested by Mr. Illangaratne, the husband of Mrs. Tamara Kumari Illangaratne, at a previous election to the Parliament. There is evidence that after Mr. George E. de Silva was unseated as a
30 result of an election petition, his son Mr. Fred de Silva contested Mr. Illangaratne for the Kandy seat in the Parliament. The reference to these elections is made

to show that Mr. Collin Wickramatunge was a clerk under the late Mr. George E. de Silva and his son Mr. Fred de Silva, Mr. Wickramatunga was undoubtedly a very ardent supporter of Mr. E. L. Senanayake, the respondent. His general conduct in this election campaign, and the part he played leave no doubt in one's mind that he was no other than a very enthusiastic supporter of the respondent.

Mr. Dharmasena is also a member of the Municipal Council, and has consistently supported the respondent for the 10
Mayoralty. The evidence led in this case supports the suggestion that he has been, perhaps, as keen a supporter of the respondent as Mr. Collin Wickrematunga, Mr. S. T. B. Harasgama is a Proctor and a brother-in-law of the respondent. He was at one time working in the firm of Messrs. de Silva and Karunaratne, Proctors. There is evidence that some of his blank proxy forms have been utilised to write manuscripts of various leaflets and posters, that were put out during the respondent's election 20
campaign, advertising his meetings, etc. The evidence clearly establishes that these three persons were very closely associated with the respondent in his campaign. Number 22, Victoria Drive, Kandy, is the premises where Mr. Senanayake ran his election office. There is evidence that Mr. Collin Wickrematunga and Mr. Harasgama wrote letters to various persons concerned giving their address as No. 22, Victoria Drive, requesting that bills for work done in connection with this campaign be sent to them at their address, No. 22, Victoria 30
Drive, Kandy.

Mr. Wickramatunge personally ordered and got certain printing done at the Malini Press, Kandy, owned by P. Siyadore Perera for which he incurred and paid a sum of Rs.606/- and odd cents. Mr. Dharmasena got the photographic artist Abeysekera to turn out 1500 badges one of which has been produced as P25. This badge contains a photograph of the respondent with the wheel which was his symbol at the election, and the letters prominently displayed "U.N.P" For these 1500 badges 10 a sum of Rs.600/- was alleged to have been paid by Mr. Dharmasena to Abeysekera. These badges numbering 1500, were ordered by Mr. Dharmasena on the 22nd and 23rd of May, 1952, one day before the day of polling, the date of polling being 24th May, 1952. Mr. Harasgama is shown to have made certain payments for the hiring of grounds for election meeting in support of the candidature of the respondent, and for bills tendered by the Kandy Municipality for the supply of electricity used to operate the microphones and loud-speakers at election meetings. The 20 above payments were admittedly not included in the respondent's return of expenses. The questions that arise therefore, are (1) were these three persons acting independently of the respondent to promote his candidature? (2) were these expenses incurred by them independently of the respondent for the conduct and management of his election campaign? (3) were these expenses necessary or useful for his campaign? (4) were these expenses incurred and paid by these three persons with the knowledge or acquiescence of the respondent? (5) Did the respondent 30 repudiate their acts or did he accept them or does the evidence disclose, taken as a whole, that there was on the respondent's part at least, an absence of disavowal.

of their acts? (6) were these three persons the agents of the candidate in the sense of that word "agent" as used in election law? (7) Did these three persons act independently of the respondent, and incur and pay these expenses in violation of the strict provisions contained in section 62 of the Order in Council, and expose themselves to the penalties prescribed therein? (8) If these expenses incurred and paid by these persons were received by the respondent, who is his own election agent, as contributions from them, were the amounts so contributed shown in the respondent's return of expenses as required - 10
vide from P referred to in section 70 (1) of the Order (9) were these three persons employed to get these items of work done by the respondent, and were these expenses paid by him by utilising them as agents, emissaries or servants for the purpose, and was it his money that was actually used for the payments?

Let me now consider the part each one of them played. It has been submitted that the evidence clearly shows that wherever Mr. Collin Wickramatunge or 20
Mr. Harasgama played a part in respect of an election meeting or its organisation the respondent too has personally played a part, apart from his addressing at that particular meeting. I shall first all refer to the supply of microphones and loud speakers, D.W.Kalubowila, a witness called by the Petitioners, has spoken to the supply of microphones and loud-speakers for the election meetings to the respondent, for which he was paid by Mr. Senanayake a sum of Rs.455/- vide Bill P.8. dated 17th May, 1952, signed by Mr. Senanayake accepting the bill tendered and the

conditions upon which these instructions were hired to him. The sum of Rs.455/- paid by Mr. Senanayake has been shown in his return as his election expenses. Without going into the details as to how the sum of Rs.455/- is made up, it is sufficient to say by reference to the bill P8 that these microphones and loud-speakers were used for the meetings held at the following places:- Market grounds, Asgiriya Battery, Suduhumpola, Katugastota, Ampitiya, Gurudeniya, Market grounds, Boowelikada, 10 Market Grounds. It is in evidence that for the use of loud-speakers a permit has to be obtained from the Police.

I shall here refer to the various meetings held in support of the candidature of the respondent and the part each person, namely Collin Wickramatunge, Harasgama, Dharmasena and the respondent played in regard to these meetings.

A meeting was held at Dangolla Play Grounds on the 3rd of May, 1952. The rent for the use of the 20 Dangolla Play Ground, Namely Rs.5., was paid to the Municipality by Mr. E.L.Senanayake, vide receipt P39A. The application for loud-speakers permit is dated 2nd May, 1952, and was made by Mr.E.L.Senanayake, vide P.116. In his application Mr. Senanayake has given his address as No.22, Victoria Drive. The permit asked for was issued to him, vide P117. The application P116 and the permit P117 show that the meeting was to take place on the 3rd May, 1952. P59 is a hand-bill which was distributed in respect of this meeting which hand bill 30 was caused to be printed by Collin Wickramatunge at

the Malini Press. Mr. Fred de Silva, Advocate, according to this hand-bill, was to be the chairman at this meeting. Election meetings were generally covered by Police Officers of the Special Branch, some of whom have given evidence in this case. Those Police Officers who covered election meetings had to send reports to the Superintendent of Police, and most of those have been produced in this case P.89, is the report sent by the Police Officer who reported on that meeting which shows that Mr. Fred de Silva presided at that meeting, and that the speakers among others, were Mr. Collin Wickramatunge and the respondent,

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On the 11th May, 1952, a meeting was held at Lewella. The loud-speaker permit had been issued in the name of S.T.B. Harasgama, vide P120. The Police report of that meeting is P91, which shows that Mr. A.C.L. Ratwatte presided at the meeting. The speakers, among others, were Collin Wickrematunga, Mr. Fred de Silva and the respondent. P 118 is the application made for a loud-speaker permit by Mr. Harasgama under date 6th May, 1952 and the address given by Mr. Harasgama is 22, Victoria Road, P.120 is a certified copy of the loud-speaker permit issued to Mr. Harasgama for the meeting held at Lewella on the 11th May, 1952. P65 is the hand-bill announcing the meeting which was distributed, and that hand-bill was printed at the Malini Press at the instance of Collin Wickrematunge. P91 is the Police report which shows that the speakers apart from the Chairman, were Fred de Silva, Collin Wickramatunge and the respondent, among others.

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A meeting was held at Suduhumpola on the 15th May 1952. Mr.S.T.B. Harasgama made the application on the 7th May, 1952, by P.33 to the Municipality for renting the grounds. In P33 he has given his address as 22, Victoria Drive, and says in this application that the meeting is in support of the candidature of Mr.E.L. Senanayake. P39C is a receipt for Rs.5/- written in the name of S.T.B. Harasgama by the Kandy Municipality. P121 is the application for loud-speaker permit dated 12th May, 10 1952, signed by S.T.B. Harasgama, for a meeting to be held at Suduhumpola. P122 is a certified copy of the loud-speaker permit issued in the name of S.T.B. Harasgama. P8 and P10 show that the booking for microphones was made by Mr. E.L.Senanayake. P63 is a hand-bill announcing this meeting caused to be printed by Collin Wickramatunga at the Malini Press. This hand-bill P63 gives the name of the Chairman as E.F.D.S. Jayasuriya. The Police report of the meeting P44 shows that the speakers among others were Messrs. Fred de Silva, E.L.Senanayake and 20 Collin Wickramatunga.

A meeting was held at Ampitiya on the 18th May. 1952. The application P110 for the loud-speaker permit dated 16th May, 1952, was signed by Mr. S.T.B. Harasgama, the address given being, No. 22, Victoria Drive, P111 is a certified copy of the loud-speaker permit issued in the name of S.T.B. Harasgama. P8 and P10 show that the booking and payment for the microphones used at this meeting was made by Mr.E.L.Senanayake. P110A is a notice announcing this meeting at Ampitiya

caused to be printed at Malini Press by Collin Wickramatunga. P45 is the Police report which shows that one L.B. Wakara Ulla presided, and Messrs. Collin Wickramatunge and E.L.Senanayake, among others, were the speakers at this meeting. The notice P110A announced that Mr. A.C.L. Ratwatte would be the Chairman of this meeting, but it appears from the police report that it was Mr. Waraka Ulla who presided. It may well be that Mr. Ratwatte was not able to be present on that day.

A meeting was held at Gurudeniya on the 19th May 1952. P104 is the loud-speaker permit issued in favour of Mr. Collin Wickramatunge, wherein his address is given as No. 5 Colombo Street, Kandy. P8 and P10 show that the booking and payment for the microphone used at this meeting was made by Mr. E.L.Senanayake. P61 is the notice announcing this meeting. This notice was printed at Malini Press at the request of Collin Wickramatunga. The Police report P 46 shows that at this meeting Mr.A.C.L.Ratwatte presided, and the speakers, among others, were Mr.E.L.Senanayake and Mr.A.C.L.Rattwatte 10 20

A meeting was held at Boowelikada on the 21st May, 1952. The application for the loud-speaker permit has been signed by J.E.Senanayake for E.L.Senanayake, vide P97. The address given in that application is No. 34, Victoria Drive. The electoral register shows that the address of Mr.E.L.Senanayake is 34 Victoria Drive. P8 and P10 show that the booking and payments for the Microphone used at this meeting were made by Mr. E.L. Senanayake. P62 and P62A are the notices announcing this

meeting which were printed at Malini Press at the request of Mr. Collin Wickramatunge. P62 and P62(a) also give the name of the Chairman as Mr. P.L.P.de Alwis, M.M.C.

A meeting was held at Tekkewatte on the 18th May, 1952. P106 is the application for a loud-speaker permit dated 16th May, 1952 signed by Collin Wickramatunge giving his address as 22, Victoria Drive. P107 is the certified copy of the permit issued in favour of Collin Wickramatunga. P121 dated 12th May, 1952, shows
10 that an application was made signed by S.T.B. Harasgama for the same grounds for a permit to use a loud-speaker. P60 is a hand-bill announcing this meeting printed at Malini Press at the request of Collin Wickramatunga.

On the 22nd May, 1952, a meeting was held at the market Grounds. P.36 is the application to the Municipality dated 10th May, 1952, for the use of the grounds, signed by S.T.B. Harasgama. P97 is the application for loud-speaker permit dated 20th May, 1952 signed by J.E.Senanayake for E.L.Senanayake. P39F, is the
20 receipt for Rs.5/- paid as rent written in the name of S.T.B. Harasgama. P99 is a certified copy of the permit for loud-speaker issued in the name of Mr.E.L.Senanayake for this meeting. The loud-speaker permit has been received by a person who has signed D. Wijenaike as shown in the endorsement on P97. P40(A) shows that the receipt for payment of electricity dues is in the name of S.T.B. Harasgama. P58 is the notice announcing this meeting printed at Malini Press at the request of Collin Wickramatunga. Police report shows that Collin
30 Wickramatunge presided at this meeting. The police

report also shows that it was a propaganda meeting in support of Mr. E.L.Senanayake organised by the Kandy Branch of the Labour Union. P8 and P10 show that the booking and payment for the microphone was made by Mr.E.L.Senanayake.

I have referred to some of the meetings where Collin Wickrematunge, S.T.B.Harasgama and E.L.Senanayake had a hand in their organisation, each playing a part.

On the 23rd May, 1952, a meeting was held at Bogambara Grounds which admittedly appears to have been 10 organised by Mr.E.L.Senanayake himself. Now P37 is a minute by the Municipal Commissioner which shows that Mr. E.L.Senanayake applied for the grounds to the Municipality. P39G shows that the receipt for Rs.7/50 being rent for the use of Bogambara Grounds on the 23rd May, was written in the name of S.T.B. Harasgama; it also shows that a deposit was made of Rs.25/00. P97 is the application for a loud-speaker permit dated 20th May, 1952, signed by J.E.Senanayake, for E.L. Senanayake. P141 is a poster in Sinhalese advertising this meeting 20 printed at the instance of Mr. E.L.Senanayake by the Lankapradipa Press. P.142 is a notice announcing the meeting, printed at the instance of Mr. E.L.Senanayake at the same press. P70, 71, 72, are posters and correction slips in respect of the said meeting printed by Balin & Co. P62 is a notice printed at Malini Press at the instance of Collin Wickramatunge which mentions, inter alia, "Remember 23rd Bogambara" P48 is the Police report of that meeting which shows that the speakers included Mr. Dudley Senanayake, Prime Minister, and Mr. E.L. 30

Senanayake.

I have been at pains to refer in detail to some of the meetings held in support of the candidature of the respondent. Some of the requisites for holding meetings apart from securing the services of speakers are (a) renting of grounds if the organisers had no grounds of their own; (b) provision of Microphones and loud-speakers; (c) distribution of leaflets, hand-bills and display of posters.

10 An analysis of the evidence so far considered shows that for very many meetings Mr.E.L.Senanayake, the respondent, Mr. Collin Wickramatunge and Mr. S.T.B. Harasgama have collaborated in their organization. The meeting held at Bogambara on the 23rd May, 1952, a day before the polling day, was the most important election meeting held in support of the respondent's candidature. The evidence shows that it was very largely attended, and was well advertised. The organizers gave particular publicity to this meeting for the reason that,
20 among others, the The Hon'ble The Prime Minister, Mr. Dudley Senanayake, Mr. Ratnayake, A Minister, were expected to be present and were expected to address the voters. These two gentlemen were in fact present and they addressed the voters.

The respondent in his return has shown only a sum of Rs.5/- as rent for rooms hired either for Public rooms or committee rooms. Mr. Harasgama has been shown to have paid for the electricity for the use of
30 microphones at various meetings. These payments have not been shown in the return. It will be pertinent to emphasise that for the Bogambara meeting, admittedly

organized by the respondent for 23rd May, 1952, the rent for the grounds was paid by S.T.B. Harasgama - vide receipt P39G, which sum has not been shown in the return of expenses. To refer to another receipt namely, 39F, this shows that Mr.S.T.B. Harasgama had paid on the 12th May, 1952, to the Kandy Municipality, Rs.5/- as rent for the Market grounds for a meeting to be held on the 22nd May, 1952. P39E shows that Mr. S.T.B. Harasgama had paid Rs. 5/- to the Kandy Municipality on the 6th May, 1952, as rent for the Market Grounds for a meeting to be held on the 20th May, 1952. P39A is a receipt which shows that Mr. E.L.Senanayake had paid on the 2nd May, 1952, a sum of Rs. 5/- to the Kandy Municipality as rent for Dangolla play ground for a meeting on the 3rd May, 1952. This sum of Rs. 5/- is all that Mr. Senanayake shows in his return of expenses as spent by him for rent for grounds etc. P62 is a notice printed at the Malini Press at the instance of Mr. Collin Wickramatunga announcing a meeting at Bowela to be held on the 21st May, 1952, and at the end of which appears the words "Remember 23rd 4 p.m" The significance of P62 which makes reference to a planned election meeting on the 23rd May, 1952, is that that meeting which was organised by the respondent was given prominence and publicity by Collin Wickramatunge in his notice advertising the Bowela meeting on the 21st May, 1952.

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It was urged by respondent's Counsel that Mr. Collin Wickramatunge, when he supported the candidature of the respondent, and spent as much as six hundred rupees and odd cents in printing literature,

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announcing meetings, such as putting up posters, distributing hand-bills and leaflets, etc. was doing so as a leader and one of the enthusiastic members of the Kandy Branch of the Labour Union, the policy of which accorded with that of the United National Party on the burning political questions, such as the question of immigration and Emigration etc. All these expenses were incurred by him and paid chiefly as part of his contribution as a labour man to the cause espoused by
10 the United National Party candidate, Mr.E.L.Senanayake. If that were so, the contributions of these expenses should have been shown by the election agent in his return. It is no doubt true that Mr. Collin Wickramatunge was an ardent member of the defunct Labour Union in Kandy. Is it possible, upon this evidence, to hold that he was a supporter, not so much of Mr. E.L.Senanayake., as of the Labour Union, and that whatever support he lent was to promote the policy of the Labour Party, and by helping the respondent he helped the labour cause?

20 It may perhaps be true that, in so far as the principles of the Labour Party and the United National Party accorded, the election of Mr. Senanayake was one conducive to the interests of the Labour Party, but does the evidence in this case taken in its entirety show that Mr. Collin Wickramatunge did go no further than that? To my mind, the evidence shows clearly that Mr. Collin Wickramatunge was one who was authorised generally to do various acts on behalf of the respondent in his election campaign, and that Collin Wickramatunge was also utilized
30 for performing specific duties at the instance of the

respondent. Now in a case of this nature where the evidence has to be approached as it were in a criminal proceeding one has to bear in mind clearly the manner of approach.

Some of the witnesses called by the petitioners gave me the impression of being witnesses, whom I may term unwilling witnesses, but the petitioners had to call them in order to produce many documents which were essential for the proof of their case. It has been shown by the evidence of P. Siyadore Perera, the proprietor of Malini Press, that at least on one occasion one Ratnayake, admitted clerk of the respondent, signed a proof copy of a poster that was being printed at the instance of Collin Wickramatunge, and he (Ratnayake) gave the number of copies to be printed. The petitioners placed before Court many circumstances, and submitted that the only inference that could be drawn from those was that Collin Wickramatunga was no other than an agent within the meaning of the election law. 10

It is a principle often enunciated that in a criminal prosecution when from a certain set of circumstances, two inferences are possible to be drawn, that which is most favourable to the accused should be drawn. It must be shown by the petitioners from the various circumstances proved that no other inference can be drawn than that Collin Wickramatunge was the agent of E.L.Senanayake when he incurred and paid these expenses of printing etc. 20

The fact that for various meetings for which Mr.E.L.Senanayake, obtained loud-speaker permits, admittedly on one occasion he paid the ground rent to the Municipality,

the fact that Mr. Senanayake's brother-in-law, Mr.S.T.B. Harasgama, also paid the ground rent for some of these meetings, obtained loud-speaker permits, paid bills for electricity used for operating the microphones and loud-speakers, the fact that Mr. Harasgama and Collin Wickramatunga in their correspondence gave No.22,Victoria Drive as their address which was the election office of Mr. Senanayake; the fact that Mr. Collin Wickramatunga spoke at very many of Mr. Senanayake's election meetings; 10 the fact that he was seen going about with Mr.Senanayake; the fact that he was a clerk of the late Mr.George E.de Silva and Mr. Fred de Silva who keenly supported the respondent; the fact that Collin Wickramatunge carried on his work as a petition drawer in the office of Messrs.de Silva and Karunaratane; the fact that Mrs.Illangaratne and her husband had opposed the late Mr.George E.de Silva and Mr. Fred Silva when they sought election to Parliament are circumstances from which the petitioners ask this Court to draw unequivocally the one and only con- 20 clusion that Mr. Collin Wickramatunge was no other than Mr. Senanayake's agent within the meaning of the election law,

After an analysis and consideration of the evidence led in this case, I am of opinion that Collin Wickramatunga was no other than an agent,emissary and servant of Mr. Senanayake, in his election campaign. Mr. Collin Wickramatunga cannot be considered a person of affluence. He makes his living as a petition -drawer in the verandah of the office of Messrs. de Silva and 30 Karunaratne. Can one bring one's self to believe that he was in a position to contribute as much as Rs. 606/- to the

election campaign of the respondent by getting printing etc., done at Malini Press at his expense in addition to the personal service he was rendering Mr. Senanayake. I come to the one and only conclusion that the printing done at the Malini Press was done by Mr. Senanayake through his agent, Collin Wickramatunga, and that Mr. Senanayake incurred and paid the bills of the Press through his agent, Collin Wickramatunga. Mr. Senanayake was his own election agent. He could not be expected to have the time to attend himself to the multifarious duties of an election campaign. He had necessarily to employ various persons to do various acts for him. It is interesting to note that in the return he has marked "Nil" against the third item, namely, "name and rate of the total amount of pay of each person employed (including the election agent) Clerk or messenger". Can one accept this declaration of his that he employed no paid agents or messengers as being true? If he did not employ paid agents and messengers, then there was the greater reason for him to employ persons like Mr. Collin Wickramatunga Mr. Harasgama, and Mr. Dharmasena to attend to, at least, a part of his election work. This is precisely what Mr. Collin Wickramatunga, Mr. Harasgama and Mr. Dharmasena did.

Mr. Harasgama as I said before is the brother-in-law of Mr. Senanayake. He has been shown to have acted in conjunction with Messrs. E.L.Senanayake and Collin Wickramatunga in organising most of these meetings. I hold that Mr. Harasgama was an agent of Mr. E.L.Senanayake and that the various sums of money that Mr. Harasgama paid were really moneys belonging to Mr. Senanayake which he paid on behalf of his brother-in-law.

I now come to Mr. Dharmasena. There is evidence that Mr. Dharmasena has been a consistent supporter of Mr. Senanayake in the Municipal Council. There is evidence that he went about canvassing with Mr. Senanayake. There is evidence that he was seen going about with Mr. Senanayake to polling booths near polling stations. It was Mr. Dharmasena who ordered these 1500 badges. The Photographic artist, Abeysekera, was the person who executed this order. Although Mr. Dharmasena placed this order for 1500
10 badges one of which was produced marked P25, payment for some had been entered in Abeysekera's book, P26, as having been made by E.L. Senanayake. The payment of Rs.500/- was made in two instalments as shown in book P26 produced by Abeysekera. At page marked P26B a sum of Rs.150/- is shown as having been received from Mr.E.L.Senanayake under date 23rd May, 1952. These badges were supplied in two batches. Abeysekera states it was Dharmasena who gave the order, it was Dharmasena who paid for it, it was Dharmasena who took delivery, but that he entered in his
20 book and in the receipts the name of Mr.E.L.Senanayake as the person who paid, because these badges were meant for his election. It is true that the badges were required for Mr. Senanayake's election, but what passes one's comprehension is why Mr. E.L.Senanayake's name was put down in the receipts and in his book P26 as the person from whom he received the payment of Rs. 500/-?

The evidence of Abeysekera shows that when Mr. Dharmasena contested a seat in the Municipality he got badges made with his (Mr. Dharmasena's) portrait.
30 So that Mr. Dharmasena is a person who had experience in getting badges made. Therefore is it a matter for

wonder then if Mr. E.L.Senanayake got his friend, Mr. Dharmasena, to get for him also some badges through the same artist for his election.

Putting the case for the respondent at its highest, if Mr. Dharmasena incurred and paid the expenses of making the badges, to wit, Rs.500/- it would undoubtedly have relived the respondent of a part of his election expenses. These badges were undoubtedly useful at an election campaign. It is in evidence that one of the opposing

candidates of the respondent, namely Mrs. Tamara Illangaratne had, for the use of her workers, badges with her portrait. No doubt Mr. Senanayake's supporters and workers wore garments made of green cloth and rosettes, but the wearing of badges is commonly indulged in by workers who use same as a distinguishing mark, especially when they go about to bring voters to the polling stations, and in directing and helping them to go to the polling stations, and register their votes. It was also submitted by the respondent's counsel that Mr. Dharmasena may have got these badges printed and distributed to mark

the occasion or as mementoes, but it must be noted that these badges were got ready by the evening of the 23rd May 1952, i.e. on the eve of the polling day. If badges were not used at elections why did Mr. Senanayake in his return of expenses put down as one of the heads of expenditure "Badges"? Against the word "Badges" he has noted "Nil". He realised that badges were normally used at elections. Inasmuch as he has not physically handed the sum of Rs.500/- to Abeysekera, he thought it safe not to

include that item of Rs.500/- in his return. He did so at his peril. Rupees five hundred are by no means a negligible or trivial sum. Would Mr. Dharmasena have faced the very serious consequence involved in his spending a sum of Rs. 500/- otherwise than through the election agent. The sum of Rs.500/- was incurred and paid before the polling day so that the termination of Mr. Dharmasena's agency, if such a relationship subsisted between him and the respondent, does not arise. If, Mr. Dharmasena, a member of the Municipal Council and a
10 person of standing, was actually anxious of making a contribution towards the election expenses of Mr. Senanayake, and if the latter was really in need of such assistance, I dare say he (Mr. Dharmasena) would have seen to it that the cost of producing these badges was provided in the lawful way, i.e. by giving same to the election agent, in which event the election agent was under obligation to declare the receipt of that sum in his return of expenses. I come to the conclusion after a consideration of all the circumstances proved in this case that Mr. Dharmasena was
20 an agent of the respondent, and the latter incurred the expense of turning out these badges and paid for same through his agent, Mr. Dharmasena. I further hold that it was Mr. Senanayake's money that was paid through Mr. Dharmasena.

There is another item of expenditure, which, it is alleged, was not included in the return. That is the cost of the cloth that was used for the making of flags. M.O.F. Perera, Manager Lank Printing Works, has given evidence. He says that Mr. Senanayake came in a car and placed with him an order to print flags. They had been cut and
30 stitched. The cloth given was of white and green colour.

The symbol of Mr. Senanayake and the following words "Vote for E.L.Senanayake" were printed on the flags. They were new pieces of cloth, and there was no printing on them when the printer received them from the respondent. A sum of Rs.158/65 has been paid by Mr. Senanayake, and he has included this sum in his return, vide bill P14, dated 3rd June, 1952. So that if the printing on these 360 flags costs as much as Rs. 158/65, the cost of the material certainly must have come to quite a tidy sum. There is evidence that these cloth flags were used by the respondent in his election campaign. Of course, the the petitioners have not placed before Court any evidence regarding the actual value of this cloth, but the circumstances of which they have adduced proof is sufficient for this Court to hold that the respondent did utilise this cloth of some appreciable value.

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As regards charge 3 (c), a large number of leaflets and posters etc. put out by the respondent and/or his agents have been produced. This charge relates to the failure on the part of the respondent and/or his agents to have on the face of these documents names and addresses of their printers and publishers. Section 58(1)(c) makes it a corrupt practice for any person to print, publish, distribute or to post up or cause to be printed, published, distributed or posted up any advertisement, hand-bill, placard or poster which refers to any election and which does not bear upon its face the names and addresses of its printer and publisher.

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I may say that generally the leaflets, hand-bills, placards or posters that have been printed, and

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distributed, have on the face of them the name of the Printing Press, and, the town in which the Printing Press is situated. In view of certain conflicting views expressed in certain judgments of this Court with regard to the question of the name and address of the Printer, Mr. Nadesan did not invite the Court to make a finding as to whether or not the absence of the actual name of the Printer and his address was sufficient compliance with Section 58(1)(c) In Don Phillip at al. Petitioners, and T.P. Illangaratne.

10 Respondent (3) Nagalingam, J. held that when in a document the name of the Press and the Town in which it was situated is given that was sufficient compliance with the law. But in Aluwihare, Petitioner and Nanavakkara. Respondent (Supra), Basnayake, J., held that the name required by section 58(1) (c) should be the true name in full, and the address means the number of the premises where the press is, the name or number of the Street and the name of the place where the street is situated.

Mr. Nadesan pressed upon me the question of the
20 absence of the name and address of the publisher on the face of the documents. He argued that if he satisfied the court that there was an absence of the name and address of the Publisher on anyone of the documents, he has substantiated the charge, 3 (c). He draws my attention to exhibits Nos. P128, 129, 130, 131, 132, 133, S.J.S. Perera, Director, Lanka Trading Co. Ltd., produced these documents and stated that they were printed at their Printing Press on the order placed by the Respondent.

So that these were admittedly printed on the order of the respondent. He has shown in his election return the expense incurred by him in respect of this Printing; vide bills attached to his return - P5 and P6. Exhibits P141 and 142, were printed at the Lankapradipa Printing Press. The proprietor of that press is Richard De Alwis and he has produced those two exhibits. He states that he printed these for Mr. Senanayake. The manuscripts of exhibit P141, namely, P141(a) has been signed by Mr. Ratnayake who is an employee of Mr. Senanayake. The manuscript of Exhibit P142 is P142B, and this appears to be on the back of a portion of a proxy form of S.T.B. Harasgama. Richard de Alwis also says that in respect of the notice P142, Mr. S.T.B. Harasgama sent the order through a man. That these documents were printed on the orders of the respondent is borne out by bill P7 attached to his return in addition to the evidence of the proprietor of the Press, Richard de Alwis. On none of these documents is the name and address of the publisher given. P142 is a hand-bill announcing the "Mass election Rally" at Bogambara fixed for the 23rd May, 1952, at which the Hon'ble The Prime Minister was expected to address the voters.

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I have so far dealt with the facts as placed before me. I proceed now to consider the law.

The law as enunciated both in England and here regarding election petitions has been fully argued by counsel appearing for the respective parties. Under charge 3 (e) wherein it is stated that the respondent being a candidate or election agent made the declaration as to election expenses as required by section 70, falsely

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Mr. Nadesan submits that the petitioners have to prove that the respondent did an act falsely with a knowledge of its falsity. In other words the petitioners have to prove a corrupt motive. It is like a charge of perjury. He further argues that he had to prove beyond all reasonable doubt that the declaration sent by the respondent was false, and that the respondent knew at the time he made that declaration that it was false. He further acknowledged that he had to prove what in the
10 English law would be termed "mens rea" He submits that mens rea as understood in the English law is no part of our law and he cites the full Bench decision in Weerakoon v. Ranhamy (4). This is a judgment of the full Bench composed of Bertram, C.J. Ennis and de Sampayo, JJ., and Schneider, A.J. It was there laid down after a consideration of the law, both in England and in Ceylon, that the doctrine of the English Criminal Law, known as the doctrine of mens rea, only exists in Ceylon in so far as it is embodied in
20 the express terms of sections 69 and 72 of the Penal Code. Per Bertram, C.J.,

"In one respect the doctrine of the Ceylon Section is wider than the English doctrine in that it extends to all penal enactments alike, including enactments which under the English law are outside its scope, namely, enactments which prohibit a thing absolutely, and which, but for this section, would be construed as imposing an obligation which every man, whatever his knowledge, violates at his peril.

On the other hand, unlike the English doctrine, it extends to mistake only, and does not extend to mere ignorance".

Per Schneider, A.J.,

"The word "mistake" in section 72 must be taken to include "ignorance". Section 69 and 72 are a paraphrase of the English common law maxim in its application to criminal law - "ignorantia facti exeat; ignorantia juris non excusat".

It is hardly necessary for me to refer to the various authorities considered in this judgment by the full Bench, Windham J. in Perera v. Jayawardene (5) held that where a statute does not unequivocally provide that a corrupt mind is not an essential ingredient of an offence, an act cannot be held to be a corrupt practice unless done with a corrupt mind. A corrupt intention is therefore an essential ingredient of the offences enumerated in section 58 (1) (b) (c) (d) (e) and (f); proof of a corrupt intention is an essential ingredient to bring home the guilt to the party charged. This view of the law as expressed by Windham, J. has been doubted by Dias, J., in P. Saravanamuttu v R.A. de Mel (Supra). Basnayake, J. in Aluwihare V. Nanayakkara (supra) held that it was not necessary that mens rea should be proved in a charge under section 58(1) (c) and dissented from the view expressed by Windham J., in Perera v. Jayawardene (supra)

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The argument of Mr. Nadesan is that so far as charge 3 (e) is concerned he was bound to prove the

elements contained in 58 (1) (f) of the Order, but where the charge under 58 (1) (c) is concerned all that he need prove is that the respondent published the documents without having on the face of them the name and address of the Publisher. He argues that it was not incumbent upon him either to prove mens rea or corrupt motive in order to substantiate that charge. It was for the respondent to have sought to come within the exception provided by sections 69 and 72 of the Ceylon Penal Code as laid
10 down in Weerakoon v Ranhamy (supra), which the respondent has failed to do.

As regards agency, I may at this stage refer to a very pertinent observation made by the learned author of Rogers on Elections, 20th Edition, at page 123, the author observes thus :-

"A candidate may name himself as election agent.....This is an entirely new provision, and if acted upon extensively some nice questions may have to be settled as to the relations of candidate agents
20 and their sub-agents. On the one hand the relation is one which would naturally raise a stronger presumption of knowledge on the part of the candidate of any corrupt or illegal practices committed by his sub-agents, and on the other the candidate would, in addition to saving the expense of the agent's remuneration, obtain far more control over the general conduct of the election than would otherwise be possible. On the whole, however, it would seem to be undesirable for a candidate to act as his own election
30 agent".

The respondent was his own election agent. So

So that he had knowledge of all the activities of his sub-agents, and had more control over the general conduct of the election than would be the case if another person were his election agent. In the Berwick-Upon-Tweed case (6) Mr. Justice Avery has expressed himself thus :-

"In my opinion, the word "knowingly" here means knowing at the time the payment is made, or the expense incurred, that it is on account, or in respect of the conduct or management of the election; and if, when the total of those expenses is added up, that total is in excess of the maximum, then the agent or candidate as the case may be, has knowingly acted in contravention of the section".

This view of Mr. Justice Avery in the Berwick-Upon-Tweed case was adopted by Mr. Justice Sankey in the Borrow-Oxford case (7) In the Cockermouth case (8) Mr. Justice Channell has observed thus :-

"The difference between an act done for the conduct and management of the election and a thing done merely for the promotion of the success of a particular candidate seems to me to be this. If another person pays an expense, and that expense is one of the ordinary expenses of the candidate, so that the doing of that by the third person relieves the candidate from part of his election expenses, then the candidate must treat that assistance as given to him in respect of his election expenses, and must treat the expenses as part of his expenses".

I have by a detailed examination and analysis of the evidence in this case shown that Collin Wickramatunga,

Harasgama and Dharmasena have paid expenses for printing hiring of grounds for election meetings, and paying electricity bills, and paying the expenses of making badges, which were undoubtedly the ordinary expenses of the candidate in his election campaign, and that if these expenses were actually paid out of the moneys of those three persons, then what they did would relieve the candidate from part of his election expenses. According to the view expressed by Channell, J., those expenses
10 must be shown in the return, but I have gone further in this case, and held that the respondent incurred and paid those expenses utilising those three persons as his agents for that purpose. Vide Rogers on Elections Vol.2, 20th Edition page 388 (9). The learned author has stated the principles collected from the various authorities thus:-

"The principles of agency as applied to elections have been differently expressed by various judges. Some have likened it to the relation of master and servant;
20 others to the employment of a man to steer and assist in the management of his yacht in a race; others to the relation of sheriff and under-sheriff. Having regard to the difficulty of the matter, it has been thought advisable to set out verbatim the chief decisions upon it" In Norwich case (10) Martin B., held, "Mr. Justice Blackburn, Mr. Justice Willes and myself unanimously came to the conclusion that any person authorised to canvass was an agent, and it does not signify whether he has been forbidden to bribe or not. If the

candidate had told him honestly. "Do not bribe; I will not be responsible for it", if bribery was committed, that bribery would affect him. Such is the opinion of Mr. Justice Willes, Mr. Justice Blackburn and myself. The relation is more on the principle of master and servant than of principal and agent. It has been arrived at after full consideration, and it is a conclusion by which I am prepared to abide". In the Blackburn case (11), Willes, J. laid down the principles thus :-

".....that no matter how well the member may have conducted himself in the election, no matter how clear his character may be from any imputation of corrupt practice in the matter, yet if an authorised agent of his, a person who has been set in motion by him to conduct the election, or canvass voters on his behalf, is in the course of his agency guilty of corrupt practices, an election obtained under such circumstances cannot be maintained". In the Harwich case (12) Lush, J. said :-

"The relation between a candidate and a person whom he constitutes his agent is much more intimate than that which subsists between an ordinary principal and agent. The closest analogy is that of a sheriff and his under-sheriff and bailiffs. For, as regards the seat, the candidate is responsible for all the misdeeds of his agent committed within the scope of his authority, although they were done against his express directions, and even in defiance of them." In the Aylesbury case (13) Field, J., said "I have carefully considered the decisions of various judges, and have ascertained that the principles they have laid down as to

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agency affecting a sitting member are very much wider than agency to affect a principal. It is not a case of principal and agent. The analogy is that of master and servant, and I have come to the conclusion that any person whom the candidate puts in his place to do a portion of his task, namely, to procure his election as a member of Parliament, is a person for whose acts he would be liable".

The law enunciated in these various judgments, 10 applied to the facts in this case as I have found, clearly indicates that Collin Wickramatunga, Harasgama and Dharmasena were the respondent's agents. He had at no time repudiated their actions on his behalf; rather he has taken fullest advantage of their support in his election campaign. Even if they had been mere volunteers, he had benefited very largely by their actions. The order in Council has defined what corrupt practice is. Section 58 (1) (c) makes the violation of its terms a corrupt practice. It is significant that the word "knowingly" is 20 omitted therein.

It is thus argued that mens rea or corrupt mind finds no place in this sub-section or section 58. Section 58 (1) (c) prohibits the doing of a thing absolutely, and therefore the offence is committed by the mere violation of the requirements contained therein:-

Under the English law there are a number of offences of which the absence of mens rea is not a defence - vide Cundy v LeCocq (14), per Stephen J.,

"I am of opinion that the words of the 30 section amount to an absolute prohibition of the sale

of liquor to a drunken person, and that the existence of a bona fide mistake as to the condition of the person served is not an answer to the charge, but is a matter only for mitigation of the penalties that may be imposed.....

I am led to that conclusion both by the general scope of the Act, which is for the repression of drunkenness, and from a comparison of the various section under the head "offences against public order". Some of these contain the words "knowingly".....knowledge in these and other cases is an element in the offence; but the clause we are considering says nothing about the knowledge of the state of the person served.....Against this

view we have had quoted the maxim that in every criminal offence there must be a guilty mind; but I do not think that maxim has so wide an application as it is sometimes considered to have. In old time, and as applicable to the common law or to earlier statutes, the maxim may have been of general application; but a difference has arisen owing to the greater precision of modern statutes" The same principle as above was laid down in Mallinson v. Carr (15) vide our local case 23 N.L.R. (supra) and 50 N.L.R. p. 423.

Bertram C.J. in his judgment in Weerakoon v. Ranhamy (supra) having considered fully the English decisions bearing on the question of mens rea as understood in the English law has stated thus - The principles deduced are best stated by a reproduction of what is stated by him -

"Our own doctrine is undoubtedly based upon the English doctrine, and for the purpose of understanding

the extent of which the English doctrine has been embodied in section 72 of our code, it is necessary to give a brief account of that doctrine. It has been the subject of much judicial discussion and of certain expression of judicial dissatisfaction. The best exposition of it will, I think, be found to be the judgment of Lord Esher (then Brett J.,) in Regina V. Prince, and of Stephen J. in Regina v. Tolson; and the passage from Mayne's Criminal Law of India (3rd ed) pp. 10 242 et seq. cited by Ennis J., in the Attorney General v. Rodriquesz. It really consists of two parts; the first positive, and the second negative. As to the first, it appears to be simply that where a particular state of mind is a necessary ingredient of any offence either at common law or by Statute, the Crown must prove that that state of mind exists. With this aspect of the doctrine we need not concern ourselves. The second part relating to cases in which no such special state of mind 20 is defined as being a necessary ingredient for the offence, but in which, nevertheless, the absence of mens rea is held to be an excuse. As is said in Bank of New South Wales v Piper; "The question whether a particular intention is made an element of the statutory crime, and when that is not the case, whether there was an absence of mens rea in the accused, are questions entirely different, and depend upon different considerations".....The absence of mens rea is really a plea in justification".

I have reproduced the principal enunciated in 30 extenso as it is a complete answer to the contention put

forward that even under section 58 (1) (c) the prosecution has to prove mens rea or corrupt mind on the part of the respondent before he can be brought within the ambit of that part of section 58. Vide Sherras v De Rutzen (16). To quote Bertram C.J.'s observations in Weerakoon v. Ranhamy (supra) again,

"This principle can only be made available by way of defence. When the definition or statement of the offence contains the word "knowingly", or some corresponding expression, it is for the prosecution to establish the guilty knowledge. Where it does not, it is for the accused to prove the absence of mens rea. As it is often put, the absence of the word "knowingly" merely shifts the onus. See the judgment of Stephen, J., in Regina v. Tolson (supra)" 10

In Reynolds v G.H.Austin and Sons Ltd. (17) Lord Goddard C.J. expressed himself thus :-

"In holding this was a defence, Day, J., based his judgment on the ground that the absence of "knowingly" in the statute only shifted the onus of proof so that it was for the defence to prove lack of knowledge and not for the prosecution to prove that there was. This affirms the principle that except in cases where the statute creates an offence of knowingly doing an act the prosecution can establish a prima facie case merely by proving the act was done. Lack of knowledge must be proved by the defendant, as the burden of proving knowledge or the lack of it with respect to the act to be proved depends on the opportunities of knowledge which may be possessed 20

by the respective parties: see Stephen's Digest of the law of Evidence, 12th Edition, art. 104 page 128".

In A Salomon and Company Ltd. v Aron Salomon, (18) the House of Lords laid down this principle per Lord Halsbury, L.C.

"I say, with the utmost deference to the learned Judges, that we have nothing to do with that question if this Company has been duly constituted by law and, whatever may be the motives of those who constitute it, I must decline to insert into that Act of Parliament limitations which are not to be found there".

Per Lord Watson - *ibid*,
"Intention of the Legislature" is a common but very slippery phrase, which popularly understood may signify anything from intention embodied in positive enactment to speculative opinion as to what the legislature probably would have meant, although there has been an omission to enact it. In a Court of Law or Equity, what the legislature intended to be done or not to be done can only be legitimately ascertained from that which it has chosen to enact, either in express words or by reasonable and necessary implication". Vide Privy Council decision - Commonwealth of Australia v Bank of New South Wales and others (19) Vide Barrel v Fordree (2).

It is a significant fact that in section 58(1)(a), 58(1)(b), 58(1)(c), 58(1)(d) and 58(1)(e) of the Order the word knowingly is omitted, whereas only in 58(1)(f) is the word "knowingly" used. Thus it seems to me that so far as the petitioners are concerned they have discharged the onus that lay on them by proving the ingredients.

constituting the offence as laid down in the relevant subsection of section 58.

When a statute absolutely prohibits the doing of an act, it may be considered that guilty knowledge is implicit in the doing of that act. When a person is prohibited from publishing a document without the name of the Publisher appearing on the face of it, how is the prosecution to prove that he did so with a corrupt motive. This enactment was made by the legislature with a definite purpose in view. If for instance the person who publishes can prove that he gave his name and address to the printer 10 but the printer had either by error or inadvertently omitted to put down his name and address, and he (published) ignorant of the said omission had given orders to his agents and servants to distribute these documents, he could have excused himself relying on section 69 and 72 of the Penal Code. Vide sections 51, and 38 Ceylon Penal Code. Let me take a very simple illustration. If a person drives his motor vehicle in excess of the authorised speed according to the statute regulating the speed limit of vehicles, need the prosecution prove any ingredient other than that the accused drove the 20 vehicle above the permitted speed? The accused certainly could have excused himself for instance by proving that his meter registering the speed showed that he was travelling within the speed permitted by law and he, bona fide and without any knowledge of any of its defects, believed that it was registering the speed correctly.

Application of the above principles to the facts of this case clearly show that the petitioners have placed

all that facts which show that the respondent and/or his agents have failed to satisfy the requirements of section 58(1)(c) as regards the publication of the handbills, placards or posters etc.,

One would have, at least, expected the respondent to have offered an explanation to the very strong prima facie case that has been established against him by the petitioners. Neither he nor his agents chose to get into the witness box and give evidence. An argument was placed before Court that there was no publication done by
10 the respondent or his agents. It was argued that these leaflets, placards, hand bills, etc. were only exhibited. but not published. The word "exhibit" has the following meanings, vide the Concise Oxford Dictionary - "show, display, submit for consideration, manifest (quality) show publicly (for amusement, in competition etc). The Shorter Oxford English Dictionary gives the following meanings to the word "Publish" "To make publicly or generally known to declare openly or publicly, to tell or voice abroad, to give public notice of to issue or
20 cause to be issued for sale to the public etc."Publisher means "one who makes something Public". The word "publish" has a much wider meaning than exhibit and might include the latter.

I cannot bring myself to hold that these leaflets, posters, notices, etc. which the respondent admittedly got printed were only exhibited and not published by him. He was the publisher, whoever the printer was. His name and address do not appear on the

face of these leaflets, notices and posters. He undoubtedly published them when the contents were made known to the public. I therefore hold that he has committed the offence of corrupt practice within the meaning of section 58(1)(c).

I find myself in agreement with the opinion expressed by Basnayake J., in Aluvihare v Nanayakkara (supra) that it is not necessary that mens rea should be proved in a charge under section 58(1)(c). Can it be seriously contended in the face of this overwhelming evidence, both oral and documentary, that the respondent was unaware when he sent in his return that these expenses referred to were incurred and paid in the conduct and management of his election: To do so would be to argue that he conducted his election without that meticulous care which the law of the land enjoined him to observe. The election of a member to Parliament is a matter which vitally affects the public, and in which it has a deep interest.

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I hold that the respondent knowingly made the declaration as to election expenses required by section 70 falsely, when he omitted to include in his return the sum of Rs. 606 and odd cents which was incurred and paid through Collin Wickrematunge, the sum of Rs. 500/- incurred and paid for the badges through Dharmasena, and expenses incurred and paid through Harasgama, and the value of the cloth used for the flags.

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The petitioners have thus succeeded in proving the charges 3(c) and 3(e) in the amended petition.

I declare that election of the respondent for the Kandy Electoral District No.24 held on the 24th of

May, 1952, void on the ground that he has been guilty of corrupt practice.

The petitioners are entitled to their costs of this trial. I shall make order regarding the quantum of costs after hearing counsel for the parties.

Let a certificate be forwarded to His Excellency the Governor-General after the appealable period Vide sections 81 and 82(c) of the Parliamentary Elections (amendment) Act No.19 of 1948.

Sgd. H.A.de Silva.

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Election Judge.

- (1) 49 N.L.R.p.529.
- (2) 50 N.L.R.p.529.
- (3) 51 N.L.R.p.561 at p.573.
- (4) 23 N.L.R.p.33.
- (5) 49 N.L.R.p.241.
- (6) 7 O'Malley and Hardcastle, pl at.20
- (7) " " " " p49 and p67
- (8) 5 " " " " p155 at p158
- (9) Rogers Vol.2, 20th Edition p.388
- 20 (10) 1 O'Mally and Hardcastle p.10
- (11) 1 " " " " p.201
- (12) 3 " " " " p.69
- (13) 4 " " " " p.59 at p.62
- (14) (1884) 13, Q.B.D. p.207 at p.209
- (15) (1891) 1 Q.B.D. p.48
- (16) (1895) 1 Q.B.D. p.918.
- (17) (1952) 1 All England Reports p.606 at p.609.

- (18) (1897) Law Reports (Appeal Cases) p.22 at p.34 and 38.
- (19) (1950) Law Reports (House of Lords) p.235 at p.237.
- (20) (1932) Appeal Cases (House of Lords) p.676 at p.682.

IN THE SUPREME COURT OF THE ISLAND OF CEYLON.

THE CEYLON (PARLIAMENTARY ELECTIONS) ORDER IN
COUNCIL, 1946.

Election for Kandy Electoral District No.24
held on 24th day of May 1952.

1. Herath Mudiyanseelage Navaratne of 251/7
Trincomalee Street, Kandy.
2. Herbert Sydney Malagoda of No. 6 Lady
Torrington Road, Kandy.

Petitioners.

Election Petition No.. 3

10 of 1952.

Edward Lionel Senanayake of No.34 Gregory
Road, Kandy.

Respondent.

February 17, 1952.

TO BE MENTIONED

As regards the Quantum of Costs.

in the above matter

Mr.S.Nadesan instructed by T.Thevarajan
for petitioners.

20 Mr.G.E.Chitty instructed by Ranjit Hewagama
for Respondent.

Mr. Nadesan and Mr. Chitty agree to the following as
regards the Quantum of costs:

- (1) It is agreed subject to the final determination
of the matter that the costs of hearing be fixed
at Rs.19,000/- (Rupees Nineteen thousand only), and,
- (2) No execution to be taken out until the final
determination of the appeal, if any.

I make order accordingly.

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Sgd. H.A.de Silva,
ELECTION JUDGE