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(20), 1963

No. 45 1962

SUPREME COURT OF CEYLON,  
No. 325 (FINAL) OF 1957.

DISTRICT COURT OF COLOMBO,  
CASE No. 38683/M.

IN HER MAJESTY'S PRIVY COUNCIL  
ON AN APPEAL FROM  
THE SUPREME COURT OF CEYLON

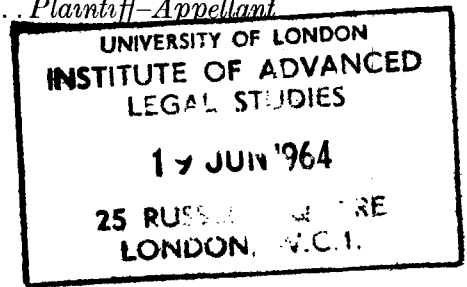
BETWEEN

NARAHENPITAGE WALTER DE COSTA OF NO. 24,  
CHURCH STREET, NUGEGODA.....

*Plaintiff-Appellant*

AND

1. THE TIMES OF CEYLON LIMITED, 3, BRISTOL  
BUILDING, FORT, COLOMBO,
2. D. B. DHANAPALA OF DE FONSEKA PLACE, BAM-  
BALAPITIYA.....



74135

*Defendants-Respondents*

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RECORD  
OF PROCEEDINGS

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No. ....

SUPREME COURT OF CEYLON,  
No. 325 (FINAL) OF 1957.

DISTRICT COURT OF COLOMBO,  
CASE No. 38683/M.

IN HER MAJESTY'S PRIVY COUNCIL  
ON AN APPEAL FROM  
THE SUPREME COURT OF CEYLON

BETWEEN

NARAHENPITAGE WALTER DE COSTA OF NO. 24,  
CHURCH STREET, NUGEGODA..... *Plaintiff-Appellant*

AND

1. THE TIMES OF CEYLON LIMITED, 3, BRISTOL  
BUILDING, FORT, COLOMBO,
2. D. B. DHANAPALA OF DE FONSEKA PLACE, BAM-  
BALAPITIYA..... *Defendants-Respondents*

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RECORD  
OF PROCEEDINGS

---

No. 1

Journal Entries

IN THE DISTRICT COURT OF COLOMBO

N. W. DE COSTA  
OF 24, CHURCH STREET, NUGEGODA.....Plaintiff.

No. 1  
Journal  
Entries  
29. 6. 56  
to  
28. 5. 60

No. 38683  
CLASS : V  
AMOUNT : Rs. 110,000/-  
NATURE : MONEY  
10 PROCEDURE : REGULAR.

vs.

1. THE TIMES OF CEYLON LTD.,  
3, BRISTOL BUILDINGS, FORT, COLOMBO.
2. D. B. DHANAPALA,  
3, DE FONSEKA PLACE, BAMBALAPITIYA,  
COLOMBO..... Defendants.

Journal

- (1) The 29th day of June 1956.  
Mr. G. A. Nissanka, Proctor files appointment and Plaintiff with Document marked "A".  
20 Plaintiff accepted and summons ordered for 20th July 1956.
- (2) 5- 7-56 Summons issued on 1 - 2 defendants.....(torn)
- (3) 20- 7-56 Mr. G. A. Nissanka for Plaintiff.  
Summons served on The Chief Clerk of The Times of Ceylon Ltd.,  
1st defendant is.....(torn)  
Summons served on the 2nd defendant.  
2nd defendant is.....(torn)  
Proxy of 1 - 2 defendants filed by Messrs. Julius & Creasy.  
Answer 24-8-56.
- 30 Intd : K. H.  
D. J.
- (4) 24- 8-56 Messrs. Julius & Creasy for 1 - 2 defendant; Answer filed.  
.....torn.....
- (5) 27- 8-56 Case called—Vide (4).  
Mr. G. A. Nissanka for Plaintiff.  
Messrs. Julius & Creasy for defendants.

No. i  
Journal  
Entries  
29. 6. 56  
to  
28. 5. 60  
—continued.

Proctors beg that this case to be sent back to the " A " Court where the trial roll is much shorter as they wish to have an early date.  
Call in " A " Court on 31/8.

Intd : A. L. S. S.  
A.D.J.

- (6) 28- 8-56 Mr. Dodwell Goonewardena with Mr. T. P. Amarasinghe in support.
- (7) 31- 8-56 Case called—*Vide* J.E. (5).  
Trial 16-11-56.  
Intd : W. T.  
D.J. 10
- (8) 30-10-56 Proctor for Plaintiff files list of witnesses and moves to issue summons.  
Proctors for defendants received notice.  
Allowed.  
Intd : V. M.  
A.D.J.
- (9) 30-10-56 6 subpoenas issued by plaintiff—W.P.
- (10) 3-11-56 Proctors for defendants file list of witnesses and move to issue summons.  
They also file registered postal receipt in proof of posting list to Proctor for Plaintiff.  
Allowed. 20  
Intd : A. L. S. S.  
A.D.J.
- (11) 8-11-56 Proctor for Plaintiff files list of documents.  
Proctors for defendants received notice.  
File.  
Intd : W. T.  
D.J.
- (11a) 14-11-56 Proctors for defendants with notice to Proctor for plaintiff file additional list of witnesses and move for summons. 30  
Allowed.  
Intd : W. T.  
D.J.
- (12) 15-11-56 Proctor for Plaintiff files additional list of witnesses and documents and moves to issue summons.  
Proctors for defendants received notice.  
Allowed.  
Intd : W. T.  
D.J.

(13) 15-11-56 Proctor for Plaintiff files additional list of witnesses and documents and moves to issue summons.  
Proctors for defendants received notice.  
Allowed.

Intd : W. T.  
D.J.

(14) 15-11-56 Proctors for defendants file additional list of witnesses and move to issue summons.  
Proctors for plaintiff received notice.  
Allowed.

10

Intd : W. T.  
D.J.

(15) 16-11-56 Trial (1)—*Vide* (7)  
Mr. G. A. Nissanka for plaintiff.  
Messrs. Julius & Creasy for defendants.—*Vide* Proceedings filed.  
Further trial 18 - 22 March 1957 Sp.

Intd : W. T.  
D.J.

(15a) 16-11-56 Proctors for defendants file 3rd additional list of witnesses with notice to Proctor for Plaintiff.  
File.

20

Intd : E. S.

(16) 4- 3-57 Plaintiff moves to revoke proxy granted to Mr. G. A. Nissanka, Proctor.  
Allowed. Proxy is revoked.

Intd : W. T.  
D.J.

(17) 6- 3-57 Mr. E. R. de Silva. Proctor files Proxy as Proctor for Plaintiff and formal act of revocation.  
File.

Intd : W. T.  
D.J.

(18) 6- 3-57 Proctors for defendants file additional list of witnesses and move to issue summons.  
Proctor for Plaintiff received notice and objects.  
Allowed subject to objection.

30

Intd : W. T.  
D.J.

(19) 11 - 3-57 17 Subpoenas issued by plaintiff—W.P.  
3 Subpoenas issued by defendants—Panadura  
2 Subpoenas issued by defendants—Avisawella  
2 Subpoenas issued by defendants—Kandy.  
1 Subpoena issued by defendants—Gampaha.  
44 Subpoenas issued by defendants—Colombo.

40

Intd . . . . .

No. 1  
Journal  
Entries  
29. 6. 56  
to  
28. 5. 60  
—continued.

- (20) 18- 3-57 Trial (2)—*Vide* (15) Contd.  
Mr. E. R. de Silva for Plaintiff.  
Messrs. Julius & Creasy for defendants.  
*Vide* proceedings filed. Further hearing tomorrow 19/3.  
  
Intd : A. L. S. S.  
*A.D.J.*
- (21) 19- 3-57 Trial (3)—*Vide* (20) Contd.  
Mr. E. R. de Silva for plaintiff.  
Messrs. Julius & Creasy for defendants.  
*Vide* proceedings filed. Further hearing tomorrow. 10  
  
Intd : A. L. S. S.  
*A.D.J.*
- (22) 20- 3-57 Trial (4)—*Vide* (21) Contd.  
Mr. E. R. de Silva for Plaintiff.  
Messrs. Julius & Creasy for defendants.  
*Vide* proceedings filed. Further hearing tomorrow.  
  
Intd : A. L. S. S.  
*A.D.J.*
- (23) 21- 3-57 Trial (5)—*Vide* (22) Contd.  
Mr. E. R. de Silva for plaintiff. 20  
Messrs. Julius & Creasy for defendants.  
*Vide* proceedings filed. Further hearing 22/3.  
  
Intd : A. L. S. S.  
*A.D.J.*
- (24) 22- 3-57 Trial (6)—*Vide* (23) Contd.  
Mr. E. R. de Silva for plaintiff.  
Messrs. Julius & Creasy for defendants.  
*Vide* proceedings filed. Further hearing adjourned for 25/3, 26/3 and  
29/3.  
  
Intd : A. L. S. S. 30  
*A.D.J.*
- (24a) 23- 3-57 1 Subpoena issued by defendants—Avissawella.  
1 Subpoena issued by defendants—Panadura.  
2 Subpoenas issued by defendants—Kandy.  
15 Subpoenas issued by defendants—Colombo.
- (25) 25- 3-57 Trial (7) continued.  
Mr. E. R. de Silva for plaintiff.  
Messrs. Julius & Creasy for defendants.  
*Vide* proceedings—Further hearing tomorrow 26/3.  
  
Intd : A. L. S. S.  
*A.D.J.*



(26) 26- 3-57 Trial (8)—*Vide* (25) Contd.  
Mr. E. R. de Silva for plaintiff.  
Messrs. Julius & Creasy for defendants.  
*Vide* proceedings filed.—Further hearing 29/3.

.....

(27) 27- 3-57 3 Subpoenas issued by plaintiff—W.P.

(28) 28- 3-57 Proctor for plaintiff files additional list of witnesses and documents  
and moves to issue summons.  
Proctors for defendants object.  
10 Allowed subject to objection.

Intd : A. L. S. S.  
*A.D.J.*

(28a) 28- 3-57 1 Subpoena issued by plaintiff—W.P.

(29) 29- 3-57 Trial (9)—*Vide* (26) Contd.  
Mr. E. R. de Silva for plaintiff.  
Messrs. Julius & Creasy for defendants.  
*Vide* proceedings filed.—Further hearing on 1/4.

Intd : A. L. S. S.  
*A.D.J.*

20 (29a) 1- 4-57 4 Subpoenas issued by defendants—W.P

(30) 1- 4-57 Trial (10)—*Vide* (29) Contd.  
Mr. E. R. de Silva for plaintiff.  
Messrs. Julius & Creasy for defendants.  
*Vide* proceedings filed.—Further hearing tomorrow 2/4.

Intd : A. L. S. S.  
*A.D.J.*

(31) 2- 4-57 Trial (11)—*Vide* (30) Contd.  
Mr. E. R. de Silva for plaintiff.  
Messrs. Julius & Creasy for defendants.  
30 *Vide* proceedings filed.—Further hearing on 5/4.

Intd : A. L. S. S.  
*A.D.J.*

(32) 5- 4-57 Trial (12)—*Vide* (31) Contd.  
Mr. E. R. de Silva for plaintiff.  
Messrs. Julius & Creasy for defendants.  
*Vide* proceedings filed.—Further hearing 17/5.

*A.D.J.*

No. 1  
Journal  
Entries  
29. 6. 56  
to  
28. 5. 60  
—continued.

- (33) 24- 4-57 Proctor for plaintiff moves to certify payment of Rs. 787/50 being cost awarded by Court payable to plaintiff by defendant.  
Note and file.  
Intd : V. M.  
A.D.J.
- (34) 17- 5-57 Trial (13)—*Vide* (32) Contd.  
Mr. E. R. de Silva for Plaintiff.  
Messrs. Julius & Creasy for defendants.  
Further hearing on 24/5.
- (35) 24- 5-57 Trial (14)—*Vide* (34). 10  
Mr. E. R. de Silva for plaintiff.  
Messrs. Julius & Creasy for defendants.  
*Vide* proceedings filed.—Judgment on 10/6.  
Intd : A. L. S. S.  
A.D.J.
- (36) Documents P1 - P29 tendered (P23 & P24 in the Record Room)
- (37) D1 - D45 tendered—(D32, D42 & D43 in the Record Room)  
Documents filed in Volume II.
- (38) 10- 6-57 Mr. E. R. de Silva for Plaintiff, instructs Mr. Wijeratne.  
Messrs. Julius & Creasy for defendants. 20  
Judgment delivered in open Court.  
Intd : A. L. S. S.  
A.D.J.
- (39) 13- 6-57 Decree entered.  
Intd.....
- (40) 22- 6-57 Mr. E. R. de Silva, Proctor for Plaintiff-Appellant files Petition of Appeal against the decree of this Court dated 10-6-57 and tenders stamps to the value of Rs. 42/- for Secretary's Certificate in Appeal, Rs. 84/- stamps for S.C. Judgment kept in Secretary's safe. Stamps are affixed to blank Certificate in Appeal form and cancelled. 30  
Accept.  
Intd : A. L. S. S.  
A.D.J.
- (41) 22- 6-57 Proctor for Plaintiff-Appellant tenders notice of tendering security served on Proctors for Defendants-Respondents that the Petition of Appeal presented by him today against the decree of this Court dated 10-6-57 having been received by Court, he states that Counsel on behalf of the Plaintiff-Appellant will on 26-6-57 at 10-45 o'clock of the forenoon or so soon thereafter having within 20 days from the day

of date of such decree tender security by depositing cash in Rs. 250/- to the credit of this case for any costs which may be incurred by Defendants-Respondents, in appeal in the premises and further states that he will on the said day deposit in Court a sufficient sum of money to cover the expenses of serving notice of appeal on the defendants-respondents.

Mention on 26/6.

Intd : A. L. S. S.  
A.D.J.

No. 1  
Journal  
Entries  
29. 6. 56  
to  
28. 5. 60  
—continued.

10 (42) 22- 6-57 Proctor for Appellant files application for typewritten copies of the record under Civil Appellate rules and applies for copies as per particulars and moves for a paying-in-voucher for Rs. 25/-  
Issue.

Intd.....

(43) 25- 6-57 Paying-in-Vouchers for Rs. 250/- and Rs. 25/- issued.

(44) 26- 6-57 Case called—*Vide* (41).

Mr. E. R. de Silva for plaintiff-appellant.

Messrs. Julius & Creasy for defendants-respondents — Absent.

20 Amount offered as security is accepted. On Bond being perfected and filed issue notice of appeal for 25-7-57.

Intd : A. L. S. S.  
A.D.J.

(45) 26- 6-57 Proctor for Plaintiff-Appellant tenders security Bond Kachcheri Receipt for Rs. 250/- being security, Kachcheri Receipt for Rs. 25/- being copying fees and notice of appeal—*Vide* J.E. (44).

1. File

2. Issue notice of appeal for 25/7.

Intd : A. L. S. S.  
A.D.J.

30 2 notices of appeal issued to—W.P. Returnable 23/7.

Intd.....

26- 6-57 Kachcheri Receipt O/14 No. 048218/2432 of 26-6-57 for Rs. 250/- filed.

26- 6-57 Kachcheri Receipt O/14 No. 048217/2431 of 26-6-57 for Rs. 25/- filed.

(46) 23- 7-57 Proctors for respondents apply for typewritten copies of record as per particulars in the motion.  
Issue voucher for Rs. 25/-.

Intd.....

No. 1  
Journal  
Entries  
29. 6. 56  
to  
28. 5. 60  
--continued.

- (47) 24- 7-57 Paying-in Voucher for Rs. 25/- issued.  
 (48) 25- 7-57 Case called—*Vide* (44).  
 Mr. E. R. de Silva for appellant.  
 Messrs. Julius & Creasy for defendants-respondents.  
 Notice of appeal served on the Proctors for defendants-respondents.  
 Forward Record to Supreme Court.  
 Intd : A. L. S. S.  
*A.D.J.*
- (49) 30- 7-57 Appeal Branch calls for additional fees as the brief consists of 1,218  
 pages. 10  
 Mr. E. R. de Silva Rs. 500/-.  
 Messrs. Julius & Creasy Rs. 1,025/- (2 copies)—Call for them by  
 Registered Post.  
 Intd : A. L. S. S.  
*A.D.J.*
- (50) 1- 8-57 Fees called for from Proctors by Registered Post.  
 (51) 20- 8-57 Kachcheri Receipt O/14 No. 1042/055366 of 8-8-57 for Rs. 25/- filed.  
 (52) 20- 8-57 Kachcheri Receipt O/14 No. 1041/055365 of 8-8-57 for Rs. 1,025/- filed.  
 (53) 30- 8-57 Kachcheri Receipt O/14 No. 3359/058983 of 30-8-57 for Rs. 500/- filed.
- (54) 17- 5-58 Record forwarded to Registrar Supreme Court with 2 briefs for the 20  
 Judges and cancelled stamps to the value of Rs. 84/- for the Supreme  
 Court Decree.  
 Documents marked P 23, P24, D32, D42 and D43 sent separately.  
 Documents P22 not produced. Other documents in Volume 2.  
 Intd : M. A. A.  
*Assistant Secretary.*
- (55) 16-11-59 Registrar, Supreme Court forwards the Record with Supreme Court  
 Decree and documents marked D32, D42 and D43.  
 The judgment of the District Judge is affirmed and the appeal is dis-  
 missed. And further it is decreed that the Plaintiff-Appellant do pay 30  
 to the Defendants-Respondents the taxed costs of this appeal.  
 Proctors to note.  
 Intd : A. L. S. S.  
*A.D.J.*  
 17-11-59
- (56) 28- 5-60 The Registrar of the Supreme Court calls for the record in this case as  
 an application for final Leave to Appeal to the Privy Council has been  
 made.  
 Forward record.  
 (SGD.) V. SIVA SUPRAMANIAM, 40  
*Actg. D.J.*  
 30-5-60

## No. 2

No. 2  
Plaint of the  
Plaintiff  
29. 6. 56

## Plaint of the Plaintiff

IN THE DISTRICT COURT OF COLOMBO

N. W. DE COSTA  
OF 24, CHURCH STREET, NUGEGODA..... *Plaintiff*

v.

1. THE TIMES OF CEYLON LIMITED,  
3, BRISTOL BUILDINGS, FORT, COLOMBO.
2. D. B. DHANAPALA,  
3, DE FONSEKA PLACE, BAMBALAPITIYA,  
COLOMBO..... *Defendants.*

10

No. 38683/M  
NATURE: MONEY  
PROCEDURE: REGULAR

On this 29th day of June, 1956.

The Plaintiff of the Plaintiff abovenamed appearing by G. A. NISSANKA, his Proctor, states as follows:—

1. The first Defendant is a company duly incorporated and carrying on business in Colombo within the jurisdiction of this Court and the second Defendant resides in Colombo within the jurisdiction of this Court.

20

2. The first Defendant company and the second Defendant are and were at all times material to this action, the Proprietor and Editor respectively of the Newspaper called "LANKADIPA".

3. The Plaintiff is by profession a teacher and was from 1934 to April 1955, assistant master at a Senior Secondary School known as Ananda Sastralaya, Kotte. From April 1955 to May 1956 he was Principal of the said School.

4. While the Plaintiff was Principal of the said school, during the month of December, 1955 and January 1956 on the several dates mentioned the Defendants falsely and maliciously printed and published of and concerning the Plaintiff and of and concerning him in the way of his profession as a teacher and Principal as aforesaid *inter alia* the libels hereinafter set out namely:—

30

(i) In a paragraph headed "කසු කුසු" (Kasu Kusu) written in Sinhalese and published in the issue of the Lankadipa dated 5th December, 1955, the words following, that is to say:—

No. 2  
Plaint of the  
Plaintiff  
29. 6. 56  
—continued.

“කෝට්ටේ එක්තරා බෞද්ධ පාසැලක ශිෂ්‍යයන්ට විද්‍යාල උපකරණ ගාස්තු නොගෙවන හැටියට ඉල්ලමින් ප්‍රබල ව්‍යාපාරයක් ගෙන ගිය උප ගුරුවරයෙක් ඔහු ප්‍රධානාචාර්ය වරයා වූ පසු දැන් එම මුදල් ගෙවන ලෙස බල කරන්නේ මන්දයි කෝට්ටේ පළාත් වාසිභූ ප්‍රශ්න කරති”.

The literal English translation of the said words is as follows:—

“The people of Kotte question as to why an assistant teacher who carried on a powerful campaign requesting the children of a certain Buddhist School in Kotte not to pay the facilities fees is enforcing the payment (of facilities fees) on becoming the Principal”.

A copy of the Newspaper is herewith annexed marked “A”.

(ii) In a letter in Sinhalese headed “ආනන්ද ශාස්ත්‍රාලය” (Ananda Sastralaya) purporting to be written and signed by one “සී. මහින්දපාල බොන්ජු” (C. Mahindapala Boteju) and published in the issue of the Lankadipa dated 23rd December, 1955, the words following, that is to say:—

“පාසැල් ගාස්තු නොගෙවීමට අනුබල දී ශිෂ්‍යයින් නොමග යැවූවේ වර්තමාන ප්‍රධාන තුමා මේ පාසැලේම උප ගුරුවරයා ව සිටියදී ය”.

“එද පාසැලේ පැවති කීර්තියට අද කළු පැල්ලම් ඉසි තිබෙනු මෙහි මංසන්ධිවල කෙරෙන කථා වලින් පෙනේ. ආචාර්ය මණ්ඩලය ප්‍රධාන තුමාට විරුද්ධය. ශිෂ්‍යයින් අතුරින් තුනෙන් පංගුවක් හැර ඉතිරි හැම දෙන එතුමාට විරුද්ධය”.

The literal English translation of the said words is as follows:—

(a) . . . “It was when the present Principal was an assistant teacher in the same school that the children were encouraged not to pay and led astray”.

(b) . . . “The fact that black stains are sprinkled on the glory that was of the school can be seen from the talks that go on at the (road) junctions here. The staff is opposed to the Principal; excepting one third all the rest of the students are opposed to him”.

A copy of the said paper is herewith annexed marked “B”.

(iii) In a letter in Sinhalese purporting to be written by one “කිත්සිරි අමරතුංග” (Kitsiri Ameratunga) and published in the issue of the Lankadipa dated 3rd January 1956 the words following, that is to say:—

“ශිෂ්‍යයන් විප්ලව වාදී ලෙස ක්‍රියා කරවීමට පෙළඹවූයේත් ඔවුන් විද්‍යාලයට අකීකරු කරවූයේත් වර්තමාන විද්‍යාලයාධිපතිවරයා බව විද්‍යාලයේ ආදී ශිෂ්‍යයකු වශයෙන් මම දනිමි”.

“බී. වික්‍රමසිංහ මහතා විද්‍යාලයාධිපතිව සිටියදී, වකිමාන විද්‍යා-  
ලයාධිපති වරයා, එවකට උප විද්‍යාලයාධිපතිව සිටි, දූතට  
පානදුරේ ශ්‍රී සුමංගල විද්‍යාලයාධිපති කේ. ඇල්. ඩී. අලගියවන්ත  
මහතාට විරුද්ධව ශිෂ්‍යයන් පෙළඹ වූ බව එකල ආනන්ද  
ශාස්ත්‍රාලයේ සිටි කවුරුන් දනිති”.

10 “විද්‍යාලයේ පාලන කටයුතු වලට බාධා කිරීම සඳහා, එකල  
උප ගුරුවරයකුව සිටි වර්තමාන විද්‍යාලයාධිපති වරයා, පහසුකම්  
ගාස්තු නොගෙවන ලෙස ශිෂ්‍යයන් පමණක් නොව ඔවුන්ගේ  
දෙමව්පියන් ද පෙළඹ වූයේය. එකල ශිෂ්‍යයන් ලවා විද්‍යාලයීය  
ගොඩනැගිලිවල අලගියවන්ත විරෝධී පාඨ ලියවූයේ කවුරු ද  
යන්න රහසක් නොවේ”.

The literal English translation of the said words is as follows:—

“. . . As a past student I know that it was the present Principal who made  
the students disobedient and act as rebels.

“Everyone who was at the Sastralaya during the time of the Principalship  
of Mr. B. Wickremasinghe knows that it was the present Principal who set  
the children against the then Vice Principal Mr. Alagiyawanna who is now  
the Principal of Sri Sumangala Vidyalaya, Panadura”.

20 “To obstruct the work of the school, the present Principal, who was then  
an assistant teacher, induced not only the students but also their parents  
not to pay facilities fees. It is not a secret as to who got the students to write  
the Anti-Alagiyawanna slogans on the school buildings”.

A copy of the newspaper is herewith annexed marked “C”.

5. The Plaintiff states that by the statements set out in the paragraph 4 hereof  
the Defendants meant and were understood to mean that:—

(i) The Plaintiff, when an assistant teacher at the Ananda Sastralaya, Kotte,  
misused his position as teacher by inciting students and their parents not to  
pay the facilities fees, and that in so doing he was actuated by unworthy and  
dishonest motives.

30 (ii) The Plaintiff secured his appointment as Principal by these unfair and  
unworthy methods.

(iii) The Plaintiff was directly responsible for the students of the said school  
becoming disobedient and rebellious.

(iv) The Plaintiff by these actions had forfeited the confidence of the people  
of Kotte, his own Staff and Pupils, and is therefore not a fit and proper person  
to be either a teacher or a Principal.

(v) The Plaintiff by his actions had brought dishonour on the name of the  
school.

No. 2  
Plaint of the  
Plaintiff  
29. 6. 56  
—continued.

6. The Plaintiff states that the statements and innuendoes referred to in the aforesaid paragraphs are false, malicious and calculated to undermine the reputation of the Plaintiff both as a man and as a teacher and Principal and to cause him damage in the exercise of his profession.

7. Consequent on the retirement of the Plaintiff from the post of Principal of the said School, in the month of May 1956 on the two dates hereinafter mentioned the Defendants further, falsely and maliciously printed and published of and concerning the Plaintiff *inter alia* the libels hereinafter set out, namely:—

(i) In a paragraph written in Sinhalese headed “සිංහල බැහැ කියා අස්වේ” (Resigns as he is unable to do Sinhalese) in the issue of the Lankadipa dated 10 8th May, 1956 the words following, that is to say:—

“කෝට්ටේ ආනන්ද ශාස්ත්‍රාලයාධිපති ඇත්. ඩබ්ලිව්. ද කොස්තා මහතා විද්‍යාලයාධිපති පදවියෙන් විශ්‍රාම ගෙන ඇත. ඉන්දු ආර්ය භාෂා පිළිබඳ උපාධියක් ලබා ඇති ඒ මහතා සිංහලෙන් ඉගැන්වීමට නොහැකිකම නිසා විශ්‍රාම ගැනීමේ තීරණය යටතේ සම්පූර්ණ විශ්‍රාම වැටුප් සහිතව විශ්‍රාම ගෙන තිබේ. උද්භිද විද්‍යාව නමැති සිංහල පොත කොස්තා මහතා විසින් ලියන ලද්දකි. ඒ මහතා ළඟදීම ඉංග්‍රීසි ඉගැන්වීම සඳහා අමෙරිකාව බලා යනු ඇත”.

The literal English translation of the said words is as follows:—

“Mr. N. W. de Costa, Principal, Ananda Sastralaya, Kotte has retired from 20 the post of Principal. He who has a degree in Indo Aryan has retired on full pension under the regulation for retirement due to his inability to teach in Sinhalese. The Sinhalese book titled “UDBHIDA VIDYAWA” is a book written by him. In a very short time he will be leaving for America to teach English”.

A copy of the said paper is annexed herewith marked “D”.

(ii) In a letter in Sinhalese headed “කෝට්ටේ ආනන්ද ශාස්ත්‍රාලයාධිපති” (The Principal, Ananda Sastralaya, Kotte) purporting to be written and signed by one “කේ. ජයසේකර” (K. Jayasekera) and published in the issue of the Lankadipa dated 11th May 1956 the words following, that is to say:—

“කෝට්ටේ ආනන්ද ශාස්ත්‍රාලයාධිපති එන්. ඩබ්ලිව්. ද කොස්තා මහතා සිංහලෙන් ඉගැන්වීමට නොහැකිය යන කරුණ උඩ විශ්‍රාම ගත් බව “ලංකාදීප”යේ පළ විය. ඔහුට ලන්ඩන් විශ්ව විද්‍යාලයේ ඉන්දු ආර්ය භාෂා පිළිබඳ බාහිර උපාධියක් තිබේ. “උද්භිද විද්‍යාව” නමැති අධ්‍යාපන ග්‍රන්ථ ප්‍රකාශක මණ්ඩලයෙන් අනුමත කරන ලද, නවීන විද්‍යා පොත ඔහු විසින් සිංහලෙන් ලියා තිබේ. නමුත් ඔහු සම්පූර්ණ වැටුප් සහිත විශ්‍රාම ලබා ගත්තේ කෙසේද යන්න කෝට්ටේ සහ භොරණ පළාත් වාසීන්ට පුදුමයක් වේ. ඔහු පසුගිය වාරයේම පාසැලට නොපැමිණි නමුදු එක්තරා දේශ-පාලන පක්ෂයක මන්ත්‍රීධුරාපේක්ෂකයන් දෙදෙනෙකුට කෝට්ටේ සහ භොරණ මන්ත්‍රී කොට්ඨාශවල ඉතා උනන්දුවෙන් වැඩ

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40



කළේය. එපමණක් නොව තමාගේ නමින් පත්‍රිකා ප්‍රසිද්ධ කර විසුරුවා හැරියේය. මීට කලින් විශ්‍රාම ගැනීමට ඔහු කළ පරිශ්‍රමය සාර්ථක නොවූ නමුත් මැතිවරණ සමයේදී ඔහු කෙසේ විශ්‍රාම ලබා ගත්තේද යන්න නව ආණ්ඩුවේ අධ්‍යාපන සහ මුදල් ඇමතිතුමන් දෙපළට වටහා ගැනීම උගහට නොවේ”.

No. 2  
Plaintiff  
29. 6. 56  
—continued.

The literal English translation of the said words is as follows:—

10 “It was published in the Lankadipa that Mr. N. W. de Costa, Principal, Ananda Sastralaya, Kotte, retired on the ground of inability to teach in Sinhalese. He has an external degree in Indo Aryan of the University of London. The Book titled “UDBHIDA VIDYAWA” which is accepted by the Educational Publications Board is written by him. But it is a wonder to the people of Kotte and Horana as to how he retired with full pay. Though he did not go to school for the whole of last term he worked hard at Kotte and at Horana for a certain political party. Further, he issued leaflets under his name. It is not difficult for the Education Minister and the Finance Minister of the New Government to know how he could retire during the time of the election though his previous attempts to retire were unsuccessful”.

A copy of the said paper is herewith annexed marked “E”.

20 8. The Plaintiff states that by the statements set out in the paragraph 7 hereof the Defendants meant and were understood to mean that:—

(i) The Plaintiff although well qualified in Sinhalese had by falsely pretending he could not teach in Sinhalese and by employing other corrupt means obtained the permission of the Government to retire from the teaching service.

30 9. The Plaintiff did in fact obtain permission to retire strictly in accordance with the rules as provided in the Teachers’ Pension Regulations. The Plaintiff states that the statements and innuendoes referred to in the aforesaid paragraph are false, malicious and calculated to undermine his credit and reputation as a man and in his profession as a teacher and Principal as aforesaid and has been brought into public scandal, odium and contempt. His chances of securing employment befitting his status in life have been thereby greatly diminished.

#### For a First Cause of Action

10. By reason of the facts and innuendoes pleaded in paragraph 4 and 5 a cause of action has accrued to the Plaintiff to sue the Defendants jointly and severally for damages which he assesses at Rs. 50,000/-.

#### For a Second Cause of Action

11. By reason of the facts and innuendoes pleaded in paragraphs 7 and 8 above a second cause of action has accrued to the Plaintiff to sue the Defendants jointly and severally for damages which he assesses at Rs. 60,000/-.

No. 2  
 Plaint of the  
 Plaintiff  
 29. 6. 56  
 —continued.

**Wherefore the Plaintiff Prays:**

- (a) for judgment against the Defendants whether jointly and severally and with legal interest in the sum of Rs. 110,000/-
- (b) for cost of suit and
- (c) for such other and further relief as to this Court shall seem meet.

SGD: G. A. NISSANKA  
*Proctor for Plaintiff*

*Settled by:*

SGD: T. P. AMERASINGHE  
 SGD: V. KUMARASWAMY

SGD: DODWELL GUNAWARDENA  
 SGD: H. V. PERERA

10

*Advocates*

No. 3  
 Answer of the  
 Defendants  
 23. 8. 56

**No 3**

**Answer of the Defendants**

IN THE DISTRICT COURT OF COLOMBO

N. W. DE COSTA  
 OF 24, CHURCH STREET, NUGEGODA ..... *Plaintiff*

No. 38683/M

*Vs.*

1. THE TIMES OF CEYLON LIMITED,  
 3, BRISTOL BUILDINGS, FORT, COLOMBO.

2. D. B. DHANAPALA,  
 3, DE FONSEKA PLACE, BAMBALAPITIYA,  
 COLOMBO. .... *Defendants*

20

On this 23rd day of August, 1956.

The answer of the defendants abovenamed appearing by Geoffrey Thomas Hale, Frederick Claude Rowan, Joseph Francis Martyn, Henric Theodore Perera, James Arelupar Naidoo, and Alexander Richard Neville de Fonseka, carrying on business in partnership in Colombo under the name, style and firm of Julius & Creasy and their Assistants, John Patrick Rogan, Alexander Nereus Wiratunga, Lena Charlotte Fernando, Francis Luke Theodore Martyn, Rex Herbert Sebastian Phillips, Reginald Frederick Mirando, William Henry Senanayake, John Ajasath Rancoth Weerasinghe, 30 Bertram Manson Amarasekera, Brindley Ratwatte and Justin Mervyn Canagaretna, Proctors, states as follows:—

1. The defendants admit the averments contained in paragraphs 1 and 2 of the plaint and the jurisdiction of this Court to hear and determine this action.

No. 3  
Answer of the  
Defendants  
23. 8. 56

—continued.

2. The Newspaper “Lankadipa” was at all relevant times entitled to as also under a duty to the public to give information about matters of general importance and public interest and to allow the use of its columns for expression of opinions of the public on matters of general importance and public interest.

3. These defendants admit the averments contained in paragraph 3 of the plaint and state further:—

10 (i) The Plaintiff is an Indo-Aryan Honours Graduate of the University of London. He has passed the Sinhalese Subject of the Senior School Certificate Examination and is the Author of a book called the “Udhita Vidyava” a text book in Botany in Sinhalese.

(ii) The school “Ananda Sastralaya” is a Senior Secondary School run by the Buddhist Theosophical Society and enjoys the benefits of the free Education Scheme of the Government. The fees called and styled the “Facilities Fees” was nonetheless being levied in the School at all relevant times.

20 (iii) The plaintiff sought appointment and was appointed as Principal of the School known as “Ananda Sastralaya” at a time when progressive use of “Swabasha” in Senior Secondary Schools was the declared policy of the Government of Ceylon. The Plaintiff’s appointment was made at a time when Dr. E. W. Adhikaram a former teacher of the plaintiff was the Manager of the Schools run by the Buddhist Theosophical Society.

(iv) During the time that the plaintiff was Principal the plaintiff had withheld the issue of admission cards to such students as were in arrears in regard to payment of facilities fees, for the purpose of enabling them to sit for the Senior School Certificate Examination held on the 6th December, 1955 until he was ordered by the Department of Education to hand over such cards to the students concerned and ultimately the plaintiff handed the cards on the eve of the date of the examination.

30 (v) The plaintiff sought retirement on three occasions under the School Teachers’ Pension Regulations on the ground that he found it extremely difficult to continue in the profession under the Government’s Swabasha Policy. The Plaintiff’s application to retire was refused on the first two occasions but was ultimately sanctioned by the then Minister of Finance on April 7, 1956, two days after the Minister’s defeat in the 1956 General Elections and on the eve of the defeat of the United National Party for which party the plaintiff worked prior to and during the said Elections.

4. The defendants deny all and singular the allegations contained in the plaint subject to the express admission contained herein.

No. 3  
Answer of the  
Defendants  
23. 8. 56

—continued.

5. Further answering the defendants state :—

(1) The Sinhalese Script contained in paragraphs 4(1) and 7(1) of the plaint were published in the “Lankadipa” and were in the nature of news items of public interest and importance and were true in fact.

(2) The Sinhalese Scripts contained in paragraphs 4(ii) 4(iii) and 7(ii) are parts of some of the letters addressed to the Editor by various members of the public on matters of public interest and importance. The defendants plead substantial truth and justification in respect of these letters as well.

(3) All publications referred to in this paragraph were made without *animus injuriandi* on occasions of qualified privilege on matters of public importance<sup>10</sup> and public interest and in the course of fair comment and were substantially true and correct.

Wherefore these defendants pray :—

- (a) that the plaintiff's action be dismissed ;
- (b) for costs, and
- (c) for such other and further relief as to this Court seem meet.

(Sgd.) JULIUS & CREASY,  
*Proctors for Defendants.*

Settled by :—  
VERNON J. MARTYN  
P. GUNASEKERA  
N. SAMARAKONE  
C. THIAGALINGAM, Q.C.  
*Advocates*

20

No. 4  
Issues  
Framed  
18. 3. 57

#### No. 4

#### Issues Framed

D.C. 38683/M.

18th March, 1957.

MR. ADVOCATE E. G. WIKREMANAYAKE, Q.C., WITH MR. ADVOCATE F. R. DIAS AND MR. N. WIJERATNE INSTRUCTED BY MR. E. R. DE SILVA FOR PLAINTIFF.

MR. ADVOCATE C. THIAGALINGAM, Q.C., WITH MR. ADVOCATE N. SAMARAKONE, 30 MR. ADVOCATE P. GUNASEKERA AND MR. ADVOCATE VERNON J. MARTYN INSTRUCTED BY MESSRS. JULIUS & CREASY FOR DEFENDANTS.

This case has been sent here from the “A” Court and the trial will start *de novo*.

Mr. Wikremanayake opens his case and suggests the following issues :—

1. Were the words used in paragraphs 4(1), 4(2) and 4(3) printed and published by the defendants of and concerning the plaintiff and/or of and concerning him in the way of his profession as teacher and Principal of Ananda Sastralaya ?

No. 4  
Issues  
Framed  
18. 3. 57  
—continued.

1(a) Are the said statements or any of them defamatory of the plaintiff ?

2. Have the said words any or all of the innuendos, to wit : as stated in paragraphs 5(1), 5(2), 5(3), 5(4) and 5(5) of the plaint ?

3. If so, are they defematory of the plaintiff ?

4. If issue 1(a) and/or issue 3 is answered in the affirmative what damages is the plaintiff entitled to recover on the first cause of action ?

10 5. Were the words in paragraphs 7(1) and 7(2) printed and published by the defendant of and concerning the plaintiff and/or of and concerning him as Principal of Ananda Sastralaya ?

5(a) Are the said statements or any of them defematory of the plaintiff ?

6. Have the said words the innuendo pleaded in paragraph 8 of the plaint ?

7. If so, are they defematory of the plaintiff ?

8. If issue 5(a) and/or Issue 7 is answered in the affirmative, what damages is the plaintiff entitled to recover from the defendant on the second cause of action ?

Mr. Thiagalingam objects to the recasting of Issue No. 1 and Issue No. 5 on 2 grounds :—

20 (1) that the issues were formulated on the last trial date and the Court's order is there :

(2) that the precise words in paragraph 4 of the plaint refers to this publication being false and malicious and the words of paragraph 6 are the same. He says that in every part of his pleading he has referred to these publications as being false and malicious and he must prove it.

Mr. Wikramanayake addresses Court in support. He states that if the defendant's position is that they should be proved to be false and malicious then his action will fail. He takes the risk in omitting the words " false and malicious."

I allow the issues as suggested by Mr. Wikremanayake today.

30 Mr. Thiagalingam suggests issues 9, 10, 11, 12, 13, 14(1) and 14(2) as appearing on page 5, 15, 16(a) and 16(b) as appearing on page 5, 17, 18(1) and 18(2) as appearing on page 6 and issues 19 to 33.

9. Is the plaintiff :—

- (a) an Indo-Aryan Honours Graduate of the University of London ?
- (b) holding an S.S.C. Certificate of Ceylon with Sinhalese as one of his subjects ?
- (c) the author of a textbook on Botany in Sinhalese entitled Boudhita Vidyawa?

10. Is Ananda Sastralaya a School run by the Buddhist Theosophical Society and entitled to the benefits of the Free Education Scheme of the Government of Ceylon ?

11. Was a fee called and styled the Facilities Fees levied at Ananda Sastralaya at all dates material to this action ?

12(a) Were “ admission cards ” necessary to enable an approved student of Ananda Sastralaya to sit for the S.S.C. Examination held on 6th December, 1955 ? 10

(b) Did plaintiff while Principal of Ananda Sastralaya withhold the issue of admission cards to such students of Ananda Sastralaya as were in arrears in regard to the payment of facilities fees ?

(c) Was the plaintiff eventually ordered by the Department of Education to issue admission cards without insisting on the payment of facilities fees ?

(d) Were such admission cards ultimately issued only on the eve of the examination ?

13. Did the plaintiff seek or obtain appointment as Principal of Ananda Sastralaya in April 1955 at the time when—

(a) the progressive use of Swabasha in the schools was the declared policy of 20 the Government of Ceylon ?

(b) Dr. Adikaram a former teacher of the plaintiff, was Manager of the schools conducted by the Buddhist Theosophical Society ?

14(i) Did the plaintiff seek and apply for retirement on 12th September 1954 for the first time under the School Teachers' Pension Act No. 44 of 1953 ?

14(ii) Was the application for retirement made by the plaintiff on the grounds, *inter alia*—

- (a) that the turnover to Swabasha was not in the best interests of the Country ?
- (b) that he could not conscientiously do his best as a teacher ?

15. Was such application for retirement refused on or about the 23rd of November, 30 1954 ?

16(a) Had the plaintiff again sought retirement for a second time on 14th March, 1955 by applying to the Hon. M. D. H. Jayawardena, the then Minister of Finance ?

No. 4  
Issues  
Framed  
18. 3. 57

(b) Did the plaintiff on 21st April 1955 move the Hon. Minister of Education to recommend his application for retirement to the then Minister of Finance ?

—continued.

17. Did the Minister of Finance refuse such application for retirement on or about the 11th of June 1955 ?

18(i) Did the plaintiff for the third time apply on 28th September, 1955 for retirement ?

10 (ii) Was such application made on the ground *inter alia*, that he found it difficult to continue in the profession under the Government's Swabasha Policy ?

19. Was such application refused for the third time on or about the 29th November, 1955 ?

20. Did the plaintiff appeal on 10th February 1956 to the Honourable M. D. H. Jayawardene, the then Minister of Finance, for retirement on the same grounds as were urged by him on earlier occasions ?

21. Did such appeal not meet with the recommendations of the Director of Education by the 20th February, 1956 ?

22. Was the Parliament (United National Party Government) dissolved on or about 18th February, 1956 ?

20 23. Did the plaintiff during the General Elections of 1956 work for the United National Party at such General Elections ?

24(a) Was Mr. M. D. H. Jayawardena, the then Minister of Finance, a candidate seeking Election for the Horana Seat as a member of the United National Party ?

(b) Was Mr. Jayawardena defeated at such General Elections by a candidate of the Mahajana Eksath Peramuna ?

25. Was the defeat of the then United National Party Government well known prior to the 7th of April 1956 ?

30 26. Was the appeal of the plaintiff dated 10th February, 1956 referred to in issue 20 allowed on 7th April, 1956 by the Honourable M. D. H. Jayawardena then still Minister of Finance ?

27. Did the plaintiff, when he was an assistant teacher at Ananda Sastralaya carry on a campaign to induce the children of Ananda Sastralaya not to pay facilities fees?

28. Did the plaintiff, while functioning as Principal, insist on the payment of such facilities fees?

29. Did the plaintiff secure his retirement under the Teachers' Pension Act with full pension rights on the ground of inability to teach in Sinhalese?

30. Did the proprietors (the 1st defendant Company) and the Editor (the 2nd defendant) of the Lankadipa have a common interest with the public and owe a duty to the public?

(a) to publish information on matters of general importance and public interest?

(b) to allow the use of the columns of the Lankadeepa for the bona fide discussion by members of the public on matters of general importance in public interest? 10

31. Did the news items referred to in paragraphs 4(1) and 7(1) of the plaint:—

(a) refer to matters of public importance?

(b) were they substantially true?

32. Were the letters referred to in paragraphs 4(2), 4(3) and 7(2) of the plaint written by correspondents on matters of public importance, and substantially correct?

33. Were all publications:—

(a) in the nature of fair comment?

(b) on occasions of qualified privilege (defeasible immunity)?

(c) justifiable in the circumstances?

(d) made without *animus injuriandi*?

20

Mr. Wikremanayake does not object to these issues and they are accepted.

Mr. Wikremanayake further suggests:—

34. Even if issues 9 to 33 are answered in favour of the defendant was there express malice in the publication?

Mr. Thiagalingam objects.

Mr. Wikremanayake withdraws this issue and says that it is covered by issue 33. It is agreed that the admissions made on 16-11-56 should remain.



**Plaintiff's Evidence**

Mr. Thiagalingam moves for permission to let one Mr. Abeysinghe who is the News Editor of the Times of Ceylon, to remain in Court as he is the only person who knows anything about the case.

Mr. Wikremanayake objects. He says that the only person who should be allowed to stay in Court is the Managing Director or the Secretary.

I allow Mr. Thiagalingam's application.

Mr. Wikremanayake calls:—

10 **Dr. E. W. Adikaram** — Affirmed, 51, General Manager of Buddhist Schools, 20 Pagoda Road, Kotte.

Evidence of  
Dr. E. W.  
Adikaram-  
~~Cross~~-  
examination

I have now retired from active participation in teaching but my whole life has been spent on education. My doctorate is in Indo-Aryan languages obtained in the year 1933.

I was the Principal of Ananda Sastralaya Kotte for 12 years. That School was run by the Buddhist Theosophical Society even at that time. There were several General Managers of Buddhist Schools at the time that I was Principal. Dr. Wijenayake was one of them and Mr. Simon Rodrigo was another. Mr. P. de S. Kularatne was not the Manager of the Buddhist Schools at the time that I was Principal of Ananda Sastra-  
20 laya—Mr. P. de S. Kularatne was Principal of Ananda Sastralaya and of Dharmaraja College at one time. Mr. P. de S. Kularatne preceded me as General Manager of Buddhist Schools.

I was elected General Manager of Buddhist Schools in June 1954. Sir Nicholas Attygala was elected President. He was President for about 10 years.

I have had a General interest in Ananda Sastralaya all throughout.

I have seen the articles that are complained of.

(Shown an article that appeared in the Lanka Dipa of 5-12-55 marked P1, appearing at paragraph 4(i) of the Plaintiff).

Yes, I think I read this article.

30 (Shown an article that appeared in the Lanka Dipa of 23-12-55 marked P2, appearing at paragraph 4(ii) of the plaintiff).

I have read this article,

No. 5  
Plaintiff's  
Evidence

—  
Evidence of  
Dr. E. W.  
Adikaram-  
Case-  
examination  
—continued.

(Shown an article appearing in the Lanka Dipa of 3-1-56 marked P3, a letter written in Sinhalese purported to be written by one Keertisiri Amerasinghe referred to in paragraph 4(b) of the plaint).

Q.—Have you seen that letter?

A.—Yes.

Q.—These three letters, read them now again and tell us what do they suggest to you about the plaintiff?

A.—I must read them again. (Witness reads P1, P2 and P3).

Q.—What do these letters suggest of the plaintiff?

A.—The impression I got was that these were intended to bring about a wrong impression about the plaintiff.

Q.—What was the wrong impression about the plaintiff brought about by these articles?

A.—That when he was an assistant teacher he was against the Principal and asked the boys not to pay facilities fees and that now he is doing the very same thing which he asked them not to do.

(Mr. Wikremanayake marks as P1A the translation of the entire article in P1, P2A the translation of the entire article in P2 and P3A the translation of the entire article in P3).

(Shown an article which appeared in the Lanka Dipa of 8-5-56 marked P4 with 20 the translation P4A appearing in paragraph 7(i) of the plaint).

Q.—Have you read this before?

A.—I cannot remember.

(The witness is asked to read P4. The witness is reading an article of 11-5-56 which is not P4).

(Shown P4 dated 8-5-56).

Q.—When you read that what was the suggestion conveyed to you about the plaintiff?

A.—First of all there is the photograph, I was surprised to see it, because I thought that he had something to do with the article.

Q.—I am only asking you the suggestion contained in the article, what does it mean? 30

A.—That he is retiring under that particular rule because he cannot teach Sinhalese and that he is going to America to teach English.

Q.—Does it refer to his degree in Indo-Aryan languages ? A.—Yes.

Q.—What is the suggestion there ?

A.—That one who has a degree in Indo-Aryan should be able to teach Sinhalese but he is deceiving somebody.

Q.—There is reference also to a book written by him ?

A.—Yes, a Botany book.

Q.—What does it suggest ?

A.—It intensifies, that he can write a book in Sinhalese but pretends he cannot teach Sinhalese.

10 I do not recollect having read the article of 11-5-56.

(Witness reads the article of 11-5-56 marked P5. The translation is marked P5A).

Q.—What does this suggest ?

A.—That Mr. Costa has written a book on Botany in Sinhalese and that he is retiring saying that he cannot teach Sinhalese. Though he was away from College for some time he has been found to be helping two candidates in the parliamentary elections. Though the former Government allowed him who had written a book in Sinhalese on Science to retire the present Maha Jana Government would not allow that kind of thing to be done. It would be a great blow to education in Ceylon because those who know Sinhalese will imitate him and retire. What should be specially noticed is  
20 that Dr. E. W. Adikaram who is now the..... of the B.T.S. and who was at one time Mr. Costa's teacher has endorsed the retirement of Mr. Costa and asking therefore that there should be an inquiry.

Q.—Is there any suggestion there derogatory to the plaintiff ?

A.—To me there are two suggestions. One to show that Mr. Costa is quite good in his Sinhalese and that he wants to retire and my name is dragged in because the B.T.S. allowed him to retire, also that probably by working for some political candidates he has been able to obtain permission to retire.

XXD

30 Q.—Looking at P5, in the last paragraph there the writer expresses surprise that Dr. E. W. Adikaram approved of the application for resignation ?

A.—Not exactly approved, that I recommended it, yes approved.

Q.—The plaintiff is a Sinhalese ? A.—Yes.

Q.—Have you spoken to him in Sinhalese ? A.—Yes.

Q.—When ? A.—Lots of times.

Q.—Would that be the ordinary language in which you would communicate with him ?

A.—No, usually I speak to him in English. Because he was on my staff I would speak to him in English but I would also speak to him in Sinhalese sometimes.

Q.—As early as 1948 Mr. Banda was the Minister of Education ? A.—Yes.

40 Q.—As early as 1948 it was the declared policy of Government to introduce Swabasha into the Schools ? A.—Yes.

Q.—Were you aware that as early as September 1948 a circular had been sent to all Heads of Schools and all organisations that teachers who could not do Sinhalese might retire ?

No. 5  
Plaintiff's  
Evidence

—  
Evidence of  
Dr. E. W.  
Adikaram-  
Cross-  
examination  
—continued.

Evidence of  
Dr. E. W.  
Adikaram-  
Cross-  
Examination

No. 5  
Plaintiff's  
Evidence

Evidence of  
Dr. E. W.  
Adikaram-  
Cross-  
examination

—continued.

(Mr. Wikremanayake objects. Firstly he says that there are two or three questions here. Secondly he objects to the contents of any documents being put in without the document being produced.

Mr. Thiagalingam says he will produce the circular. He says that he has a copy of the circular before him and that he will be proving it.

Mr. Wikremanayake says that the circular should be marked now.

I allow the application.)

There are several circulars.

(Shown a copy of a circular dated 3-9-48 marked D1. This is admitted subject to proof). 10

This circular is in English. I am aware of this circular. .

Q.—You approved of the plaintiff being allowed to retire ?

A.—Yes—not in 1948, I had nothing to do at that time.

Q.—When you were Manager of Buddhist Schools you approved of the plaintiff being allowed to retire ? A.—Yes.

Q.—Because your view was that he could not teach in Sinhalese ? A.—Yes.

Q.—Did the other people take different views ?

A.—May have been.

Q.—Do you know ? A.—Not at that time.

Q.—At any time did anybody take a different view ? 20

A.—Yes, later when I was the Manager the D.E. did not quite agree with me. He was under the impression that an Indo-Aryan degree presupposed a knowledge of Sinhalese but that needed not necessarily be so, and in this particular case I personally know that Mr. Costa's subject had nothing to do with Sinhalese.

Q.—Although Sinhalese is his mother-tongue ? A.—Yes.

I was the Principal of Ananda Sastralaya from 1934 to 1946.

Q. Plaintiff had a primary education in Sinhalese ?

A.—I do not think so.

Q.—He started off with a-b-c ?

A.—I could not tell you. 30

Q.—Up to date you cannot say whether he started his education with a-b-c or whether he studied the Sinhalese script first ?

A.—I cannot say.

Q. In 1934 the plaintiff was a student in the Ananda Sastralaya ? A.—No.

Q.—Had he finished schooling in 1934, you were Principal then ?

A.—When I was Principal he was not a student.

Q.—Had he finished schooling about the time you became Principal ?

A.—Yes, he had left school.

Q.—He had left school the previous year ?

A.—I do not know. 40

Q.—In which month in 1934 were you appointed Principal ?

A.—I cannot be sure of the month.

Q.—Ananda Sastralaya is a School run by the B.T.S. ? A.—Yes.

Q.—Today it is a school entitled to the benefits of the Free Education Scheme sponsored by Government ? A.—Yes.

Q.—The B.T.S. runs a large number of Schools ? A.—Yes.

Q.—Ananda Sastralaya is one of the leading schools in Colombo run by the B.T.S. ?

A.—Yes,

Q.—Anything affecting Ananda Sastralaya is a matter of great importance to the Public ? A.—Yes, to the Buddhist public.

Q.—The Lanka Dipa is a paper read by the Buddhist public ?

A.—I do not know whether it is widely read, it has a fair circulation.

Q.—Were you a subscriber to that paper ?

A.—No, I used to write articles.

Q.—You were paid for those articles ? A.—Yes.

Q.—Are you a subscriber to the Dinamina ? A.—No.

Q.—Do you read the Dinamina regularly ? A.—Not regularly.

10 Q.—Soon after you became Principal did you give any appointment to the plaintiff in Ananda Sastralaya ? A.—Yes.

Q.—You took him on as a clerk there ? A.—No.

Q.—He was never a clerk at Ananda Sastralaya ?

A.—No he was not a clerk.

Q.—How did you take him on ?

A.—As an unapproved teacher.

Q.—Had he passed any examination then ? A.—Yes, the Senior.

Q.—With Sinhalese ? A.—I think so.

20 Q.—And you still take the view that a man who has passed the S.S.C. with Sinhalese cannot teach in Sinhalese ? A.—Yes, it is quite possible.

Q.—And that was your view in 1934 ?

A.—The question did not arise at that time because I took him on to teach English.

Q.—In 1934 or when you took him on to teach at Ananda Sastralaya were you aware of the fact that he could not teach in Sinhalese ?

(Mr. Wikremanayake objects to this question).

I took him on in 1934.

Q.—In 1934 did you think that a Sinhalese man who had done Sinhalese for the S.S.C. could not teach Sinhalese ?

A.—In which class ?

30 Q.—In any class ?

A.—Perhaps in the Kindergarten or in the 2nd or 3rd standards. He might have been able to but a man is not suitable for those classes, ladies are usually taken to teach those classes.

Q.—Except for sex he could have taught the 2nd or 3rd standard in Sinhalese ?

A.—He may have been able.

Q.—You rather took a liking to the boy then ?

A.—Not liking, I felt him to be a good teacher and I took him.

Q.—And sponsored him thereafter ?

A.—I do not quite understand that.

40 Q.—You do not understand the meaning of that question ?

A.—Yes. The way that I understand it I did not sponsor him.

Q.—You made him a full scale teacher in 1937 ?

A.—I think he was approved by the Department in 1937.

Q.—On your recommendation ? A.—Yes.

Q.—In 1939 he had obtained his certificate as a First Class Drawing Teacher ?

No. 5  
Plaintiff's  
Evidence

—  
Evidence of  
Dr. E. W.  
Adikaram—  
Cross-  
examination  
—continued.

No. 5  
Plaintiff's  
Evidence

Evidence of  
Dr. E. W.  
Adikaram-  
Cross-  
examination  
—continued.

*A.*—He obtained the Drawing Certificate but I could not say in which year.

*Q.*—Then you were the Principal? *A.*—If I remember that is correct.

*Q.*—In the post-primary classes at that date when he obtained his certificate as a drawing teacher was a man by the name of W. B. Gunawardena, do you remember that?

*A.*—Yes, I remember him.

*Q.*—You remember him teaching at Ananda Sastralaya at the time when plaintiff obtained his First Class Certificate as a drawing teacher? *A.*—Yes.

*Q.*—Mr. Gunawardena then was doing the drawing of the post-primary classes?

*A.*—No, if I remember of different classes of the whole school.

*Q.*—The School had not been divided into two sections? 10

*A.*—I cannot exactly remember the year in which the School was divided into two schools.

*Q.*—When the school was divided into two sections was Mr. W. B. Gunawardena in charge of the post-primary section? *A.*—I cannot remember.

*Q.*—Did you push up the plaintiff to the post-primary school as the drawing teacher and relegate Mr. W. B. Gunawardena to the primary section?

*A.*—No, there was no question of pushing or relegating. When the school was divided into the collegiate and primary section different teachers had to be appointed. I believed that Mr. Costa was the better suited to the upper school and I put him there and Mr. Gunawardena was put to the primary section. 20

The college was divided roughly about 1938 or 1939.

*Q.*—Plaintiff had been taught by Mr. W. B. Gunawardena to do his First Class Drawing Certificate? *A.*—I do not know.

*Q.*—If that was so you must have known it then? *A.*—I cannot remember.

*Q.*—Sometimes pupils are better than their teachers? *A.*—Of course.

*Q.*—And that is what happened in this particular case? *A.*—Quite probably.

For the teaching of the smaller children the abilities of the teacher are of a different type. Not necessarily more able, but the abilities are of a different type.

*Q.*—Must you put a cleverer and wiser teacher to teach the younger students than you need to teach the senior students? 30

*A.*—No, it is this way. For instance a graduate, if he is put to the lower classes he will be a failure. He is better suited to the higher classes. He may not necessarily be clever, it is a relative term. The graduate is useless to teach the Kindergarten. It is useless and for another thing it is a loss to do that.

*Q.*—Do you tell the Court that today it is not the desirable thing to get a man with a degree first before he is taught kindergarten method? *A.*—Yes.

*Q.*—You also take the view that cadetting in School is bad?

*A.*—Yes, in Buddhist schools it is bad.

(Mr. Wikremanayake objects but the witness has already answered the question).

*Q.*—Getting him to the post-primary section meant an increase in the plaintiff's salary as far as the Department was concerned? 40

*A.*—I think there was a slight difference, not an increase.

We have all the teachers on the "C" scale and when the school was divided into the collegiate and the primary some of the teachers had to be put to the primary and the others to the post-primary and that division brought about a change in their salaries.

No. 5  
Plaintiff's  
Evidence

—  
Evidence of  
Dr. E. W.  
Adikaram-  
Cross-  
examination  
—continued.

Q.—In the result plaintiff got a bigger salary by being in the post-primary section ?

A.—I cannot call it an increase. I cannot quite remember but I think there was a slight difference.

Q.—Anyway it was on a better scale ?

A.—I cannot say, for some qualifications the salary was the same whether in the primary or the collegiate, for other qualifications the salary was better in the collegiate rather than in the primary, and I cannot say.

Q.—After that you put plaintiff on to teach some boys English Literature for the Matriculation ?

A.—Whether it was the Matriculation or the Senior I cannot remember.

Q.—He sat for the Matriculation himself with the boys whom he taught ?

A.—No, I cannot remember. Not from the School, I do not know whether he took it separately. The children that I sent from the school I can remember but several of the teachers may have taken up the examination privately.

Q.—Even now you cannot tell the Court whether the plaintiff did not sit for the Matriculation alongside the same students whom you set him to teach for the Matriculation.

A.—I cannot remember.

Q.—Did he pass the Matriculation in the first shot ?

A.—I think he failed several times.

Q.—The Sinhalese for the S.S.C. is very high ? A.—No.

Q.—For the Matriculation ?

A.—For the London Matriculation fairly high.

Q.—Certainly a man who did Sinhalese for the London Matriculation could teach in Sinhalese ?

A.—I do not think Mr. Costa took Sinhalese for the Matriculation.

Q.—I take it your answer is " Yes, he can " ?

A.—Sinhalese for the Matriculation is better than the Senior.

Q.—You allowed the plaintiff all facilities to do his private studies ?

A.—No such facilities were granted.

Q.—Do you know one J. O. de Silva ?

A.—Yes, he was a teacher.

Q.—He was transferred to Sripada when you were Principal ? A.—Yes.

Q.—Because he did not approve of your putting Gunawardena to the primary and plaintiff to the post-primary ? A.—No.

Q.—Why did you transfer him ?

A.—He became an impossible case. I recommended him to the General Manager and he transferred him to Sripada.

Q.—Was he impossible, or was it that somebody else there was impossible ?

A.—Mr. J. O. de Silva was impossible.

Q.—In 1944 plaintiff had done his Inter Science ?

A.—I do not think he took his Inter Science.

Q.—He had done his Inter Arts by 1944 with Botany as one subject ?

A.—I do not know in which year but he had passed.

No. 5  
Plaintiff's  
Evidence

Evidence of  
Dr. E. W.  
Adikaram—  
Cross-  
examination  
—continued.

I know Mr. Mayadunne who is a Graduate in Science. He was doing some Science subjects in Ananda Sastralaya. I think he was doing Chemistry. He was not in a special post as Science teacher when I was Principal.

Q.—When Plaintiff passed the Inter Arts he was given the post of Science teacher in Ananda Sastralaya on your recommendation ?

A.—I recommended but I was out of the School at the time. I gave him a Certificate to be attached to his application.

Q.—That meant an increase in salary ? A.—Yes.

Q.—Were you sponsoring him ? A.—No, not to my meaning of the word.

In 1945 I went on 2 years leave and during my leave I resigned. 10

Q.—And you became a correspondent to the Lanka Dipa ?

A.—I was not a correspondent.

Q.—Were you contributing articles to the Lanka Dipa in Sinhalese ? A.—Yes.

In the Sunday School I learnt Sinhalese. I took Sinhalese for my B.A. Degree. For the B.A. Honours I remember I did not take Sinhalese but for the B.A. General I took Sinhalese.

Q.—When you left school did you get a fair amount of money by contributing to papers ?

(Mr. Wikremanayake objects to the question.—I allow it).

A.—No, it did not happen that way. When the Lanka Dipa was started a friend 20 of mine suggested to me to write some articles and I agreed.

Q.—Did you make a fair amount of money by these contributions to the Lanka Dipa ?

A.—It was a very meagre amount.

Q.—Were you being paid at the rate of Rs. 75/- and Rs. 60/- for an article ?

A.—No.

Q.—Do you know D. U. Samarakone ? A.—Yes.

Q.—Do you recall any occasion when the plaintiff threatened violence to D. U. Samarakone ? A.—I heard rumours about that.

Q.—What did you do in that connection when you heard that ? A.—I did nothing. 30

Q.—You did not go to the Police Station ? A.—No.

Q.—Do you remember going and talking to Mr. Samarakone ?

A.—I did not go, he used to come to my place.

I have gone to his place several times but I cannot remember whether I went for this thing.

I cannot remember telling Mr. Samarakone to drop the charge. I do not remember going to the Kottawa Police Station. I may have talked the matter with Mr. Wickremasinghe, may be the Samarakone's incident and other things. For almost everything Mr. Wickremasinghe used to come to me. I did not tell Mr. Wickremasinghe that plaintiff was of a tempestuous nature and he should forgive him. 40

(Adjourned for lunch).

(Sgd.) A. L. S. SIRIMANNE,  
A.D.J.



18th March, 1957—After lunch.  
E. W. ADIKARAM—Affirmed—Recalled.

No. 5  
Plaintiff's  
evidence

Q.—This morning you volunteered the statement that you did not think that the plaintiff had done Sinhalese for the London Matriculation ? A.—Yes, I said so.

Q.—Why did you say that ?

A.—Because I thought that the question implied that he had taken Sinhalese for the Matriculation. To the best of my knowledge I did not know.

Q.—If he had taken Sinhalese for the Matriculation would it have made a difference?

A.—It would have made a slight difference.

10 Q.—Resulting in your not being able to say that he might be allowed to retire for the reason that he could not do Sinhalese ? A.—No, not to that extent.

Q.—So that whether you knew he did Sinhalese for the Matriculation or not would not have made any difference ? A.—No, not for this.

Q.—Do you know now that he did Sinhalese for the Matriculation ?

A.—I don't know.

(Mr. Thiagalingam moves to show a document written by the London University authorities in regard to the plaintiff having passed his Matric in Sinhalese).

Mr. Wikremanayake objects.

I uphold the objection.

20 The plaintiff is seated in Court. I did not ask him during the interval whether he had done Sinhalese for the Matriculation.

Q.—Will you be surprised to hear from me that for the Matriculation he did English, Elementary Mathematics, Sinhalese, Botany and English Literature in June 1940 ?

A.—Not to my recollection.

Q.—Will you be surprised to hear from me that in June 1940 he passed the Matriculation Examination of the University of London in English, Elementary Mathematics, Sinhalese, Botany and English Literature ?

(Mr. Wikremanayake objects to the question.—I allow it.)

30 A.—I am not surprised. He never told me that he did the London Matriculation in Sinhalese.

In December 1951 Mr. E. A. Nugawella was the Minister of Education.

(Shown a letter)

14th Q.—Are you aware of this circular issued by the Minister of Education on the December, 1951 ?

A.—I am aware of that letter.

(Mr. Thiagalingam marks circular D2.—D2 is admitted subject to proof).

In the Schedule to D2 there are a number of subjects.

Q.—You are aware that from 1949/1950 onwards the Policy of the Government was to switch over to Swabasha in our schools ?

Evidence of  
Dr. E. W.  
Adikaram—  
Cross-  
examination  
—continued

No. 5  
Plaintiff's  
evidence  
—  
Evidence of  
Dr. E. W.  
Adikaram-  
Cross-  
examination  
—continued

A.—Yes, gradually.

Q.—Did you agree with that view? A.—Partly.

Q.—It is a very good thing that our children should be taught in their vernacular language?

A.—Not fully. It was desirable that a teacher should know the vernacular to teach in our schools.

Q.—All the schools were made free schools by about 1948/1949?

A.—I think even earlier, but not all. Ananda Sastralaya was made a free school in 1945. It was one of the first schools to be made free.

Q.—The policy was to introduce into that school as early as possible the medium of instruction in Swabasha?

A.—There was no connection between the two. There was no condition like that. But certainly by 1949 the policy of the Government was to introduce Swabasha into Schools in stages.

Q.—In 1949 or 1950 the plaintiff you know asked for full pay study leave to go to England to do his degree in arts?

A.—I was not there at the time, but I know that he went to England, whether he went on full pay leave or not I do not know. I may have recommended that application to the Director of Education, but I cannot say.

Q.—He was doing his degree in 1950? A.—I am not sure of the date. 20

Q.—In 1950 the plaintiff must have known very well that he could not continue to teach in Ananda Sastralaya giving effect to the policy of the Government?

A.—I doubt it, because the Government did not have a definite policy with regard to higher education. They were trying to introduce Swabasha and then if I remember correctly they wanted to experiment only for a couple of years and see what could be done.

Q.—If it was the policy of Government, the decided policy of Government, to introduce Swabasha into schools, the plaintiff's training would not fit him to teach in swabasha schools in 1950?

A.—In these higher degrees the question of the medium of instruction does not come in. It is a specialist training. In 1950 I was off and on between Ceylon and India. From 1945 up to about 1953 I was off and on in India; even after that I have been going, but less frequently.

Q.—When you left Ananda Sastralaya who was the Principal after you left?

A.—Mr. Wickremasinghe was acting and he was confirmed later. I don't know who was the vice-principal then. I don't know his name. I don't think Mr. Samarawickrema was vice-principal. I know Mr. Samarakone. He was a graduate. He was teaching at Ananda Sastralaya. To the best of my knowledge he was not the vice-principal. I think he was the Head Master of the Lower School, but I am speaking subject to correction. 40

Q.—Do you know that when the plaintiff returned from England in 1950 with his degree he then stated that he desired to retire because he could not teach Sinhalese?

A.—Not immediately. After that I don't know. I don't know whether he asked to retire in 1950/1951.

Q.—Mr. Kularatne was the Manager of Buddhist Schools in 1950?

A.—I think so. I am not sure in which year he became Manager, but in 1951 he was there.

Q.—Did the plaintiff obtain a special post in Grade I with a view to retirement in 1950 or 1951 ?

(Mr. Wikremanayake objects).

(To Court : Q.—Did he obtain a special post in 1950/1951 ?

A.—As far as I know he obtained a special post much earlier, several years earlier. That was before 1950, before he went to get his degree).

Q.—That is the maximum position in the cadre to which he could get ? A.—Yes.

Q.—Did he obtain that with a view to helping him to get a better pension on retirement ?

10 A.—The special post at that time ? I don't think so, because at that time I think the Swabasha Policy was not formulated.

I became the General Manager in 1954.

Q.—That election today is being challenged in these Courts ?

A.—I don't think that election is being challenged. I don't think any election is being challenged. I was appointed General Manager of Buddhist Schools in 1954. Mr. Irriyagolle was not even a member in that year. I doubt whether he was a member in that year ; but certainly he was not an office-bearer.

At the time I was appointed General Manager the Principal of Ananda Sastralaya was Mr. Wickremasinghe.

20 Q.—The vice-principal was Mr. Alagiyawanna ?

A.—He was called the vice-principal but I did not see any documents in the B.T.S. to that effect.

Q.—Do you say that up to now you don't know that Mr. Kularatne by a written letter had appointed him vice-principal ?

A.—He may have, but I did not see the letter.

Q.—Do you say now that you as the General Manager of Buddhist Schools don't know as a fact that Mr. Kularatne had appointed Mr. Alagiyawanna as the vice-principal ?

(Mr. Wikremanayake objects to the question.—I uphold the objection.)

30 Q.—Do you know as a fact that Mr. Kularatne had appointed Mr. Alagiyawanna as the vice-principal of Ananda Sastralaya ?

A.—No, not as a fact. He was called vice-principal, but I don't know whether he was so appointed.

(Mr. Thiagalingam moves to produce a letter from the custody of the Education Department dated 13th December, 1948 signed by the plaintiff, certified copy of which is marked D3).

Q.—I put it to you that on the 30th June, 1953 Mr. Kularatne appointed Mr. Alagiyawanna as Vice Principal of Ananda Sastralaya ?

A.—He may have, but I don't know.

40 Q.—Do you know even now by any means of knowledge that when Mr. Kularatne took Mr. Alagiyawanna to Ananda Sastralaya to be introduced to the school that this plaintiff created a row and even threatened to assault him ? A.—Not to my knowledge.

No. 5  
Plaintiff's  
evidence

—  
Evidence of  
Dr. E. W.  
Adikaram  
Cross-  
examination  
—continued.

No. 5  
Plaintiff's  
evidence

Evidence of  
Dr. E. W.  
Adikaram  
Cross-  
examination  
—continued

Q.—Do you know if the plaintiff created trouble when Mr. Kularatne went to the school to instal Mr. Alagiyawanna ? A.—No.

(To Court : I was not in the school when this alleged incident took place).

Q.—Did you see Mr. Alagiyawanna before he was appointed vice-principal of Ananda Sastralaya in regard to the vice-principalship ? A.—This was what happened.

Q.—Did you see Mr. Alagiyawanna in regard to the appointment of the vice-principal of Ananda Sastralaya ? A.—Not in regard to vice-principal.

Q.—Did you see him in connection with any matter connected with Ananda Sastralaya ? A.—Yes. I think I saw him somewhere in 1953. I went to his house.

Q.—You told him that Costa was the fit man to be appointed vice-principal? 10

A.—No, not that.

Q.—Did you tell Mr. Alagiyawanna not to seek appointment as Vice Principal of Ananda Sastralaya ? A.—No, not that.

Q.—What did you tell him in regard to the appointment of the Vice Principal ?

A.—I heard that Mr. Kularatne wanted to retire Mr. Wikremasinghe and appoint Mr. Alagiyawanna as principal and as a preliminary measure for that he was to be sent to Ananda Sastralaya.

Q.—As Vice Principal ?

A.—That was what I heard. Whether as Vice Principal or for a special post I cannot quite recollect. I went to Mr. Alagiyawanna when I heard that. I told Mr. Alagiyawanna that it is not fair that at this stage Mr. Alagiyawanna should go there and go in the hope of becoming the principal. Then Mr. Alagiyawanna told me that he was promised the principalship and he was going. 20

Q.—Why was it not fair for Mr. Alagiyawanna to go in the hope of becoming principal ?

A.—Because Mr. Alagiyawanna was a complete outsider and if an outsider is appointed principal in our service he should be of an extraordinarily outstanding nature between the other applicants, so it would be fair by those in service that applications should be called for such a thing.

Q.—You were at that time not an office-bearer of the B.T.S. ? A.—No. 30

Q.—The authority to appoint the vice-principal would be the B.T.S. ?

A.—Yes. I had nothing to do with the B.T.S. The Chairman of the Board was Sir Nicholas Attygalle.

Q.—The B.T.S. Board was a competent body to look after the business of Ananda Sastralaya ? A.—Of course.

Q.—Who did you think would be the fittest person to be appointed the principal ?

A.—That question did not arise because the vacancy had not arisen. Mr. Wickremasinghe had a couple of years more to retire and the question of appointing a principal did not arise but when the principal wanted to retire to appoint an outsider I objected. 40

Q.—Objected to whom ?

A.—To an outsider being appointed to the Sastralaya without calling for applications.

Q.—Mr. Alagiyawanna was an M.A. in education ?

A.—I don't know. I could not say whether he was a B.A. with honours in History, with a diploma in education. I don't know whether he was an Advocate of this Court. I think he was a Barrister. Today he is the Principal of Siri Sumangala.

Q.—Did Mr. Alagiyawanna tell you that he had been offered the post of principal of Ananda Sastralaya ?

A.—I could not remember the exact words, but it was to the effect that he was promised that post.

Q.—And you knew that he went into that School thereafter ?

A.—That was subsequently.

Q.—Did you try to dissuade him from taking the promised appointment ?

A.—I told him it was not fair.

Q.—Therefore did you dissuade him from it ? A.—No.

10 Q.—You went all the way to tell him that it was not fair ? A.—Yes.

Q.—The plaintiff then was in the school ? A.—Yes.

Q.—Were you trying to sponsor plaintiff's interests in going to Mr. Alagiyawanna's house in connection with that matter ?

A.—No. That question had not arisen at that time because the principalship was not vacant.

Q.—Looking back now were you trying to sponsor plaintiff's interests ? A.—No. Mr. Alagiyawanna did take appointment in that school thereafter.

Q.—Did you tell the Court you didn't know in what capacity he went to that school ? A.—No.

20 Q.—Up to date you don't know ? A.—No.

Q.—You heard nothing about the plaintiff trying to obstruct Mr. Alagiyawanna being installed as principal ?

A.—That was never so. The question of being installed as principal did not arise at that time.

Q.—I put it to you that this gentleman the plaintiff was called up before the Board consisting of Sir Nicholas Attygalle, Mr. Kularatne and others and he apologised both to Mr. Kularatne and Mr. Alagiyawanna for his conduct ? A.—I heard.

(To Court : Q.—Are you aware that he went before this Board ?

30 A.—I am aware that he went. But I am not aware that he apologised to Mr. Alagiyawanna).

Q.—You are aware that he apologised to Mr. Kularatne ?

A.—I think to the Board. I don't know for what. Mr. Kularatne had made a complaint that when he went to Ananda Sastralaya, I don't know whether he went with Mr. Alagiyawanna, but I heard that Mr. Alagiyawanna went separately . . . . .

Q.—You heard that plaintiff had apologised to the Board ? A.—I heard so.

Q.—You also knew that Mr. Kularatne had gone to the school with Mr. Alagiyawanna ?

A.—Not with Mr. Alagiyawanna ; but I think that they had gone separately. That is what I heard.

40 (Mr. Wikremanayake objects to this evidence as being hearsay.—I uphold the objection).

Q.—Mr. Alagiyawanna was teaching in that School in some capacity when you became the General Manager in the middle of 1954 ? A.—Yes.

Q.—In what capacity ? A.—As an Assistant teacher.

-No. 5  
Plaintiff's  
evidence  
—  
Evidence of  
Dr. E. W.  
Adikaram-  
Cross-  
examination  
—continued.

No. 5  
Plaintiff's  
evidence

—  
Evidence of  
Dr. E. W.  
Adikaram-  
Cross-  
examination  
—continued

Q.—Did you ascertain for yourself as General Manager in what capacity he was teaching ?

A.—I tried to ascertain but I could not get any information. I did not ask Mr. Alagiyawanna nor did I ask the plaintiff. It was not necessary for me to ask the principal.

Q.—Did you try to ascertain the status of Mr. Alagiyawanna, you did not ask the principal of the school, you did not ask Mr. Alagiyawanna, you did not ask Costa ?

A.—No. When you want to find out who the principal, you don't ask the principal, you look for the documents. I did not ask the principal. In the absence of any documents I did not ask anybody.

Q.—Did you know that Mr. Alagiyawanna was being paid a special salary when 10 you were General Manager of Buddhist Schools ?

A.—He was being paid the full salary. The scale of salaries is the same. I think he was paid a special allowance. He had been in the Education Department before he came to Ananda Sastralaya. I don't know whether he held a high post there.

(Mr. Thiagalingam moves to show the witness a copy of a letter and ask him the question whether he remembers having written a letter in those terms. Mr. Wikremanayake objects as no letter is before Court.—I uphold the objection).

Q.—Was it the first thing that you did to ask Mr. Costa to act for the principal in the absence of the principal and of Mr. Palliwardena ?

A.—I don't think so, because Mr. Palliwardena was Junior to Mr. Costa. 20

Q.—You asked Mr. Costa to act for the principal Mr. Wickremasinghe in his absence ?

A.—I have a recollection.

Q.—In the absence of both Mr. Costa and the Principal Mr. Palliwardena to act ?

A.—Yes.

Q.—Do you recollect at once having received a letter from Mr. Alagiyawanna protesting about your action ?

A.—I don't know whether he protested. I cannot remember.

Q.—Did Mr. Alagiyawanna protest against your action ?

A.—I cannot remember that.

Q.—As General Manager of Buddhist Schools you cannot remember whether 30 members of the staff protested against your action or not ?

A.—How can you remember all these things.

(Mr. Thiagalingam moves to mark as D4 the original letter by Mr. Kularatne, General Manager of Buddhist Schools, dated 30th January 1953, appointing Mr. Alagiyawanna as vice-principal with effect from 1-7-53.

Mr. Wikremanayake objects to the letter.

Mr. Thiagalingam undertakes to call Mr. Kularatne.

I allow the document.)—(Shown D4).

I think the signatures on this letter is Mr. Kularatne's. I don't know whether a copy of this is in my file. It is hard to say whether it was put into the file. 40

Q.—In the normal course of business it should be in your files ?

A.—In the normal course the General Manager gives the letter to the subject clerk to file. I find that certain letters given to the subject clerk have not been filed.

Q.—Sometimes have you found that inconvenient letters have been missing from the files ? A.—So far nothing.

(Mr. Thiagalingam moves to mark as D5 a letter dated 1st July 1953 signed by Mr. Kularatne.

Mr. Wikremanayake objects.

Mr. Thiagalingam undertakes to call Mr. Kularatne—I allow the document).

This is a letter by Mr. Kularatne.

Q.—You know nothing of that even up to date ? A.—No. I have no recollection.

Q.—Having seen those letters you are clear in your mind that Mr. Alagiyawanna was the Vice Principal of Annada Sastralaya when you became General Manager ?

A.—No. I know he is called that, but I am not sure he was appointed.

Q.—Having seen those letters are you now sure or not ?

A.—I don't know when the letters were written.

Q.—What you did indicate to Court is that these may be documents that have been fabricated ?

A.—I don't indicate, but it is possible.

Q.—If the letters were written on the dates they bear will you now admit that then you became General Manager Mr. Alagiyawanna was vice-principal of Ananda Sastralaya ? A.—But still I may not have known it.

Q.—Having seen these two letters D4 and D5 and if the dates they bear are genuine dates will you admit now that when you were appointed General Manager, Mr. Alagiyawanna was the Vice Principal ?

(Mr. Wikremanayake objects to the question.—I uphold the objection).

Q.—After you became the General Manager of the B.T.S. one of the first things you did was to appoint plaintiff as the Vice Principal ?

A.—No. I did not appoint him as vice-principal but to act for the principal when the principal was away. At that time Mr. Alagiyawanna was in the School.

Q.—His qualifications were much higher than that of the plaintiff ?

A.—Not on qualifications but I thought his acting for the principal was detrimental to the appointment. Their qualifications are equal as far as the Department is concerned.

Q.—As far as educational qualifications were concerned who was the superior man ?

A.—In this matter I have to go by the Departmental Regulations.

Q.—From your own standpoint who held higher academic qualifications, Mr. Alagiyawanna or the plaintiff ? A.—They are two different subjects.

Q.—Who held higher qualifications ?

A.—That could not be answered because they are two different fields.

Q.—Could you tell me between a man who is an inter science and a graduate in Arts, who holds higher academic qualifications ?

A.—It all depends for what he is appointed.

Q.—Can you say who holds higher academic qualifications ?

A.—If it is purely an academic question, the graduate is higher. If you consider that the Master's degree, is higher academically than the bachelor's degree, I say it is not. Mr. Alagiyawanna held the higher academic qualifications.

Q.—What did you think of them ?

A.—They are two different fields. I cannot say anything. ?

Q.—Shortly after that in 1954 were you sponsoring Costa at this time ? A.—No.

No. 5  
Plaintiff's  
evidence

—  
Evidence of  
Dr. E. W.  
Adikaram-  
Cross-  
examination  
—continued

No. 5  
Plaintiff's  
evidence

Evidence of  
Dr. E. W.  
Adikaram-  
Cross-  
examination  
—continued

Q.—At that time you knew that plaintiff could do nothing in Swabasha in the School in 1954 ?

(Mr. Wikremanayake objects).

A.—Why not. He could make a speech. He could interview the parents who come.

Q.—And he would perform the functions that the vice-principal could perform ?

A.—No. The principal has to teach.

Q.—What else could he do in Swabasha ?

A.—Those are the only two I can think of at the moment.

Q.—Certainly in 1954 there was no use in having as principal of Ananda Sastralaya a man who could not instruct in Swabasha ?

A.—No. Even at that time the Swabasha Policy was not finalised.

(Mr. Thiagalingam moves to produce Sessional Paper 1 of 1954 marked D6).

(Shown D6)—I know about this circular.

But Science subjects could be taught, that is up to Standard 8 in Science and Mathematics.

Q.—Mr. Costa at this date could do no teaching in Sinhalese at all in 1954 ?

A.—He could teach the H.S.C. and Senior in Botany.

Q.—In 1954 could Costa do any teaching in Sinhalese ?

A.—He need not have done any teaching in Sinhalese.

The very low classes he might have.

Q.—Could he do it in Sinhalese ?

A.—By lower classes I mean 4th standard or 5th standard.

Q.—You were of the view that in 1954 he could have given instruction in Science subjects in the lower classes in Sinhalese ?

A.—There were no Science subjects in the lower classes. He may have taught Sinhalese in the lower classes. But this much I know, he cannot write a sentence grammatically in Sinhalese and if I was the Principal I would not put him to teach Sinhalese.

Q.—In 1954 did you tell us that he may have been able to teach the 4th or 5th standards ?

A.—There are speech classes. In such a class one can teach without qualifications. But if one is to teach grammatical Sinhalese he cannot. Therefore I could not put him to teach in Sinhalese.

Q.—A man who did S.S.C. in Sinhalese could not write grammatical Sinhalese ?

A.—It is possible. I am an examiner in the Education Department and knowing personally the standard of Sinhalese in the essay of those who pass the Senior, they somehow manage to cram up the text books and pass in the subject, but if I had the choice I would not appoint some of them to teach in Sinhalese.

Q.—Have you heard the story current today about people who get degrees in English that they do not understand English at all ?

A.—I have not heard. Not yet, it may happen in the future. From the trend of 40 things it may happen.

Q.—Though English is the medium of instruction from the trend of things it may be that your English graduates don't know to do grammatical English ?

A.—Quite possible in the future.

Q.—In 1954 in your view was the plaintiff fit to teach any subject in Sinhalese at Ananda Sastralaya ?

A.—It is the same reply that I can give. If it is purely conversation he was fit but if it was something more he was not fit.



Q.—What is the teaching you do on conversation ?

A.—There is a subject called conversation in school. You take a picture and explain what it is in the language that you speak.

Q.—No grammar is wanted ?

A.—It is particularly insignificant. In Sinhalese we don't speak grammatically.

Q.—In Sinhalese no grammar is wanted ?

A.—Not in speech. In Sinhalese speech no grammar is wanted.

Q.—You string a few words together and that is good enough ? A.—No.

Q.—Does spoken Sinhalese conform to good Sinhalese ?

10 A.—Good spoken Sinhalese, though it does not conform to strict grammatical terms.

Q.—The man who is able to do that kind of Sinhalese may not be able to teach that kind of Sinhalese ? A.—Yes.

Q.—This Costa was that kind of person ? A.—Yes.

I have not put him to a test but I used to talk to him almost daily ; he is a friend of mine.

Q.—Whenever you spoke to him his Sinhalese was bad ?

A.—No. My Sinhalese is also that. It is not grammatical when I speak.

Q.—When you teach in a class too you are not called upon to teach in grammatical Sinhalese ?

20 A.—If it is grammatical you teach grammar.

Q.—In teaching Sinhalese in Schools have you got to conform to grammar ?

A.—No.

Q.—You know that Mr. Alagiyawanna left the Ananda Sastralaya within one or two months of your being made the Manager of Buddhist Schools ?

A.—Not very long after, but I cannot remember the exact date.

Q.—Would it be right to say within one or two months ?

A.—I cannot say. From what I heard he got an appointment as Principal of Sumangala School.

The question of appointing him principal did not arise ?

30 Q.—In the case of Ananda Sastralaya when did the question of appointing a principal arise ?

A.—I think it was in November or December 1955, if I remember correctly.

Q.—Would you take it was in February 1955 ? A.—No.

Q.—The plaintiff says he was principal from 1955 April to May 1956 ?

A.—May be, I cannot remember. I know the principal fell ill in November 1954 or 1955, I remember the month. If the plaintiff says in his plaint that he was principal from April 1955 to May 1956 I will accept it.

Q.—Evidently Mr. Wickremasinghe must have left about the end of 1954 ?

A.—Yes, I know he left in some month November or December.

40 Q.—Therefore it must have been in 1954 ? A.—Probably.

Q.—It was the end of 1954 that you recommended the plaintiff to go on a Smith Mundt Scholarship to America ?

A.—Not end, I think it was somewhere in July. It was the same year that Mr. Wickremasinghe retired. Probably may be 1954. He was to go on full pay leave.

Q.—And to receive training for purposes of enabling him to work in our schools in this country ?

A.—I don't know whether the scholarship was meant for education work but I thought it would benefit him even if he remained as principal.

No. 5  
Plaintiff's  
evidence

—  
Evidence of  
Dr. E. W.  
Adikaram—  
Cross-  
examination  
—continued.

Q.—Certainly in 1954 everybody knew that you were going into swabasha straight-away ?

A.—No. They were experimenting, even today they are experimenting. (Shown circular No. 39 of 1953 dated 18th November 1953 marked D7).

I am aware of this circular. I am still the Manager of B.T.S.

Q.—There are two factions now in the B.T.S. ?

A.—There may be more factions.

In 1954 Sir Nicholas Attygalle was the President of the B.T.S. He is no longer the President. The President after Sir Nicholas Attygalle was Mr. Albert Perera. I acknowledge him as the President today. 10

Q.—Has he presided over the meetings in which you took part ?

A.—Which meetings ?

Q.—Any meetings ? A.—Yes.

Q.—Do you accept the meetings that were held under his Presidentship today ?

A.—There were two general committee meetings held under his Presidentship and there were several sub-committee meetings of which I happened to be the Chairman.

Q.—Do you accept the regularity of the meetings presided over by him ?

A.—If it is a special general meeting I accept.

Q.—Do you accept the correctness of all meetings held under his chairmanship ?

A.—Not all. We are at cross purposes. There are some committees in which he is 20 not the Chairman. He does not claim to be the Chairman.

Q.—He has nothing to do with education in Buddhist schools ?

A.—Not administration.

In 1954 the plaintiff was away in America. He went to America may be in September or August.

Q.—Sponsored by you ?

A.—By the American Embassy. I did not support it. I did not recommend his going to America. I recommended that leave should be granted.

Q.—To enable him to come back and be of service to Ananda Sastralaya ?

A.—Not necessarily to Ananda Sastralaya, but to education in Ceylon. 30

Q.—You made him understand that ?

A.—There was no particular point in making him understand.

Q.—He should have known it ? A.—May be.

(Mr. Thiagalingam moves to mark as D8 letter of 12th September 1954 signed by plaintiff and forwarded to the Director of Education by this witness. Certified copy is marked D8.—The original is shown to witness).

Q.—In that he says he wants to retire under 6B while in America ?

A.—It does not say that. Nothing is said here.

Q.—According to you there was no turn over for Swabasha at that date, it was all tentative ?

A.—At that time I think they were experimenting with the question of teaching 40 in the English language for Sciences.

Q.—The statement there that the turn over into the Swabasha is not correct ?

A.—I could not answer that ; but according to me there was not a full turn over at that time.

This letter was forwarded by me without observations.

Q.—What was your view on that date ?

A.—I would have recommended retirement.

Q.—Although at that time he would have continued in that school ?

A.—Yes, but from the trend of events very soon he would be in a difficult position.

Q.—He was in a difficult position in 1948 and 1949 ?

A.—Yes, gradually. One year the education in the 6th standard was made in Swabasha, a further year in the 7th standard and it would stop there for some years. From the trend of things it would converge into a situation where he would not be able to cope with it. Little by little things were becoming difficult for him.

Q.—You knew it ? A.—Not necessarily.

Q.—In 1950 he goes to England on full pay study leave and in 1954 he goes on a Smith Mundt Scholarship to America and then he wants to retire and you forwarded his application to retire ? A.—I had to forward it.

Q.—You are aware that the Education Department took a different view of the matter ?

(Mr. Wikremanayake objects).

Q.—The Department of Education took the view that he could teach in Sinhalese?

(Mr. Wikremanayake objects.—I uphold the objection).

Q.—The department wrote to him that he could not be allowed to retire for the reasons mentioned by him ? A.—I don't know.

(Mr. Thiagalingam says that he has given plaintiff notice to produce all the letters relating to his retirement and calls for the reply the plaintiff received in answer to his letter of 12-9-54.

Mr. Wikremanayake says he does not know, but certainly it is not in court.

Mr. Thiagalingam marks from the custody of the Director of Education copy of a letter dated 25th November 1954 in regard to letter of 12-9-54, certified copy D9.

Mr. Wikremanayake objects.—Mr. Thiagalingam says he will call an officer of the Education Department to say that it was sent.—I allow the document).

Q.—You remember this letter where you were told to inform the plaintiff that he will not be able to retire ?

A.—If it was sent to me I must have forwarded it to him. I know that his first application was refused.

(It is 4 p.m. now—Further hearing on 19/3).

(Sgd.) A. L. S. SIRIMANNE,  
A.D.J.

19-3-57

Trial resumed.—Appearances as before.

(In regard to the typescript at page 21 referring to the objection raised to a document, Mr. Wikremanayake submits that the fact that it was alleged to have referred to Matriculation in Sinhalese should not have been recorded but he does not contest the position that in fact Mr. Thiagalingam said what appears in the record.

Mr. Thiagalingam further wishes it noted that Mr. Wikremanayake objected to the document, looked into it and pressed his objection, which Mr. Wikremanayake concedes is correct).

No. 5  
Plaintiff's  
evidence

Evidence of  
Dr. E. W.  
Adikaram—  
Cross-  
examination  
—continued.

No. 5  
Plaintiff's  
evidence

—  
Evidence of  
Dr. E. W.  
Adikaram—  
Cross-  
examination  
—continued.

DR. E. W. ADIKARAM—Recalled—Affirmed.

Yesterday Chandrasena was called up into Court when I was in the witness box. He said he had not been served with summons at the instance of the defendant. I could not verify if that is a correct statement. I don't know whether he has brought the files to Court, today. I remember the Court asking him to bring the two files.

(Chandrasena called into Court and produces three files. Files handed over to Dr. Adikaram.

Witness asked to look for a letter written by him to Mr. Kularatne regarding the appointment of the plaintiff as Vice Principal.—Witness looks through file).

There is no such letter, but there is a letter of recommendation which I had given 10 to Mr. Costa. It is not addressed to anybody in particular, it is a testimonial. It is dated 20th October 1952. It does not suggest that he be appointed Vice Principal, it is about a special post.

(Mr. Thiagalingam produces the letter dated 20th October 1952 marked D10).

When I said that he is fit to be entrusted with the administration of the college at any time I meant that when the principal is away he can act.

Q.—You didn't mean by that last paragraph that he was fit to be appointed principal ?

A.—Not principal, but to act for the principal.

Q.—Did you mean by that last paragraph to indicate that he was fit to be appointed 20 principal ? A.—No.

Q.—Can you remember seeing Mr. Kularatne in 1954 about the time that Mr. Alagiyawanna was to be appointed Vice Principal ?

A.—Yes, I saw him. Excuse me, not as vice principal. I heard that he was to be appointed principal and I went and spoke to Mr. Kularatne at the Orient Club. It was not regarding Mr. Alagiyawanna but regarding the special post of Mr. Costa.

Q.—Did you tell Mr. Kularatne that plaintiff was the man who should be given the appointment that was earmarked for Mr. Alagiyawanna ?

A.—No. I said that Mr. Costa deserves the grade I appointment.

Q.—The occasion you selected for commending Costa was the occasion when it 30 was rumoured that Mr. Alagiyawanna was to be appointed principal ?

A.—Yes, about that time.

Q.—Did you make the recommendation about Costa at that time in the hope that Costa not Alagiyawanna would be appointed principal ? A.—No.

Q.—Mr. Kularatne told you that it was none of your business to interfere in the B.T.S. appointments ?

A.—I don't think so. Our discussion became heated at a certain stage. I don't quite remember the details, but not to that effect. He more or less told me to clear out.

Q.—You went to Dr. Nicholas Attygalla then ? A.—May be about that time.

Q.—Again you went and sponsored Costa's appointment to Sir Nicholas Attygalla ? 40

A.—No. I told Sir Nicholas Attygalla that this was an unfair thing that a complete outsider should be brought and the principal who had yet another one or two years more of service should be retired and an outsider being put in without calling for applications. I did not threaten to lead a strike.

Q.—By outsider you were contrasting Mr. Alagiyawanna with Costa ?

A.—To the other teachers in the B.T.S. including Costa.

Q.—Were you sponsoring Costa's interests to Sir Nicholas Attygalla ?

A.—I am not sure of the technical connotation of the word sponsoring.

Q.—You failed in your attempts to get Sir Nicholas to interfere in the matter ?

A.—No, I don't think I failed. Sir Nicholas, from what I understood, had asked

Mr. Kularatne not to be hasty in his selection.

(To Court : Q.—As a result of your representations to Sir Nicholas, did you achieve anything ?

A.—I could not quite say, because Mr. Alagiyawanna was taken on during the  
10 absence of Sir Nicholas from the Island).

Q.—You went to see Sir Nicholas on the occasion that Mr. Alagiyawanna's appointment was being mooted ? A.—Yes.

Q.—In spite of your having seen Sir Nicholas, Mr. Alagiyawanna's appointment did take place ?

A.—Yes, his appointment to the school as an assistant teacher, but I cannot quite remember the dates, whether which preceded which.

Q.—That is when you talked with Mr. Kularatne and Sir Nicholas would be in 1953 ? A.—I cannot remember.

Q.—From the time you left Ananda Sastralaya till about that time you took little  
20 or no part in Buddhist education ?

A.—No, I took part. I was the Manager of Buddhist schools throughout.

Q.—Do you consider Rs. 1,225/80 a big sum of money ?

A.—It depends. To me it is a fairly big sum.

Q.—Did you get that amount on account of contributions you made to the Lanka  
Dipa ?

A.—No, not a month. I may have got more for several years.

Q.—Did you get Rs. 1,225/- in the course of a year ?

A.—Probably. I think some years I got more. Some years I got even more than  
30 Rs. 1,225/80. For the year the sum is a big amount, but for a month it comes to Rs. 100,  
which I do not consider to be a big amount, because I have to live on that. I have to  
spend from month to month and Rs. 100/- is not a big amount.

Q.—Rs. 1,225/00 you got for the year ending March 1955 ? A.—Probably.

Q.—You got Rs. 2,500/- for the year ended March 1954 ? A.—Must be about that.

Q.—You got Rs. 1,750/- for the year ended March 1956 ? A.—Probably.

Q.—Those are large sums of money ?

A.—By themselves they are large amounts. I wrote about 50 articles a year and  
this Rs. 1,000/- was for that. The maximum I got was Rs. 25/- for an article.

Q.—From 1953 you went about the countryside canvassing support for your  
return as the Manager of Buddhist Schools ?

40 A.—No, not for my return. I was appointed Manager in 1954.

Q.—Have you got the copy of the letter you wrote to Mr. Costa appointing him  
principal in the files before you ?

A.—It should normally be in the files. I must see whether it is there.

(Witness looks through files).

I don't see that letter here. I have a letter dated 27th January 1955 addressed to  
Mr. Costa asking him to act for the principal of Ananda Sastralaya, the acting appoint-  
ment is from 24th January 1955.

No. 5  
Plaintiff's  
evidence

Evidence of  
Dr. E. W.  
Adikaram-  
Cross-  
examination  
—continued.

Q.—Have you got a letter wherein you say that Palliwardene is to act when both Mr. Wickremesinghe and Costa are not there.

A.—I remember writing a letter, but I don't find it here.

Q.—You remember writing a letter requiring Costa to act for Mr. Wickremesinghe in Mr. Wickremesinghe's absence ? A.—Yes.

Q.—And in the absence of both Costa and Wickremesinghe for Palliwardene to act ?

A.—Yes.

Q.—That letter is not in the file ?

A.—It may not have been filed by the clerk. I was the General Manager at the relevant date but the filing is done by the clerk. At that time we had a clerk in charge 10 of this section whom we dismissed later for inefficiency.

Q.—You are aware that a letter which you know you had sent out a copy of it is not in your file ? A.—Yes.

Q.—That is because of the inefficiency of the filing clerk ?

A.—One reason may be that, or because somebody may have stolen it.

I have seen the letters D4 and D5 sent by Mr. Kularatne. The originals are not in my file.

Q.—Could it be that somebody extracted them from the files ? A.—I could not say.

Q.—Have you got the letter written by Mr. Alagiyawanna on the 12th July 1954 to the B.T.S., that is after you wrote to Costa appointing him to act for the principal ? 20 (Witness looks through file).

A.—There is one letter by Mr. Alagiyawanna dated 29th May. That is the only letter.

(Shown a copy of a letter written by Alagiyawanna dated 12th July 1954 marked D II).

There is another copy of a letter sent by Mr. Alagiyawanna dated 16th July 1954, the original of which had been sent to the President of the B.T.S.

(Mr. Thiagalingam marks this letter D12. The letter is admitted subject to proof).

(To Court : The original of D11 is not in my file).

Q.—Where should it be ? A.—It should be with the President. 30

Q.—In this file ? A.—I don't think there is a separate file.

Letters sent to the President are normally not sent to the office for filing. I don't know where they are kept.

Q.—A letter sent to the President finds no place in the B.T.S. ?

A.—Normally the President is not an administrative officer and for his information letters are sent and sometimes he refers letters to me as the General Manager and with the observations they are sent back.

Q.—Do you say that in the B.T.S. there is no file of letters sent to the President ?

A.—The question is not quite clear, because there are letters sent regarding these meetings and for those there are files. 40

Q.—For all letters sent to the B.T.S. in his official capacity is there a file ?

A.—There may be several files, I don't know.

Q.—Do you want to indicate that some letters sent to the President of the B.T.S. may not be filed in the office at all ? A.—Yes.

Q.—Are you aware of that ? A.—That question is not clear.

(Mr. Thiagalingam reads D11).

(Witness points out that if the heading of the letter is not read it will give a wrong impression).—(D11 put to witness).

The first sentence in D11 is correct. With regard to the second sentence, Mr. Alagiyawanna was on the staff and I was not aware. I cannot be quite sure whether I saw a letter containing a protest – “not to my knowledge.”

Q.—Do you want to indicate that you may have got a letter containing a protest against your action? A.—I may have. I can only tell you what I remember.

Q.—The letter says ‘In June 1953 when I resigned from Government Service ..... Government Service,’ is that a correct statement?

A.—Yes. If the word persuade means that.

Q.—“He told me that such questions should be left to the management.....  
10 because of my Buddhist education”?

A.—I said that he agreed to accept the principalship, not vice-principalship.

Q.—The letter goes on “I was quite prepared to leave the question of succession ..... If I came to Ananda Sastralaya there would be trouble etc.,”?

A.—No, I did not tell that. I did not tell Sir Nicholas that I would lead a strike. I was a member of the appointments board. This letter was not placed before me. I may have seen D11 but I cannot be sure.

(To Court : The president of the B.T.S. was Sir Nicholas Attygalle).

(Shown D12)—I saw this letter. I have sent the original to the President. I must have seen it, but I cannot remember the contents. This was three years ago and I never  
20 read the files recently.

Q.—If not for the fact that your initials happened to be on D12 you would have forgotten all about it?

A.—Possibly. Only now I saw my initials were there and therefore I inferred that I must have seen it.

(D12 put to witness)—I was the General Manager at the time.

Q.—The letter says “As you are no doubt aware.....for, the principal since then,” the writer says that; you must have read the letter? A.—Yes.

Q.—Did you even then try to find out if that was a correct statement?

A.—Yes, I tried to find out.

30 Q.—This letter was sent to you through the principal, how did this letter come into your hands. A copy was forwarded to the G.M., B.T.S. signed by the principal?

A.—This came through the principal.

Q.—Did you ask the principal whether that was correct?

A.—I don’t think I did. It was not necessary. Even if I knew that he was appointed vice principal I would have still sent the letter appointing Costa to act as principal. It was not a case of sponsoring Costa. Mr. Alagiyawanna acting as principal at that time was detrimental to the school.

Q.—Were you not ruining the school? A.—No.

40 Q.—Were you not ruining the school by asking Costa to act for the principal although you knew that Alagiyawanna was acting as the vice principal?

(Mr. Wikremanayake objects to the question. —I uphold the objection).

Q.—You told us just now that even if you knew that Alagiyawanna was vice principal you would still have given that order appointing Costa as principal? A.—Yes.

Q.—Would that not have been in effect ruining discipline in the school?

A.—No, it was a kind of saving the school.

Q.—Was it not a case of ruining discipline in the school? A.—No.

Q.—You took the view that with a vice principal holding office as vice principal you could appoint a third party to act as vice principal?

No. 5  
Plaintiff’s  
evidence

—  
Evidence of  
Dr. E. W.  
Adikaram-  
Cross-  
examination  
—continued.

No. 5  
Plaintiff's  
evidence

Evidence of  
Dr. E. W.  
Adikaram-  
Cross-  
examination  
—continued.

A.—No. I took the view of the fact that Alagiyawanna was appointed as vice principal.

Q.—Were you of the view that when a vice principal was functioning as vice principal you could appoint a third party to act for the principal ?

A.—I cannot answer that question Yes or No.

Mr. Costa for several years was acting for the principal in the absence of Mr. Wick-remasinghe and it was at that stage that I was appointed and there was such an amount of ill-feeling about the place and dissension of the staff etc., and when I was General Manager I could not conscientiously continue that which to me was an injustice. There was dissension in the staff over this appointment. It was more anti Alagiyawanna 10 than anti Costa.

Q.—Was it anti Alagiyawanna and pro Costa ? A.—It comes to the same thing. I knew in 1954 that there were factions in that school.

Q.—You took the view that to ask Costa to act for the principal although Alagiyawanna was the vice principal would help to dissolve that friction ?

A.—No. ' Was ' the vice principal, I object to that because it gives a different complex.

Q.—You said that even if you knew that Alagiyawanna was vice principal you would have still asked Costa to act for the principal ? A.—Yes.

Q.—Would you have taken the view that the dissension you were aware of existing 20 in the staff at that time would be lessened by reason of your asking Costa to act for the principal even if you knew that Alagiyawanna was the vice principal ?

(Mr. Wikremanayake objects to the question as it is too irrelevant.—I uphold the objection).

Q.—You told the Court that even if you knew Alagiyawanna was the vice principal you would have done what you did in regard to Costa ? A.—Yes.

Q.—You also told us that there was dissension among the staff of the school at that time because of Costa and Alagiyawanna ?

A.—No, the dissension was due to the fact that an outsider was sent there over- 30 looking the claims of the teachers in the B.T.S.

Q.—Never mind what the cause of the dissension in the staff was, there was dissension in fact in the staff because the outsider Alagiyawanna was in the school ?

A.—No, that cause is very important.

Q.—First was there dissension among members of the staff ?

A.—After Alagiyawanna was appointed, when I became General Manager I knew there was dissension in the staff, and that was because an outsider Alagiyawanna was in the school.

Q.—Did you think that the dissension would be lessened by reason of your making Costa to act for the principal ? A.—Costa and Palliwardene.

Q.—You thought the dissension would be lessened ? A.—Yes. 40

Q.—There was nothing of the kind ? A.—Yes.

I was elected the General Manager by the members of the B.T.S.

Q.—Were you here on the first date this trial commenced ?

A.—Yesterday, yes, not before. I received a summons for yesterday.

Q.—You got the summons for the first time to come into Court only yesterday ?

A.—Whether it was for yesterday or not I don't know. I was summoned for the first time yesterday.

Q.—You knew that this case had commenced previously before another judge ?



A.—I heard of it yesterday. I heard that the Judge was changed yesterday.— Yesterday morning I was searching for the Court and then I heard that the Judge was changed.

No. 5  
Plaintiff's  
evidence

Q.—Then didn't you hear that the case had commenced earlier ?

A.—That I have heard. On that first date of hearing I had not been summoned. Before summons was served on me the plaintiff did not come and speak to me. I did not speak to the plaintiff. I know Dhanapala, it was not he who got me to contribute to the Lanka Dipa it was the previous editor. During this time I continued to contribute to the Lanka Dipa. To the best of my knowledge he was not a member of the

Evidence of  
Dr. E. W.  
Adikaram-  
Cross-  
examination  
—continued.

10 B.T.S.

Q.—Did you hear any comment made by counsel at the Bar that Dhanapala took part at the election ?

A.—No. I never saw him at any of those meetings. But this much I have to say, that the Lanka Dipa papers tried to influence the public against me.

Q.—In D12 he asked for an inquiry into the whole thing, into your conduct in supplanting him and appointing Costa ? A.—There was no supplanting.

Q.—In this letter D12 he says so ? A.—May be, I did not read it.

Q.—He makes the strongest possible protest against your action and asked for a proper inquiry ? A.—Yes.

20 Q.—You were appointed by how many people as Manager of Buddhist schools ?

A.—I forget the number but it was a fairly big majority.

Q.—What is the qualification to be a member of the B.T.S. ?

A.—You should be a Buddhist and should be over 18 years of age.

Q.—They were the members that made you General Manager ?

A.—I don't know what you mean. General Managers were elected like that.

Q.—Your first action as General Manager would have been to appoint Costa to act for the principal even if you knew Alagiyawanna was functioning as vice principal ?

A.—Not the first act.

Q.—Even now you don't take the view that it is the worst way to ruin a school ?

30 A.—Not in that sense. I did the best that I could.

Q.—Was an inquiry held as Alagiyawanna wanted in D12 ?

A.—No. I did not deem it necessary. As the manager of the B.T.S. I did not deem it necessary.

Q.—He says in the last paragraph " As I am above all anxious to avoid . . . . . etc. If Alagiyawanna were vice principal duly appointed he could have slapped at your orders and sought to function in place of principal when the principal was away ?

A.—No. He could have done so many things, but not legally.

Q.—Did you contemplate a situation that Alagiyawanna being vice principal may give trouble ? A.—His letter suggests that.

40 Q.—Did you take any steps ?

A.—I did not think it was necessary. Although the letter suggests that he may give trouble I did not take it so seriously.

Q.—Were you sponsoring Costa at that time ? A.—Not sponsoring.

Shortly thereafter Alagiyawanna left the school and was appointed to Sri Suman-gala. I know that he is now the principal of Sri Sumangala at Panadura.—(Shown D8).

Q.—In paragraph 4 of that letter the writer says he took the view that the switch over to Swabasha was not in the interests of the country ? A.—I see that.

Q.—Is that your view ?

No. 5  
Plaintiff's  
evidence

—  
Evidence of  
Dr. E. W.  
Adikaram-  
Cross-  
examination  
—continued.

A.—Partly, because I don't think that swabasha would go very far. It would be a loss to the country.

Q.—Costa says "I cannot conscientiously do my best as a teacher."

Q.—You know in September 1954 the frame of mind of Costa in regard to teaching in Ceylon?

A.—As a teacher if the swabasha scheme is completed. That was my view.

Q.—I asked you about what you thought were the views of Costa. Costa's own views were as stated in D8 that swabasha was not useful for this country and that he could not conscientiously do his best as a teacher in this setting?

A.—My interpretation of that was if the swabasha scheme was completed he would be unfit as a teacher.

Q.—Your interpretation of para 4 in D8 is that according to you Costa was not clear in his own mind that swabasha had come to stay?

A.—I cannot quite understand the question because swabasha is there, but the scheme of having the medium of instruction in swabasha through all the stages had not yet been finalised.

Q.—In para 4 he says that he feels that the turn over to swabasha is not in the interests of the country? A.—He says that in his letter.

Q.—He says he could not conscientiously do his best as a teacher? A.—He says that.

Q.—You knew his views when you got D8? A.—Not his views but his statement. I did not know his views when I got D8. I read the statement in paragraph 4 of D8.

Q.—Did you know what his views were? A.—Yes. My interpretation of it is.....

Q.—After having read paragraph 4 of D8 did you know what Costa's views were regarding the matter?

A.—If the swabasha switch over was completed he would be out of place, that was the view I took.

Q.—So you knew what his views were? A.—As far as possible.

Q.—That application for retirement was turned down under 6B? A.—Yes.

In December 1954 Costa was in America. The post of principal Ananda Sastralaya was vacant. I advertised for applicants. Among the applicants were Samarawickreme, Edirisinghe and a number of others. I cannot remember Arampatha. Samarawickreme held a diploma in education, he was a B.A. Honours of London. I don't know whether he had been the vice principal of Ananda Sastralaya. To the best of my knowledge he was the Headmaster of the lower school. Edirisinghe was another applicant. He was an M.A., London. He is not the principal of the Buddhist school in Veyangoda; he is the principal of a Central School. Arampatha is a B.A., Honours with diploma in education and the principal of a college in Kotahena. Costa is not a married man. Ananda Sastralaya is a mixed school. I did not think it was desirable to have a married man as head of the Ananda Sastralaya nor did I think he should be a bachelor. Another applicant was Costa.

Q.—Costa you knew at that date in February 1955 did not desire to continue in the Department of Education in Ceylon?

A.—No, not quite that. Under certain circumstances he did not want to.

Q.—You knew none better that swabasha was to be the policy of the Government?

A.—I was not sure. Even now I do not think they will adopt it.

Q.—You did not think that Costa's attitude towards swabasha was any disqualification at all? A.—I did not think so.

Q.—Was it not a desirable thing when you appoint a principal of a school to look into a man's family connections? A.—As far as possible.

Q.—Do you know of any little defect among the members of his family, a little insanity in the members of his family?

(Mr. Wikremanayake objects as it is not relevant.—I uphold the objections).

Q.—Did you make inquiries about Costa's antecedents?

A.—There was no necessity to make inquiries, I have known him for a very long 10 time.

Q.—You knew that he was involved in a wrangle in the school with D. V. Samarakoon? A.—There was no wrangle.

Q.—You knew that he obstructed Mr. Kularatne when he went to the school with Alagiyawanna?

A.—As I told you, what I heard was that they went separately. All that I know is what others have said.

Q.—Did you know at that date that he had obstructed the General Manager on any occasion that he had gone to Ananda Sastralaya? A.—Not obstructed.

Q.—Did you know that he was wanting in courtesy to the General Manager when 20 he went to the school?

A.—That I cannot say. I don't think he was discourteous, but Mr. Costa was asked to act for the principal till the principal returned and Mr. Costa had said that he must act.

Q.—You knew that he had to apologise to Mr. Kularatne?

A.—What I thought was.....

Q.—Did you know that as a fact that he apologised to Mr. Kularatne?

A.—There was an apology. But I might say that qualification "To Mr. Kularatne," that makes it specific - it may not be quite the correct thing.

(To Court : Q.—You say he apologised to the Board?

30 A.—I say apologised to the board including Mr. Kularatne).

Q.—For something that he did improperly in the school? A.—Yes.

Q.—And you knew that in 1955 when he was asking appointment as principal?

A.—Yes, I knew that.

Q.—Did you also know that there was a threat of dismissal held out to Costa on the occasion that he apologised to the Board? A.—No.

Q.—You appointed him principal?

A.—I did not appoint him, the board appointed him. I was the General Manager at the time.

Q.—Really it would be right for me to say that it is your view that will be given 40 effect to?

A.—No, I did not. I kept completely out of it and the appointments board interviewed the various applicants and the appointments board recommended him. I did not recommend Costa. The appointments board consists of five office-bearers and four others. No vote was taken.

Q.—Everybody jumped at the same name together?

A.—After the applicant is interviewed the board was of opinion that he was easily the best.

Q.—Everybody jumped to that view?

No. 5  
Plaintiff's  
evidence

—  
Evidence of  
Dr. E. W.  
Adikaram—  
Cross-  
examination  
— continued.

No. 5  
Plaintiff's  
evidence

Evidence of  
Dr. E. W.  
Adikaram-  
Cross-  
examination  
—continued.

A.—They did not jump, but everybody came to that view including myself.

Q.—Did you refer the board to the terms of the letter D8? A.—I did not.

Q.—Did you think it your duty to refer to that letter?

A.—No. I thought it was not necessary.

Q.—You alone of the board knew the terms of the letter D8? A.—Probably?

(To Court : Q.—What is the personnel of the appointments Board?

A.—The President was Sir Nicholas Attygalle; I was the General Manager, Mr. Irriyagolle was the Secretary, Mr. Piyasena the treasurer and W. D. Paulis Appuhamy the superintendent of the press. We have a press and that is considered as a separate department. The four members are selected on the basis of the 10 annual general meeting. At the first Annual General Meeting the various general committees are appointed. The 5 officebearers are members ex-officio).

I was affirmed yesterday and today.

Q.—Are you a baptised catholic?

A.—I was not baptised.

Q.—Were you a catholic at any time?

A.—No. In my sense of the term it is all embracing, everybody is a catholic.

Q.—From Birth you are a buddhist?

A.—No. At birth nobody is a Buddhist. I cannot remember when I became a Buddhist, it was when I was very small. It is a completely impersonal thing you gather 20 from the environment. I cannot say whether I became a Buddhist when I was three or four years old. It is not a thing of a day or an instant.

Q.—You tell us that you were never known as a catholic?

A.—I was not called a catholic by anybody.

Q.—Did you give your religion as catholic in any document?

A.—No. Not even in schools records.

Q.—Were you taught by Mr. Kularatne?

A.—Not taught. I have got help from him in mathematics and things.

Q.—Did you recommend you to go to England to get your degree in Indo-Aryan?

A.—Not for the degree. He recommended to the Government that I should be 30 given a scholarship because I was the first to get through Indo-aryan with a first division but that was turned down by the department because I did not take the examination through the University.

Q.—Would it be correct to say that Mr. Kularatne helped you from time to time?

A.—Yes.

Q.—Costa says that he was appointed principal from April ' 55?

A.—I think so. I think the appointments were made in March 1955.

Q.—You told us that D8 the application to retire was turned down?

A.—I think D8 was the last application.

Q.—What you think is that D8 is the last application? A.—Yes.

Q.—He never made any application thereafter? A.—I could not say that.

Q.—Why do you say ' I think this is the last application he made?'

A.—I think if there was another one you would have produced it.

Q.—Is that the only reason? A.—One of the reasons.

Q.—Any other reason?

A.—He appealed against the turning down of the application and that took some time so probably this may be the last application. The order on D8 was the refusal contained in D9.

Q.—You made him principal in March 1955?

A.—I did not make him principal. The Board made him principal in March 1955.

Q.—In spite of seeking appointment as principal and obtaining appointment as principal he was still keen about retiring? A.—That is what he has done.

Q.—Do you think that is the correct thing to do?

A.—I don't think it is incorrect.

Q.—Why do you think it is not the correct thing to do?

A.—When I say it is incorrect thing that was the only correct thing to do.

(Shown the original of a letter dated 14th March 1955 sent by the plaintiff to the  
10 Ministry of Finance, certified copy marked D13).

I admit that the signature on D13 is the plaintiff's signature.

(Witness asked to read paras 3 and 4 of D13).

Q.—If he had sat for the Matriculation that is an untrue statement?

A.—No, because for any further examination "further" would be beyond and not going back.

Q.—On that interpretation are you trying to support Costa's letter? A.—No.

Q.—In that letter he says "As my second language.....Sinhalese for my certificate,"? A.—Yes.

Q.—Then he goes on to say "in regard to further examination he took up, he says  
20 he took up no further examination offering Sinhalese"?

A.—That is correct. Further examinations from Inter would be B.A. and later. One could not use "further" to mean the matric.

Q.—In paragraph 3 he says that "As second language was compulsory etc.," refers to offering Sinhalese for the senior certificate? A.—Yes.

In between comes another sentence.

Q.—Does paragraph 4 refer to further examination?

A.—Yes, but is with reference to intermediate examination.

Q.—He says that the further examination he took up were all without Sinhalese? (Mr. Wikremanayake objects, objection upheld).

30 Q.—Was there any attempt at suppressing the fact that he offered Sinhalese for the matriculation if he did offer Sinhalese in fact? A.—No.

Q.—He says in the next paragraph "I strongly feel that a change over to swabasha.....to the country?" A.—That is his views.

Q.—He went on to say that he cannot do his best to teach in Sinhalese?

A.—Yes, that is the scheme was not going to help him.

Q.—Were you kindly disposed towards him at the date of D13?

A.—My attitude was the same as that to any other principal.

Q.—He says "Under the present regulations....." he knew those regulations were in existence from 1948? A.—Not fully.

40 Q.—From when were they in force? A.—They are not yet in force.

Q.—He refers to certain present regulations in the last paragraph of D13?

A.—I think it would help if the regulations are read.

Q.—You find in the one but the last paragraph a reference to present regulations?

A.—Yes.

Q.—Can you say to what date those present regulations refer?

A.—I could not say, not from memory.

Q.—Can you even say roughly what the date of those regulations must have been?

A.—I don't know. I don't like to make a mistake.

No. 5  
Plaintiff's  
evidence

Evidence of  
Dr. E. W.  
Adikaram-  
Cross-  
examination  
—continued.

Q.—Could they be two or three years early ?

A.—I could not say that. I think the first set of regulations were in 1947, if I remember correctly, I am not quite sure.

Mr. M. D. H. Jayawardene was then the Minister of Finance under the U.N.P. at the date of that letter. In 1955 the U.N.P. was in office.

Q.—Do you now know that that appeal to the Minister was refused ?

A.—I was told it was refused first.

(Shown marked D14 letter of 21st April 1955 by plaintiff to the Minister of Education).

Q.—He supported D14 by the letter D13 which was sent up to the Minister of 10  
Education with your endorsement ?

(Mr. Wikremanayake objects).

Q.—Plaintiff supported his application to the Minister of Finance with the letter to the Minister of Education ? A.—Yes.

He sent D14 through me to the Minister of Education. I recommended D14. He was then 20 days principal in the school. He set out all his facts in his letter.

Q.—He did not refer in this letter to the fact that he had done the Matriculation with Sinhalese ?

A.—Evidently he has not. I don't know, I could not read the letter.

Q.—Through you was sent the letter of the 11th June 1955 (Mr. Thiagalingam 20  
marks certified copy D15) to the plaintiff wherein his appeal to the Minister of Finance on the 14th March 1955 was refused ?

(Mr. Wikremanayake objects.—I allow it).

Q.—At that date the entire reasons why the plaintiff sought retirement was before the Minister of Education and the Minister of Finance ?

A.—I could not say ; I don't know whether the entire facts were there.

Q.—Are the entire facts on which he sought retirement contained in D14 ?

A.—I don't know whether the entire facts for his case were embodied in that letter. But that letter, as far as that letter is concerned, was placed before the Minister of Education. 30

Q.—Do you know of any further facts other than those in D14 which should have been placed before the Minister ?

A.—I don't know what further facts were required. There were no further facts that he could now raise. There was a stumbling block regarding this, that is the use of the word Indo-Aryan. Many of the people, including I think the Minister of Education thought that Indo-Aryan meant a knowledge of Sinhalese. But it did not mean that. It could contain Sinhalese or not at all.

Q.—That was a further fact which could have been disclosed ?

A.—I don't know, but I think that was one of the major stumbling blocks.

(D14 last paragraph put to witness). 40

I did not read that paragraph

Q.—Do you know of no further fact that could have been placed in support of his application for retirement ?

A.—At the moment I know of none.

(Mr. Thiagalingam produces letter dated 17th June marked D15).

Q.—There is another letter which was sent to you on the 20th June 1955 confirming D15 sent by the Permanent Secretary to the Ministry of Education refusing the application ?

(Mr. Thiagalasingam marks as D16 a letter from the files of the Ministry of Education).

Q.—According to that letter too the Minister of Education had refused the application of the plaintiff for retirement? A.—Yes.

Q.—You were now the Manager of Buddhist Schools? A.—Yes.

Q.—The principal of your school was trying to retire? A.—Yes.

Q.—After having obtained his educational qualifications at State expense?

A.—I don't know that.

Q.—He had sought appointment from you as principal in April 1955?

A.—He was appointed by the Appointments Board in April 1955.

10 Q.—He had sought appointment? A.—Not from me.

Q.—He sought appointment from the board in March 1955?

A.—Yes, he sent his application.

Q.—From the time he sent his application you were sponsoring his application to the Ministry of Education for retirement?

A.—Yes, not as I understand the word sponsoring.

Q.—You were supporting his application for retirement from the time he was appointed principal till September 1955? A.—Yes.

20 Rule 6B they had these grades, for one year it was the 6th standard, the next year the 7th standard, so each year they allowed fresh applications for retirement. From the time he was appointed principal he was seeking retirement. He failed under rule 6B.

Q.—Then it was that he made an application on the 20th September 1955 to the Director of Education through you (marked D17) to retire under 6C? A.—Yes.

That was meant also for those whose applications were refused under 6B. I supported that too.

Q.—In the interests of Ananda Sastralaya?

A.—There was no question of Ananda Sastralaya.

A person wants to retire and he sends his letter through me and his reasons I can fairly well appreciate. There was no reason for me to obstruct it.

Q.—Did you do that in the interests of Ananda Sastralaya?

30 A.—That question did not arise.

(Shown original of D17).

The signature on this is the plaintiff's. It also contains my signature. In D17 too there is no reference to his having passed the London Matriculation in Sinhalese.

Q.—Did you find out from the plaintiff yesterday, last night or this morning whether he took up Sinhalese?

A.—No. I did not ask him. I met him here this morning. I did not ask him. I talked to him but not on these matters because I wanted to be completely out of this. I did not want to discuss these matters with him.

Q.—You are not supporting this claim in this case for the plaintiff?

40 A.—I cannot understand.

Q.—In the last paragraph of D17 he says I find it extremely difficult..... under the Government swabasha policy? A.—Yes.

Q.—That was his attitude when the appointments board appointed him principal?

Q.—The swabasha policy was only a small thing and a part of it had been put into effect.

Q.—Was that his attitude when the appointments board appointed him in April 1955? A.—How could I say what was his attitude.

Q.—You didn't know that that was his attitude in April 1955?

No. 5  
Plaintiff's  
evidence

Evidence of  
Dr. E. W.  
Adikaram  
Cross-  
examination  
—continued.

No. 5  
Plaintiff's  
evidence

—  
Evidence of  
Dr. E. W.  
Adikaram—  
Cross-  
examination  
—continued.

A.—How could I know.

Q.—Did you know that in 1955 when board appointed him principal that his attitude was that he found it extremely difficult to continue his profession under the Government swabasha policy contained in the last paragraph of D17 ?

A.—I think that is later than his appointment as Principal.

Q.—Did you not know that his view contained in the last paragraph of D17 were his views when the board appointed him in April 1955 ?

A.—But he has stated it later what his views were. I knew some of his views in April 1955. When you say "his views" it is too large a thing for me to give a categorical reply. I recommended that application. Then too Mr. M. D. H. Jayawardena 10 was the Minister of Finance and Mr. M. D. Banda was the Minister of Education.

Q.—The U.N.P. had in September 1955 about two years still to run ?

A.—I am not quite conversant with these things.

Q.—Are you aware that on that application D17 one view that the Director of Education took was that it was ridiculous to consider the application ?

(Mr. Wikremanayake objects to the question.—I uphold the objection).

Q.—Do you know now that on the 29th November 1955 his application for retirement on D17 under Section 6C was refused ?

(Mr. Thiagalingam marks the letter D18).

A.—This has gone through me. I remember, this is a copy. The original must have 20 gone through me.

Q.—Rules 6B and 6C were both exhausted by that date, by the 29th November as far as the plaintiff was concerned ? A.—I don't know.

Q.—As far as you were concerned by the letter D18, 6B and 6C were finished ?

A.—I don't know.

Q.—You got that letter in or about November 1955 and you must have conveyed it to the plaintiff in the ordinary course of business in a day or two ? A.—Yes.

(Adjourned).

A.D.J.

30

**After lunch.—Same appearances.**

DR. E. W. ADIKARAM,—Recalled—Affirmed.—(Cross-Examination continued).

Q.—Did you say at any meeting at the Y.M.B.A. that you were not a Buddhist ?

A.—I may have said that in a certain context.

Q.—You believe in taking Pansil ?

A.—Pansil is not a matter of belief, it is a matter of practice.

Q.—Do you take Pansil ?

A.—I do not quite understand it — taking Pansil.

Q.—What did you understand by the earlier answer — that it is not a matter of belief but a matter of practice ? 40

A.—Not to kill — it is useless believing it is bad to kill if you do not practice it.

Q.—Do you practise taking Pansil ?

A.—Not practise taking Pansil but to the best of my ability I live it.

Q.—Do you know what is meant by taking Sil ? A.—The ordinary meaning I know.

Q.—Do you practise taking Pansil according to its ordinary meaning ?

A.—Not practise taking Pansil, I practise Pansil.

Q.—Did you say you understand what is meant by taking Pansil ?



- No. 5  
Plaintiff's  
evidence  
—  
Evidence of  
Dr. E. W.  
Adikaram-  
Cross-  
examination  
—continued.
- A.—The general meaning I understand but I do not agree with that word.
- Q.—And you do not agree with the general practise of taking Pansil as it is commonly understood ? A.—I think it is superfluous.
- Q.—And therefore you do not agree ? A.—I agree in living Pansil.
- Q.—Are you a follower of Krishnamurthi's doctrines ?
- A.—I am not a follower of anybody.
- Q.—In September 1955 there was a big carnival run by Ananda Sastralaya ?
- A.—Not a carnival.
- Q.—What was it ?
- 10 A.—I think it was a fair and exhibition. I did not personally go and so I do not know the details.
- Q.—The earlier Principal Wickremesinghe had collected by holding these carvinals or fairs and exhibitions a sum of Rs. 50,000/- or Rs. 60,000/- ?
- A.—He had collected some money but I am not aware.
- Q.—Would it be correct to say in the neighbourhood of half a lakh ?
- A.—It may be correct.
- Q.—Where is that money today ? A.—I do not know.
- Q.—It was the plaintiff who organised the fair in September 1955 ?
- A.—I think it is not correct to say that Mr. Costa was the organiser, the Principal
- 20 with the Staff organised it.
- Q.—The Principal being Costa ? A.—At that time the Principal was Costa.
- Q.—And he used the funds of Mr. Wickremesinghe to finance the scheme ?
- A.—I do not know.
- Q.—Up to date you do not know ? A.—Yes.
- Q.—You did not question him ? A.—There was no necessity.
- Q.—What happened to that fund of Rs. 50,000/- ?
- (Mr. Wikremanayake objects to this question).
- (To Court : Q.—Was there such a fund ? A.—I do not know).
- Q.—As Manager of the B.T.S. you do not know what happened to that money ?
- 30 A.—I do not know what happened.
- Q.—In connection with that carnival the Lanka Dipa issued a special supplement ?
- A.—I have a vague recollection of it.
- (Shown a document marked D19. Mr. Wikremanayake says that this is only a photostat copy and objects to it being produced).
- Q.—You can remember the weekly supplement issued by the Lanka Dipa sponsoring the carnival ? A.—I have a vague recollection of it.
- Q.—That supplement carried your photograph ? A.—I cannot remember.
- Q.—It carried the photograph of Sir Nicholas Attygalle ? A.—I cannot remember.
- Q.—But you remember that the Lanka Dipa did sponsor the fair initiated by the
- 40 Principal and the Staff of Ananda Sastralaya in 1955 ?
- A.—I do not know whether the Lanka Dipa sponsored it or whether they did it as part of their publications policy, I do not know.
- Q.—You remember reading it ?
- A.—I remember seeing it, I do not know whether I read it. I read very few papers.
- Q.—I suppose you make it a point to read all papers that contain information about the plaintiff ? A.—No.
- Q.—At the end of 1955 you were still the General Manager of Buddhist Schools ?
- A.—Yes.

No. 5  
Plaintiff's  
evidence

—  
Evidence of  
Dr. E. W.  
Adikaram—  
Cross-  
examination  
—continued.

Q.—At the end of 1955 there were a large number of teachers in Ceylon who could have sought retirement in view of the Swabasha policy of education in this country?

A.—There may have been some, I do not know.

Q.—Not a large number? A.—I do not know.

Q.—There were a large number of teachers who were teaching in schools conducted by the B.T.S. who could have sought retirement under that rule? A.—I cannot say.

Q.—You did not inquire? A.—No.

Q.—If a teacher said he could not teach in Sinhalese he could have sought retirement under that rule? A.—Yes.

Q.—The authority to decide whether he could retire or not is the Director of Education? A.—I think so.

Q.—The question of teachers retiring under the guise of their not being able to do their teaching in swabasha was a matter of great concern to the public in Ceylon?

A.—I do not know what is meant by guise because that involves deceit and deceiving somebody. I do not think that when a person applies for retirement it is a guise for something.

Q.—That teachers should seek by deceit to retire saying that they could not teach in swabasha was a matter of great concern to the public?

A.—If there was deceit it would be a matter of great concern.

Q.—A matter that would ordinarily be vindicated in the Press one way or the other? 20

A.—If there was deceit.

Q.—You know that at the end of 1955 there was a hue and cry about the levying of facilities fees in Ananda Sastralaya?

A.—Not a hue and cry, there was some questions about that, not about levying facilities fees but about some examination matter.

Q.—Were there questions about levying facilities fees? A.—No.

Q.—Was there a question of admission cards being refused because the pupils had not paid facilities fees?

A.—Not exactly that. If I remember correctly, the Principal had said that if any students could prove that they could not pay the facilities fees he would give the admis- 30  
sion cards, otherwise not.

Q.—If they could prove that by producing reports from a Headman or some other person in authority?

A.—If I remember correct from a J.P. There was a J.P. on the staff at the time.

Q.—Did you know that the principal had refused admission cards to the students, admission cards which enabled them to sit for a certain examination, on the ground that they had not paid facilities fees? A.—No, not refused.

Q.—You did not know that he had refused?

A.—To the best of my knowledge he had not refused.

Q.—You know that questions were asked in Parliament about facilities fees and 40  
the Ananda Sastralaya? A.—I was told that there was a question.

(Shown marked D19 a copy of the Hansard of 6-12-55 page 860).

Q.—Did you know that Mr. Robert Gunawardene said that till 3-30 p.m., the day prior to the examination the students had not been able to obtain their admission cards from the Principal? A.—I cannot remember.

Q.—Did you not think that as the Manager of Schools you should investigate that matter? A.—Before this particular date I met the Minister.

Q.—Before that date you knew that admission cards had been refused?

A.—Not refused, were withheld.

Q.—That is a question of great public importance ?

A.—No, there was no conclusion about it, so it had not come to a question of public importance. It was a matter to be decided by the Minister, to decide the ability of a parent to pay the facilities fees and the ability of the Principal to collect the facilities fees.

Q.—Do you not think that the ability to pay facilities fees was a matter of public importance ?

(Mr. Wikremanayake objects to this question. I uphold the objection).

10 Q.—You had prior to the 6th December seen the Minister of Education ?

A.—Yes, in fact I was sent a telegram.

Q.—And you directed the Principal to issue the admission cards ?

A.—Not that I directed.

Q.—Did you tell him to issue the admission cards ? A.—I suggested it.

Q.—Did he give effect to your suggestion ? A.—I think he did.

Q.—When did he do that ? A.—I cannot remember the date.

Q.—I put it to you that he did not give the admission cards till officers from the Education Department went to the school in person ? A.—That I do not know.

20 Q.—I put it to you that the plaintiff declined to carry out the orders of the Director of Education ? A.—I do not know.

Q.—You did not make inquiries ? A.—There was no necessity.

Q.—Do you accept the correctness of the statements here that the officers of the department had to go in person before the Principal would give the admission cards ?

A.—I do not know.

Q.—Did you not think it your duty to find out for yourself whether what is stated there is correct or not ?

A.—No, not regarding this politician's statements.

Q.—You did not think it important enough that students after a whole year in the school should be denied admission cards ?

30 A.—But I did not think they would be denied admission cards ?

Q.—Did you question the plaintiff — “ Is it true that you have refused the students the admission cards because the students were unable to pay the facilities fees ? ”

A.—I may have questioned him in an unofficial capacity, but not as General Manager of Buddhist Schools.

Q.—The withholding of those cards had commenced about a month prior to the examination ? A.—That I do not know.

Q.—You did not inquire about that ? A.—No, it did not come to me.

Q.—Was the carnival run by the Principal Mr. Costa in September a financial loss or gain ?

40 (Mr. Wikremanayake objects to this question.—The objection is upheld).

Q.—Who were the members of the staff who ran that carnival ?

A.—It was not a carnival.

Q.—That Fair ? A.—I think the whole staff must have joined.

Q.—Who got permission to run that Fair ?

A.—I could not recollect, I think he must have obtained permission.

Q.—Who is the he ? A.—The Principal.

Q.—The Principal obtained permission from you to run the Fair ?

A.—He may have.

No. 5  
Plaintiff's  
evidence

Evidence of  
Dr. E. W.  
Adikaram-  
Cross-  
examination  
—continued.

Q.—Did the members of the staff at any time ask your permission to run the Fair ?

A.—The members of the Staff do not ask me.

Q.—The man who asked permission to run the Fair was the Principal, Mr. Costa ?

A.—The Staff has no communication with the General Manager.

Q.—The man who asked your permission to run the Fair was the Principal Mr. Costa ?

A.—It was the Principal who happened to be Mr. Costa.

Q.—And you gave the principal who happened to be Mr. Costa the permission to run a Fair ?

A.—To the best of my knowledge yes.

Q.—Was it a loss or a gain ?

A.—I think it ended in a loss. These fairs are held in Kotte during the Perahera 10 season. The Nayake priest died just before that and therefore the whole thing was a loss as the perahera was not held that year.

Q.—And Mr. Wickremesinghe's collections went waste ?

A.—I do not know, I do not think they went waste.

Q.—Did Mr. Costa hand any moneys to the B.T.S. when he relinquished duties ?

A.—I am not in charge of that.

Q.—Do you know whether he did hand over any funds belonging to the Ananda Sastralaya to the B.T.S. when he relinquished duties as Principal ?

A.—I do not know.

Q.—Mr. Costa works under you directly ?

20

A.—The education side is under me, but the financial side is done by the Treasurer.

Q.—Do you know that Mr. Robert Gunawardene in his speech appealed to the Minister to have a special Bill to prevent facilities fees being levied by schools belonging to this particular type of Society ?

A.—I do not know.

(Shown the Hansard of the 8th December 1955 at page 1107 marked D20).

Q.—In that Mr. Gunawardene complained of cards being withheld from students by the Ananda Sastralaya Principal ?

A.—He says it.

Q.—About the 29-11-55 did you read a news column in the Dinamina to the effect that Principals were threatening or insisting on payments of facilities fees ?

(Mr. Wikremanayake objects. He states that there are two questions here and he 30 objects to the document being referred to unless it is proved.

Mr. Thiagalingam says that he will prove the newspapers he refers to.

I allow it subject to proof).

A.—I cannot remember.

(Shown marked D21 the Dinamina of 29-11-55. The translation is marked D21A).

Q.—You do not recall that ?

A.—I still cannot recall it.

Q.—The Dinamina is a paper run by the Daily News ?

A.—I do not usually read it.

Q.—The Dinamina is run by the Lake House Group of newspapers ?

A.—I know that.

Q.—You did not know that in November 1955 the Lake House Group of Newspapers had raised the question of the facilities fees in Ananda Sastralaya ?

40

A.—I cannot remember.

(Shown marked D22 Dinamina of 2-12-55.—The translation is marked D22A).

Mr. Wikremanayake objects on the same grounds. Admitted subject to proof).

Q.—The most important piece of news on that day's paper relates to facilities fees ?

A.—I may not have read the paper at all.

Q.—Look at it now, it is in large type on that ?

A.—Yes.

Q.—Have you seen bigger type than that in Sinhalese ?

A.—Yes, particularly in the Sunday papers.

(The witness is asked to read the headlines).

I do not think any Principal has the right to stop an examination.

Q.—The next line is that those who do so will be dealt with legally ?

A.—Yes. This is wrong because Principals have no right to stop an examination.

Q.—But they can exercise that right by denying admission cards to students ?

A.—No, that is quite different from stopping examinations.

Q.—The complaint under that headline is that Principals were preventing students on account of non-payment of facilities fees from presenting themselves at examinations ?

A.—The next paragraph says so.

10 Q.—And it is to focus attention on that that those headlines were up in the papers ?

A.—Must be.

Q.—You know there was a hue and cry in early 1955 in regard to this ?

A.—There was a talk about this, I do not know whether there was a hue and cry. (Shown marked D23 the Dinamina of 30-11-55. The translation is marked D23A).

Q.—There is a reference here to certain schools levying facilities fees and insisting on payment of facilities fees prior to the issue of admission cards and it goes on to say that even the B.T.S. does it ? A.—It states so.

Q.—Apparently by you ?—Your name is there ?

A.—No, it says "it may be Mr. Adikaram did not know."

20 Q.—And you did not know ?

A.—No, I did not know at that time.

(Mr. Wikremanayake says that he is withdrawing his objections asking for proof of the newspapers).

Q.—By 29th November 1955 plaintiff's application to retire under Rule 6(c) had been turned down by the Director of Education ? A.—Yes.

Q.—By February 1956 that the U.N.P. was going to have a "snap" election was known ? A.—I cannot remember.

Q.—The election that came along is known as a "snap" election ?

A.—It may be, I know there was an election, but what it is called I do not know.

30 Q.—It was an election that took place long before the normal period of the existing Parliament had run out ? A.—Yes.

Q.—Against the U.N.P. were aligned all the other political parties in Ceylon ?

A.—I do not know, I was not interested.

Q.—Can you name any party that favoured the U.N.P. ? A.—I could not say.

Q.—The Finance Minister Mr. M. D. H. Jayawardene was contesting the Horana seat ? A.—I knew that.

Q.—He was a member of the U.N.P. group ? A.—That also I knew.

Q.—The U.N.P. nominee for the Kotte seat was Mr. Anandatissa de Alwis ?

A.—Yes.

40 Q.—And Mr. Robert Gunawardene was contesting him ? A.—Yes.

Q.—There was a third man ? A.—Yes.

Q.—The real contest was between Mr. Anandatissa de Alwis and Mr. Robert Gunawardene ? A.—Yes.

Q.—Was Mr. Costa on leave at the end of January and early February ?

A.—I cannot quite remember that.

Q.—Do you know that it is contrary to all regulations that a teacher in a free school should take part in politics ? A.—No, it is not an offence.

Q.—It is quite in order for him to canvas for a particular candidate ?

No. 5  
Plaintiff's  
evidence

Evidence of  
Dr. E. W.  
Adikaram-  
Cross-  
examination  
—continued.

A.—The B.T.S. teachers are members of various political groups and they have even sought election.

Q.—Did you give permission to Mr. Costa to keep away during January, February 1956 ?

A.—Yes, I do not know whether I gave him written permission.

Q.—Written or otherwise did you give him permission to keep away from school in January, February, March 1956 ? A.—Yes.

Q.—And was he during that time canvassing for Mr. Anandatissa de Alwis ?

A.—I do not know.

Q.—You were here in Court yesterday when Counsel for the plaintiff opened his 10 case ?

A.—Not when he opened the case, I was outside. I was not listening to the opening.

Q.—Did you hear Mr. Wikremanayake say that the plaintiff issued a pamphlet ?

A.—No.

Q.—In connection with Mr. Anandatissa de Alwis' candidature ? A.—No.

Q.—Against Mr. Robert Gunawardene ? A.—No.

(Shown marked D24 an undated pamphlet).

Q.—Have you seen this pamphlet at the time of the elections ?

(Mr. Wikremanayake objects.

Mr. Thiagalingam states he will prove it by calling the plaintiff. 20

It is admitted subject to proof.

Mr. Wikremanayake denies the authorship of this pamphlet D24 because he says he has another pamphlet which is the correct one.—(Shown D24).

Q.—Leslie Gunawardene is a Member of Parliament today ? A.—Yes.

Q.—Kusuma Gunawardene is a member of Parliament today ? A.—Yes.

Q.—Vivienne Gunawardene is a Member of Parliament today ? A.—I think so.

Q.—You do not know ? A.—I mix up these two people, which is which, I do not know.

Q.—Philip Gunawardene is the Minister of Food ? A.—Yes.

Q.—Mr. Robert Gunawardene is today the Member for Kotte ? A.—Yes. 30

Q.—The " key " refers to the socialist groups ? A.—I do not quite remember.

Q.—The Robert Gunawardene group ? A.—I do not know.

Q.—To what does the " elephant " refer ? A.—I think it is the symbol of the U.N.P.

Q.—The purpose of this pamphlet is " vote for the U.N.P. " ? A.—Yes.

Q.—At the bottom there is a subscription that it is printed and published by Mr. N.W. de Costa at the Subaddra Press, Wellampitiya ? A.—Yes.

Q.—You know the Subaddra Press ? A.—Yes.

Q.—You know the man who has got it printed ? A.—I know the name.

Q.—The name is that of the plaintiff ? A.—N. W. de Costa.

Q.—The election campaign started off in full swing in February March 1956 ? 40

A.—Yes.

Q.—Parliament was dissolved on 18-2-56 ?

A.—I cannot remember the date, I know it was about that time.

Q.—Did you know that about that time this plaintiff was working in the Kotte electorate for one candidate or the other ?

A.—Not that he was working, he may have had his sympathies, I do not know that he was working for any member.

Q.—Was he working for the U.N.P. candidate ?

A.—I knew that his sympathies were with the U.N.P. candidate but I do not know whether he worked for him.

Q.—How did you know that? A.—I used to meet him frequently.

Q.—And he told you?

A.—Whether he actually told me I cannot say, he may have discussed the matter, from his talk I may have known it.

Q.—He made it clear to you that he was supporting the U.N.P. candidate?

A.—Not that he made it clear to me, from his conversation I gathered that he was more in favour of the U.N.P. candidate than the other.

10 Q.—Did you gather that he was working for the U.N.P. candidate?

A.—Not working.

Q.—What did he make you understand he was doing for the U.N.P. candidate?

A.—He did not make me understand that he was doing anything.

Q.—He was on leave during the time of the election campaign?

A.—The leave was on another matter.

Q.—When he was on leave on 10-2-56 he forwarded through you an application to the Minister of Finance?

(Shown the letter marked D25). This is sent by Mr. Costa?

A.—This is only a copy.

20 (Shown the original of D25 in the file).

This letter is signed by Mr. Costa.

A certified copy of this letter is marked D25).

This was not forwarded by me.

Q.—In that letter D25 he repeats what he has been saying in all the previous letters?

A.—Somewhat.

Q.—What is the new thing he sets out in D25?

A.—The new thing he adds is something about public speaking.

Q.—That is the only new thing he adds? A.—As far as I can see.

Q.—But you have already said that he could do public speaking?

30 A.—That is what I said. Also it is not public speaking, I referred to his work in the school and said he could make a speech, and I referred to a speech he could make in the assembly to the students.

Q.—In the assembly to the students he must make a good grammatical speech?

A.—No.

Q.—What sort of speech must he make to a crowd? A.—Mob speeches.

Q.—In regard to the school assembly he was able to get up as Principal on the platform and address, that was your view? A.—That was my view.

Q.—That is your view still? A.—Yes.

(Shown marked D26 a certified copy of a letter. The original is shown to the witness.

40 It is a letter sent by plaintiff to one Mr. Wijetunge appearing in the files of the Minister of Education, undated).

This is the plaintiff's signature.

Q.—Mr. Wijetunge was the Private Secretary to Mr. Banda the then Minister of Education, Mr. Wijetunge was the nephew of Mr. Banda?

A.—I know that Mr. Wijetunge was the Private Secretary. I do not know the relationship.—(Witness is asked to read D26).

Q.—This is a manuscript letter every bit of it in the handwriting of Mr. Costa?

A.—Yes, I think so.

No. 5  
Plaintiff's  
evidence

—  
Evidence of  
Dr. E. W.  
Adikaram—  
Cross-  
examination  
—continued.

Q.—It is on paper headed “ Ministry of Education, Colombo—2 ” ?

A.—Yes.

Q.—Obviously Costa had gone to the Ministry of Education Office and left that note written on paper of the Ministry of Education ? A.—Yes.

Q.—Who is the S.C. ? A.—The Permanent Secretary to the Minister of Education.

Q.—Helped him and thanked him in anticipation, for what ?

A.—Must be about this retirement.

Q.—Do you know that the Director of Education did not approve of that retirement ?

A.—At one stage he did not.

Q.—Do you know that the first date of elections was 5th April 1956 ?

10

A.—I cannot remember.

Q.—There was a landslide against the U.N.P. on that date ? A.—Yes.

Q.—Everybody knew that the U.N.P. was finished ? A.—Not finished, not very good.

Q.—Everybody knew that the U.N.P. would not get into power ?

A.—I for my part did not think that way, but I thought it is not good.

Q.—Mr. Bandaranaike had issued a manifesto stating that they were taking up the reins of government ?

(Mr. Wikremanayake objects to this question. Mr. Thiagalingam withdraws it).

Q.—Mr. M. D. H. Jayawardene had lost the Horana seat on the 5th night ?

A.—I do not know. I do not know the date. I know he was defeated.

20

Q.—I put it to you that Mr. M. D. H. Jayawardene was defeated on the very first date, the 5th April ? A.—May be, I cannot remember the date.

Q.—The U.N.P. although they had a serious setback on the 5th, their Ministers in the interregnum were still functioning as Ministers ? A.—Yes.

Q.—And on the 7th April 1956 do you know that as a fact that Mr. M. D. H. Jayawardene had lost his seat ? A.—He lost his seat, I do not know on which date.

(Shown Government Gazette of 14-3-56).

Q.—Mr. M. D. H. Jayawardene's election was fixed for the 5th April according to this gazette ? A.—Yes.

Q.—Now you know he was defeated on the 5th April ?

30

A.—Yes, according to this.

Q.—On the 7th April Mr. Jayawardene sanctioned the retirement of the plaintiff ?

A.—That I do not know.

Q.—It went through you ? A.—It may have gone through me.

Q.—You know that the Minister by letter dated 12/19 April 1956 allowed the appeal (shown this letter which is marked D27) ? A.—Yes.

Q.—Will you agree that that resignation was induced by private and personal pressure ? A.—No, I have no reason to think so.

Q.—Look at the B.T.S. file and see if there is no letter by Mr. Kularatne complaining against Mr. Costa's conduct and if there is no letter by Mr. Kularatne complaining to the Police ? A.—There is one letter by Mr. Kularatne here.

(Mr. Thiagalingam marks this letter dated 6th July 1953 D28).

D28 is initialled by Mr. Kularatne showing that his letter has been sent by him.

Q.—You know about the existence of this letter at all times ? A.—I must have seen it.

Q.—Look for the other letter where he has complained to the Police ?

A.—There is another letter here initialled by Mr. Kularatne. The usual way he initials is different.

(Mr. Thiagalingam marks letter dated 15th July 1953 in the B.T.S. file D29).



In the ordinary course this letter must have gone through me. He is asked to appear before the Board and explain his conduct.

I do not find a letter in this file by Mr. Kularatne complaining to the Police.

(Shown a letter dated 6-7-53 marked D30 in the B.T.S. files).

This letter is in Mr. Alagiyawanna's file. It has been sent to the Mirihana Police.

Q.—There is a letter in the file giving an allowance of extra Rs. 100/- to Mr. Alagiyawanna? A.—Yes.

Q.—You must have known of the existence of D30 in these files at all relevant times?

A.—I do not know, I cannot remember.

10 Q.—You knew about Mr. Alagiyawanna's increased allowance of Rs. 100/-?

A.—I knew.

Q.—Because it was in the file? A.—I knew by other things.

Q.—Not by perusal of the files? A.—I do not remember.

Q.—You looked into the files to find out whether Mr. Alagiyawanna was appointed Principal? A.—Yes.

Q.—The first file you must look into is Mr. Alagiyawanna's file?

A.—The Ananda Sastralaya file.

The special file for Alagiyawanna is of another school. The file in which this letter was found in Alagiyawanna's file itself, it is for Kegalla Vidyalaya, Kegalle.

20 Q.—There are files maintained by the B.T.S. for individual teachers? A.—Yes.

Q.—At the time the file was opened for Alagiyawanna he was the Principal of the Kegalla Vidyalaya, Kegalle? A.—Sometime ago.

Q.—And the file was opened in his name giving his address as Principal, Kegalla Vidyalaya? A.—Yes, but when a teacher leaves they are put in the storeroom.

If he joins again, if the old one is found it is used or a new file is opened.

Q.—At any particular point of time there is a file for every teacher?

A.—When a teacher has left it is normally not available in the section that we call for the file.

30 Q.—In 1954 when you became the General Manager Alagiyawanna was in the employ of the B.T.S.? A.—Yes, he was in Ananda Sastralaya.

Q.—And there must be a file for him? A.—There should be a file.

Q.—And did you call for that file? A.—I called for the file.

Q.—And the file was not given to you? A.—I do not think because I did not see this.

Q.—Was a file sent up to you?

A.—I cannot remember. I do not know whether there is another file after he joined Ananda Sastralaya.

Q.—If no file came up before you wouldn't you have asked them to open up a file?

A.—There may have been a file for him in the B.T.S.

40 Q.—You cannot tell the Court whether when you became Manager there was a file for Alagiyawanna in the B.T.S.?

A.—The subject clerk who was in charge of this was neglecting his work and I cannot guarantee for files having been opened.

Q.—The file before you contains all papers in connection with Alagiyawanna and the Ananda Sastralaya? A.—May be, I do not know.

Q.—And those letters indicate that he was appointed Vice Principal of Ananda Sastralaya? A.—May be, I have not seen them.—(Witness looks in the file).

No. 5  
Plaintiff's  
evidence

—  
Evidence of  
Dr. E. W.  
Adikaram—  
Cross-  
examination  
—continued.

There is an uninitialled letter to that effect, that he is appointing him to a Grade I special post. Even in this file there is no copy of a letter appointing Alagiyawanna as Vice Principal except the letter by Mr. Kularatne to the Mirihana Police. Yesterday I saw the original letter signed by Mr. Kularatne.

Q.—Either it has not been filed by inadvertence or it has been taken out by someone? A.—I do not know.

Q.—You now know that the previous Manager had taken the view that Mr. Costa was going to give trouble in that school over the appointment of Mr. Alagiyawanna?

A.—I infer that.

Q.—Didn't you draw a similar inference when you appointed Mr. Costa over the head of Mr. Alagiyawanna after you became the General Manager? A.—No.

Q.—Do you know that after the defeat of the U.N.P. government certain questions were raised in Parliament over the retirement of Mr. Costa?

A.—I have a vague recollection, I cannot remember what they were.

(Shown Hansard of 13-8-56 at page 347 marked D31).

Q.—Mr. Sagara Palansuriya was the member for Horana and he was going to ask the Minister of Education the conditions and circumstances in which Mr. Costa came to obtain his retirement? A.—Yes.

Q.—And the answers to those questions are contained in the Hansard of the same date?

(Mr. Wikremanayake objects to this question. Mr. Thiagalingam undertakes to call the Hon. Mr. Dahanayake). 20

Q.—Mr. Dahanayake stated that he made three applications and was finally retired on 7-4-56? A.—I have no comments to make, it must be correct.

Q.—The Hon. Mr. Dahanayake has stated amongst other things that the Minister sanctioned the application on 7-4-56? A.—Yes.

Q.—A supplementary question was put to the Hon. Mr. Dahanayake by Mr. Robert Gunawardene and The Hon. Mr. Dahanayake added that he was satisfied in his own mind he was satisfied that Mr. Costa should not have been allowed to retire because there is evidence that he could teach in swabasha? 30

A.—I see that there.

Q.—You do not agree with Mr. Dahanayake? A.—No, I do not know, I cannot say. (Further hearing tomorrow—20/3/56).

(Sgd.) A. L. S. SIRIMANNE

A.D.J.

20/3/57

Trial resumed—Appearances as before.

DR. E. W. ADIKARAM,—Affirmed—Recalled.

(Shown D 32).

I know this book. This is a book on Botany and the author of the book is the plaintiff. It is in use in the schools in our country, it is in Sinhalese. There is a foreword to that book. Mr. Dias refers to this book as the first book of its kind and that the thanks of the country are due to the plaintiff for his pioneer task. I agree with that observation.

Q.—Mr. Dias goes on to say that the rendering of the book is not readily understood by the average child ?

A.—Yes, not completely, but it is fairly good.

Q.—The real difficulty in our country today is to find teachers in science subjects who could do it in Sinhalese ?

A.—That is the difficulty.

Q.—Mr. Dias goes on to complement Mr. Costa here in the foreword with suitable equivalents in swabasha for the numerous technical terms ? A.—Yes.

Q.—There is a preface to this book written by Mr. Costa himself ? A.—Yes.

10 (Witness asked to read preface).

In it he states that to write that book he was helped by Weerasinghe and Wijewickreme.

Q.—It is not a translation of something written by him ?

A.—No, he does not say that.

I am doing science. I am not good at drawing pictures.

Q.—Every illustration here we have to put down on paper in our school days ?

A.—But not like this, we just draw the lines.

Q.—Is this done a little more artistically ? A.—No.

Q.—Mr. Costa is a specialist in drawing ? A.—I think in art.

20 Q.—Not drawing that is ? A.—Not necessarily.

Q.—Can you tell us if he did drawing ?

A.—This is different. A real artist need not do mechanical drawing, but he does some more creative drawing. I don't know whether he can teach mechanical drawing.

Q.—He has a certificate in drawing ?

A.—Yes, but it may consist of various parts. I upgraded him when I got that certificate but I don't know what the subjects were.

I know Mr. Lanerolle. The man was at one time editor of the Lanka Dipa. I forget in which year I started contributing to the Lanka Dipa. I don't know whether Mr. Lanerolle had left the Lanka Dipa in 1948. My memory is that a friend of mine who is 30 a professor of Sanskrit in the University spoke to Mr. Lanerolle and introduced me to him, and said so and so is able to write articles. That is my first recollection.

(To Court : Q.—Could you remember whether Lanerolle had retired by 1948 ?

A.—I don't know).

He may have retired on 7th March 1949.

Q.—The present editor Mr. Dhanapala was appointed on the 1st April 1949 ?

A.—May be.

Q.—And at that time you were a little in need ?

A.—I am still in need ; throughout I mean.

Q.—You sought election while you were needy as the Manager of the B.T.S. ?

40 A.—I said a little in need, not needy.

Q.—While you were a little in need you sought election as the Manager of the B.T.S. ? A.—I did all my activities in the same position.

Q.—My emphasis is not on your need, but when you were in a little need you sought election as General Manager of the B.T.S. ?

A.—That also happened when I was in need. I was always in need.

Q.—You first contributed to the Lanka Dipa in 1951 ?

No. 5  
Plaintiff's  
evidence |

—  
Evidence of  
Dr. E. W.  
Adikaram-  
Cross-  
examination  
—continued.

No. 5  
Plaintiff's  
evidence

Evidence of  
Dr. E. W.  
Adikaram-  
Cross-  
examination  
—continued.

A.—I cannot remember the date. I have the paper cuttings. If I was asked to bring them I would have come prepared.

Q.—I put it to you it was Dhanapala who put you on the map of Ceylon? A.—No.

Q.—I put it to you it was Dhanapala who gave you this job of writing articles to the Lanka Dipa when you were in need?

A.—It was not a job. I have nothing to add. The Times of Ceylon made the payments to me every month. I got the cheque from the Times of Ceylon.

Q.—Did not Dhanapala carry pictures of you under the name “a new man is coming to Ceylon?”

A.—I cannot remember. But I remember very scurrilous articles by him later. 10

Q.—In connection with cadeting?

A.—No. He started by saying Adikaram is the most hated man in the B.T.S.

Q.—That was when you wanted cadeting stopped in schools?

A.—No, it started earlier. The malice really started when Mr. Kularatne was defeated.

Q.—You started your banning of cadeting at the same time?

A.—No, later, very much later.

Q.—Can you give us the date of the article? A.—I can just remember it.

Q.—Apart from remembering that you cannot remember articles in the Lanka Dipa where you were applauded as the coming man? 20

A.—I don't remember articles in praise of or against me, but something sticks in the mind.

(To Court : Mr. Kularatne was defeated in June 1954. Immediately after that I felt the relationship was becoming lukewarm and gradually it increased to positive bad feeling).

Q.—Dhanapala you said took no part in the elections?

A.—He was not present at the election meetings.

Q.—Did you tell the Court that he took no part in the election?

A.—I don't know that, but he wrote articles against me before the elections. I did not ask him to support me at the elections. 30

Q.—Did you ask anybody to support you at the elections?

A.—Some of my friends.

I know that Dhanapala was the Editor of the Lanka Dipa.

Q.—He was a man who could have supported you? A.—Perhaps.

Q.—Did you ask him?

A.—No, I did not ask him. It was not necessary. I was not going to ask public support from people. The friends that I knew intimately I asked.

Q.—Was not Dhanapala an intimate friend?

A.—I did not class him as an intimate friend.

Q.—When he was editor of the Lanka Dipa you had contributed a large number of 40 articles to the Lanka Dipa?

A.—No. My impression is that he helped the paper by getting my articles, but several sub-editors told me that on the day my articles appeared in the paper the sales were higher.

Q.—You must please not make my question a lever to say what you want. What was my question to you? A.—I forget.

Q.—My question was not on your successful ability to push up the sales of the Lanka Dipa. Did you contribute articles to the Lanka Dipa at the time when Dhanapala was the editor? A.—Yes, I did.

Q.—He could have stopped your contributions?

A.—I would have written to another paper.—(Question repeated).

A.—Yes, he could have stopped. It was not in his interests to have stopped the articles. It was not that he was trying to help me.

(Shown a letter marked D33).

This is a letter by me addressed to all the members of the B.T.S. and perhaps I gave it to some others also as it was a cyclostyled letter. Probably I may have sent it to Dhanapala.

Q.—Did you not tell the Court a little earlier that you did not write to anybody except just a few friends? A.—Yes, I said it, but this was a circular.

Q.—Is that cyclostyled?

A.—Not cyclostyled. I corrected myself by saying printed. This letter is printed.

Q.—Dhanapala you told us is not a member of the B.T.S.?

A.—I don't think he was a member. I qualified myself by saying, as far as I know he was not a member.

I know Dr. Nandadewa Wijesekere the Assistant Commissioner in the Swabasha Department. I think he is an Indo-Aryan honours graduate. I don't know whether he did his Indo-Aryan in roman script. I don't know in which university he got his degree. If it was the Ceylon University it would be in English I think.

Q.—What is the script for sanskrit?

A.—It all depends. In Ceylon Sinhalese script is also used. There is no particular thing called sanskrit script. In Europe they use sometimes Roman script and in Ceylon they use the Sinhalese script sometimes – sometimes Deva Nagari.

Q.—In Ceylon they sometimes used the Tamil Script, that is for people like me who don't understand the original script?

A.—There is no original script. In Pali it is the same. In Ceylon normally they use the Sinhalese script, in Siam the Siamese script, in Burma the Burmese script and in England the Roman script.

Q.—All these people, whatever script they use know Pali and Sanskrit well?

A.—It all depends on their proficiency. Some may know, and others may not.

Q.—Dr. Wijeratne the dictionary man is an Indo-Aryan man who did Sanskrit with English as his script? A.—I cannot say. I only know him.

Q.—As far as Sinhalese is concerned, the root languages are Sanskrit and Pali?

A.—On the whole.

Q.—I put it to you that Costa better than anybody in the world, if he is honest, could do Sinhalese in any class in Ceylon? A.—No, I don't think so.

(Shown Lanka Dipa of 27th November 1955 marked D34).

I remember reading this article. It contains a picture. I don't know whether it is a nice picture. This is dated 27th November 1955. It is said there "one of our wonder men."

Q.—It is an article extolling you? A.—In a way.

Q.—What do you want to convey by the answer "in a way." Do you suggest to Court there is anything like an attempt to belittle you there?

A.—Ho, he could have praised me more.

Q.—You were not content with the praise that is 'one of the wonder men of Ceylon'?

No. 5  
Plaintiff's  
evidence

—  
Evidence of  
Dr. E. W.  
Adikaram—  
Cross-  
examination  
—continued.

No. 5  
Plaintiff's  
evidence  
—  
Evidence of  
Dr. E. W.  
Adikaram-  
Cross-  
examination  
—continued.

A.—I was not concerned about it.

Q.—You did not think that you were one of the wonder men of Ceylon was praise enough for you? A.—That question does not arise.

Q.—Did you tell the Court that he could have praised you more? A.—Yes.

Q.—Do you think 'one of the wonder men of Ceylon' is not praise enough for you?

A.—I am not concerned about it.

Q.—You cannot give any other answer to my question. Do you think that describing you as one of the wonder men of Ceylon is not sufficient praise for you?

A.—It is not for me to say that I am not concerned with it.

I did not say that I should be praised more. I said the article could have contained 10 more praise.

Q.—Could it contain more praise than calling you the wonder man of Ceylon?

A.—Yes. He could have said "Ithamath puduma menya."

Q.—That was at a time when the elections to the B.T.S. were over?

A.—No. The elections are held every year. The elections were in June 1954.

(To Court : Then again there is another election in June 1955, and again in 1956. In 1955 also I won).

In 1955 Mr. Kularatne contested me. This article came in after that.

Q.—Can you give the Court any date? A.—Yes.

Q.—'Yes' to what? A.—No, I am sorry.

(Shown the original document to the Lanka Dipa of 13th September 1955, photostat copy marked D35. Mr. Dias has no objection to the photostat copy being marked provided the original is kept in Court during the course of the case, which Mr. Thiagalingam undertakes to do).

Q.—That contains an art picture depicting a lady carrying a sheaf of paddy on her head and a pot of water meaning plenty?

A.—It shows a pot, but I don't know what it contains. I don't know what the picture signifies.

Q.—Do you know what the lady is carrying on her head?

A.—It looks like a sheaf of wheat.

Q.—And she is carrying a pot of water? A.—It is a pot.

Q.—Would you understand by that as a pot meaning plenty?

A.—No, it need not necessarily be so. She may be going to a well, or may be returning home with something on her head. But the picture did not signify anything to me.

Q.—That issue carried a picture of Sir Nicholas Attygalle and yourself?

A.—Yes, A very big picture.?

Q.—On the 13th September 1955 the Lanka Dipa was all out to speak well of the Ananda Sastralaya? A.—May be.

Q.—What happened after September 1955? A.—Regarding what?

Q.—What happened after September 1955 to enable the Lanka Dipa to put the news item in P1? A.—I don't know.

Q.—Before that fair, the Lanka Dipa ran a Pancha Kalyani contest for a beauty queen to open that fair?

A.—I know they had some Pancha Kalyani contest. I never read anything. I thought it was a disgrace and never looked at them. I thought it was immoral and never looked at those pictures.

Q.—You don't like beauty?

A.—There is no question of liking of beauty, you appreciate beauty.

Q.—You have got very violent views about these contests ; that they mean physical culture first, you don't believe ? A.—I could not hear you.

Q.—That beauty contest mean building up a healthy womanhood ?

A.—No. I don't believe in that.

Q.—You don't believe in boys being made men by cadeting ? A.—No.

Q.—In this particular case the Lanka Dipa in point of fact ran a beauty contest to select a girl who would go to the fair of the Ananda Sastralaya ? A.—That I don't know.

Q.—Will you contradict me if I say that ? A.—No.

10 Q.—The Lanka Dipa was doing everything in the world for a Buddhist School ?

A.—That I cannot say.

Q.—At that time the editor of the Lanka Dipa was Dhanapala ? A.—Yes.

Q.—The English editor knows nothing of what is in that paper ?

A.—I don't know that.

Q.—The directors, indeed some of them don't even know the language ?

A.—That I don't know.

Q.—You told the Court that you don't know what induced the Lanka Dipa to publish the item P1 ? A.—No.

Q.—You told the Court you read it ?

20 A.—I read it yesterday. I had a vague recollection that I had read it earlier.

Q.—When you were in the witness box and P1 was put to you you told the Court that you could not then recollect what impression P1 formed on your mind when you first read it ? A.—Yes, I had more or less forgotten about it.

Q.—You read it and did not give it a second thought in 1955 ?

A.—I could not say that. So many of these things appear I did not pay much attention. I don't think it left an impression worthwhile in my mind.

Q.—Was it not your duty when you read this item on the 5th December 1955 to inquire into the matter ? A.—No, I did not bother about these press reports.

Q.—In fact, no sensible man should bother about it ? A.—I don't know.

30 Q.—Anyway, you didn't ? A.—I did not want to inquire or bother about it.

Q.—You know Mahindapala Boteju ? A.—If I see him I may know.

Q.—You know a Mahindapala Boteju ?

A.—No, not by name. I know many people in Kotte but if the name is asked I will not be able to know.

Q.—According to P2b a man by the name of Dhammasiri had written a letter supporting the principal of Ananda Sastralaya ? A.—According to this document yes.

Q.—And the Lanka Dipa had published it ? A.—Yes.

Q.—Evidently they were angry with Costa in publishing it ? A.—I don't know.

Q.—Did you read this letter P2 at the time it appeared in the press ?

40 A.—I have no clear memory of it but I read it yesterday or the day before.

Q.—If you had read this letter in December 1955 would you have taken action on that letter ? A.—No.

Q.—You would have got the impression whatever it may have been that there was something going on, you would have got the impression that there was a wrangle going on about the facilities fees ?

A.—Not necessarily but, but I had some impression.

Q.—If this be true that when the students who were to appear for the university entrance came for their admission cards they were refused as they did not pay the faci-

No. 5  
Plaintiff's  
evidence

Evidence of  
Dr. E. W.  
Adikaram-  
Cross-  
examination  
—continued.

No. 5  
Plaintiff's  
evidence

—  
Evidence of  
Dr. E. W.  
Adikaram-  
Cross-  
examination  
—continued.

lities fees with arrears if that were true would not that be a scandalous thing for the principal to have done ?

A.—If through inability they did not pay, that would be scandalous.

Q.—To get the admission cards a teacher had to write a cheque, if that happened was it not a scandalous thing ?

A.—I don't think it is so. A teacher helped in this matter and I don't think it is scandalous.

Q.—For a teacher to pay the facilities fees of students to enable the principal to issue the admission cards, there is nothing wrong in that ?

A.—No, I don't see anything wrong.

Q.—Was it a scandalous thing that parents had to go to the Education Department to require the principal Costa to issue admission cards ?

A.—I don't know under what circumstances it was made.

Q.—If it be that the parents had to go to the Director of Education to enable cards to be granted to their sons was n't that a scandalous state of affairs ?

A.—It all depends under what circumstances.

Q.—The circumstances being the Principal's refusal to give the cards ?

A.—No, the boys may have misrepresented matters to their parents. I did not inquire into it.

Q.—The Lanka Dipa has a function to perform in regard to these matters ?

A.—I don't know, may be.

Q.—If you went and told the Lanka Dipa that certain things are taking place in the B.T.S. would not the Lanka Dipa give publicity to your views ?

A.—It probably would, or sometimes not.

Q.—And if they did, would they be doing a wrong ?

A.—I don't think they would be doing a wrong.

Q.—If the principals had said to the boys, you have gone to the department to get these admission cards and I won't give them to you, is that not scandalous ?

A.—If that statement is accurate, there are two sides to the question ; under the first it undermines discipline in the school, therefore the principal would have to take measures that the discipline of the children would have to be maintained. The other part is withholding, not allowing the boy to take up the examination by not giving the card, that would be wrong. If he could not take up the examination by not getting the cards that would be wrong.

Q.—You know that boys, for a week or 10 days before the examination, they all do a certain amount of cram work ?

A.—That was long ago.

Q.—Boys today are more playful ?

A.—No. It is a different world.

Q.—When they come to be as old as you and I they will say the same thing about their children ?

A.—Probably.

Q.—These boys were kept on pins in regard to their admission cards till the date of the examination ?

A.—I could not say that.

Q.—Everyone of those boys failed the S.S.C. ?

A.—I have no idea.

Q.—You did not bother to look into it ?

A.—I cannot as manager inquire into this.

Q.—If all this be true there is no question that Costa was throwing mud on the reputation of the Ananda Sastralaya ?

A.—No, not at all.

Q.—If it be true that he did not give the admission cards, if it be true that he held the boys back till the last moment of the examination, he was throwing mud on the Ananda Sastralaya ?



A.—If it is said that he did not allow the boys to take up the examination that would be bad.

Q.—You knew that there were factions on the school staff owing to Alagiyawanna and Costa? A.—Not only due to that.

Q.—There were dissensions on the school staff? A.—I don't know that.

Q.—And the boys were supporting one, and some supporting the other?

A.—Normally that would be so.

Q.—You heard the slogan Alagiyawanna gederu yanta laja natha mehe enna?

A.—I heard something to that effect.

10 Q.—Who got that done? A.—I don't know.

Q.—Alagiyawanna got it done? A.—Naturally he would not.

Q.—Costa got it done? A.—I don't know.

I did not inquire into this. I don't think Costa would ever have done a thing like that.

Q.—You had the greatest admiration for the man?

A.—Not the greatest.

Q.—He can never do any wrong thing? A.—No, I did not consider him infallible.

Q.—Can he do anything improper? A.—I think it is possible.

Q.—Why do you say so, he could not have instigated the slogans?

20 A.—Knowing him as I know him it is very unlikely that he would have done such a thing.

Q.—But it is possible he could have done so? A.—I don't know.

Q.—Mahindapala says the staff is opposed to the principal, would that be correct?

A.—That is what that boy says.

Q.—That may be correct with your knowledge of what was happening? A.—No.

Q.—You told the Court that there was dissension among the staff?

A.—Yes, but not 1/3rd to one side. I knew the basis, but when I wanted to make the observation I was prevented.

30 Q.—Do you know how many were backing Alagiyawanna and how many were backing Costa? A.—No.

Q.—Can you say 1/3rd backed Costa and 2/3rd backed Alagiyawanna?

A.—No, I cannot say.

Q.—You won't contradict me?

A.—I don't think the majority was against this principal.

Q.—Before his appointment to Ananda Sastralaya Alagiyawanna was getting a higher salary in the Education Department?

A.—I don't know even now, not definitely.

Q.—He was being paid Rs. 100/- extra not by Government but by the B.T.S.?

A.—Yes, Mr. Kularatne had made that order.

40 Q.—Did Costa tell the students "Look here, the facilities fees is going to pay Alagiyawanna, don't pay?"

A.—I don't know about that. Various rumours went about the place but not to this effect. Because out of the facilities fees this is not paid?

Q.—Were there rumours about facilities fees when Alagiyawanna was in the school in 1954? A.—I cannot remember. I don't think I heard about it.

Q.—You didn't bother about P2 whether you read it or not? A.—No.

Q.—You didn't think ill of Costa for instance? A.—No.

Q.—Do you know the writer of this letter P3 Kirthisiri Amaratunge?

No. 5  
Plaintiff's  
evidence

Evidence of  
Dr. E. W.  
Adikaram-  
Cross-  
examination  
—continued.

A.—I have seen the boy once or twice, but I know his father and brother well.

Q.—He comes of a respectable family? A.—Yes, a middle class family.

Q.—Kirthisiri Ameratunge the writer of P3 is in the Varsity now?

A.—I could not say that.

Q.—Kirthi Ameratunge says that as an old boy of Ananda Sastralaya he knows that it was the present principal of the Sastralaya who incited the students to revolutionary activities in the school?

A.—That is what he says. I did not read it at the time it was published. I may have read it. Even if I saw it and read it I would not have bothered about it.

Q.—It is no secret as to the persons responsible for having got anti Alagiyawanna 10 slogans written on the wall?

A.—I have heard that those slogans were written.

Q.—They were painted? A.—I don't know.

Q.—With paint supplied by Costa? A.—I don't know, I never went there.

Q.—You know that Mr. Dudley Senanayake opened the kindergarten school in 1954? A.—Yes.

Q.—Costa was never there?

A.—He was not present there because I went to the meeting.

Q.—Do you know that Costa has stated to Court that he was present at that function?

A.—I don't know. At the time I was at the function he was not there. I don't 20 remember to have seen him there.

Q.—Why did he keep away? A.—I have no idea.

Q.—It was Alagiyawanna who conducted Mr. Dudley Senanayake from the car to the building?

A.—I could not say that. I think it was the principal who conducted him. I don't know, I cannot say. It happened about 3 or 4 years ago and being asked about it now I cannot remember. Some things I remember, some things I cannot remember.

Q.—As far as you can remember Costa boycotted that function?

A.—I don't think he boycotted that function. If I remember correctly he did not attend it. He was not there when I was in the place.

Q.—The writer Ameratunge concludes with the sentence: "Those in the know, 30 know the man because.....principal of Ananda Sastralaya." The principalship of Ananda Sastralaya was a matter which agitated the Buddhist public in 1954/55?

A.—It was agitated.

Q.—When you read P3 you didn't bother about that either? A.—No.

Q.—There is no principal yet of Ananda Sastralaya?

A.—No, an acting principal.

Q.—The Buddhist schools don't seem to give any regard to your directive regarding cadeting?

A.—I have not issued a directive to any school to stop cadeting. In 1954 I wrote 40 a letter to the principal of four schools and after that verbally I told them the matter is under consideration nothing is to be done.

Q.—Did you write to them to stop cadeting?

A.—I wrote a letter, I cannot remember the contents. Something to the effect that when the cadeting authorities came to hand over the material.

Q.—Did you write to them to stop cadeting?

A.—I cannot remember the exact words.

Q.—Was your directive to them to stop cadeting?

A.—I would not call it a directive.

Q.—Did you write to them asking them to stop cadeting ?

A.—I forget the exact wording.

Q.—Did you write to them to return all the equipment ?

A.—Yes, when the authorities came for them.

Q.—Have they returned them ?

A.—No, because the authorities did not come.

Q.—And they are still doing cadeting in your school with your approval ?

A.—Neither approval nor disapproval.

10 Q.—You read P4 the news item of the 8th May 1956, that is a statement of fact. There is nothing wrong in P4 ? A.—I must read it first.—(Witness reads P4).

Q.—It says Costa the principal of Ananda Sastralaya has retired, is that right ?

A.—I think it is not correct.

Q.—Read the sentence which is not correct ?

(Witness reads : “ Retired under the new pensions ordinance with full pension.”)

A.—I don't know whether it is full pension or something else. I would not call it incorrect, but I don't know whether it is full pension. “ And that he will be leaving for America in the future to take up an appointment in America”. I think it is not correct. At that time I talked to Costa about it.

20 Q.—Having talked to Costa you knew that that was a correct statement ?

A.—Having talked to him daily I knew that it was false.

Q.—Did you ask him whether he applied for a job to Easterline the American Ambassador for a job in America ?

A.—There was a talk of his wanting to go to America and his approaching the American Embassy, but not that he will be leaving for America, that is quite a different story.

Q.—As far as you knew there was some possibility of his going to America ?

A.—Not some possibility, but a possibility. I don't know why he was going to America. I think he liked travelling.

30 Q.—He was a great believer in teaching negroes English ? A.—I don't think so.

Q.—Did he say in one of his letters that he knows negroes who are taught English are better than their brethren in Africa ?

A.—There was a letter referring to it.

Q.—Did he tell you that he wanted to teach negroes English ?

A.—There was no such thing in the letter.

Q.—Did he apply to anybody to go to America to teach English to anybody ?

A.—I don't think so.

Q.—Did you ask him ? A.—There was no necessity to ask him.

Q.—Who told you that there was the possibility of his going to America ?

40 A.—He told me that he would like to travel and he had just returned from America and he would very much wish to go to California. He did not say he liked to go for good. He told me he wanted to go to California after he returned from America.

Q.—He told that to you immediately he returned ?

A.—Not immediately ; I cannot remember. I used to meet him after he returned and discuss about matters there.

Q.—After he returned from America you talked to him casually in the course of which he told you he wanted to go to California ?

A.—He expressed his wish that he would get a chance of going.

No. 5  
Plaintiff's  
evidence

Evidence of  
Dr. E. W.  
Adikaram-  
Cross-  
examination  
—continued.

Q.—And you made him principal of Ananda Sastralaya? A.—I did not make him.

Q.—Did you tell the appointments board that he wanted to go to California?

A.—No, there was no necessity because principals go like that. I think Mr. Alagiawanna is going somewhere.

Q.—Apart from that there is nothing wrong with P4?

A.—That he will be leaving for America I think is quite wrong.

Q.—If somebody tells you that you are going to America tomorrow do you bother about it?

A.—I would bother under certain circumstances.—(Shown P5).

If I see K. Jayasekera I will know whether I know him or not.

10

(Jayasekera called into Court).

I may have seen him but I have never spoken to him.

(Dharmakirthi called into Court).

Q.—You know this boy very well?

A.—Not very well, I know him as a young communist. He was at Ananda Sastralaya. I don't know whether he was secretary of the Literary association. I don't know whether he was one of the leaders of the school.

Q.—Why do you call him a young communist?

A.—Once or twice he came and we discussed on communist and if I remember he said he was a member of a cell, I don't know what he meant by it.

20

Q.—He came there and talked to you on Ananda Sastralaya? A.—I don't think so.

Q.—You talked to him because he is a boy of Ananda Sastralaya? A.—No.

(Shown P5).

Q.—Did you read this at the time it appeared on the 11th May 1956?

A.—I don't remember.

Q.—You would not have bothered about that too even if you saw it?

A.—No, I mean not to take action.

Q.—It is correct to say that Costa resigned owing to the fact that he could not teach in Sinhalese? A.—Yes.

Q.—That is correct? A.—That is correct.

30

I don't know whether it was reported in the Lanka Dipa but the fact that he retired under that rule I don't know. That he holds an external degree in the Indo-Aryan language is correct. That he is the author of a book is correct.

Q.—And that it is of use in the schools? A.—I don't know.

Q.—Did you not say that it is in use in the schools?

A.—I think it is used in the schools. As far as I know it is used in the schools.

Q.—You know as a matter of fact that he did not attend school the first term of 1956? A.—Yes, I know.

Q.—Do you know that he published pamphlets in his name for the U.N.P. elections?

A.—That I don't know.

40

Q.—Mr. M. D. Banda was the U.N.P. minister of Education?

A.—I think it would be more correct to say that he was Minister under the U.N.P. Government. I think he contested Maturata.

Q.—In P5 the writer goes on to say "What the public must consider here is . . . . approve of the application for his registration?" A.—I read that.

Q.—Would you think it was wrong?

A.—It is wrong in the sense . . . . . Now that I read it I say I was never his teacher.

Q.—That is the only thing wrong in that ?

A.—I cannot guarantee for the view that he has expressed. It is his view.

Q.—It is a possible view to take ? A.—That is why he has stated that.

Q.—Do you think it is a possible view to take that the Minister must look into that file to see if his resignation was regular ? A.—That is his business.

Q.—It is the business of the public to call upon a minister of education ?

A.—I cannot answer for the public.—(Shown D36).

I admit having given this certificate to Dharmakirti.

No. 5  
Plaintiff's  
evidence

—  
Evidence of  
Dr. E. W.  
Adikaram—  
Cross-  
examination  
—continued.

*Re-examined* : From 1934 to 1946 I was the principal of Ananda Sastralaya. In  
10 the various schools run by the B.T.S. organisations the grades are by the Education  
Department. The Ananda Sastralaya in 1934 was in Grade C. At that time there were  
grades A, B, C, now there is 1, 2 and 3. Grade C would correspond to 3. If I remember  
correctly there were some 200 odd pupils in that school. There was no free education  
scheme in 1935. The school buildings in 1934 consisted of two cadjan sheds with mud  
floor and I think one small office building, thatched, small. That was all. At the time  
I was principal the only funds of the school were the school fees. At the beginning I  
used to attend to all the clerical work and accounts works. There was no boarding in  
1934, but immediately after that I started a hostel. The amount of money received by  
way of fees was insufficient to meet the expenses of the school. It was very difficult.  
20 At that time the teachers salaries were paid on a different basis. There was a thing  
called Manager's contribution for the school which the school had to pay to the Edu-  
cation Department and at the end of the month they sent the manager's contribution  
plus the departmental contribution back and we were always short of getting even the  
manager's contribution which came to Rs. 500/- to Rs. 600/-. Apart from school fees  
it was necessary to raise money from other sources. We had to put up buildings and  
expand the school.

Re-  
examination

Shortly after I was appointed principal I told the Court that the plaintiff was also  
taken as a teacher in the school. I also said that the amount raised by way of fees was  
30 not sufficient to meet the expenses of the school. One way of meeting the expenses was  
by collections from the public, by having a fancy fair and we made use of the Kotte  
Perehera by putting up some shops and various things like that and going from house  
to house. The staff assisted me in raising money. I expanded the school buildings. I  
put up one main building for the hall, some class rooms, a science laboratory, a hostel  
building and several other smaller buildings. There were two storeys of substantial  
proportions. The science building was quite a substantial building. At the time I left  
there was one building in the process of construction. I had started one and it had gone  
about halfway. At the time I was principal, science subjects, like Botany, was taught  
and I could not quite say, but I think some kind of general science was taught. During  
40 my period as principal I increased the number of subjects that were taught. During  
the time that I was principal there was an increase in the number of students, about  
100 pupils every year and when I left there were about 1,200 pupils. During my time as  
principal there was also increase in the grading. The school was split into two, a section  
was kept in Grade C and the upper school was raised to Grade A. Part of the school  
was graded to Grade A.

Q.—What is the consequence from the departmental point of view by the change  
of Grades ?

No. 5  
Plaintiff's  
evidence

—  
Evidence of  
Dr. E. W.  
Adikaram-  
Re-  
examination  
—continued.

A.—The prestige of the school was higher and we can attract better teachers.

Q.—What is the special post ?

A.—A special post at that time was only for the principal.

Q.—You remarked that special post to which the school is entitled to depends on its grade ?

A.—I think in grade 1 and 2 it depends.

I was questioned about a person called W. D. Goonewardene.

Q.—What were his qualifications as a teacher at the time he was employed at Ananda Sastralaya ?

A.—He had a drawing certificate. Apart from that I think he had the Junior 10 certificate also.

Q.—Which of these two qualifications determines the salary ?

A.—The drawing certificate.

During my period as principal the plaintiff also got a first class drawing certificate. Apart from that he had the senior certificate qualifications and later he had the inter which year I cannot be sure.

Q.—Which is the qualification which would have determined his salary before he qualified for the inter ?

A.—The drawing certificate. That would be higher than the senior.

Q.—As between Mr. Goonewardene and the plaintiff would there have been any 20 difference in salary ?

A.—I could not quite remember. There may have been a small difference. There were some certificate in which there was no difference in salary, but in some there was a difference, I am quite sure.

Q.—Would the difference in salary depend on the classes being taught or on his qualification ?

A.—Not on the classes, whether he is in the grade 1 school or in the grade 2 school.

I spoke of a person called J. O. de Silva. I did not recommend him for appointment to the Siripala College. I recommended him for a transfer. If I remember correctly he was a senior certificated or London Matriculation certificated teacher. There were 30 several teachers holding the senior certificate at the time.

In 1937 the plaintiff had the drawing certificate. Whether he had gone through the London Inter by that time I cannot be sure. I have known Mr. Alagiyawanna from about 1940 or 1941, if I remember correct. I know the school called Kegalla Vidyalaya. Alagiyawanna was the first principal there. In fact I was instrumental in founding the school, I mean, also helped in founding the school and Mr. Alagiyawanna was the first principal. It was a Grade C school. It was not registered at the time and was graded C. At the time the Ananda Sastralaya was raised to grade 1 we had a celebration in the school. Mr. P. de S. Kularatne did not come to that function. He sent a letter of protest that he would not come. He was invited to that function. 40

Q.—Was Mr. Kularatne a teacher in the school where you were a student ?

A.—He was the principal, but I have not been in any of his classes. I was only there for 6 months. I got referred in the inter-science one year and to do the practical work I joined Ananda College.

I know that Alagiyawanna went to England. After he returned he was appointed to a Government post in the Education office. I think he was some officer in adult education. I am subject to correction. I think it was a temporary post.

Q.—You referred in your evidence to the Headmaster of the lower school of Ananda Sastralaya a gentleman by the name of Samarawickreme? A.—Yes.

I think he was headmaster for some time whether I appointed him I cannot remember. He was transferred as principal to a branch of Nalanda Vidyalaya. I cannot remember who was General Manager of the B.T.S. schools at that time. If I remember correctly it was Mr. Kularatne.

No. 5  
Plaintiff's  
evidence

—  
Evidence of  
Dr. E. W.  
Adikaram-  
Re-  
examination  
—continued.

10 Q.—Do you remember if it was before Alagiyawanna was appointed Vice principal or not?

A.—I don't know whether he was appointed as vice principal. This was before Alagiyawanna was appointed to Ananda Sastralaya.

At the time that I became the General Manager of the B.T.S. the plaintiff was holding a special post. He was holding a Grade II post.

Q.—At the time you were appointed General Manager?

A.—No, at that time he was holding a grade I special post. Mr. Kularatne had appointed him.

Several years before 1950/51 Mr. Costa was the holder of a special post.

20 Q.—What grade special post was that before 1951?

A.—That is the Grade II special post.

Q.—What are the salary scales attached to the special posts in the two grades?

A.—I could not say offhand. They are printed in the list.

Q.—You told the Court that after Mr. Alagiyawanna was appointed to Ananda Sastralaya he was paid a special allowance?

A.—Yes, it was Rs. 100/-.

Q.—Was there any other teacher in Ananda Sastralaya who was being paid any special allowance?

30 A.—Not to my knowledge. I don't think anybody was paid. I don't know whether the principal was paid anything, I am not sure.

Mr. Alagiyawanna left Ananda Sastralaya towards the latter half of 1954. At the time he left Ananda Sastralaya he also left the B.T.S. schools. He resigned from the B.T.S. service.

Q.—Subsequently did he join any other schools? A.—He joined Sri Sumangala.

Q.—Under whose management is Sri Sumangala School Panadura?

A.—I think there is some board of management.

Q.—Does Mr. Kularatne have anything to do with that school?

A.—To the best of my knowledge he is a member of that board.

Q.—Did the plaintiff apply for leave to go to England in 1950 to take his degree?

40 1954. The application for leave was made in 1948. He ultimately went in 1950.

Q.—Prior to those two applications to go abroad had the plaintiff to your knowledge made any applications to retire from service on any grounds?

A.—I could not say. I cannot remember.

No. 5  
Plaintiff's  
evidence

Evidence of  
Dr. E. W.  
Adikaram-  
Re-  
examination  
—continued.

I saw these documents yesterday and I mixed up the dates. Plaintiff was appointed principal of Ananda Sastralaya in April 1955, on the retirement of Mr. Wickremesinghe, several months after.

(To Court : Q.—Could you say on what day exactly he was appointed principal ?

A.—1st April 1955.)

Q.—Subsequent to the appointment of Mr. Costa has there been any development in the school buildings has there been any further acquisition by the school ?

A.—Yes. I think some land was bought. I cannot be sure of the date. I am sure the adjoining land was bought. That land was adjoining the school premises. There was a house on that land.

Q.—To your knowledge is there a playground at the moment being built for that school ? 10

A.—Not in the school. There is another land elsewhere that is the playground at present under construction.

Q.—When was the construction of that playground commenced ?

A.—I made a start long ago but it was left at that. I could not proceed for certain reasons and Mr. Costa almost completed that.

Q.—You know how much that land and buildings would have cost ?

A.—I think it was bought for a sum of Rs. 17,000/- or Rs. 18,000/-, I am not sure. I remember that because I bargained with the owners. 20

Q.—At the time of Mr. Wickremesinghe's principalship of Ananda Sastralaya were there any buildings put up ?

A.—He completed one of the buildings which I had half put up and I think he put up another temporary building.

Q.—Was the building that he completed the kindergarten block ?

A.—I could not say for what use it was put. He put up a building. Those are the buildings for the opening of which Mr. Dudley Senanayake was invited.

I was questioned as to whether the plaintiff attended the ceremony for the opening of that building. My recollection is that he did not attend. I remember I went about after half the opening ceremony was over. I went to the meeting which followed. I 30 remember that distinctly.

I also told the Court that plaintiff was on leave in 1956. I allowed him that leave.

Q.—What was the reason for the plaintiff being allowed the leave ?

(Mr. Thiagalingam objects.—I allow the question).

A.—His retirement was to take effect in January or February and he wanted leave because if he continued to work it would be an offence later. Offence in the sense that he would have to pay the salary back.

(To Court : The retirement was to take effect in January 1955. He appealed and the result of the appeal was pending).—(Shown D21 and D22).

In D21 there is an article on facilities fees. 40

Q.—Is there any reference in that article either to the plaintiff by name or to Ananda Sastralaya ? A.—No, it refers to certain schools.

In D22 there is no reference to the plaintiff or to the Ananda Sastralaya.

(Shown D23)—In the last paragraph there is a reference to me by name and to the B.T.S. There is no reference to the plaintiff or to Ananda Sastralaya by name.



It was suggested to me that I was a Catholic. I was never a Catholic. In the stricter sense of being a Roman Catholic under the guidance of the Pope I have not been a Roman Catholic.

(Shown copy of Lanka Dipa of March 20th, 1957, marked P6).

(Mr. Thiagalingam objects to the document. Mr. Dias moves to show the headlines in yesterday's paper in regard to this witness's evidence yesterday.

Mr. Thiagalingam objects.

Mr. Dias states that he wishes to put this to the witness to show malice on the part of the Lanka Dipa.

10 Mr. Thiagalingam withdraws his objection.) The second headline in that paper means "What he said is to the effect that he was not a Buddhist." I did not say in Court yesterday that I was not a Buddhist. I am a Buddhist. But in the cross examination I said it at a meeting in the Y.M.B.A. in a certain context I said I was not a Buddhist.

(Witness asked to read second headlines in P6).

In relation to the Headlines I would be misunderstood in a particular context. In a discussion at the Y.M.B.A. I said that if by Buddhist one means to take pansil, who goes to the temple and then gets at other peoples throats at other times, then I am not a Buddhist. "I am not a Buddhist" had been taken out of the context.

20 I am a bachelor. During the period that I was principal I was also a bachelor. The fact that I am a bachelor is not a disqualification to be principal of Ananda Sastralaya. It has not been the rule that the principal of Ananda Sastralaya should be a married person. There has been no trouble in consequence of the principal of Ananda Sastralaya being a bachelor.

Q.—How long have you known Mr. Dhanapala ?

A.—I could not quite remember the date. If I remember correct, from early 1940 or even a bit earlier.

Q.—Do you know who is the person who writes to the Times of Ceylon under the name of Janus ?

30 A.—Yes, that is the 2nd defendant.

(Shown copy of Times of Ceylon dated 5th December 1955 "Running Commentary" by Janus under the heading "It is a joke which has gone too far.") This is the newspaper article which I referred to in cross-examination. There was the cadeting question going on at the time.

(Shown marked P8 issue of Lanka Dipa dated 29th August 1956).

"Abahass" is ridicule, insult or defemation. This is one of the most scurrilous attacks in a veiled form that has been levelled against me. The reference dealing with abahass suggests that if I am called a dog even the dog would take objections. This is levelled at me. It is quite clear.

40 I am an M.A. London, Ph. D. London, M.A. in Indo-Aryan and Ph.D. Pali. In my general degree I got a distinction and in my Honours degree I got a second class distinction. For the general degree I took Sinhalese, Pali, Pure Mathematics and Applied Mathematics.

No. 5  
Plaintiff's  
evidence

Evidence of  
Dr. E. W.  
Adikaram-  
Re-  
examination  
—continued\*

No. 5  
Plaintiff's  
evidence

Q.—What has been Mr. Dhanapala's attitude towards you from the time you knew him ?

—  
Evidence of  
Dr. E. W.  
Adikaram-  
Re-  
examination  
—continued.

A.—From the time I became General Manager almost immediately his attitude changed. I could clearly see that and gradually that lukewarmness increased and within a few months I could definitely say that he was against me. He was a supporter of Mr. Kularatne. I was elected in 1954 to the post of General Manager of B.T.S. schools. The persons who elected me were Buddhists over the age of 18 years. That did not mean that all the Buddhists over 18 years, only the members of the B.T.S. The qualifications of voters for electing all General Managers in the B.T.S. were the same. Those meetings have not always been very peaceful meetings. On that occasion in 1954 it was a peaceful 10 meeting. I was present at a meeting about 15 years ago when chairs were thrown at each other and some people got injured.

Q.—Was the present Prime Minister present at the meetings of the B.T.S. ?

(Mr. Thiagalingam objects to the question.—I uphold the objection).

Q.—You remember at Ananda College there were certain differences with regard to the Management ?

(Mr. Thiagalingam objects as there is no connection.  
I uphold the objection).

Q.—During the time that Mr. Kularatne was the General Manager of Buddhist schools was there any dissatisfaction within the B.T.S. ? 20

(Mr. Thiagalingam objects to the question).

Q.—Is it necessary for a book to be approved by the Education Department Publications Board before it can be used in any school ?

A.—To be used as a text book it is necessary, otherwise the boys may use it for their own use. By text book, I mean as the prescribed syllabus.

Q.—Do you know whether this particular book on botany was a text book used in the schools in that sense ? A.—I could not say that.

Q.—Do you think that the foreword in D32 indicated to you that the plaintiff was responsible for the writing of this book in Sinhalese ?

A.—To put the book in Sinhalese they helped. 30

Q.—Does the second foreword indicate to you that plaintiff was responsible for the writing of that book in Sinhalese ? A.—No.

(Sgd.) A. L. S. SIRIMANNE  
A.D.J.

Plaintiff's case closed reading in evidence P1 - P8 on the issues on which the burden is on the plaintiff. He also makes an application that this case be postponed for tomorrow as senior Counsel is not present.

Mr. Thiagalingam has no objection.

Further hearing 21/3.

(Sgd.) A. L. S. SIRIMANNE 40  
A.D.J.

## Defendants' Evidence

21/3/57

Trial resumed.—Same appearances.

Mr. Dias wishes it noted that he produced P6 to meet the suggestion that there was no malice on the part of the Lanka Dīpa against Dr. Adikaram.

Mr. Thiagalingam calls :—

**W. Dhanayake**—Affirmed, 54, Minister of Education, Colombo.

I am the Minister of Education. I am the Member of Parliament for Galle. The  
10 last Parliament was dissolved in about February 1956.

Evidence of  
W. Dahanayake  
Examination

Q.—I believe at the date of the dissolution the normal life of the then Parliament had over a year and six months yet to run? A.—Yes.

Q.—And the announcement of an election was something in the nature of a snap election? A.—Yes.

Q.—In the previous Parliament also you were a Member of Parliament for Galle? A.—Yes.

Q.—And in the previous Parliament you sat in one of the Opposition benches? A.—Yes.

Q.—And in the new Parliament the U.N.P. which was earlier in power was defeated? A.—Yes.

Q.—And the M.E.P. assumed reins of Government? A.—Yes.

Q.—And in that Government you are the Minister of Education? A.—Yes.

Q.—Shortly after you became the Minister I believe you had a big petition sent up to you about the question of the resignation of Mr. Costa? A.—Yes.

(Mr. Thiagalingam marks a certified copy of the petition dated 14/5/56—D37.

Mr. Wikremanayake states that the petition may be marked but only as proof that a petition was sent but not in proof of its contents.

Mr. Thiagalingam states that he will be calling the person who sent the petition.

The original of D37 which is in the file is shown to the witness).

30 Q.—A Botany book by Mr. Costa, a pamphlet issued by Mr. Costa and a paper cutting of the Lanka Dīpa of 8th May 1956 are enclosed with the petition? A.—Yes.

I have seen the Botany book. The petition is dated 14-5-56. The pamphlet sent to me is the same as D34 (shown).

Q.—You directed your Ministry officials to send up a report? A.—Yes.

Q.—And after perusing all the papers you made your official minute?

A.—After perusing all the papers I asked a further question.

Q.—And ultimately you made your minute? A.—Yes.

I made my minute on the 21st June 1956.

(Mr. Thiagalingam marks the minute made by the witness on 21/6/56—D38).

40 I have read the petition D37.—(Shown D38).

I made this minute.

Q.—The settled policy of your Government has been to sponsor swabasha in all schools? A.—Yes.

Q.—That had been initiated when?

A.—That had been initiated I believe at the time when Mr. Nugawela was the Minister of Education.

Q.—Is there a dearth of teachers equipped to teach science subjects like Botany in Sinhalese?

A.—There is a dearth of teachers who are competent to teach subjects like science and mathematics in Sinhalese. 10

Q.—Was it a matter of great concern to this country that you should look into this matter? A.—Yes.

Q.—You yourself had your schooling where?

A.—At Richmond College and St. Thomas' College.

Q.—I believe you did your Senior and your Matriculation? A.—Yes.

Q.—What were your subjects for the Senior?

A.—English, Mathematics, History, Geography, Latin.

Q.—For your Matriculation?

A.—Practically the same subjects.

I was a teacher for some time. I was a trained teacher. 20

Q.—Had you done any Sinhalese in school?

A.—Not as a subject for any public examination, but I had studied Sinhalese as a subject only up to standard 4.

Q.—Your own language is of course, Sinhalese? A.—Yes.

Q.—While you were a teacher what medium did you often adopt to impart instructions? A.—The English medium with Sinhalese to assist me.

I was a teacher for about 12 years or more.

Q.—Then I believe you switched on to politics? A.—Yes.

I was returned to the State Council first in 1943. Since that date I have been the Member for Galle throughout in the Legislature of this Country. 30

Q.—If a teacher does not agree with the swabasha policy of your Government and desires to retire would you yourself ever appoint him Principal of any school?

(Mr. Wikremanayake objects to this question. He states it is not relevant to the issue in this case.

Mr. Thiagalingam states that he is leading this evidence to show that he was appointed Principal of the school because everybody knew that he was quite fit to teach in Sinhalese.—I allow the question). A.—I would not.

Q.—In this country today are there a large number of teachers who are in the profession and who entered the profession only with English as their medium in the first instance? 40

(Mr. Wikremanayake objects to this question. He states it is not relevant.

Mr. Thiagalingam states that this is relevant with regard to his case that it is a matter of public importance.—I allow the question). A.—Yes.

Q.—I believe all our teachers are either Sinhalese or Tamils except for a few others?

A.—Yes.

Q.—Would it be in the interest of the country to retire on a wholesale scale teachers who had joined only in the hope of their being able to teach in the English medium or their statement that they could not teach in swabasha ?

No. 6  
Defendants'  
Evidence

(Mr. Wikremanayake objects to this question.—I uphold the objection).

Q.—Why do you say in D38—“ The whole episode leaves a bad taste in the mouth? ”

A.—The application has been turned down after due consideration and thereafter it perhaps showed that a certain amount of personal pressure had been brought to bear in this matter.

—  
Evidence of  
W. Dahanayake  
Examination  
—continued

Q.—Were any fresh facts placed before any authority after the earlier applications 10 had been turned down ? A.—There was no new evidence to call for a revision of the case.

Q.—Having perused the papers yourself what is your view, that he should have been allowed to retire or that he should not have been allowed to retire ?

A.—My view was that he should never have been allowed to retire.

Q.—With the dearth of teachers today would you have him back in your department ?

(Mr. Wikremanayake objects to the question. I uphold the objection).

Q.—On the question of retirement certain questions were raised in Parliament ?

A.—Yes.

Q.—And according to the Hansard D31 on 13-8-56 you were questioned as Minister 20 of Education in Parliament as to the conditions and circumstances under which Mr. Costa retired ? A.—Yes.

Q.—And you were asked how many times he had applied for retirement ? A.—Yes.

Q.—You were asked what were the orders made in respect of the earlier applications ?

A.—Yes.

Q.—And your reply is to the effect *inter alia* that he had asked for retirement earlier three times. The first application made to the Director of Education on 12/9/54 was not recommended. On the second occasion Costa had appealed to the Minister of Finance on 13-3-55 and it was not allowed by Mr. M. D. H. Jayawardene who was the Minister of Finance then ? A.—Yes.

Q.—And you said that Costa appealed against the order of the Hon'ble Minister of 30 Finance on 10-2-56 and that it was allowed ? A.—Yes.

Q.—That 12-3-56 was the date on which the Minister allowed his appeal but that sanction was given by the Hon. Minister of Finance on 7th April 1956, that is about a week before the present Cabinet was formed ? A.—Yes.

Q.—Would it be correct to say that 7th April would be 2 days after the defeat of Mr. Jayawardene at the polls for the Horana seat ? A.—Yes.

Q.—Supplementary questions were put to you and you went on to state in the course of your answer that you were satisfied in your own mind that Costa should not have been permitted to retire because the evidence in the department files is that Mr. Costa 40 was capable of teaching in Sinhalese ? A.—Yes.

Q.—You were further questioned whether the procedure was not entirely wrong and what right this particular teacher had to make an application to go and see the Hon. Minister of Finance over the question of his retirement and you were asked whether it is not the concern of the Director of Education to look into these matters ? A.—Yes.

Q.—And your reply was that it was the concern of one and all ? A.—Yes.

Q.—Was it within your province to have the earlier order revoked ?

(Mr. Wikremanayake objects to this question.

No. 6  
Defendants'  
Evidence

—  
Evidence of  
W. Dahanayake  
Examination  
—continued.

Mr. Thiagalingam withdraws the question).

Q.—Why won't the Ministry of Finance give me the order of the 7th April?

(Mr. Wikremanayake objects to this question).

Q.—In the file there is a minute on 12-3-56 (shown the original)? A.—Yes.

(Mr. Thiagalingam marks a certified copy of the minute of 12-3-56—D39).

There is a minute in the file signed by Mr. Jinadasa the Permanent Secretary to the Minister of Education dated 12-3-56.

Q.—The Minister of Education had earlier turned down this same application?

A.—Yes.

Q.—Had you seen any minute by the Minister of Education Mr. Banda? 10

A.—I had not seen any minute by Mr. Banda.

Q.—The earlier Minister at the relevant date was Mr. Banda? A.—Yes.

Q.—There is also a minute in this file to the effect that it was on 7th April 1956 that the Hon. Minister of Finance allowed Mr. Costa to retire under Rule 6(c)? A.—Yes.

(Mr. Thiagalingam moves to mark the minute of 11-6-56—D40).

As the representative of the Minister of Education claims privilege on behalf of the Permanent Secretary Mr. Thiagalingam is not pressing his application to produce that minute.—(D40 is withdrawn).

I am not aware that privilege was claimed by the Permanent Secretary till just now.

Q.—You recall questions on Ananda Sastralaya and the facilities fees being asked 20 at the end of 1955 when you were in the Opposition benches? A.—I remember.

Q.—And in the course of the debate somebody threatened to slap someone else?

A.—There was a breeze between Mr. Robert Gunawardene and Mr. Iriyagolle.

Q.—Is it proper for a teacher or a head of a school not to issue admission cards for the non-payment of facilities fees?

(Mr. Wikremanayake objects to this question. He states that it is a matter of law and that it is set out in the regulations).

(Mr. Thiagalingam withdraws the question).

Cross-examination  
Q.—When did the Government first start introducing swabasha as the medium of instructions, roughly? 30

A.—It was I believe at the time of the first parliament, after 1948.

Q.—That was sometime after you ceased to be a teacher? A.—Yes.

Q.—Swabasha was introduced as the medium of instruction in the lower standards first? A.—Yes.

Q.—Gradually the standard was raised higher and higher? A.—Yes.

Q.—It went up stage by stage? A.—Yes.

Q.—There were times when for a comparatively long period it stopped at one class?

A.—I do not think that happened, except at the very early stages. The introduction of the medium was from class to class, so that a child moved up from one class to another and so there could not be a long interruption without interfering with the 40 progress of the child.

Q.—It was at least 1953 by the time it was introduced to the 5th Standard?

A.—It went from class to class.

Q.—You started with the Kindergarten? A.—Yes.

Q.—1948 in the Kindergarten and 1953 would only be five years from that?

A.—I think so. I think there was some interruption at the beginning, thereafter it went from class to class.

Q.—Between 1948 and 1953 there were five years and in 1953 it must have been in the 5th Standard ?

A.—Without seeing the records I cannot say. I gave a general description of how it works.

Q.—On that description it must have been about the 5th Standard ?

A.—Perhaps higher than that.

A.—Yes, once a year one standard higher.

Q.—And prior to the introduction of swabasha at all those who joined the teaching profession joined on the basis of their having to teach in English? A.—Yes.

10 Q.—There is a Pension Scheme for teachers which has been in existence for a number of years? A.—Yes, I believe about 1931 or so.

Q.—There are pension regulations which must be observed before a person is entitled to pension? A.—Yes.

Q.—By reason of the fact that those who joined the profession expecting to teach in English and were unable to carry on in the swabasha might be prejudiced regulations were framed? A.—Yes.

(Mr. Wikremanayake states that those regulations were published as regulations by the Minister of Finance under Act 44 of 1953).

(Shown Regulations made by the Minister of Finance under the Pension Act 44 of 1953.—Shown Regulation 6(a). )

Q.—This provides generally for the retirement of teachers who were unable to give instructions either in Sinhalese or Tamil? A.—Yes.

Q.—That was published in the gazette of 12th December 1947? A.—Yes.

Q.—On 19th September 1952 was published another regulation 6(b)? A.—Yes.

Q.—That provides for the retirement of a teacher who is unable to give instructions in Standards 6, 7 or 8 as the case may be? A.—Yes.

Q.—Under 6(a) they had to exercise the option before 30th September 1948?

A.—Yes.

Q.—6(b) was brought in 1952? A.—Yes.

30 Q.—That was to enable those who had not exercised the option under 6 (a) to exercise it before a certain date? A.—Yes.

Q.—And under both regulations some person in authority had to be satisfied that he was unable to teach in that language? A.—Yes.

Q.—There is one person to whom there is right to appeal? A.—Yes.

Q.—A person who did not apply under 6(a) if he had been a teacher of Standard 6, 7 and 8 would have been able to apply under 6(b) after 1952? A.—Yes.

Q.—Provided the Director of Education was satisfied that he was unable to give instructions in accordance with that? A.—Yes.

40 Q.—Swabasha was introduced to the higher forms as a medium of instruction and came 6(c) which was published on 9th September 1955? A.—Yes.

Q.—That enabled persons to retire if they were unable to give instructions in the pre Senior School Certificate class and the Senior School Certificate class as the case may be? A.—Yes.

Q.—That is to say those who might not be able to retire under 6(b) because they could give instructions, in Standards 6, 7 or 8 might have been able to exercise the right given to them under 6(c)?

No. 6  
Defendants'  
Evidence

—  
Evidence of  
W. Dahanayake  
Cross-  
examination  
—continued

No. 6  
Defendants'  
Evidence

Evidence of  
W. Dahanayake  
Cross-  
examination  
—continued

(Mr. Thiagalingam objects to this question. He says that this is a purely legal question.—I allow the question.)

Q.—An application under 6(b) would then be entirely different from an application under 6(c), the ground would be different?

A.—I am trying to see whether there was a time limit for 6(b).

In 6(c) sub-section 3 it says "If he exercises that option not later than . . . . .," I am trying to see whether there is a similar sub-section under 6(b).

Q.—A person who was not entitled to retire under 6(b) might well be able to retire under 6(c)? A.—Yes.

Q.—And an application under 6(b) would therefore be different from an applica- 10  
tion under 6(c), the grounds would be different.

A.—It is a question of dates. If the application came after September 30th 1954 he would have to make it under 6(c).

Q.—Is it not also a question of standards?

A.—It is linked up with the question of standards but it was really a question of dates.

Q.—A person who was unable to teach the pre S.S.C. or the S.S.C. could retire only under Section 6(c).

(Mr. Thiagalingam objects to this question.—He states it is a pure question of law. I allow the question). ? 20

A.—A person who could not teach the pre S.S.C. or S.S.C. in Sinhalese would be able to retire under Section 6(c)? A.—Yes.

Q.—A person who could not teach the 6th std., could retire under 6(b)?

A.—Yes and if his application had not been made not later than 30th September 1954.

Q.—Assuming that the application comes in time, a person who could not teach Standards 6, 7 or 8 could retire under 6(b)? A.—Yes.

Q.—But if he could teach in Standards 6, 7 or 8 but could not teach in the S S C. he could retire under 6(c)? A.—Yes, that is so.

Q.—There would be this qualification required for retirement under one sub-section 30  
or the other?

A.—The intention at that time was that the teachers should try to teach in the swabasha medium in the lower classes. Then he makes an honest effort and goes on and finds that he is not sufficiently competent to teach in the higher classes. But when he comes to the higher classes he finds that the last date is gone he then exercises the option under the new clause 6(c).

Q.—A person who could teach in Standards 6, 7 or 8 would not be able to retire under 6(b)? A.—Yes, that is so.

Q.—On a subsequent date came in 6(c) and he finds he is unable to teach in the S.S.C., then he could retire under 6(c)? A.—Yes. 40

Q.—So that the qualifications, the ability to teach which was a prerequisite for the application under 6(b) or 6(c) was different?

A.—But still an application under 6(c) would be disallowed even if the teacher concerned is unable to teach in the S.S.C. Class in the Swabasha medium if there is work for him in the lower classes.

Q.—The applications under 6(b) and 6(c) are different?



A.—They are pieces of Legislation which came progressively with the medium going higher up.

Q.—That is to help those who found themselves in difficulties as a result of the standards being raised higher? A.—Yes.

Q.—The answer given by you in Hansard was this. “ Mr. Costa retired under Rule 6(c) of the school Teachers’ Pension Regulations which permits a teacher who is unable to teach in the pre S.S.C. or S.S.C. class to retire.—(Mr. Wikremanayake reads from D31).—You say he applied for retirement three times ; is that correct ?

A.—It must be correct.—(Witness is asked to take the file).

10 Q.—He has the right to make an application which is dealt with by the Director of Education ? A.—Yes.

Q.—Then there is the provision of the right of appeal to the Minister of Finance under Regulation 19 ? A.—Yes.

Q.—His first application for retirement to the Director of Education was in 1954 (Shown D8) ? A.—This application is dated 12th September 1954.

Q.—That was refused by D9 (shown) in November 1954 ? A.—Yes.  
(Shown D13 dated 14/3/55).

Q.—This is addressed to the Minister of Finance ? A.—Yes.

20 Q.—Under the regulations an application to exercise rights under 6(b) or 6(c) has to be made to the Director of Education ? A.—Yes.

Q.—And the right of appeal from the Director’s decision is to the Minister of Finance within a month ? A.—Yes.

Q.—There is no right in the first instance to ask the Minister of Finance ?

A.—May I be enlightened on the law in this matter.

Q.—According to the regulations of the Department of Education for a person who wants to retire under Section 6(b) or 6(c) he can apply in the first instance to the Minister of Finance ?

A.—He applies in the first instance to the Director of Education.

Q.—And if that is refused has he the right to appeal to anyone else ?

30 A.—That is my impression.—(Witness is referred to Section 19).

Q.—Can you show me any other application he made under Section 6(b) ?

A.—D13 would itself be for departmental purposes considered an application of sorts because the Minister of Finance would refer this back to the Department for report.

Q.—To which Permanent Secretary would he refer it ?

A.—He would refer it to his Permanent Secretary and his Permanent Secretary would refer it to the other Permanent Secretary, The Permanent Secretary to the Minister of Finance and the Permanent Secretary to the Minister of Education.

Q.—That would be the normal course in which the Minister would function ? A.—Yes.

Q.—That would be the proper course for him to take ? A.—Yes.

40 Q.—After his application under 6(b) was refused completely then he made his application under 6(c) for the first time on 28th September 1955.—(Shown D17) ? A.—Yes.

Q.—The reply to that came on 29th November 1955 (shown D18) from the Director of Education to whom the application was made ? A.—Yes.

Q.—That was refused ? A.—Yes.

Q.—He then appealed to the Minister of Finance by D25—(shown) ?

A.—This is a letter by the plaintiff to the Minister of Finance requesting the Minister to permit him to retire under Section 6(c).

Q.—The proper course would be for the Minister to refer it for a report from the

No. 6  
Defendants’  
Evidence

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Evidence of  
W. Dahanayake  
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W. Dahanayake  
Cross-  
examination  
—continued.

Permanent Secretary? A.—Yes.

Q.—D39 is a letter from the Secretary to the Minister of Education sent to the Controller of Establishments who is under the Minister of Finance — (Shown D39)?

(Mr. Thiagalingam objects to this question.—He says there is more than one question).

Q.—The Controller of Establishments is under the Minister of Finance? A.—Yes.

Q.—D39 is a communication by the Permanent Secretary to the Minister of Education to the Controller of Establishments who is under the Minister of Finance? A.—Yes.

Q.—What does he say?

A.—“The Minister of Education has directed me to report that in his opinion Mr. Costa should be allowed to retire for the reasons stated in his letter of appeal, please see the annexed report of the Director of Education.”

Q.—The Director of Education also had reported approving?

(The clerk who has the file states that he is claiming privilege on behalf of the Permanent Secretary).

I do not claim privilege.

Q.—Did you see that report? A.—I saw it.

Q.—There was a report attached to this from the Director of Education? A.—Yes.

(Mr. Wikramanayake applies for the report of the Director of Education referred to in D39. 20

The clerk from the Ministry of Education states that he is instructed by the Permanent Secretary to claim privilege over this document.

Mr. Dahanayake states that he does not claim any privilege.

I do not think this is a privileged document.

I allow Mr. Wikramanayake's application.

He marks the document dated 7-3-56-P9).

In the document P9 there is no recommendation.

Q.—The report of the Director of Education is attached to D39 in which the Permanent Secretary says that he is directed to say that in his opinion Mr. Costa should be allowed to retire for the reasons stated in the appeal? 30

A.—It seems to have been attached to some papers dealing with the Director's refusal to permit Mr. Costa to retire under Rule 6(c).—(Shown D39).

This is a letter by the Permanent Secretary to the Ministry of Education referring to the annexed report.

Q.—P9 is the report? A.—Probably.

Q.—So that the Permanent Secretary to the Ministry of Finance would also make a report in the normal course? A.—Yes, in the normal course he would.

Q.—Before you answered questions in the House I take it the report if any of the Permanent Secretary to the Ministry of Finance would also have been available?

A.—I called for all the papers and whatever papers there were perused by me. 40  
A report of the Permanent Secretary to the Ministry of Finance to the Minister of Finance would not be in our files unless we called for it.

Q.—You expected that in the normal course the Permanent Secretary to the Ministry of Finance would also have been called upon to report?

A.—Yes, in the normal course.

Q.—You had no reason to assume that the normal course would not have been followed? A.—I had no reason to think so.

Q.—The normal assumption is that the Permanent Secretary to the Ministry of Finance had reported? A.—Probably so.

Q.—Before you answered the questions in the House the report of the Permanent Secretary to the Minister of Finance would have been available to you in the normal course if you asked for it?

A.—Not in the normal course. The Ministry of Finance can make any notes they like and toss them from one office to the other as they like. We are not concerned with  
10 how their minds work in different situations.

Q.—Wasn't it possible for you to obtain it before you answered the questions in the House? A.—Yes, if there was a necessity.

Q.—You did not think it necessary to find out whether there had been a report by the Permanent Secretary to the Minister of Finance?

A.—That was not necessary because on the documents before me my Permanent Secretary had sent up a minute to the Controller of Establishments. I had those documents before me and I had the report to that. The only point on which I needed further enlightenment was about the exact date on which the Minister of Finance had sanctioned this retirement and I put that query.

20 Q.—There was no need because there was before you the letter from your Permanent Secretary to the Controller of Establishments D39? A.—Yes.

Q.—That recommended the retirement?

A.—No. It merely said "Please see the annexed report." My Director has asked me to report that in his opinion Mr. Costa should be allowed to retire.

Q.—Because you had this document you did not think it necessary to call for the report of the Permanent Secretary to the Ministry of Finance?

A.—Because I had the documents and the reply I did not think it necessary to call for it.

30 Q.—Because you realised that the report if there was one from the Permanent Secretary to the Minister of Finance would have been in keeping with these documents?

A.—I do not know what that report would have been, because he deals with his side of the work.

Q.—He reports to his Minister with regard to the advisability or otherwise?

A.—That would be the normal course.

Q.—In the normal course the Minister would act on his report? A.—Yes.

Q.—It is the proper and normal procedure for the Minister to act on that report?

A.—Yes.

Q.—(Shown D25)—D25 came on 20-2-54 to the Minister of Finance?

A.—10th February.

40 Q.—And it would have been after that that it would be sent for these two reports?

A.—The reports must have been after the 10th February.

Q.—When was Parliament dissolved? A.—Somewhere in February.

Q.—And the reports of the Permanent Secretaries to the Ministers one report is of the 7th March? A.—Yes.

Q.—The letter that was marked which is dated 12/19 April, the reply that was sent .....

A.—D27 is a communication from the Minister of Finance to the Minister of Education. It is signed by somebody for the Deputy Controller of Establishments and it is

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Evidence of  
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W. Dahanayake  
Cross-  
examination  
—continued.

sent to the Director of Education and states that the Hon. Minister of Finance allowed the appeal of Mr. Costa to retire under Section 6(c).

Q.—It is sent to the Director of Education who would in turn communicate with Mr. Costa? A.—That is so.

Q.—The order of the then Minister of Finance which was made on 7-4-56, was there anything in the files subsequent to this report before the Minister made his order?

A.—There was I remember a note which spoke of asking the Private Secretary to speak to the Minister or Permanent Secretary and that is why in my speech I said that there had been personal and private pressure. It was not as if Mr. Costa had sent in his application and allowed the formalities to be gone through, but he kept on pressing on 10 his own in the Department and elsewhere,—(Shown D26).

Q.—This is the letter you were referring to? A.—Yes.

(Witness is asked to read the letter).

Q.—Is there anything wrong in reminding Government officers who are taking time about things?

A.—Not in a normal case. But this had become an abnormal case because of the refusal of the department to allow him to retire. He began pressing on the department to allow him to retire.

The regulation has provided for an appeal. The regulation is silent with regard to personal canvassing.

20

Q.—Does that indicate that he had gone to see the Minister?

A.—Yes. He had gone to see the Minister.

Q.—Would there be anything wrong in a person going and seeing personally that the matter is attended to? A.—Nothing wrong.

Q.—Does not this indicate that he is worried that there would be delay?

A.—He was worried that the Minister would forget.

Q.—Is there anything wrong in his worrying that the Minister would forget?

A.—There is nothing wrong.

Q.—In point of fact the Minister had forgotten from February to April, his letter is dated 10th February. As far as Costa is concerned there is no communication from 30 that day till after April.

A.—In the report he says that Mr. Costa has interviewed the Director on several occasions.

Q.—Who was the man to be satisfied?

A.—That is after the Director had refused. He had kept on pegging at the Director to make a report about his case.

Q.—You say that the pressure he brought on the Director personally was in pressing his appeal?

A.—The Director's report was the result of his pressure. That is how I viewed it when I perused the file.

40

He had attempted several times before to satisfy the Director that he could not teach in Sinhalese.

There was an application before under 6(b). Whether the application was under 6(b) or 6(c) the subject was the same — whether he could or could not teach in Sinhalese, whether it was in the 7th or 8th Standards or the S.S.C. for pre-S.S.C. class.

As far as the Department was concerned there was only one simple issue, could this applicant have taught in Sinhalese medium. The applicant never made it a point to draw a distinction between the S.S.C. and Standard 7 and when I viewed the matter that point was not uppermost in my mind. It was purely a question whether Mr. Costa could or could not teach in the Sinhalese medium.

No. 6  
Defendants'  
Evidence

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Evidence of  
W. Dahanayake  
Cross-  
examination  
—continued.

Q.—You will admit that if the Director was the person he had to satisfy as to whether he could teach in swabasha or not it was perfectly legitimate for him to go and see the Director after the appeal?

(Mr. Thiagalingam objects to this question.—I uphold the objection).

10 I took the view that he should not have gone to the Director of Education after his application was refused.

Q.—When you used the words “personal and private pressure” you were referring to the fact that he had gone back to the Director of Education who had refused his application? A.—Yes.

Q.—That and that alone?

A.—Not that alone, the question of ringing up and reminders.

Q.—When you said “personal and private pressure” the first thing you referred to was that he interviewed the Director pending his appeal? A.—Yes.

20 Q.—Secondly that he had left a note asking the Secretary of the Minister to inform the Minister by 'phone? A.—Yes.

Q.—That was the second piece of personal pressure? A.—Yes.

Q.—Any other piece of personal or private pressure you referred to there?

A.—There is nothing else as far as I can see now.

The Director of Education had turned it down but Mr. Costa kept on going on to the Director and he kept on interviewing him with the result that the Director sent up this report.

Q.—The personal and private pressure you referred to is the personal and private pressure used by the plaintiff?

30 A.—He used pressure on the Director and at the same time he used pressure on the Minister and when the Director's report went to the Minister his pressure succeeded.

Q.—The only pressure you referred to is his pressure on the Director?

A.—He sort of fought it on two fronts. He seems to have gone and kept on pegging away at it himself.

Q.—It was only himself? A.—Yes.

Q.—There is no other personal or private pressure suggested?

A.—Not as far as I can see now.

Q.—Did you find out when he saw the Director of Education?

A.—Must have been some date prior to the 7th March and some date after the application of February.

40 Q.—Why after the application of February?

A.—Or perhaps before or as well as after.

Q.—It might be any day after D18—(Shown dated 29-11-55)?

A.—His application for retirement had been turned down by this. It might have been any date after that.

Q.—Is there anything in that report to show what he told the Director?

No. 6  
Defendant's  
Evidence

Evidence of  
W. Dahanayake  
Cross-examination  
—continued.

A.—He had pointed out that he was unable to cope with his responsibilities (paragraph 4 of the report).

Q.—Was there anything wrong in his pointing out that?

A.—There was nothing wrong. Only he had made that plea again and again. My view was that there was no fresh ground after his application of February 1956. I said that there was no evidence on which there should have been a revision of the case.

Q.—Would you concede that on D39 it would have been more than probable that the Controller of Establishments would also have recommended it?

A.—I have had very nasty experience where very beneficial pieces of reform sent up by my Parliament Secretary to the Controller of Establishments have been turned 10 down.

Q.—In this case the Minister has in fact allowed the appeal? A.—Yes.

Q.—You went through all the papers that were necessary for the purpose of—answering the questions in the House? A.—Yes.

Q.—For the purposes of answering questions in the House you have always time to enable you to get the material? A.—Yes.

Q.—And the answers given in the House are answers for which the Minister takes responsibility and he is responsible as the elected representative of the people? A.—Yes.

Q.—You therefore avail yourself of all the material to get the answers? A.—Yes.

Q.—And at the time you gave the answer had you any reason to believe that the 20 allowance of the appeal had been against a report of the Permanent Secretary to the Minister of Finance? A.—I had reasons to view the whole matter with suspicion.

Q.—Had you reason to believe after looking at the documents that when the Minister allowed the appeal he did so in the teeth of a report to the contrary by the Permanent Secretary? A.—I had no reason to believe that.

Q.—You do lots of things on suspicion?

A.—There must be so many suspicious things.

Q.—You believe quite a number of people's statements made to you without sifting them? A.—As far as possible I try to sift them.

Q.—You make statements about people on the strength of remarks made to you? 30

A.—These are very general questions, both yes or no might be just the same.

Q.—You yourself are being sued by the present plaintiff for defamation in respect of a statement made to the Times of Ceylon? A.—That is the allegation against me.

Q.—In the petition this is signed by A. Jayasekere and others, does he tell you in the petition who the others are, is there anything on D37 to indicate who the others are—(Shown D37)?

A.—This was a petition dated 14th May 1956 sent by Jayasekere and some others. The original of that must have gone to the office in the normal course. Then Mr. Jayasekere came to me on the 29th May and handed over this copy to me and I have minuted 40 “Handed over to me for report – 29-5-56.” I do not know about the original.

Q.—In the copy that you have there is nothing to indicate who the others are?

A.—No, it was a copy that was handed over to me.

Q.—Did any others bar Jayasekere see you?

A.—Subsequently Mr. Robert Gunawardene saw me.

Q.—I am talking of signatories to the petition? A.—I do not remember.

Q.—I think we can assume that Mr. Robert Gunawardene was not a signatory to this petition? A.—I do not remember.

Q.—And when he saw you he told you that Mr. Costa was able to teach in Sinhalese?

A.—I do not remember what took place between himself and myself. I took this and this is the minute I have made on this.

Q.—Along with this there were 3 annexures – the Botany book written by Mr. Costa, election pamphlets issued by Mr. Costa and a paper cutting from the Lankadipa ?

A.—Yes.

Q.—He told you that it was published by Mr. Costa ?

A.—I do not remember anything he told me.

Q.—You assumed on the statement of the letter that it was published by him ?

A.—I do not remember any conversation that took place between the writer and 10 myself.

Q.—You said that that pamphlet was issued by Mr. Costa ?

A.—This was an annexure to the petition.

Q.—In coming to your decision did you go on the basis that the pamphlet had been issued by Mr. Costa ?

A.—I was not concerned with the pamphlet question. I was concerned only with the question whether Mr. Costa could or could not teach in the Sinhalese medium.

Q.—You were not concerned with the suggestion that he had electioneered for the U.N.P. ? A.—No.

Q.—Only in an application under 6(c) whether he could teach in the swabasha in 20 the S.S.C. or pre-S.S.C. class ? A.—Or in the lower classes.

Q.—The application for retirement was under 6(c) ?

A.—It was under Section 6(c) without stating anything about the class.

(Adjourned for lunch).

(Sgd.) A. L. S. SIRIMANNE

A.D.J.

After lunch.

W. DAHANAYAKE.—Recalled—Affirmed.

*Cross-examination continued.*

Q.—In answer to a question in the House you said “ He made a third application 30 and a second appeal to the Hon. Minister of Finance in February 1936, because the evidence in the departmental files is that Mr. Costa was capable of teaching in Sinhalese. Will you tell us what evidence there was in the files ?

A.—The evidence is Mr. Costa had got through his S.S.C. in the English medium with Sinhalese as a subject. That was in the files. Secondly Mr. Costa was the author of a Sinhalese publication on Botany. I think these are the two points that made prominent impression in my mind. Whether there was anything else I cannot remember.

(Witness asked to peruse files and see whether there is anything else).

The balance was I believe the departmental reports that had been submitted at various stages that Mr. Costa was considered adequately qualified to take any subject 40 in swabasha.

Q.—That is all the evidence you had in the files ? A.—I think so.

Q.—You did not consider any evidence outside the files, is that correct ?

A.—That is correct. This file before me was not the only file that was given to me.

No. 6  
Defendants'  
Evidence

-----  
Evidence of  
W. Dahanayake  
Cross-  
examination  
—continued.

No. 6  
Defendants'  
Evidence

—  
Evidence of  
W. Dahanayake  
Cross-  
examination  
—continued.

Q.—So far as this plaintiff is concerned, with the petition you said there were three documents sent to you, one is that book, the second was the pamphlet and the third was a copy of the Lanka Dipa of the 8th May 1956. Is that copy also still attached?

A.—It is here.

Q.—Is it just the article of this man or a whole paper? A.—It is a paper cutting.

Q.—The paper cutting is "Sinhala baha keapiya aswe." Do you know that that is one of the articles which is the subject matter of this action? A.—I don't know.

(Original letters of demand handed to plaintiff's counsel from the custody of the defendants.

Mr. Wikremanayake marks the original letters of demand P10 and P11 both dated 10 19th June 1956. P10 is the letter of demand to the 2nd defendant and P11 is the letter of demand to the 1st defendant).

Q.—The times of Ceylon and the Lanka Dipa both publish comments you make on various matters?

A.—Yes, sometimes they publish comments I make and comments I do not make.

Q.—Do they send round representatives to find out from you what comments you might make on certain matters? A.—Yes.

Q.—And when they put questions to you you make comments you make on matters, sometimes they publish them correctly and sometimes they publish them incorrectly?

A.—Yes.

Q.—The Lanka Dipa on the 28th June published a statement alleged to have been made by you? 20

(Mr. Thiagalingam objects to the question as it has nothing to do with this case, as he says it is a matter between Mr. Dahanayake and Mr. Costa.

Mr. Wikremanayake says that he puts the question to show that this witness is prejudiced against the plaintiff.—I allow it).

Q.—Did you receive a letter from the plaintiff asking you whether or not you had made the statements alleged to have been made by you and published?

(Mr. Thiagalingam objects.—I allow it).?

Q.—Did the plaintiff write to you asking you whether this statement attributed 30 to you was one that you made?

A.—I remember the lawyers writing to me and I replied and thereafter they have filed action against me. I don't remember the details.

Q.—You remember replying to the effect that questions should be put to the Times of Ceylon?

(Mr. Thiagalingam objects).

Q.—You admit that there was some correspondence and after that action filed against you? A.—Yes.

Q.—Do you remember what the action filed against you was in respect of?

A.—As far as I remember I am alleged to have made certain statements to a 40 reporter or a correspondent of the Lanka Dipa. I cannot remember round about what time that was filed. It may be about 6 months ago.

Q.—The allegation of the statements that you are alleged to have made to the Lanka Dipa related also to the retirement of the plaintiff?



(Mr. Thiagalingam objects to the question.—I uphold the objection).

A.—I never made those statements.

(Mr. Wikremanayake moves to mark a certified copy of the plaint in the case filed against this witness.

Mr. Thiagalingam objects.—I uphold the objection).

Q.—I put it to you that on the 28th June, a few days after the letter of demand was sent to the Lanka Dipa you were alleged to have made these statements to the Lanka Dipa? A.—If the paper is shown to me I can answer that question.

Q.—You now say that you did not make those statements? A.—No.

10 Q.—You spoke of correspondence between you and the lawyers, before action was filed against you?

A.—I instructed my department to answer the lawyers. Whatever communication I received from the lawyers went into the departmental files.

Q.—Did you give instructions that a reply should be sent stating that you had not made these statements? A.—I don't think so.

Q.—Is it correct that you never discussed this plaintiff's action against the Lanka Dipa?

A.—Not necessarily. I had in connection with this case been summoned for consultations. I had no reason to discuss this case.

20 Q.—Did you discuss the question of Costa's retirement with any newspaper reporter?

A.—No.

Q.—You made no statement to any reporter on the question of Costa's retirement?

A.—No.

Mr. Sagara Palansuriya is the member of Parliament for Horana electorate. He defeated Mr. M. D. H. Jayawardene. He is a member of my party.

Q.—Is he a member of the working committee of your party?

A.—Within the M.E.P. Government there was the S.L.F.P., Mr. Phillip Gunawardene's Sama Samaja Party, and V.L.S.S.P. Mr. Sagara Palansuriya is a member of the V.L.S.S.P. and as the V.L.S.S.P. is also within the M.E.P. Mr. Palansuriya is a  
30 member of the M.E.P.

Q.—Is he in any of the working committee of the Parliamentary group?

A.—The Government group, taken altogether, have divided themselves into groups according to the nature of the work.

Q.—Is he in any organised committee of group of that nature?

A.—Every Government M.P. is in some group. All the M.P.s get together and divide themselves into groups and each group is expected to study the work of some ministry or other.

Q.—The work of which Ministry is this gentleman studying?

A.—I cannot say offhand.

40 Q.—In any case the information that they require in the groups will be available to them directly through the group organisation?

A.—The information is available to all members. Those who are so divided are expected to take an especial interest in these things.

The petition that came to me is dated 14th May, and the minute by me on it is dated 29th May. My minute after investigation was made on the 21st June 1956. There is an earlier minute of mine on the 4th June 1956. In that minute I have given two orders :—

No. 6  
Defendants'  
Evidence

—  
Evidence of  
W. Dahanayake  
Cross-  
examination  
—continued.

No. 6  
Defendants'  
Evidence

Evidence of  
W. Dahanayake  
Cross-  
examination  
-continued.

(1) Reply to Mr. Jayasekera that the order of retirement already made cannot be revoked.

(2) Let me know on what date the Minister of Finance allowed the appeal. (Mr. Wikremanayake marks the minute of 4th June 1956—P12).

Q.—So far as the question of the pension of the plaintiff was concerned it had to be decided by the present Minister of Finance?

A.—No. The order of retirement had been sanctioned by the previous minister. Pension is a matter of course and does not depend on anybody's order but on the pension rules.

Q.—On the 13th August notice was given of a question for oral answer by Mr. 10 Sagara Palansuriya to the Minister of Education?

A.—I don't know whether notice was given on that particular date. It appeared on the agenda of that day. Those are the questions which had been brought and—answered and the supplementary questions were raised by Mr. Robert Gunawardene.

Q.—Was this information not information which Mr. Sagara Palansuriya already had? A.—I don't know.

Q.—Was it only for the purpose of publicity that these questions were asked?

A.—I don't know.

Q.—Were the answers of the questions prepared before these particular questions were asked? A.—No. 20

The suggestion is that these answers were prepared for some other purpose. The answers were prepared for answering the questions in parliament.

Q.—The suggestion I made was that the questions were put forward in order that these answers might be given?

A.—As far as Mr. Palansuriya is concerned that question must be put to him.

When notice of questions are received they go to the office for the preparation of the answers and when the answers are prepared they come back to me for any amendments that may seem necessary to me. In the first instance the questions don't come to me, they go to the office and through the office they come to me. It is then within my power to make any amendments to the answers prepared, which may have become 30 necessary. Therefore the innuendo that these questions were put for certain purposes and answers were prepared for certain purposes is not correct. When questions are asked, I do not know that the questions are asked till the draft replies come to me.

Q.—Is it not possible for you to tell Palansuriya to put these questions?

A.—I did not do that.

Q.—I ask you, is it possible?

A.—It is not possible as far as I am concerned because I do not want to do anything unfair by anybody.

Q.—That is the only reason why it is not possible, otherwise physically it is possible?

A.—Not only that. It is not possible for me to say what any other man could do. 40

Q.—Is it possible for you to ask any other man to do that?

(Mr. Thiagalingam objects to the question).

Q.—Have you made orders with regard to transfers of teachers which were cancelled?

(Mr. Thiagalingam objects to the question as it has nothing to do with this case and it relates to the Minister's action as a Minister of State. I allow it).

A.—Yes, but not on private and personal pressure. It is correct that I have made transfers.

Q.—And cancelled them ?

A.—That may also have happened.

Q.—And then re-appointed the person whose transfer was originally cancelled ?

A.—There is no question of reappointing.

Q.—You know the Dedigama school ? A.—There are several schools in Dedigama.

Q.—Do you know the school where there was a Mr. Samarasinghe who was appointed head teacher, in the first instance, of the primary school ?

A.—I don't remember the instance.

Q.—At the instance of the member of Parliament Mr. Herat ?

10 A.—I do not remember fully, but if the incident refers to the amalgamation of two schools I remember in that particular case there was a general order that was effective that when two schools were amalgamated, whichever of the teachers was the most senior he should become the head teacher of the new school, of the amalgamated school. I don't know if the reference is to that particular case.

Q.—Samarasinghe was appointed the head teacher in the first instance ?

A.—I don't remember the details.

Q.—Do you remember the person who was appointed the first head teacher ?

A.—I remember that there was some trouble and I asked the department to report to me on that and I acted on the advice of my department officers.

20 Q.—Is it correct that that man who was first appointed had his appointment cancelled and somebody else was appointed ?

A.—I don't remember the details, but that may be the position.

Q.—Is it correct that there was a third reversal and that man who was originally appointed was again appointed ? A.—I cannot remember the details.

Q.—Then again the second man as appointed for the fourth and last time ?

A.—I cannot remember.

Q.—You say in matters like that the department advises you and advises you differently from time to time ? A.—That has happened.

Q.—How often does it happen that people are appointed backwards and forwards ?

30 A.—These are not appointments, they are not even transfers. This was a question of two schools being amalgamated. There were various questions. The question of seniority was there, then the question of qualification was there, and thirdly there was the question of the ability to conduct work in the Sinhalese medium.

Q.—Under those circumstances it was impossible for two or three changes to be made in respect of the same two men ? A.—There is a possibility.

Q.—You remember the matter of Mr. Rajapakse threatening to resign from the party if something was not done ? A.—Yes.

Q.—Was that splashed about the press ? A.—Yes.

40 Q.—In relation to that matter there in the first instance a teacher was transferred on your orders ? A.—No.

That is absolutely incorrect. Nobody was transferred on an order of mine. The whole staff was transferred on an order of my Permanent Secretary without my knowledge.

Q.—Had that then been done by personal and private pressure ?

A.—I will not say that, but the fact is that I knew nothing about it. Not on my orders at all. The whole staff had been transferred.

Q.—Was it done by the Permanent Secretary on personal and private pressure ?

(Mr. Thiagalingam objects.—I uphold the objection).

Representations were made to me by a large body of parents and others interested. Representations were made to protest against the transfer of the whole staff.

Q.—Protests on the grounds on which they had been transferred or the order that had been made ?

A.—The deputation met me and told me that the whole staff had been transferred. I said I will look into the matter.

Q.—They protested to you against the transfer of the whole staff, they also protested to you against the reason why the whole staff had been transferred ?

A.—In the course of what they told me they said it was wrong to have transferred 10 the whole staff.

Q.—They complained to you of the manner in which this transfer had been brought about ?

A.—No. What they complained to me was that the school was badly affected by the fact that the whole staff had been transferred.

Q.—Did they protest to you against personal and private pressure ?

A.—No. There was no question of somebody doing it to pay off a grudge. The protest was purely that there had been trouble in the school and you have transferred the whole staff so that there is nobody there to know anything about it.

Q.—This was neither personal nor private pressure ?

20

A.—The Permanent Secretary had considered it best in the interests of the school to transfer the whole staff.

Q.—You knew the pressure was personal but public ?

A.—A deputation came and saw me and wanted me to set matters right.

Q.—That is, to reverse the order made by the Permanent Secretary ? A.—Yes.

Q.—The Permanent Secretary is the head of the administration of the Ministry of Education ? A.—I am the head of the administration.

Q.—The Permanent Secretary is the person who is at the head, he is a paid official ?

A.—Yes.

Q.—You are the head in the sense that you are answerable to the Government ? 30

A.—Yes.

Q.—The order was reversed ?

A.—I went into the question and desided that it would be sufficient if I believe three teachers were transferred and not the whole staff. So I said that the transfer in regard to all except the three who were named should be cancelled. That is all I did.

Q.—As far as the deputation was concerned it did not do any wrong thing in coming to see you ?

A.—It did something correct in bringing to my notice something which has happened. That was in the best interests of the school.

Q.—When you made your order reversing the order of the Permanent Secretary, 40 Mr. Rajapakse protested ? A.—Yes.

Q.—Did he use personal and private pressure ?

A.—No. He protested as the M.P. for that area, and agreed that rather than send away the whole staff which was something like 30 it was better to send some away. The only dispute between him and me was that he wanted the head teacher to go. He was not one of the three already chosen to go. As a result of representations the M.P. agreed that it was wrong to have transferred the whole staff.

Q.—The M.P. threatened to resign from the party if the whole staff was not transferred? A.—That I saw in the papers. There was something to that effect.

Q.—In the end the head teacher was not transferred?

A.—He agreed to go. He was not transferred.

Q.—The head teacher volunteered to go as a result of private and personal pressure?

A.—No pressure, he just volunteered.

Q.—To ease the situation? A.—I made no order asking him to go.

Q.—For him to have gone there would have eased the situation between Mr. Rajapakse and the party?

10 A.—I was not concerned. I had made my order that three teachers should go.

Q.—Would it not have eased the situation for him to have gone?

A.—Ease what situation. I don't remember Mr. Rajapakse to have made such a definite and categorical statement such as if you don't transfer him I will go.

Q.—Whatever it was, was there not a situation in which Rajapakse was threatening to resign from the party?

A.—As far as I was concerned, as Minister I just stayed where I was. I had made the three transfers and there was no fresh ground for me to make a further order.

Q.—Was there a situation which later was eased?

A.—As far as I was concerned, to my mind there was no situation.

20 Q.—As between Rajapakse and the party there was no situation?

A.—Between Rajapakse and the party is a separate matter. As far as I was concerned between Rajapakse and myself there was, to my mind, nothing. There may have been a situation between Rajapakse and the party.

Q.—Could the situation that may have existed, could have been eased by the departure of the head teacher?

A.—It might have been eased in a better way if he had remained.

Q.—Was it published in the papers that you and Mr. Rajapakse were requested to come to a settlement in this matter?

A.—The papers said we had been asked to see what could be done in the matter.

30 Q.—To come to a settlement?

A.—There was no settlement. I stuck to my guns and did not transfer anybody else.

Q.—Were you asked to come to a settlement?

A.—I was asked to see what could be done in the matter. But anyway I did not order the head teacher out.

Q.—Mr. Rajapakse also stuck to his guns?

A.—That question must be put to him. The Head teacher went away on his own accord. There was no pressure of any type from me.

Q.—Have you ever allowed personal or private pressure to be brought to bear on you? A.—No. I remember the Piyaratne school of Dodanduwa.

40 Q.—Did you give orders that a particular student should be sent for an examination and the principal did not want to send him? A.—I may have done.

Q.—Did the principal send up to you the mark sheets?

A.—Yes and agreed with me that his earlier decision was wrong.

Q.—There were several others who had got higher marks than this student who was not allowed to take up this examination and you suggested sending up the whole lot?

A.—Yes. And I found the principal was wrong in not having sent up the whole lot. There was no pressure it was only redressing an act of injustice.

No. 6  
Defendants'  
Evidence

—  
Evidence of  
W. Dahanayake  
Cross-  
examination  
—continued.

Q.—The principal went on the marks of an examination and this particular student had come well below any of the others who had failed the test ?

A.—Yes, but well above the level at which you would drop students out. I don't know how long the principal had been principal of that school.

Q.—Was this matter brought to your notice by someone else in parliament ?

A.—I don't remember that.

Q.—By one of your colleagues ?

A.—I could not remember the details. All that I remember is that the paper came to me, and I made a minute. I believe it arose by some student coming and complaining to me, or it may have been through an M.P. or not, I don't know, that he had secured 10 so much of marks in the final test and that he had not been allowed to go up. Then my minute was that if this is true the matter should be adjusted. On that the principal came and saw me in Colombo and showed me the marks. I went through the marks myself.

Q.—The student had obtained 13 percent in English ? A.—That is only one subject.

Q.—34 per cent in Sinhalese, 52 in Arithmetic, 25 in Sinhalese Literature, 36 in Buddhism, 10 in History, 20 in Civics and failed ?

A.—I don't remember the details, but will you please be good enough to give me the full sheets.—(Shown a document).

I don't recognise the signature. I don't remember who was the headmaster. I 20 know Mr. A. W. B. Guruge a Civil Servant in my department.

Q.—You know his signature ?

(Mr. Wikremanayake moves to produce a letter alleged to have been written by Mr. Guruge.

Mr. Thiagalingam objects to this document being shown.

Mr. Wikremanayake says he is prepared to call the writer.

Mr. Thiagalingam submits that he has no right to do so.

I uphold the objection).

Mr. Wikremanayake says the document is written for the Permanent Secretary on behalf of the Permanent Secretary of the Ministry of Education giving to the principal 30 on directions issued by the Minister).

Q.—Did you direct your permanent Secretary to inform the principal of the Piya-ratne Vidyalaya that you were glad he had agreed to send up a few border line cases ?

(Mr. Thiagalingam objects to the question and says that this is from the same document.

I have already ruled against the document and I do not think it can be put to the witness).

Q.—Do you remember having asked your Permanent Secretary to write to the principal of the Piya-ratne Vidyalaya expressing your satisfaction of his having sent up some border line cases ? A.—That may be so. 40

Q.—Do you remember that the mark sheets were shown to you by the principal of that school ? A.—I remember him coming up to me.

Q.—You told us that other than the evidence in your files you have nothing on which you would base your conclusion that the plaintiff was fit to teach in swabasha ?

A.—On his qualifications.

Q.—The only evidence for that was the evidence in your files ? A.—Yes.

Q.—On his qualification you decided that he was competent to teach in swabasha ?

- No. 6  
Defendants' Evidence  
—  
Evidence of  
W. Dahanayake  
Cross-examination  
—continued.
- A.—Yes.
- Q.—Is it correct that you often accept statements that are made to you without sufficient scrutiny and act on them?
- A.—I act every moment of my life and this is what my enemies say of me.
- Q.—Have you published statements without verifying for yourself the truth of them? A.—Not to my knowledge.
- Q.—Have you ever been charged with publishing statements without verifying them?
- A.—No such charges have been made against me.
- Q.—Have you been charged with criminal libel?
- 10 A.—Criminal libel is not the same thing.
- Q.—Libel is a publication of a statement?
- A.—You want to know if I had published a statement.
- Q.—You were convicted of criminal libel? A.—Yes.
- Q.—That was in respect of a statement published by you?
- A.—A statement made by me.
- Q.—And a statement made on information given to you by others?
- A.—No. In that particular case not only was information given to me I had very good grounds. Because I was charged with criminal libel shows that I made that statement without circumspect. I was convicted because I was not able to prove the truth
- 20 of it, not because it was not the truth.
- Q.—You contend that the statement was true, you were unable to prove the truth of it and you were convicted of criminal libel? A.—Yes.
- Q.—Your car was purchased by public subscription? A.—Yes.
- Q.—Towards that fund did the Lanka Dipa subscribe Rs. 1,000/-?
- A.—Absolutely false.
- Q.—Or the Times of Ceylon?
- A.—Absolute, utter diabolical lies. They contributed nothing. I wish they had.
- Re-examined*: Q.—In your career as a politician you had occasion to be in the criminal courts in connection with libel? A.—Yes.
- 30 The parliament was dissolved sometime in February 1956.
- Q.—How long prior to that date would you have known that the parliament was going to be dissolved?
- A.—A few weeks before that. I knew it a few weeks before. The other side knew it very much earlier. By other side I mean the U.N.P.
- Q.—Did you know from the files that the plaintiff did Indo-Aryan with Pali and Sanskrit? A.—Yes.
- Q.—Was that one of the factors that also enabled you to make up your mind that he should be able to teach in Sinhalese? A.—Yes.
- Q.—The fact that he did Indo-Aryan in Sanskrit and Pali is in the files? A.—Yes.
- 40 Q.—What has Sanskrit and Pali got to do with a knowledge of Sinhalese?
- (Mr. Wikremanayake objects as it did not arise in cross-examination—I uphold the objection).
- Evidence of  
W. Dahanayake  
Re-examination

(Sgd.) A. L. S. SIRIMANNE

A.D.J.

**K. L. V. Alagiyawanna**—Affirmed, 43, Principal, Sri Sumangala, Panadura.

I am an M.A., London in Education, I hold a Diploma in Education, and I am a Barrister. Before I got my degree in M.A. I held a degree in B.A., History. I received my education at St. Joseph's College. My subjects for the Matriculation were English Language, History and Sinhalese. After that I did Sinhalese for the Inter Arts too. I was in England in August 1945, I left for England in August 1945. It was in England that I got my degree M. A. I was called to the Bar in December 1945. Before I was called to the Bar I was a teacher. I practised at the Bar for a little over a year. Then I was appointed to the Education Department as Regional Organiser of Adult Education. 10 That was in 1951. It was a temporary job at the beginning, but made permanent before I left. I left at the end of June 1953. I resigned because I was invited by Mr. Kularatne to take up an appointment at Ananda Sastralaya. He had asked me to come back to Buddhist Education. As far as salary prospects went, it was not an improvement because I was placed at a particular point on the scale which was Rs. 405/- basic. When I left I was entitled to my second increment. By taking the post at Sastralaya I had to start at Rs. 400/- plus. I was selected for appointment at Ananda Sastralaya as vice principal and I received the letter of appointment from Mr. Kularatne. D4 was in my custody and I handed it to Counsel in Court the day before yesterday.

Q.—On your appointment after the letter what happened? 20

A.—Mr. Costa came to see me.

Q.—Before the letter of appointment in regard to your accepting the post of vice principal at Ananda Sastralaya had anybody seen you?

A.—Yes. Mr. Costa came to see me in my home.

Q.—Before you were appointed had anybody else seen you? A.—Not before.

Q.—Mr. Adikaram has told us that he saw you?

A.—He saw me on the day following on which Mr. Costa saw me. First Mr. Costa saw me and after Mr. Costa had seen me Dr. Adikaram came. He came at 6 o'clock. Dr. Adikaram said that I ought not to accept this appointment because it was really to go to Mr. Costa who had worked there for a very long time. He said Mr. Kularatne was 30 appointing me to block Mr. Costa's chances. I said I am very sorry I could not possibly do that because I had resigned from my post in Government and had written accepting the offer of the B.T.S. He said he would do everything possible to further my interests in the Government Service if I refused to accept this appointment. I said I was not interested in Government Service and it is because of that that I decided to take this post. I had done work in this school before. He then said he would give me a special post in another school on the same salary. I said I have accepted this post from the B.T.S. and I don't see how I can possibly resign from that post and it would not be quite right. Then he said before he left he said there would be trouble and disturbance if I came to Ananda Sastralaya and he himself would make trouble if I came. 40

Q.—Did you yield to those threats?

A.—No. I did not take it very seriously. I said what trouble could you possibly make. He said I think you should consider this very seriously before you accept. I accepted nonetheless.

Q.—What had Costa told you earlier?

A.—He was pleading with me not to take the post. He said it was due to him, that he had worked a lot for this school for a long time.



(Mr. Wikremanayake objects to this evidence.—I allow it).

Costa had seen me the previous evening. He pleaded with me not to accept the appointment. He said that he had worked at the school for a long time. I said I was not interested in the principalship at the moment and that I was only appointed vice Principal and the question of principalship could be decided later. He said he would be prepared to go to jail for 20 years rather than allow anybody to take the post. I was quite content to accept this appointment.

No. 6  
Defendants'  
Evidence  
Evidence of  
K. L. V.  
Alagiya-  
wanna  
Examination  
—continued.

Q.—When did you first go to the school?

A.—I went with Mr. Kularatne on the 1st July 1953.

10 Q.—At that time who was in charge of the school?

A.—Mr. Costa I was informed was acting principal. Mr. Wickremasinghe the permanent principal was in hospital on that date and Costa was in charge of the school. I went a few minutes before Mr. Kularatne's arrival. I walked into the office and sat down. Mr. Costa was in his seat. Mr. Kularatne then followed. He came in there and said we have appointed Mr. Alagiyananna permanent vice principal and as such he will have to act as principal from today. Mr. Costa said I am not going to allow that. I cannot possibly allow anybody to take this post. He said that and he was very excited. He took out of a drawer a heavy ruler into his hand and placed it on the table. Then Mr. Kularatne stood up and said it is useless talking about it any more. I am going  
20 away, I will deal with you later. He then got up and started closing the door. He closed one and was trying to close the other when Mr. Kularatne moved to walk out through that door. Then he held Mr. Kularatne by the arm, Mr. Kularatne brushed him aside and walked away. I opened the other door and walked out. He was very excited on that day.

Q.—On the very same day Mr. Kularatne wrote to you, can you identify his signature —(Shown D5)? A.—Yes.

Q.—Can you also identify his signature on D4? A.—Yes.

Q.—Thereafter what happened, did you go to the school?

A.—I went to see Mr. Wickremasinghe who was in hospital at the time and I told  
30 him what had happened. When Mr. Wickremasinghe returned from hospital and resumed work I went to the school.

Q.—During your tenure as a teacher in that school were there any factions in that school of the staff and the students alike?

A.—There were a few members of the staff who apparently were strongly against me and there were a number of students who I was informed by Austin Silva had been put up to make things uncomfortable and I saw a number of slogans written on the walls sometimes painted on the walls, or desks, on walls "Alaga go away you are not wanted here." I cannot remember exactly the Sinhalese words.

(Mr. Thiagalingam undertakes to call Austin Silva).

40 Q.—When you were appointed to Ananda Sastralaya apart from the Government scale of salary was any further allowance given to you?

A.—I was getting an allowance of Rs. 150/-.

Q.—Were facilities fees being levied at that time? A.—Yes.

Q.—Were they regular in coming in?

A.—I could not say this from my own personal knowledge.

Q.—As a fact did facilities fees come in regularly?

(Mr. Wikremanayake objects.—Objection upheld).

No. 6  
Defendants'  
Evidence  
—  
Evidence of  
K. L. V.  
Alagiya-  
wanna  
Examination  
—continued.

Q.—Was there arrears in regard to the payment of facilities fees at the time you were there? A.—Yes.

Q.—Do you know the reason for it? A.—Yes.

Q.—Do you know if Costa was behind it?

(Mr. Wikremanayake objects.—Objection upheld).

Q.—Has anybody told you anything about it?

A.—Yes Mr. Goonetilleke who was a teacher at the time and Mr. Austin Silva himself told me.

Q.—What did Austin Silva tell you?

(Mr. Wikremanayake objects.—Mr. Thiagalingam withdraws the question). 10

Austin Silva told me something about the reason why facilities fees were not coming in regularly. I remember a kindergarten block being opened at Ananda Sastralaya. My impression is that it was at the end of 1953. That was when I was at the Ananda Sastralaya. Mr. Dudley Senanayake performed the function. Dr. Adikaram was there. The principal Mr. Wickremesinghe and I conducted Mr. Dudley Senanayake into the school. The plaintiff was not there. I don't know why, from my personal knowledge. The staff was expected to be there. I remember when Dr. Adikaram was made General Manager of B.T.S.

(It is 4 p.m., now.—Further hearing on 22/3).

(Sgd.) A. L. S. SIRIMANNE 20  
A.D.J.

### 22-3-57

Trial resumed.—Appearances as before.

(Mr. Thiagalingam states that the question as it appears at page 121 with reference to the Minister allowing the appeal on 12-3-56 is not the question he intended to put.

Mr. Thiagalingam states that in regard to page 163 he withdrew the question "What did Austin Ailva tell you?" because he was going to call Austin Silva himself and that he also stated then that he would recall this witness if necessary.

Mr. Wikremanayake wishes it recorded that D4 and D5 were admitted only on the undertaking that Mr. Kularatne would be called.—That is correct). 30

K. L. V. ALAGIYAWANNA—Recalled—Affirmed—(Examination-in-chief contd).

Q.—When was Dr. Adikaram made the General Manager of the B.T.S.?

A.—I think he was appointed in June 1954. At that time I was at Ananda Sastralaya as vice principal.

(To Court : Q.—How long had you been there at that time?

A.—It would be just a year).

Q.—After Dr. Adikaram became General Manager what was the first order he made with regard to Ananda Sastralaya?

A.—He sent a letter to the principal giving him instructions that from that date onwards in the absence of Mr. Wickremesinghe Mr. Costa should act as principal, and if both Mr. Costa and Mr. Wickremesinghe were not in school Mr. Palliwardene should act. 40

Q.—Did that communication have any effect on you ?

A.—Yes. I felt that my position was not tenable and something had to be done about it. I wrote a letter direct to the President of the B.T.S. protesting. Then I informed the principal that I had written to the President and showed him a copy of the letter. In view of what the principal told me I sent another letter through him and through the General Manager to the President asking for an inquiry. The first letter I wrote was not in order because I should not have addressed it to the President direct. I sent the original of D11 which is dated the 12th July and followed it up with D12 of the 16th July 1954. No inquiry was held.

No. 6  
Defendants'  
Evidence  
—  
Evidence of  
K. L. V.  
Alagiya-  
wanna  
Examination  
—continued

10 Q.—Were you happy with your situation at Ananda Sastralaya ?

A.—I was very uncomfortable so I thought, in view of Dr. Adikaram's appointment as General Manager the most sensible thing for me to do would be to get out of the place as fast as possible and I did so. I obtained an appointment as principal at Sri Sumangala, Panadura.

*Cross-examined* : My name was not always Alagiyawanna, it was Mendis. I use my 'ge' name. Alagiyawanna is my 'ge' name. I am an M.A. in Education.

Evidence of  
K. L. V.  
Alagiya-  
wanna  
Cross-  
examination

Q.—You were appointed Vice Principal by Mr. Kularatne, were you the only M.A. on the staff at the time ?

A.—No. Mr. Palliwardene was an M.A. in oriental languages.

20 Q.—He was also the first to get his M.A. with a distinction ?

A.—I am not aware of that. He was on the staff of the Ananda Sastralaya at the time.

Q.—Did you know that prior to your appointment a letter had been sent by Mr. Kularatne direct to Mr. Costa that he should act as principal ?

(Mr. Thiagalingam objects saying that counsel is seeking to get into the record the contents of a document which is not in evidence.—Objection upheld).

Q.—At the time that you were appointed vice principal by Mr. Kularatne the principal was on leave and the person acting for him at that time was the plaintiff ?

A.—Yes.

30 Q.—The manager of Buddhist schools at that time was Mr. Kularatne ? A.—Yes.

A.—The person at the time who would normally have appointed someone to act for the principal was Mr. Kularatne ? A.—Yes.

Q.—Do you know that the person who appointed Mr. Costa to act for the principal was Mr. Kularatne ?

A.—I was not aware of that. I became aware of it later on.

Q.—Before you took up your appointment Mr. Costa came and saw you ? A.—Yes.

Q.—Did you become aware that at the time that Costa came and saw you that he had been already appointed by Mr. Kularatne to act as principal ? A.—He said so.

40 Q.—You became aware of the fact that Costa was appointed by Mr. Kularatne before you first went to the school ? A.—Only to the extent that he said so.

Q.—Did you doubt his statement ? A.—He said a number of things.

I had no reason to doubt his statement that he had been appointed by Mr. Kularatne. I met Mr. Kularatne after that date and asked him whether it was true or false.

Q.—Did you find out whether it was true or false ?

No. 6  
Defendants'  
Evidence

—  
Evidence of  
K. L. V.  
Alagiya-  
wanna  
Cross-  
examination  
—continued

A.—He said he had appointed him.

Q.—You were appointed there and the plaintiff's position was so long as they appointed him to act as principal he was not prepared to let anybody else function as principal? A.—Yes.

Q.—You talked about his closing doors and pulling out a heavy ruler?

A.—Yes. I was not exaggerating that one bit.

Q.—Was it a fact that pupils were trying to peep through doors and find out whether there was an altercation between the Manager and the principal?

A.—There was nobody peeping to my knowledge.

Q.—Was it possible for pupils to see what was happening in that room? A.—Yes. 10

Q.—Was it a desirable thing that pupils should see some disturbance going on between the Manager and the principal?

A.—I should not think so, if there was going to be disturbance.

Q.—If there was going to be even an exchange of words between the Manager and the principal was it not desirable that pupils should not be aware of such things?

A.—I should think it was not correct.

Q.—If any exchange of words did happen it was not a thing that the pupils should in any way have been aware of? A.—Yes.

Q.—One method of preventing pupils from keeping an ear to any discussion that was going on there was to close the doors? A.—That is one way. 20

Q.—There was you and Mr. Kularatne there? A.—Yes.

Q.—He slipped out of one door and you from the other?

A.—I was giving a factual account of what happened. I did not slip out of the other door. The door was closed. I saw no reason why the doors should be closed. I opened it and walked out.

Q.—While Mr. Kularatne was going out by the other door?

A.—Both doors are very close to each other.

Q.—Are you suggesting that when he pulled out a ruler and closed the doors he was expecting to assault either of you?

A.—I really could not say; he was very excited. There was a possibility. 30

Q.—Did you fear him at that time?

A.—No, I cannot say I feared him, because the aggression seemed to be directed at Mr. Kularatne and not at me.

Q.—Did you fear that he was likely to assault Mr. Kularatne?

A.—Certainly from his manner I thought it was not impossible.

Q.—Did you think that his closing of the doors was all with a view to carrying out that object?

A.—It all happened in about two minutes. I did not anticipate anything. I did not think at the moment that he was about to attack.

Q.—Mr. Costa the acting principal said he was not prepared to allow anybody to 40 function as principal so long as he held the appointment to act as principal and his acting for the principal was only till Mr. Wickremesinghe came back? A.—Yes.

Mr. Wickremesinghe came back a few days later. Thereafter I went and resumed duties in the school.

Q.—From that date did he in any way obstruct your work as vice principal?

A.—Yes.

Q.—In what way?

A.—I will have to give one incident if I am allowed. On one occasion when I went to a class to take that class Mr. Costa was in the adjoining class. The two classes are divided by a partition. Mr. Costa saw me coming to the class and left his class. After I entered the class there was considerable disturbance in the other class: I got up and warned the students of that class. Then a very hard object struck the partition on the other side. I went at once and found a boy running from one part of the class to another. I warned him and sent him to the office to wait for me. At the end of my period I went to the office. Mr. Costa was in the ante-room just close to the office and the student was with him. I called the student because I wanted to report the matter  
10 to the principal. Mr. Costa held his hand and did not allow him to come. I spoke sternly to the boy and asked him to come at once. He then pulled his hand away and came into the office. I told Mr. Wickremesinghe what had happened and Mr. Costa came in and said why should teachers take up this attitude. I don't complain when children are noisy in my class when I am teaching, why should all this nonsense be done.

Q.—First of all at the time you went to your class he left his class, are you suggesting that he left his class in order to enable the students to disturb you?

A.—He said so in the office. He said he left the class so that this may happen. He actually told that to me and the principal.

Q.—This was after he had already apologised to the Board? A.—I don't know.

20 Q.—The plaintiff was questioned about his being rude to Mr. Kularatne?

A.—Yes.

Q.—If the evidence you gave was correct there was sufficient ground for him being dismissed from the school? A.—Yes.

Q.—He was guilty of a very serious breach of discipline? A.—Yes.

Q.—He apologised to the Board? A.—I don't know.

Q.—He admitted to the principal that he did it deliberately so that the students could annoy you? A.—Yes.

That was after an exchange of words had taken place over this incident. There was an exchange of words there and at the end of it as an act of bravado he admitted it.

30 Q.—Was there an inquiry? A.—No.

I did not report the matter to the appointments board. I told Mr. Kularatne, but I did not report officially. Nothing was done in the matter.

Q.—How long after you went to the school was that?

A.—I cannot really remember, but some months after, I think so.

Q.—For the first few months after you went nothing happened?

A.—Oh, things were always happening. I was finding slogans written on the walls.

Q.—Did the plaintiff in any way obstruct you in your work as vice principal?

A.—Not in the way that I have just described. That was one incident.

Q.—Was there any other incident?

40 A.—No other incident, personally.

Q.—This particular incident took place how many months after you joined as vice principal? A.—I think it was three or four months.

Q.—For the first three or four months there was no incident where he personally obstructed you in any way? A.—Yes.

Q.—Did you have occasion to give directions to him in your capacity as vice principal?

No. 6  
Defendants'  
Evidence

—  
Evidence of  
K. L. V.  
Alagiya-  
wanna  
Cross-  
examination  
—continued

A.—In that atmosphere I would not have ventured to give him any instruction. As vice principal I did not at any time give him any directions. I gave directions to the other members of the staff.

Q.—You told us that there were other members of the staff against you? A.—Yes.

Q.—Between yesterday and today they became less in number? A.—No.

Q.—You said yesterday there were a few members of the staff who apparently were strongly against you, you gathered that from remarks made at staff meetings, is that correct? A.—I did not say anything about staff meetings.

Q.—When you told the Court that there were a few members of the staff who appeared to be strongly against you, did you gather that impression from remarks 10 they made at staff meetings? A.—Not remarks made at staff meetings.

Q.—Did they make remarks at staff meetings to indicate that they were against you?

A.—Not that I gathered.

On the occasion of the incident that I just described Mr. Palliwardene also came to the office with Mr. Costa. He also supported him in everything he said and did. There was also a Mr. Weerasinghe who was against me. There was also a lady teacher whose name I cannot remember.

Q.—How did you gather that they were against you only by that incident?

A.—That was the sort of impression that I was always getting by their manner. They did not speak to me as a member of the staff; they did not behave naturally 20 towards me. If I met them they did not speak as friends.

Q.—Did they also not make remarks at the staff meetings? A.—No.

Q.—There were two funds in the school, the Hostel fund and the school fund?

A.—Yes.

Q.—Facilities fees were collected at that time? A.—Yes.

Q.—The principal received no allowance? A.—No.

Q.—You got a special allowance of Rs. 150/-? A.—Yes.

Q.—Your appointment there was not after any advertisement calling for applications?

A.—No.

Q.—It was done by Mr. Kularatne?

A.—Not by Mr. Kularatne but by the appointments board.

Q.—Did you receive a letter from the appointments board?

A.—I received a letter from the General Manager. I became aware that it was passed by the appointments board. Every appointment is passed by the appointment board.

Q.—You also know that Sir Nicholas Attygalla was away in England at the time of your appointment? A.—I believe that is so.

Q.—The principal was not given an allowance, you were given a special allowance and the facilities fees are collected for the purpose of giving facilities to the school which 40 cannot be given to the school out of Government funds? A.—Yes.

Q.—You did not know that the special allowance of Rs. 150/- would come out of the facilities fees? A.—No, I did not know that.

Q.—Is it not a fact that the teachers protested at staff meetings against the allowance being paid to you out of the facilities fees? A.—No.

Q.—Isn't it a fact that that was the ground of opposition to you by the staff?

A.—There was no opposition from most members of the staff.

Q.—Is it not a fact that that was the ground of opposition from such members of the staff as were opposed to you? A.—I was not made aware of that.

Q.—The facilities fees were certainly not intended for the purpose of paying allowances to teachers? A.—Yes.

Dr. Adikaram came and saw me. I knew him before that date. I had known him from about 1943 when I was appointed principal of the Kegalla Vidyalaya. When I was principal of the Kegalla Vidyalaya the General Manager of the B.T.S. was Mr. M. H. Salgado. There was no necessity for his going with me to the Kagalla Vidyalaya. I went to the Kegalla Vidyalaya to start a school. There was a formal installation which  
10 was presided over by Sir Baron Jayatilleke. The school was started that day and I was introduced as the principal.

Q.—Is it the practice of the General Manager of the B.T.S. to go round and install each principal?

A.—To my present school I was not installed. This is not a B.T.S. school. I am not aware that in the B.T.S. schools the General Manager goes round installing each principal. My present school is run by the Sri Sumangala schools board of Management. Mr. Kularatne is one member of the board.

I knew Dr. Adikaram. I believed he retired from teaching in 1945. When I first knew him he was the principal of a school.

20 Q.—And when you knew he had been principal of a school he had been associated with buddhist education?

(Mr. Thiagalingam objects.—I allow it). A.—Yes.

Q.—Was he a man for whom you had respect and regard at the time?

A.—I had the very greatest respect for him personally as a man. I thought he was one of the Saints we had produced in this country.

Q.—That was a reputation that Dr. Adikaram had earned in your mind by his conduct?

(Mt. Thiagalingam objects to the use of the word reputation.—Objection upheld).

30 Q.—Dr. Adikaram as admitted came and saw you and tried to dissuade you from taking up this post? A.—Yes.

Q.—You know that Ananda Sastralaya started from very small beginnings?

A.—Yes.

Q.—And from two cadjan sheds there came to be built up certain school buildings?

A.—Yes.

Q.—The moneys for those buildings came chiefly from collections in various forms and from people of the locality? A.—Yes.

Q.—And that the people who had associated with that school had themselves worked to build up that school? A.—Yes.

40 Q.—You know that the plaintiff had been a pupil of that school and had taught in that school for a period of time? A.—Yes.

Q.—So too had Mr. Palliawardene?

A.—I don't know how long he had taught. He had also taught there. I believe he had been a student there.

Q.—You know that this gentleman actively helped to collect moneys for the building up of that school in that area? A.—I am not personally aware of that.

No. 6  
Defendants'  
Evidence

—  
Evidence of  
K. L. V.  
Alagiya-  
wanna  
Cross-  
examination  
—continued

No. 6  
Defendants'  
Evidence

Q.—Dr. Adikaram put it to you that it would not be in the best interests of that school for an outsider to come there as vice principal?

A.—That was not really the way he put it.

Evidence of  
K. L. V.  
Alagiya-  
wanna  
Cross-  
examination  
—continued

Q.—He came to see you to point out to you that it would not be in the best interests of the school for an outsider to come there as vice principal?

A.—What he told me was that Mr. Costa should be made principal, because he said that he had been working there for a long time, that he was a man of the Ananda Sastralaya and that he had been associated with Ananda Sastralaya for a number of years. He did not mention Mr. Palliawardene.

Q.—And that it would be the best thing, that he should be appointed as principal? 10

A.—Yes.

Q.—You said your difficulty was that you had already resigned from Government service?

A.—I said I resigned from Government service and accepted a post from the B.T.S.

He told me that he would do the best he can to promote my interests in the Government service. I was not prepared to serve in Government service because I did not like Government service and I wanted to come back to buddhist education. So far as buddhist education was concerned he said he would appoint me to a Grade I post in some buddhist school. I don't know what he was in the B. T. S. at that time. He even said he would promote my interests in the Government service. 20

On my return from England I had been Regional Officer in Adult Education. I believe it was a temporary post.

Q.—There are no such officers now? A.—There are.

Q.—You believed that it would be made permanent but at the time you took it was a temporary post?

A.—I am not quite sure of it. I did not say anything about temporary. I think it was permanent but not pensionable.

Q.—You were not satisfied in being in Government service and you preferred to come back to teaching? A.—Yes, because I thought I was not doing useful work.

Q.—How did Mr. Kularatne know that you were not satisfied with that particular post or that you wanted to come back to buddhist schools? 30

A.—I did not talk to him but once when I met him he said why don't you come back to buddhist schools, we need people to work in our buddhist schools. I said I will consider it.

Q.—The next thing was he came with the offer of a job as vice principal?

A.—He wrote to me and said an appointment will be available in Ananda Sastralaya as vice principal would you like to take it.

Q.—Up to that point of time there had never been a vice principal of Ananda Sastralaya? A.—I am not aware of that.

Q.—There was no post of vice principal recognised by the department as such? 40

A.—I don't think so.

Q.—Dr. Adikaram said to you he would give you a post in another school so that you can come back to buddhist education?

A.—I told him that under these circumstances I have already accepted the offer, how can I tell the B.T.S. I could not accept it. I did not think he was going to get me a post.



Q.—Had you known Dr. Adikaram at that time well, when he told you he was going to get you a post, did you ask him how can you get me a post?

A.—I did not think it was necessary at that time.

Q.—Did you think it was possible for him to get you a post?

A.—If he went all out he might have been able to get me a post.

Q.—If he had sufficient influence do you think he could have got you a post?

A.—Although he was not the General Manager, if he had sufficient influence I think he would have been able to get me a post. But I was not prepared to give up this because I had formally accepted the appointment. He told me there might be trouble if I went to the school. He had been the principal himself for a number of years.

Q.—You tell us that he threatened to cause the trouble?

A.—He said he would also cause trouble. I took his threats very seriously, but I did not take Costa's threats seriously.

Q.—Did you tell Dr. Adikaram that it would not be a fair thing to do to create trouble?

A.—I said I don't know what trouble you are going to create. I asked him, but he did not answer. He seemed to be a little upset and got up. He said you must consider this very seriously. He got into his car and went away.

Q.—He did not for instance say he was going to lead a strike? A.—No.

20 Q.—So far as Mr. Costa was concerned he also came to speak to you before Dr. Adikaram came? A.—Yes.

Q.—He also knew you? A.—Hardly.

I had not spoken to him before that.

Q.—Your wife had been a pupil under him?

A.—She was a pupil at Ananda Sastralaya at the time when he was teaching.

Q.—He came to you, did he try to point out to you that he had been working at Ananda Sastralaya all his life? A.—He said so.

Q.—And that there were others who had been working for a long time?

A.—He was speaking for himself. He said it would be unfair for me to come in 30 there.

Q.—In the context in which he referred to he said he had worked there for a long period?

A.—He said he had worked hard. I had not worked there before in any capacity.

Q.—You went to the school, you found opposition from the staff. I put it to you that the staff protested against your allowance being made out of the facilities fees, you said you were not aware of it? A.—Yes.

Q.—With regard to charging of facilities fees in that school, how much was charged or collected you don't know personally?

A.—I know that some money was collected. I cannot say how much was collected 40 from each class.

Q.—How much was collected each month you don't know?

A.—No, I did not look into it at all.

Q.—The circumstances in which it was collected you don't know?

A.—I only heard that there is less money coming in.

Q.—Personally you don't know whether the plaintiff ever told anybody to put any slogans on the walls?

A.—That he put any himself I did not know personally. I did not see him asking anybody to do it, I did not hear him asking anybody to do it.

No. 6  
Defendants'  
Evidence

Evidence of  
K. L. V.  
Alagiya-  
wanna  
Cross-  
examination  
—continued

No. 6  
Defendants'  
Evidence

Evidence of  
K. L. V.  
Alagiya-  
wanna  
Cross-  
examination  
—continued

Q.—You have merely heard stories from other people? A.—Yes.

It was all a conspirational atmosphere.

Q.—Did you talk to the students?

A.—Yes, but not in that way. I would talk to them in the class. I did not go about the Premises talking to groups of students. It was part of the atmosphere that I am trying to bring up. Very often he was talking to little groups of students and when I passed the talk would stop. My impression was.....

Q.—Did you know that there were in that school students who were overage?

A.—I think there were some.

Q.—Do you know that in respect of overage students no money is paid by the Government in any form? A.—Yes. 10

Q.—Do you know that overage students are a burden on the school?

A.—To that extent.

Q.—In regard to underage students the Government makes provision per student according to the number of the attendance? A.—Yes.

Q.—In regard to overage students Government refused to pay anything at all?

A.—Yes.

Q.—And they are kept on at a loss to the school financially? A.—Yes.

Q.—They are kept in school invariably to enable them to get through some examination in order that they might get a job? A.—They usually pay overage fees. 20

Q.—Did the students pay overage fees? A.—Yes.

Q.—Do you know that the regulations of the Education Department prohibit the charging of overage fees? A.—I am not aware of that.

Q.—Are there any overage students where you are now?

A.—Very few. I don't charge them overage fees. I am not aware that it is an offence to charge overage fees.

A.—Of the overage students at Ananda Sastralaya, you know that many of them were also dabbling in politics? A.—I am not aware of that.

Q.—Is that area one in which political agitation is fairly strong?

A.—I believe it is an area where people are politically active. 30

Q.—In some areas political activity is sluggish, and in some active. In this area there was one particular political party, that was Mr. Robert Gunawardene's?

A.—I believe the Sama Samaj Party was fairly strong.

Q.—Is Robert Gunawardene's office very close to the school? A.—I don't know.

Q.—You did not know anything about whether or not Robert Gunawardene had an office there? A.—No. I was not interested as vice principal to find out whether it was.

Q.—There was an office carrying out leftist activities close to the school?

A.—It never became a problem. I had no inducement to inquire.

Q.—As one who had dealt with students for a long time was it within your experience that adolescence in boys as they grow up develop very violent views in political matters? 40

A.—It all depends, some of them have and some have not.

Q.—Young men as they grow up began to take interest in these matters?

A.—There are many who are like that.

Q.—I wrote the letters D11 and D12. On Dr. Adikaram assuming the Managership he gave directions that Mr. Costa should act for the principal. I knew that Costa had prior to my appointment been installed and acting.

Q.—You sent a protest against that to the President, was there any inquiry?

A.—There was no inquiry.

Q.—Did you call for a reply to this from the president? A.—Yes, I wrote.

Q.—The president ignored your letters?

A.—There was not much time and I decided to leave.

Q.—You send the letter of 12th July and the second letter on the 16th July, when did you leave?

A.—I think at the end of the same month. I took up my post in Sri Sumangala on the 1st September 1954. I took up the appointment on that day. My letter of appointment was not on the same day. I was invited to meet the Board of Managers at Panadura about a month earlier. Mr. Kularatne was there at the meeting when I went. There were others present, the president of the Board Walter Salgado, Richard Salgado the treasurer Mr. Percy Rodrigo the secretary, Dr. Dias, and there were some others also whose names I cannot remember.

Q.—Who had been the previous principal?

A.—Mr. A. J. Fernando. He was acting at the time I went. He had been acting for about 6 years. I knew that Mrs. Kularatne had been the principal of the girls section at Sri Sumangala.

Q.—When you sent this letter to the president D11 and D12 what was Mr. Kularatne's status on the B.T.S.?

20 A.—He was not the General Manager. I am not aware whether he was on any board. I sent it to the President. There is also an appointments board.

Q.—The appointments board consists of 5 office-bearers and 4 others?

A.—I am not sure.

Q.—You got no reply from the president to either letter? A.—No.

Q.—You went and saw Mr. Kularatne when you got no reply? A.—Yes.

Q.—And told him this is not possible? A.—Yes.

Q.—And he said you apply to Sri Sumangala?

A.—He said probably you will not get an answer.

Q.—Was it on his suggestion that you applied to Sri Sumangala?

30 A.—I did not apply to Sri Sumangala.

Q.—You told him you had sent this letter and got no reply?

A.—I told him I was intending to go back to legal practice.

Q.—Then he told you certain things instead and thereafter you were invited to come to Sri Sumangala? A.—Yes.

Q.—You got an invitation to come before the Board of Sri Sumangala?

A.—Actually before Mr. Kularatne mentioned to me. . . . .

Q.—You went and saw Mr. Kularatne with regard to your letters to the president of the B.T.S.?

40 A.—I mentioned to him the fact that I was determined to go away. That I proposed to revert to practice at the Bar. He said certain things to me. Thereafter I was approached by some people from the Sri Sumangala Board after Mr. Kularatne made certain statements to me, and I got my appointment.

Q.—You had trouble anywhere else?

(Mr. Thiagalingam objects.—I allow it).

Q.—When you were principal of Kegalla Vidyalaya were the college buildings burned down? A.—This is the first time I am hearing of it.

Q.—Was any building of the Kegalla Vidyalaya burned down?

A.—Positively never, unless it happened after I was away in England.

No. 6  
Defendants'  
Evidence

Evidence of  
K. L. V.  
Alagiya-  
wanna  
Cross-  
examination  
—continued

No. 6  
Defendants'  
Evidence

—  
Evidence of  
K. L. V.  
Alagiya-  
wanna  
Re-  
examination

*Re-examined :*

*Q.*—You told us that you wrote those two letters D11 and D12. Are the statements in those two letters correct? *A.*—Yes.

*Q.*—After that when you got no reply you saw Mr. Kularatne?

*A.*—Yes, I mentioned it to him.

*Q.*—You said that you had made up your mind to revert to the Bar?

*A.*—Yes, I was seriously thinking of that.

*Q.*—What did Mr. Kularatne say?

(Mr. Wikremanayake objects.)

Mr. Thiagalingam says that he is calling Mr. Kularatne.

10

I allow the question on condition that Mr. Kularatne is called).

*A.*—He said he would be very sorry if I decided to leave, that the buddhist schools must get principals who have experience today. He would very much like it if I built up a school which needed to be built up. Thereafter some people in Panadura saw me and I took the next step.

*Q.*—You told us that while in that school as Vice Principal you did see Costa talk to little groups and when you passed by certain impressions were created in your mind, what were the impressions in your mind? *A.*—They were hostile.

*Q.*—Why didn't you report the question of the incident where Costa came and said things in support of that boy whom you had called up to your room? 20

*A.*—I did not report the incident because I had come to feel that under the circumstances the better thing for me to do was to put up with it and see what would happen.

(Sgd.) A. L. S. SIRIMANNE

*A.D.J.*

Evidence of  
S. W. Austin  
de Silva  
Examination

**S. W. Austin de Silva**—Affirmed, 35, Teacher, St. John's College, Nugegoda.

I was at Ananda Sastralaya till the end of 1956. I was there from 1950. I was a teacher there for 6 years. I know the time that Mr. Alagiyawanna was appointed vice principal. After he became vice principal there were slogans on the walls of the school. 30

*Q.*—Who had got them done?

(Mr. Wikremanayake objects.)

(*To Court* : *Q.*—Do you know how those slogans came to be on those walls?)

*A.*—I gathered from what the students told me).

The student S. K. Dharmakirti was the student who informed me.

*Q.*—You came to know from the student Dharmakirti that the slogans were written by the students at whose request?

(Mr. Wikremanayake objects.—I allow it).

*A.*—At Mr. Costa's request.

I mentioned that to Mr. Alagiyawanna. Facilities fees were being levied in the school at that time. 40

*Q.*—Were the facilities fees coming in regularly during Mr. Alagiyawanna's time or not?

(Mr. Wikremanayake objects.—I allow it).

A.—No. Some of the students did not pay facilities fees.

Q.—Do you know why personally? A.—Some of the students told me.....

(Mr. Wikremanayake objects.—Objection upheld).

Q.—Did Dharmakirti tell you anything about it?

A.—Yes, he told me that Mr. Costa had asked him not to pay facilities fees because Mr. Alagiyawanna was there as vice principal.

No. 6  
Defendants'.  
Evidence

—  
Evidence of  
S. W. Austin  
de Silva  
Examination  
—continued

*Cross-examined :*

10 Q.—Teachers are sometimes given full pay leave to study, is that right? A.—Yes.

Q.—You yourself made an application for full pay study leave? A.—Yes.

Q.—Study leave is granted under certain conditions? A.—Yes.

Q.—Only to people who have served at least 5 years in the profession? A.—Yes.

Q.—The application for study leave has got to go through the principal? A.—Yes.

Q.—And has to be recommended by the principal? A.—Yes.

Q.—When you were on the staff of the Ananda Sastralaya you made an application for study leave? A.—Yes.

Q.—Which had to go through Mr. Costa as principal? A.—Yes.

Q.—You, at that time had not yet completed 5 years service? A.—Yes.

Q.—And you were therefore not strictly entitled to full pay leave?

20 A.—I completed 5 years before going to the University. At the time I made the application I had not completed the 5 years. Though at the time I went to the University I had already completed the 5 years.

Q.—And the principal did not recommend your application?

A.—He recommended it.

Q.—Did he draw attention to the fact that the 5 years had not been completed by you? A.—Yes.

(To Court : Q.—By the time your leave became due you would have completed 5 years? A.—Yes).

30 one Q.—Did he point out on your application that there were two teachers on leave on full pay leave and one on no pay leave? A.—No.

Q.—Was it the fact that at that time there were two teachers on study leave?

A.—Yes.

Q.—One of them was on full pay leave, Mr. Ratnayake? A.—I am not aware of that.

Q.—Mr. Edwin was also on leave? A.—Yes.

Q.—You were not aware that he was on no pay leave? A.—Yes.

Q.—Did you discuss the matter with the principal? A.—Yes.

Q.—Did he say Edwin is on no pay leave I cannot allow your application? A.—No.

Q.—You did not get your leave? A.—Yes.

Q.—And you went away from the school? A.—Yes.

40 Q.—You were not given leave, whether full pay or no pay?

A.—I was given no pay leave.

Q.—You were not even given no pay leave, but you just went off?

A.—I was on no pay leave. I have no document to show that I was given no pay leave. I wrote to the General Manager, he did not reply to my letter.

Q.—You received no letter giving you leave of any sort? A.—Yes.

Q.—You just left the school and went away? A.—I wrote to the department.

Evidence of  
S. W. Austin  
de Silva  
Cross-  
examination

No. 6  
Defendants'  
Evidence .

Evidence of  
S. W. Austin  
de Sliva  
Cross-  
examination  
—continued

Q.—Did the department give you leave? A.—No.  
Q.—You resented the fact that the plaintiff did not support your application even for no pay leave?

(Mr. Thiagalingam objects.—Objecton upheld).

Q.—Did he tell you that he supported it? A.—Yes.

Q.—I put it to you that he told you that you would not have any leave at all as there are two members of the staff already on leave? A.—No, he did not.

Q.—Did you ask him why he was not giving any leave? A.—I asked him.

Q.—What did he tell you, that in spite of his supporting you they did not give you leave? 10

A.—He told me that he will recommend my application.

Q.—When you were not given leave did you ask him, you recommended my application, why am I not given leave?

A.—He said that it was left to the manager of the B.T.S.

Q.—Did you ask him to endeavour to get this leave for you? A.—Yes.

Q.—And went away without getting the leave? A.—Yes, I had to go.

Q.—Is it after that that you went and told these stories to Mr. Alagiyawanna?

A.—No.

Q.—And the source of your information you told us is Dharmakirti? A.—Yes.

Q.—Dharmakirti was an overage student? A.—I am not aware of that. 20

Q.—About how old was he when you were there?

A.—He was in the S.S.C. form. I don't know how old he was at that time.

Q.—You haven't the faintest idea whether he was un underage student or an over-age student? A.—I don't know.

Q.—You could not even form an impression that he was an overage student?

A.—No.

Q.—Is the collection of facilities fees your function?

A.—I have to collect the fees of my class.

Q.—Were there overage students in your class? A.—I cannot remember.

Q.—Dharmakirti was not in your class? A.—He was not. 30

Q.—He told you that the plaintiff had asked students not to pay facilities fees?

A.—Yes.

Q.—Did you know that Dharmakirti was a communist? A.—No.

Q.—Did you know that he belonged to a cell? A.—No.

Q.—Were you in the Ananda Sastralaya at the time of the hartal?

A.—I am not aware, I cannot remember.

Q.—Do you know the general strike that took place during the time that Mr. Dudley Senanayake was the Prime Minister of the country? A.—Yes.

Q.—At that time were you on the staff of the Ananda Sastralaya? A.—Yes.

Q.—At that time was Dharmakirti not in the school? A.—I cannot remember. 40

Q.—At that time was Dharmakirti one of the people who was wanted by the police?

A.—I cannot remember.

Q.—You never heard that Dharmakirti has been the member of a cell?

A.—I don't know.

Q.—You didn't know that he was a member of a cell? A.—I don't know.

Q.—Were there any members of the boys of the school who were of the leftist parties? A.—I cannot remember.

Q.—You cannot remember whether there were any of them who were taking any part actively in politics on the leftist side? A.—I cannot remember.

Q.—Did you know any such thing? A.—I did not know.

Q.—Were you concerned with knowing what the students of the school were taking part in? A.—Yes.

Q.—You cannot remember whether they were members or taking any active part in political groups? A.—No.

Q.—You know where Dharmakirti was staying? A.—He is staying at Pita Kotte.

Q.—Do you know where he was staying? A.—I don't know.

10 Q.—Do you know of any members of the school who were staying in the same household? A.—I don't know.

I knew that Kirthisiri Ameratunge and Dharmakirti were students staying at Pita Kotte. I did not know they are staying together at Pita Kotte.

When Mr. Alagiyawanna came there was opposition to him from some members of the staff, from a fairly large section of the staff.

Q.—Some of the members of the staff had been connected with Ananda Sastralaya for a period of time? A.—Some members were opposed to him.

Ananda Sastralaya started as a little school with two cadjan buildings and had been built up from that with the assistance of people of the locality and of the old boys.  
20 Some of the members of the staff had been associated with Ananda Sastralaya for a long period of time.

Q.—Some of them had been students and immediately after that came on the staff?

A.—I am not aware.

Q.—Some of the members of the staff had been people who came there more-recently? A.—Yes.

Q.—The members of the staff who were opposed to Mr. Alagiyawanna were those who had long associaton with the school? A.—I cannot say.

Q.—There was a group who opposes Mr. Alagiyawanna? A.—Yes.

Q.—Those were the people who had had a long association with the school?

30 A.—I am not aware of that.

Q.—Can you tell us the names of the people who were opposed to him?

A.—Mr. Costa.

Q.—Costa had been a student there? A.—I don't know.

Q.—He had been on the staff for a number of years? A.—Yes.

Q.—Another person who was opposed to Alagiyawanna was Mr. Palliwardene?

A.—Yes.

Q.—He had been a student there? A.—I am not aware.

Q.—He had been there for a number of years? A.—Yes.

Q.—Who were the others who were opposed?

40 A.—Mr. Goonetilleke, Mr. Dharmasena and some others. Yes, Mr. Jayasekere, Mr. Seneviratne was not taking any sides. Mr. Samarakoon was not taking any sides. Mr. Goonewardene was supporting Mr. Alagiyawanna, I am sure about that.

Q.—What about the lady teachers? A.—I cannot remember.

Q.—There was a fairly large group who was opposed to Mr. Alagiyawanna? A.—Yes. Miss Chitra Siriwardene was not opposed to anybody.

Q.—Was Alagiyawanna's position there discussed at staff meetings? A.—Yes.

No. 6  
Defendants'  
Evidence

Evidence of  
S. W. Austin  
de Silva  
Cross-  
examination  
—continued

Q.—Were comments made at staff meetings? A.—Yes.

Q.—And that was done in the presence of Alagiyawanna himself? A.—No.

Sometimes Mr. Alagiyawanna was not at staff meetings when Mr. Costa used to criticise him.

Q.—Sometimes when he was present Mr. Costa used to criticise him?

A.—No, I cannot remember that. Nobody criticized him when he was there.

Q.—You remember at staff meetings the question was raised of the impropriety of paying Alagiyawanna's allowance out of the facilities fees?

A.—No. I was not aware of the fact that he was paid an allowance. The staff did not discuss the question of Alagiyawanna being paid an allowance. 10

Q.—Did you know that the principal was not paid an allowance?

A.—I am not aware of that.

Q.—Dharmakirti was never in your class? A.—He was. He was a student of mine.

Q.—What classes did you teach?

A.—The H.S.C. and S.S.C. Dharmakirti was in the S.S.C. as well as in the H.S.C. I was not his class master.

Q.—Is there a record of Dharmakirti's age? A.—No.

I am not aware of that. He entered for examinations.

Q.—You did not know even that he was an overage student?

A.—It was done by the office. 20

Q.—You were not a class master, what class facilities fees do you collect?

A.—There were three classes in the S.S.C. I was form master of one class. Even of that class I did not know who the overage students were.

Q.—Dharmakirti's facilities fees would not be paid to you? A.—No.

Q.—How did Dharmakirti come to discuss with you the question of facilities fees?

A.—They told me.

Q.—Did you ask him?

A.—I used to advise them. When I saw these slogans on the wall I advised the H.S.C. and S.S.C. students. I came to know that the slogans were written by them so I advised them not to write on the wall. About the paying of facilities fees also I advised 30 them that they should pay the fees.

Q.—So you advised the students in your class?

A.—Not only in my class, in all the classes I took work.

Q.—Then Dharmakirti came and told you this?

A.—Yes, in the school. We have no special room in the school. I cannot remember the place he came and told me this.

Q.—He came and said "You told us not to do these things, Mr. Costa is telling us to do this"?

A.—I told them that they were being misled by Mr. Costa and some other teachers. I asked them to pay the facilities fees and not to write on the wall. I advised them also 40 to pay the facilities fees because Mr. Wickremesinghe was in great difficulty in collection of the facilities fees.

Q.—Of them all, Dharmakirti told you that we are being misled by Mr. Costa and some of the teachers?

A.—Yes, I did not ask him who are the other teachers who are misleading him. I did not report the matter to the principal of the school.



Q.—As a teacher you had been told by one of the pupils that somebody was undermining the discipline of the school? A.—Yes.

Q.—You realized that it was undermining the discipline of the school was it not a serious matter? A.—Yes.

Q.—You realized that it was scandalous in the school that such slogans had been printed on the walls of the school? A.—Yes.

Q.—A student had come and told you and you made no report of it to the principal? A.—Yes.

Q.—You told nobody except Mr. Alagiyawanna?

10 A.—I have told other teachers also?

Q.—Who? A.—I cannot remember their names.

Q.—Did you go to any of these teachers when Dharmakirti spoke of it and tell them Dharmakirti is telling me this? A.—No.

Q.—Why did you not go to Mr. Costa and tell him this is all improper?

A.—I asked them not to do it.

Q.—Dharmakirti was the only boy who told you?

A.—And several other boys whose names I cannot remember.

Q.—All told you this in the school premises? A.—Yes.

Q.—At the same time? A.—At different times.

20 Q.—Having the same story told you by several students you never told the principal nor did you protest to the teachers who were doing this? A.—No.

Q.—Nor did you complain to anyone in authority?

A.—I told Mr. Alagiyawanna, he was in charge of the collection of the facilities fees.

Q.—Did you tell anybody, did you write to the B.T.S. Manager?

A.—I cannot write to the B.T.S. as regards this. I did not tell the principal, because I thought it better to advise the students and prevent them from doing it.

Q.—After you advised them was it being done? A.—They stopped after some time.

Q.—One student spoke to you first? A.—Yes.

Q.—The others spoke to you from time to time thereafter? A.—Yes.

30 Q.—Between the first student who spoke to you and the last student who spoke to you a number of days passed? A.—Yes.

Q.—Throughout those days the slogans were appearing? A.—Yes.

Q.—And the facilities fees were falling off? A.—Yes.

Q.—Did you go to the teachers who were supposed to be instigating these boys and tell them it is not proper by the school?

A.—I did not. But when other students told me I advised them against it.

Q.—This went on for quite a long period of time? A.—No, for two or three months.

I was first told about it a few days after it started and it went on for two or three months after that.

40 Q.—What made Dharmakirti tell you that Mr. Costa and some teachers were misleading the students?

A.—When I started advising them in the H.S.C. form asking them not to write slogans then Dharmakirti and some of the students came and confessed. Dharmakirti told me plaintiff was misleading students. Thereafter the slogans continued to appear for about 3 months.

I don't know Manivasingham of the Lanka Dipa, I don't know any Manivasingham. I have gone to the Lanka Dipa office once or twice to meet a friend of mine Siri Pala-

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Evidence  
—  
Evidence of  
S. W. Austin  
de Silva  
Cross-  
examination  
—continued

tilleke. I do not read the Lanka Dipa regularly. I know the column in the Lanka Dipa waga tuga. I don't know who writes that column. I did not inquire from my friend Siri Palatilleke. I never became aware of who writes that article. I did not discuss with Tillakasena of Ananda Sastralaya any of these questions. I never told him about the facilities fees or Alagiyawanna slogans. I received a summons this morning. Prior to this morning I never received summons. I was at home when I received summons. I am a teacher at St. John's College, Nugegoda. I received the summons this morning at about 9 o'clock. St. John's opens at 7-40 a.m. I was at home at 9 o'clock, and came to Court today. I was not expecting summons. I was ill and could not go to school. Yesterday also I was ill. I have some stomach trouble. I am on leave on a medical certificate. I know Jayasekere. 10

Q.—Did Jayasekere ever discuss these matters with you ?

A.—Sometimes. He did not make any confession to me. He told me about Costa's retirement. I am not aware whether he knew more about Costa's retirement than I knew.

Evidence of  
S. W. Austin  
de Silva  
Re-  
examination

*Re-examined* : I am on sick leave from yesterday.

Q.—What did Jayasekere tell you about his retirement ?

(Mr. Wikremanayake objects.

Mr. Thiagalingam undertakes to call Jayasekere).

A.—Jayasekere told me that this man is retiring saying that he cannot teach in Sinhalese, and he told me that he can teach in Sinhalese. He has written a book on 20 Botany in Sinhalese and as it is a matter of public interest we should do something about it.

(Sgd.) A. L. S. SIRIMANNE  
A.D.J.

Evidence of  
Kirthisiri  
Ameratunge  
Examination

**Kirthisiri Ameratunge**—Affirmed, 23, Student, Harakawella.

I am an under-graduate, I am in Ramanathan hall doing a general degree in Arts. I was at Ananda Sastralaya from 1947 till December 1954. I wrote the letter appearing in the Lanka Dipa of 3rd January 1956 (Shown P3). I wrote that letter on my own. I wanted to let the public know what really happened at Sastralaya. In that letter I say that I had seen earlier letters written about the Ananda Sastralaya by people 30 including one Dharmasiri. Dharmasiri had written supporting Mr. Costa. I did not agree with his views.

Q.—As a past student of the school can you say that it was Mr. Costa who made the students disobedient and to act as rebels ? A.—Yes.

He told us not to pay the facilities fees. He told us that a part of it is being given to Mr. Alagiyawanna as an allowance and that the fees are not properly used to maintain the school.

Q.—Did everyone at the Sastralaya know who set the children up against the vice principal Alagiyawanna ? A.—Yes, I believe most knew.

Q.—Why do you say in this letter " To obstruct the work of the school the principal 40 ..... parents not to pay the facilities fees ?"

A.—Mr. Costa has told my father himself not to pay the fees.

Q.—You asked your father thereafter for the fees ?

A.—No. When I went home on a week-end I learned this.

Q.—After Mr. Costa spoke to your father you did not get facilities fees from your parents and you did not pay? A.—Yes.

Mr. Costa got the students to write anti-Alagiyawanna slogans on the school buildings.

(To Court : Q.—How do you know that?

A.—I was a boarder at No. 268 Rajamahavihare Road, Kotte. Mr. Dharmakirti was also boarded at the place. I believe that Mr. Dharmakirti was a very strong supporter of Mr. Costa and Mr. Costa used to come to No. 268 and sometimes he took Dharmakirti out. One day Mr. Costa came and told Dharmakirti, I too was there, 10 to write anti-alagiyawanna slogans on the walls of the school).

Q.—Did Mr. Costa do anything further?

A.—Yes, he brought two tins containing paint, black and white and gave them to Dharmakirti.

Q.—You say in this letter “If the present principal who should bear responsibility ..... of the then Prime Minister the Hon’ble Dudley Senanayake,” what were you referring to?

A.—There was a function on the occasion of the opening of some buildings by the then Prime Minister Dudley Senanayake. At that time Mr. Alagiyawanna was vice 20 principal and Mr. Costa induced us to boycott the function thereby showing that we did not like the presence of Mr. Alagiyawanna in the school.

Q.—What are the leaflets you refer to here?

A.—One day prior to the function he brought some leaflets to our place No. 268 and then he asked Dharmakirti and me to distribute those leaflets in the school.

Q.—You got a letter of demand from Costa?

A.—Yes, about three days after the publication of my letter he sent me a letter — through his proctor.

*Cross-examined* : I did not send a reply to that letter.

Q.—What were you doing at the time he sent you the letter?

30 A.—I was spending my vacation at home. I was a student of the University at that time. I joined the University in June 1955. I was in the H.S.C. form at Ananda Sastralaya in 1953 and 1954. I was 20 years old in 1953. I don’t know whether I was an overage student. At 20 years of age I was in the H.S.C. form. I was 20 or 21 years old, I am not sure, when I left school. I left the school in December 1954, my date of birth is 10-9-33. In 1953 I was 20 years old, when I left school I was 21 plus. In 1954 I had left school and went into the University in 1955. I was in residence in the University from 1955 onwards except for the fact that I came home on the vacations.

Q.—When Mr. Alagiyawanna joined the staff was there any opposition to his coming on the staff?

40 A.—Yes. When Mr. Alagiyawanna came on the first day I heard that there was some trouble in the office. My classroom was about 50 yards away from the office. There are classrooms from which the office room can be looked into if the doors are not closed. You can see from our class also, but not very well. There were students who were opposed to Mr. Alagiyawanna coming to the school. There were members of the staff who opposed Mr. Alagiyawanna’s coming to the school as Vice Principal.

Q.—Mr. Alagiyawanna had no connection with that school before that date?

A.—I suppose so.

No. 6  
Defendants’  
Evidence

—  
Evidence of  
Kirthisiri  
Ameratunge  
Examination  
— continued

Evidence of  
Kirthisiri  
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Evidence of  
Kirthisiri  
Ameratunge  
Cross-  
examination  
—continued

Q.—So long as you were there you had never seen him in that school? A.—Yes.

I had been in that school for about 7 years. Throughout the 7 years Mr. Costa had been associated with that school, so had Mr. Palliwardena and several other members of the staff.

Q.—You yourself took no part in this opposition to Mr. Alagiyawanna?

A.—I took part from the beginning. I was also opposed to Mr. Alagiyawanna coming to the school, after he came. The boys sometimes discussed this matter.

Q.—The basis of the opposition was the entry of an outsider?

A.—That was one reason.

Q.—The school itself had been built up by people of that locality and old boys? 10

A.—Yes, may be, I don't know.

Q.—You were also opposed and one reason for your opposition was the entry of an outsider? A.—Yes.

Q.—Roughly was there a large proportion of the students who were opposed?

A.—Yes, I think so.

Q.—Was there a large proportion of the staff also who were opposed?

A.—That I don't know.

Q.—Mr. Goonewardene was a teacher on the staff? A.—I knew him as a teacher.

Q.—He was in favour of Costa and against Alagiyawanna?

A.—That I cannot tell definitely. 20

Q.—Your letter refers to Mr. Goonewardene a teacher of the Junior School writing to the press? A.—Yes.

I saw a letter by Mr. Goonewardene and made reference to it in my letter. My letter says that Mr. Goonewardene is trying to protect this principal. He had written in support of Mr. Costa.

Q.—Did Mr. Goonewardene look after the senior school or junior school?

A.—He was attached to the lower school as far as I know.

Q.—Do you take part in politics in the University? A.—No.

Q.—Are there political societies in the University? A.—Yes.

Q.—Are there Trotskyites in the University? A.—Yes. 30

I am not a member of the Trotskyites. I was at no time a member of the Trotskyites or any other union?

Q.—Nor when you were at Ananda Sastralaya were you dabbling in politics at all?

A.—No.

I have seen Mr. Robert Gunawardena. I don't know whether he has an office close to Ananda Sastralaya. There was a Sama Samaja office near the Ananda Sastralaya. I knew that it was the office of the Sama Samaja. Mr. Robert Gunawardena belonged to the L.S.S.P.

Q.—Was it the office of the L.S.S.P. that was close to the Ananda Sastralaya?

A.—I don't know exactly. 40

Dharmakirti and I are from the same village. I was also in the same house at Rajamahavihare Road. That is close by to the Ananda Sastralaya.

Q.—Did you from the very start take an active part in the anti Alagiyawanna movement?

A.—I did not take an active part. I was anti Alagiyawanna. I took part in the demonstrations, but not an active part.

Q.—What is the part you took at the beginning ?

A.—I distributed those leaflets. I think that was at the very beginning.

Q.—Did the leaflets purport to come from the Sama Samaj Party ?

A.—No, I don't think so.

Q.—Were the leaflets signed by anybody ? A.—No.

Q.—Were the leaflets purporting to come from any political party ?

A.—No. I don't know.

No. 6  
Defendants'  
Evidence

Evidence of  
Kirthisiri  
Ameratunge  
Cross-  
examination  
—continued

10 I am referring to the leaflets distributed on the evening of that function. I read the leaflet.

Q.—Was it purporting to be signed by anybody ?

A.—I don't remember, actually whether it was signed.

Q.—Did it purport to be signed, was there any name at the bottom ?

A.—There was, I suppose, I don't remember.

Q.—Did it purport to come from any political party ?

A.—I don't remember exactly the contents of that letter. They were leaflets published round about the time of the opening of the kindergarten block.

Q.—Did you see any leaflets at that time purporting to come from the Sama Samaj party ? A.—I don't remember.

Q.—Did you see any leaflets other than the leaflet you distributed ?

A.—I think there was one, but I am not quite sure about it.

Q.—Did that one purport to come from any political party ?

A.—I don't remember actually.

Q.—Would it not rouse an interest in the mind of a student that political parties should issue leaflets, if that was the case ?

A.—I was a member of that school. I had nothing to do with politics.

Q.—The Prime Minister was coming to open this kindergarten block. If a political party had published leaflets would not that have been a matter of interest to you ?

30 A.—I don't know exactly whether any political party issued that leaflet. Although I saw that leaflet I cannot remember whether any political party issued that or not.

Q.—Was there a leaflet published which purported to come from the students ?

A.—There may have been.

Q.—The leaflet that you distributed by whom was it supposed to be on the face of it to be issued ?

A.—As far as I can remember it is by the students of the school.

Q.—The leaflet was issued purporting to come from the students of the school ?

A.—Yes.

I have not got any of those leaflets with me. I distributed them at the school.

40 Q.—Was it prior to or before that date Mr. Costa you say gave paint to Dharmakirti ?

A.—I think after the function.

Q.—You were there and he came to Dharmakirti. Dharmakirti you say was pro-Costa and anti-Alagiyawanna ? A.—Yes.

Q.—Who were the others who used to be pro-Costa and anti-Alagiyawanna ?

A.—Mr. H. L. Jinadasa, myself, Dharmakirti and D. M. D. Dharmasena and so many others whose names I cannot remember.

No. 6  
Defendants'  
Evidence

Evidence of  
Kirthisiri  
Ameratunge  
Cross-  
examination  
—continued

Q.—Did you and Mr. Dharmakirti go to Mr. Costa's house at any time?

A.—I have gone with Dharmakirti. I have gone very rarely. I don't remember whether it was after Alagiyawanna came to the school. Possibly after Alagiyawanna came to the school.

Q.—Are there any particular occasions you remember having gone?

A.—There was no particular case.

Q.—Nor any particular reason?

A.—As far as I can remember there was nothing.

Q.—Not in connection with Anti-Alagiyawanna? A.—May be.

Q.—Any other reason for which you went there?

A.—Mr. Costa I think comes from Kohuwela.

Q.—Where is the house of Mr. Costa to which you went?

A.—I said earlier that I went to Mr. Costa's house. The house is just near the Kohuwela junction, I cannot place it exactly. There is a street name to it, but I don't know it. I don't remember if it was off any avenue.

Q.—You have gone there with Mr. Dharmakirti to stir up anti-Alagiyawanna propaganda?

A.—Yes, may have. I don't exactly remember what street it is.

Q.—You don't know off what avenue the street runs?

A.—Even that I cannot remember. I know that it was very close to the junction 20 because I have gone very rarely. It is very close to the junction, may be about 50 yards. It was a tiled house.

Q.—How far down the garden? A.—I think it was very close to the road.

Q.—Within a garden?

A.—I don't know whether there was a garden at all. I have not been to the garden. cannot remember streets in that locality because I have gone that way very rarely, and I went there always with Dharmakirti.

Q.—How far away from where you live is the Kohuwela junction?

A.—About 2½ miles away.

Q.—Can you recollect any distinctive feature there that would help you to spot 30 Mr. Costa's house? A.—I may have, but I cannot remember now.

Q.—Whether there was a lamp post in front or any tree or any particular thing like that you cannot remember? A.—No, I think I went in 1953.

Q.—I suggest that you never went to Mr. Costa's house at all?

A.—I think I went there when Mr. Alagiyawanna was the vice principal.

(Adjourned).

(Sgd.) A. L. S. SIRIMANNE  
A.D.J.

22-3-57

After lunch—Same appearances.

KITSIRI AMERATUNGE—Recalled—Affirmed—*Cross-examination continued.*

Q.—This writing of anti-Alagiyawanna slogans were written where—on the walls or. .... ? A.—Yes, on the walls of the school.

Q.—It started how long after Alagiyawanna came there? A.—About a month or two.

- Q.—And the writing on the walls continued for about 2 or 3 months ?  
 A.—Well—I do not remember exactly.
- Q.—Did these people continue writing anti-Alagiyawanna slogans until the time Alagiyawanna left ? A.—No.
- Q.—They started and continued for about 2 or 3 months and stopped ? A.—Yes.
- Q.—Originally what were they written in - chalk ? A.—No, black paint and white.
- Q.—From the very beginning to the end ? A.—Yes.
- Q.—Can you tell us when Alagiyawanna came there in July 1953 ? A.—No answer.
- Q.—You remember the opening of the Kindergarten block by Mr. Dudley Senanayake ? A.—I rememner.
- Q.—At that time had anti-Alagiyawanna slogans been written on the walls ?  
 A.—I do not think. I think it started after the function.
- Q.—Do you remember the date on which Costa brought the black and white paint and gave it to Dharmakirti, you remember the incident ? A.—Yes.
- Q.—He gave it in your presence in the house ? A.—Yes.
- Q.—He did not ask you to do anything ?  
 A.—He asked me also. He asked me to support Dharmakirti.
- Q.—He gave the paint to Dharmakirti and asked him to write slogans ?  
 A.—Yes and he asked me help Dharmakirti to write the slogans on the walls.
- 20 Q.—The slogans were being written for the period of two or three months ? A.—Yes.
- Q.—It was towards the end of that period that he gave the paint ?  
 A.—I think it was in mid 1953.
- Q.—Was it at the beginning or end of the period of three months ?  
 A.—At the beginning.
- Q.—Did you go round with Dharmakirti when he painted ? A.—No I did not.
- Q.—Did you object ? A.—No.
- Q.—Did you give any information to Mr. Austin Silva at any time ? A.—No.
- Q.—Was it only on one day that he brought paint or on several days ?  
 A.—Only on one day.
- 30 Q.—But he used to keep on coming to see Dharmakirti from time to time ? A.—Yes.
- Q.—During the period that the painting was in progress he used to come and see Dharmakirti from time to time ? A.—Yes.
- Q.—Even after the painting stopped he came and saw Dharmakirti ?  
 A.—I do not know exactly whether he came or not.
- Q.—What do you mean by that ? A.—He may have come.
- Q.—He may have come even after the painting stopped to see Dharmakirti ?  
 A.—Yes.
- Q.—At no time till you left the school did he cease associating with Dharmakirti in that way ? A.—Yes.
- 40 Q.—And his association with Dharmakirti was always with the purpose of stirring up Dharmakirti and through him other students against Alagiyawanna ?  
 A.—Yes, I think so.
- Q.—You used to be there at most of the times he came ? A.—Not most.
- Q.—At some of the times ? A.—Yes.
- Q.—And he discussed in your presence this question of stirring dissension against Alagiyawanna ? A.—Yes.
- Q.—You have heard that all throughout till the time Alagiyawanna left ? A.—Yes.
- Q.—You said plaintiff came and saw your father ?

No. 6  
 Defendants'  
 Evidence

—  
 Evidence of  
 Kirthisiri  
 Ameratunge  
 Cross-  
 examination  
 —continued

No. 6  
Defendants'  
Evidence

Evidence of  
Kirthisiri  
Amcratunge  
Cross-  
examination  
—continued

- A.—My father went to the school and at the school he met plaintiff.
- Q.—Is your father a witness in this case? A.—No.
- Q.—Up to that time you had been paying your facilities fees regularly?
- A.—Not regularly, I had paid and I also had some arrears.
- Q.—You had some arrears before Alagiyawanna came to the school? A.—Yes.
- Q.—And after Alagiyawanna came you stopped paying altogether?
- A.—Yes, I did not pay.
- Q.—Prior to July 1953 Mr. Costa had not told your father anything?
- A.—I do not know.
- Q.—Were you in arrears for the year 1952 in a sum of Rs. 102/-. A.—May be. 10
- Q.—You may have been in arrears in the amount of Rs. 102/- as facilities fees up to the end of 1952? A.—Yes.
- Q.—How much was the facilities fees per month? A.—I think Rs. 5/-.
- Q.—Rs. 102/- would be the facilities fees for at least how many months?
- A.—About 20 months.
- Q.—At the end of 1952 you were Rs. 102/- in arrears? A.—Yes.
- Q.—At the end of 1953 those arrears were reduced to Rs. 37? A.—Yes.
- Q.—In the year 1953 therefore you paid not only the facilities fees for that year but part of the arrears?
- A.—I did not pay, I do not know whether my father paid. 20
- Q.—How long after Alagiyawanna came there did Costa speak to your father about non-payment? A.—I do not know.
- Q.—Must have been shortly after? A.—Even that I do not know.
- Q.—I put it to you that your father paid Rs. 50/- towards the facilities fees in September 1953? A.—May be.
- Q.—And Rs. 50/- again in November 1953? A.—May be.
- Q.—Was there public agitation on the part of any persons against the Government policy of levying facilities fees? A.—I do not know.
- Q.—Free education was introduced at a certain stage? A.—Yes.
- Q.—And when Free Education was introduced there was also provision made for 30 schools to charge facilities fees? A.—May be.
- Q.—Do you know whether any political parties objected to the policy of charging facilities fees? A.—I do not know.
- Q.—Was there political propaganda against the Government policy of charging facilities fees? A.—I do not know.
- Q.—Did Mr. Robert Gunawardene in the Kotte area have a violent campaign against the levying of facilities fees in schools?
- A.—I think he raised the question in Parliament with regard to Ananda Sastralaya.
- Q.—Was the matter of levying facilities fees raised by his party? A.—May be.
- Q.—Did his party agitate the people not to pay facilities fees? A.—I do not know. 40
- Q.—In the Kotte area was there propaganda by Mr. Robert Gunawardena's party that people should not pay facilities fees because Education was free?
- A.—That also I do not know.
- Q.—Nor was any propaganda carried on by Mr. Robert Gunawardena's party in the school? A.—I do not know.
- Q.—Was there any suggestion that Mr. Robert Gunawardena had been carrying on such a campaign to your knowledge?
- A.—He raised that question about facilities fees in Parliament.



Q.—Were you aware that there was any talk generally about Mr. Robert Gunawardena being opposed to the payment of facilities fees by anybody in any school?

A.—I did not know.

Q.—You never even heard that Mr. Robert Gunawardena was agitating in that manner generally? A.—Yes.

Q.—Nor did you ever hear that Mr. Robert Gunawardena's party agitated that the students of the Ananda Sastralaya Kotte should not pay facilities fees?

A.—I did not hear that.

Q.—At any time you did not ever become aware of such a thing? A.—Yes.

10 Q.—In any way? A.—Yes.

Q.—Had you written any letters to the Press that Mr. Robert Gunawardena had been against students paying facilities fees? A.—No.

Q.—Was that a thing mentioned in Dharmasiri's letter? A.—I do not know. (Shown P3).

Q.—Do you refer in the letter you sent to the Lanka Dipa to two instances where people have mentioned that it was Robert Gunawardena who was inducing students not to pay facilities fees? A.—No, I think I did not.—(Shown P3).

Q.—That is the letter that purports to have been written by Kitsiri Ameratunge?

A.—Yes.

20 Q.—That is yourself? A.—Yes.

Q.—And that is a letter you wrote? A.—Yes.

(Shown paragraph 2 of P3. Witness is asked to read the letter in Sinhalese and he reads it out loud).

Q.—Before you wrote the letter you had been aware of some suggestion that it was Mr. Robert Gunawardena who induced the students not to pay?

(Mr. Thiagalasingam objects to this question.—I uphold the objection).

Q.—You knew that there was some suggestion in Dharmasiri's letter and Gunawardena's letter? A.—Yes.

Q.—And you had taken it on yourself to say that it was not so? A.—Yes.

30 Q.—Even before you wrote this letter did you try to ascertain whether Mr. Robert Gunawardena had taken any part in this? A.—No.

Q.—When you refer in the same paragraph to the students acting as rebels you were referring there to students being directed not to pay facilities fees? A.—Yes.

Q.—And you have told the Court that you did that because you yourself stopped paying facilities fees after Mr. Costa spoke to your father? A.—Yes.

Q.—Mr. Costa spoke to you and Dharmakirti at your home in relation to stirring you up against Alagiyawanna? A.—Yes.

Q.—Apart from that did he speak to you elsewhere also? A.—Yes in the school.

Q.—Were the two of you together when he spoke to you? A.—Not always.

40 Q.—To you individually? A.—No, in company.

Q.—At that time you were also against Alagiyawanna? A.—Yes.

Q.—You have now realised that it was a very wrong thing you did? A.—Yes.

Q.—When did you first realise that?

A.—After the refusal of Mr. Costa to issue the admission cards if the students did not pay the fees.

Q.—Did you know that the admission cards had been issued to quite a number of students who had not paid fees? A.—No.

No. 6  
Defendants'  
Evidence

—  
Evidence of  
Kirthisiri  
Ameratunge  
Cross-  
examination  
—continued

Q.—Did you try to find out what had happened in that connection ?

A.—I got the news from the students.

Q.—Did you try to find out how many students had not paid facilities fees ? A.—No.

Q.—Did you find out that out of the students who had not paid facilities fees, 40 students had been given their admission cards ? A.—No.

Q.—Did you find out that cards were refused only to those who were not willing to prove that they could not pay facilities fees ? A.—No.

Q.—Even in your time facilities fees were charged only from those who could afford to pay ?

A.—Yes.

Q.—Even in your time you knew that there were a number of students who did not pay facilities fees because they could not afford to pay ? A.—Yes, sometimes they pay.

Q.—Were you punished in any way for not paying facilities fees ? A.—No.

Q.—When did you receive summons in this case ?

A.—I did not receive summons in this case.

Q.—Who told you to come here ?

A.—I received a letter from Julius and Creasy that the case is fixed for trial during these five days, so I thought of coming.

Q.—You thought of coming for the 5 days ?

A.—I came only for two days, yesterday and today.?

Q.—Who asked you to come yesterday ?

A.—I came from Peradeniya day before yesterday.

Q.—Why did you come from Peradeniya the day before yesterday ?

A.—For the vacation.

Q.—Did you meet anybody in connection with this case thereafter ? A.—No.

Q.—You came to Court yesterday morning for the first time ? A.—Yes.

Q.—Did you contact Messrs. Julius and Creasy ?

A.—Yes, I sent them a letter day before yesterday.

Q.—Saying that you would be coming on this date ? A.—Yes.

Q.—They had not specified any particular date on which you should come ? A.—No.

Q.—And you have received no summons whatever ? A.—Yes.

Q.—You talked of the boycott of this ceremony ; did you know that Mr. Kularatne had sent a letter to the Police at about the time of this ceremony ? A.—I did not know.

Q.—Did you know that the Police had contacted Mr. Costa at about the time of this ceremony ? A.—I saw some Police wagons close to the school.

Q.—Police wagons and Police Officers ? A.—Yes.

Q.—Dharmakirti you said continued to keep contact with the Plaintiff Costa after Alagiyawanna left the school ? A.—Till the time Mr. Costa left the school.

Q.—Were you in school at the time Mr. Costa left ?

A.—I do not remember exactly when Mr. Costa left.

Q.—Were you in the school ? A.—I do not remember.

Q.—As long as you were in the school Dharmakirti was keeping contact with Mr. Costa on the same friendly terms ? A.—Yes.

Q.—And still continuing to be violently pro-Costa ? A.—Yes.

Q.—Still continuing to do all the propaganda necessary in favour of Mr. Costa

A.—Yes.

Q.—Right up to the time you left school ? A.—Yes.

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*Re-examined* : The facilities fees were paid by my father.

Q.—Certain questions were put to you today with reference to a big school register, here it is on the Bar table, is that right? A.—Yes.

Q.—Have you seen that register before? A.—No.

Q.—Have you seen the man who brought that register who was in Court before? A.—No.

Q.—Can you now tell us, can you now with reference to dates tell me when Mr. Dudley Senanayake opened the Kindergarten School?

A.—I cannot, I cannot remember the date.

10 Q.—Can you with reference to dates tell me when Mr. Alagiyawanna came to this school? A.—I think in July 1953.

Q.—Can you with reference to dates say when Mr. Alagiyawanna left the school?

A.—Yes, I think in 1954 August.

Q.—And you left the school in 1954 December? A.—Yes.

Q.—Who was the Principal then?

A.—The Acting Principal then was Mr. Palliwardena.

A.—When did you get your admission card? A.—In December 1954.

Q.—Who was the Principal then?

A.—The Acting Principal and he gave me the admission card.

20 Q.—Was any question of facilities fees raised? A.—Yes.

Q.—Were you in arrears? A.—Yes.

I have paid a sum of Rs. 50/- in 1954 as facilities fees.

Q.—When you got your card from Palliwardena were you still in arrears of facilities fees? A.—Yes.

Q.—Were your admission cards refused because you were in arrears of facilities fees?

A.—No.

Q.—What is your father doing? A.—He is a Fiscal's officer.

(Sgd.) A. L. S. SIRIMANNE

A.D.J.

30 **K. Jayasekara**—Affirmed, 24, Director of a Commercial Tutory, 515 Darley Road, Maradana.

I am a Director of a Commercial Tutory at Welikade, Rajagiriya. It is a private tutory. I commenced that in January 1957. Before that I was a teacher at Anderson College, Slave Island.

I was educated at Ananda Sastralaya, Kotte. I left that school in December 1955. I was at Ananda Sastralaya for nearly 3½ years. My earlier school was Zahira College, Colombo.

Q.—You wrote this letter P5 of 11-5-56—(Shown)? A.—Yes.—(Shown P5).

40 Q.—Is that your letter? A.—Yes.—(Witness is asked to read this letter out loud).

Q.—What was the reason for your writing this letter?

A.—I wrote this letter to the Lanka Dipa in order to draw the public attention to the wrong thing committed by Mr. N. W. de Costa.

Q.—What was the wrong thing?

No. 6  
Defendants  
Evidence

Evidence of  
Kirthisiri  
Ameratunge  
Re-  
examination

Evidence of  
K. Jaya-  
sekara  
Examination

No. 6  
Defendants'  
Evidence

—  
Evidence of  
K. Jaya-  
sekara  
Examination  
—continued

A.—He had retired under the Language Clause when he in my opinion, was able to teach in Sinhalese.

Q.—You go on to say in P5 that he holds an external degree in Indo-Aryan languages? A.—Yes.

Q.—You say that he is the author of Udbida Vidyawa? A.—Yes.

Q.—Has that book been approved by the authorities? A.—Yes.

Q.—Why do you say that?

A.—I have seen an advertisement in the papers by M. D. Gunasena & Co.

Q.—In view of some advertisements you have seen published by Gunasena & Co.?

A.—Yes.—(Shown D32).

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The printer of this book is Gunasena & Co.

Q.—Did you know whether he was attending school the first term of 1956?

A.—I was not in school in 1956.

Q.—Then why do you say here“ although he did not attend school for the whole of last term ”?

A.—I knew that he did not attend school.

Q.—What were you doing at that time? A.—I was a teacher at Anderson College.

My native place is Matara. I was studying at Zahira College, Colombo. As I found that there were better facilities for education at Ananda Sastralaya I went there.

Q.—During the time he was on leave in the first term of 1956 in that letter you say 20 that plaintiff worked for the U.N.P. candidates particularly for the candidates who contested the Kotte and Horana seats for the U.N.P.? A.—Yes.

Q.—Who contested the Kotte Seat as nominee for the U.N.P.?

A.—Mr. Anandatissa de Alwis.

Q.—And the Horana Seat? A.—Mr. M. D. H. Jayawardene.

Q.—Why do you say in that letter that he worked for those two people?

A.—I have seen Mr. de Costa driving a wagon belonging to the U.N.P. at Nugegoda near the office of the U.N.P. Then he had issued pamphlets supporting Mr. Anandatissa de Alwis.

Q.—Had you seen them? A.—I had seen them.

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Q.—Where had you seen them? A.—At Kotte.

Q.—How do you know it was published by him?

A.—His name is written at the bottom of the pamphlet.

Q.—How do you know he worked for the man at Horana?

A.—I have seen plaintiff's car at Panadura coming along the Horana Road near the junction when I was passing that place in a car. That car bore a poster bearing the picture of Mr. M. D. H. Jayawardene.

Q.—Whose car was that? A.—That was plaintiff's car.

Q.—Why do you say that he failed in his attempts to retire previously, how did you know? A.—I have heard that.

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Q.—When did he succeed?

A.—As far as I know in the middle of 1956—(Counsel reads P5).

I have said that because that will result in a dearth of teachers to teach in Sinhalese.

Q.—Is that a good thing or a bad thing? A.—It is a bad thing.

Q.—Why do you say that Dr. Adikaram was his teacher?

A.—Because I have heard from Mr. de Costa that Dr. Adikaram was a teacher of Mr. de Costa.

Q.—After that letter which appeared in the Lanka Dipa, 3 days later, did you (send up a long petition to the New Minister of Education? A.—Yes.

Q.—Did anybody else sign that petition along with you?

(Mr. Wikremanayake objects to this question. He states that on the document produced there is no other signature. He objects to his speaking to the contents of a document without producing it.—Mr. Thiagalingam withdraws the question).

Q.—Did anyone sign the petition which you sent and which you had signed?

(Mr. Wikremanayake objects to this question.—I allow it).

A.—I have signed the petition, not anybody else. I have signed it on behalf of the 10 others.

Q.—Did anybody sign any paper which you sent up to the Minister of Education?

A.—No.

Q.—In this petition of 14-5-56 (D37) in paragraph 1 you say that Mr. Costa applied for retirement under the language clause, how do you know that?

A.—I got that information from the Treasury.

Q.—With this petition D37 you sent up to the Minister of Education a copy of the Botany Book Ubbida Vidyawa? A.—Yes.

Q.—Has it been returned to you? A.—Yes.

Q.—You also sent up the election pamphlets issued by Mr. Costa? A.—Yes.

20 Q.—You say pamphlets, how many did you send?

A.—I wanted to send two, only one was with me at the time and I sent that.

Q.—And you sent a cutting from the Lanka Dipa of 8-6-56? A.—Yes.

(Paragraph 7 of D37 referred to).

Q.—How did you know he was qualified in drawing?

A.—Because he has obtained the Teachers' Drawing Certificate.

Q.—And you asked the Minister of Education to hold an inquiry into the matter to prevent similar occurrences in the future? A.—Yes.

Q.—When you left Ananda Sastralaya had you sat for any public examination?

A.—I sat for the University Entrance Examination.

30 Q.—That would be in November or December? A.—Yes.

Q.—The 'Varsity entrances are held about 3 or 4 weeks before the S.S.C. Examination, they do not overlap? A.—Yes.

Q.—You sat for the 'Varsity Entrance? A.—Yes.

Q.—You were not selected? A.—Yes.

Q.—What Faculty did you want to enter? A.—The Arts Faculty.

Q.—To sit for the Entrance Examination did you have to have your admission card for that? A.—Yes.

Q.—In regard to the issue of admission cards to you was there any trouble?

40 A.—Yes, Mr. Costa refused to give us the admission cards because he said we did not pay him the facilities fees.

Q.—Why didn't you pay?

A.—Mr. Costa during the time of Alagiyawanna in Ananda Sastralaya asked us not to pay the facilities fees. He said that a part of the facilities fees collected is given to Mr. Alagiyawanna and as such there was no necessity for the students to pay the facilities fees.

No. 6  
Defendants'  
Evidence

—  
Evidence of  
K. Jaya-  
sekera  
Examination  
—continued

No. 6  
Defendants'  
Evidence

Evidence of  
K. Jaya-  
skera  
Examination

—continued

Q.—When he asked you to pay the facilities fees in 1955 why didn't you do so ?

A.—I told him that as he had prohibited us from paying the facilities fees earlier we were not bound to pay the facilities fees.

Q.—Could you have paid the facilities fees at that time ?

A.—I could not pay it. At that time I could not pay a large sum as my fees were in arrears.

My father has 7 children. I am the youngest. The eldest is about 45 years of age, he is a brother. All the girls in the family are married.

In 1955 I was staying in the boarding house. I paid Rs. 50/- as boarding fees. I was teaching in the evenings in an evening school at Rajagiriya. I was paid Rs. 50/- 10 for two hours work there.

Q.—Would it be right for me to say that you by your own earnings paid for your education ?

(Mr. Wikremanayake objects to this question.—He says it is a leading question. I uphold the objection).

(To Court : Q.—Who was paying for your education ?

A.—In the early days my father was spending but during the years 1954 and 1955 I had to spend for my own education).

Q.—You told us you were unable to pay the arrears in 1955 ? A.—Yes.

Q.—And Costa refused to give you the admission card ? A.—Yes. 20

Q.—What did you do ?

A.—I told him if he would give me the admission card I would pay the arrears later on when I got some money.

Q.—Did he pay any heed to that ? A.—No.

Q.—What did you do ? A.—Then again I appealed to him.

Q.—After appealing to him a number of times what did you do next ?

A.—Then I went with 5 others to the Education Office to get the help of any officer there so that we could sit for the examination.

That day first we went and saw Mr. H. Jinadasa the Permanent Secretary to the Minister of Education. He was not there. Then we went to see the Director of Educa- 30  
tion Mr. T. D. Jayasuriya. He was not there. Then we were directed to Mr. Wijesinghe the Assistant Director of Education. He was there. I spoke to him. I told him that Mr. de Costa had earlier asked us not to pay the facilities fees and now he was asking us to pay the fees. If we failed to pay the fees he was refusing to give us the admission cards. I appealed to Mr. Wijesinghe to take some steps and give us a chance of sitting for the examination.

Q.—Then Mr. Wijesinghe said something ? A.—Yes.

Q.—And as a result of what Mr. Wijesinghe said what did you do ?

A.—Then we went to the University Office.

Q.—You went to the Thurstan Road Office in Colombo ? 40

A.—Yes. We went there to contact the Registrar to find out whether there was a chance for us to get the admission cards from the Registrar.

We did not meet the Registrar. As there was no time we went to see Dr. N. M. Perera.

Q.—How many days before the examination is all this happening ?

A.—Two days before the examination.

Q.—Two days prior to the examination you started off with the Permanent Secretary and did all these rounds ? A.—Yes.

(To Court : Q.—When did you ask plaintiff for your admission cards ?

A.—That was two days before the examination.

Q.—It was then that you knew for the first time that he was not giving them till the facilities fees were paid ? A.—Yes.)

Q.—Then you went to Dr. N. M. Perera to his house ? A.—To the Municipality.

Q.—What was he then ? A.—He was the Mayor.

Q.—You met him ? A.—I did not meet him, he was not there.

Q.—Apart from being Mayor he was a Member of Parliament ?

A.—Yes, for Ruanwella.

10 Q.—Why did you select Dr. N. M. Perera ?

A.—As he was in my opinion a person who helped people in trouble.

After that we went to Mr. Pieter Keuneman so that at least he may help us, that is myself and the four others went there.

Q.—These are all Left Wing people, why did you select them ?

A.—Because I thought it was not possible for me to have access to the U.N.P. men at that time.

We met Mr. Pieter Keuneman. We told him our difficulties. He phoned up Dr. Adikaram, the General Manager of the B.T.S. and told him something. He was able to talk to him over the telephone.

20 Q.—After seeing Mr. Pieter Keuneman were you allright ?

A.—We were not content because Dr. Adikaram had not given an assurance that he would ask Mr. Costa or anyone for admission cards.

From there we came back to Kotte. It was evening at the time. We then went to Mr. Palliawardana the Vice Principal of Ananda Sastralaya. Mr. Palliawardana is in Ananda Sastralaya yet. We appealed to Mr. Palliawardana. He asked us to come on the following day morning with whatever money we had. We went the following mornirg and he wrote a cheque for a number of rupees which I do not know and Palliawardana gave us the cards.

Q.—Not Mr. Costa ? A.—No.

30 Q.—Did you pay any money to Mr. Palliawardana that day ? A.—No.

Q.—You got your cards the day prior to the examination ? A.—Yes.

Q.—And you sat for the examination ? A.—Yes.

Q.—Do you know of any trouble with regard to the S.S.C. boys ? A.—Yes.

Q.—What was the trouble with regard to the S.S.C. boys ?

A.—I heard.—(Mr. Wikremanayake objects).

(Further hearing on 25th, 26th and 29th March, 1957).

(Sgd.) A. L. S. SIRIMANNE

A.D.J.

### 25-3-57

40 Trial resumed.—Appearances as before.

**K. Jayasekera** —Recalled—Affirmed—*Cross-examined* : (Shown P5).

This is my letter.

Q.—In that letter you suggest that the plaintiff was well qualified to teach in Sinhalese ? A.—Yes.

No. 6  
Defendants'  
Evidence

—  
Evidence of  
K. Jaya-  
sekera  
Examination  
—continued

Evidence of  
K. Jaya-  
sekera  
Cross-  
examination

No. 6  
Defendants'  
Evidence

Evidence of  
K. Jaya-  
sekera  
Cross-  
examination  
—continued

Q.—And you go on to suggest that though well qualified in Sinhalese he is able to retire by pretending that he is unable to teach in Sinhalese? A.—Yes.

Q.—You suggest also that his putting forward the position that he could not teach in Sinhalese was false? A.—Yes.

Q.—You also suggested in that letter that he worked for the two candidates of the U.N.P. at the election and he was able to retire on an order made by the Minister of Finance after he was defeated? A.—The last part I do not say.

Q.—You said that he worked for two members of the U.N.P.? A.—Yes.

Q.—Do you not suggest there that he was able to obtain his retirement by some improper means, improper political influence? A.—But I do not say that. 10

Q.—You suggest it? A.—That may be sometimes.

Q.—You are making a suggestion, why in that letter did you refer to the fact that he had worked hard for two members of the U.N.P., including the then Minister of Finance, you say that? A.—Yes.

Q.—Then you go on to say that it is not difficult for the Minister of Education and the Minister of Finance to know how he was able to retire? A.—Yes.

Q.—You say that being unsuccessful earlier he was able to retire this time by the help of the Minister of Finance? A.—Yes.

Q.—Suggesting that by some improper manner he was able to retire with the help of the Minister of Finance? A.—Yes. 20

I have given my age as 24. My date of birth is 6th February 1933. I was at Zahira and later I joined Ananda Sastralaya. I was not at Ananda Sastralaya before I joined Zahira. I was not at Ananda Sastralaya twice. I was there only once. I did not leave and go back at any time. I joined Ananda Sastralaya in July 1953. That was before Mr. Alagiyawanna came in there. My name in the Register was entered on the 1st of July.

Q.—In 1955 did you go to the plaintiff and ask him whether you could join school?

A.—Yes.

Q.—In 1955 how did you join Ananda Sastralaya School?

A.—My name from the register was not struck off and there was a rumour that 30 those students who sat for the examination in 1954 will not be able to re-enter the college and as such I went to the plaintiff and asked his permission to remain in the school.

Q.—In 1954 you sat for the University Entrance? A.—Yes.

Q.—Was that the first time you sat? A.—The second time.

Q.—You sat for the University Entrance in 1953? A.—Yes.

Q.—And in 1954? A.—Yes.

Q.—And in 1954 again you failed? A.—Yes.

Q.—In December 1954 you were 21 years and 10 months? A.—Yes.

Q.—And over the age limit for any school? A.—That I do not know. 40

Q.—You are not aware that there is an age limit prescribed for students in schools?

A.—I know that.

Q.—What is that?

A.—I know that there was an age limit but I did not know that this was above the age limit.

Q.—What did you think was the age limit for a school? A.—I did not know.



Q.—You did not even think that 21 was an age when people should be out of school and somewhere else? A.—No.

No. 6  
Defendants'  
Evidence

I am running a tutoring now. I was a school master at onetime at Anderson College. I know that education is free now.

Evidence of  
K. Jaya-  
sekera  
Cross-  
examination

Q.—You know that Government gives a certain sum of money as a grant for each child who is under age? A.—Yes.

Q.—You know that Government does not give grants for pupils who are over age? A.—Yes.

Q.—You know that pupils who are over-age are a burden on the school?

10 A.—I do not know.

Q.—Schools have got to get funds? A.—Yes.

Q.—It gets no other fund than the Government Grant? A.—Yes.

Q.—And when it has children in respect of whom no grant is given they are financially a burden on the school? A.—Yes.

Q.—That aspect of the matter never struck you until now? A.—Yes.

Q.—And facilities fees are chargeable under the rules of the Education Department from all students who are able to pay? A.—I do not know.

Q.—You have obtained information from the Treasury for the purpose of writing a letter? A.—Yes.

20 Q.—How did you get that information?

A.—I got that information through a friend of mine.

Q.—Did he get it in writing? A.—No.

Q.—You got information from the Treasury through a friend of yours for the purpose of writing a letter but up to date you are unaware that there are rules which regulate the charging of facilities fees?

A.—There was no necessity for me to find out.

Q.—Up to date you did not know that? A.—I did not know.

Q.—You did not even think that the question of facilities fees were governed by rules of the Education Department? A.—I know that.

30 Q.—And that facilities fees were chargeable only within the limits prescribed by the Government? A.—Yes.

Q.—And also from students who could afford to pay? A.—Yes.

Q.—When you asked permission of the plaintiff in 1955 to continue in the school did you realise that you were an overage student? A.—I did not realise.

Q.—Did you ask for that permission because you realised that you were an overage student? A.—I did not know that.

Q.—You were not in a position to pay facilities fees? A.—Yes.

Q.—You were earning Rs. 50/- a month and you were paying a board of Rs. 50/- a month? A.—Yes.

40 Q.—Was there a hostel in the school? A.—Yes.

Q.—Do you know that the rate charged by the hostel was Rs. 40/- a month?

A.—I do not know.

Q.—When you found yourself in difficulties in regard to the payment of facilities fees did you try to find out whether the hostel was cheaper?

A.—I preferred to stay outside.

Q.—When you found yourself in difficulties with regard to payment of facilities fees did you try to find out whether the hostel was cheaper? A.—I did not.

No. 6  
Defendants'  
Evidence  
—  
Evidence of  
K. Jaya-  
sekera  
Cross-  
examination  
—continued

Q.—You preferred to stay outside though you found it difficult to pay facilities fees and you did not endeavour to find out whether the hostel was cheaper? A.—Yes.

Q.—Did you tell Mr. Costa that you were unable to pay facilities fees?

A.—I did not tell him.

Q.—Were you aware that a circular was sent out asking students to get proof of the fact that they could not pay facilities fees? A.—I did not know.

(Shown a circular dated 25-11-55 marked P13).

Q.—Did you see this circular? A.—No I did not see this circular.

Q.—Nor were you ever asked by anybody to pay facilities fees before the examination came round? A.—Mr. Costa asked me. 10

Q.—When did he ask you?

A.—I think he asked me about 4 or 5 days before the examination.

Q.—Not before that? A.—Not before that.

Q.—Prior to that anybody had asked you for facilities fees? A.—No.

Q.—Class masters collected facilities fees but nobody had asked you for facilities fees? A.—No.

Q.—From the day you joined school?

A.—Mr. Wickremesinghe had asked me.

Earlier I paid till up to the time Mr. Costa asked us not to pay, that was till somewhere in October 1953. 20

Q.—After Mr. Costa became Principal even he did not ask for facilities fees?

A.—He did not ask till about 5 days before the examination.

Q.—Nobody was paying facilities fees in that school? A.—That I cannot say.

Q.—No collection was made by your class masters? A.—No.

Q.—I put it to you that circulars of this kind had been sent out from time to time earlier? A.—No.

Q.—In 1955 how many students sat for the H.S.C. Examination?

A.—As I remember about 23.

Q.—Had all the others paid their facilities fees? A.—No not all.

Q.—But of the 25 a number were given their admission cards although they had 30 not paid facilities fees? A.—I do not know.

Q.—How many had not paid facilities fees? A.—I think about 7 or 8.

Q.—You told us on the last day that only five were refused their cards? A.—Yes.

Q.—Although 7 or 8 had not paid facilities fees only five were refused their cards?

A.—Yes.

Q.—Then some of those who had not paid facilities fees were not refused their cards?

A.—They must have paid at the last moment.

Q.—Quite apart from your teaching and earning Rs. 50/- a month and paying that as board, your father what was he? A.—He was a cultivator.

Q.—Owning lands? A.—Yes. 40

Q.—He lived on the produce of his lands? A.—Yes.

Q.—He brought up his children on the produce of his land? A.—Yes.

Q.—And those lands passed to his children? A.—Yes.

Q.—Including yourself? A.—I have not been to those lands.

Q.—Was there a last will? A.—He is alive.

My mother is also still alive. My eldest brother is a small business man. He was not educated. The others have just passed their 7th or 8th standards in Sinhalese. That was at the time when school fees were levied. My brothers and sisters were attending Sinhalese schools. Fees were not paid in Sinhalese schools at any time.

No. 6  
Defendants'  
Evidence

—  
Evidence of  
K. Jaya-  
sekera  
Cross-  
examination  
—continued

I first went to the Deniyaya Central College. That was in 1945. I was boarded in that college. I was paying Rs. 20/- a month and I was a free scholar. I was a free scholar and I was given an allowance. Before that I was at Pamunugama in the Matara District in a vernacular school and I got a scholarship from there to the Deniyaya Central College and the fees were paid by the Government.

10 I finished at Deniyaya in 1951. In 1951 I sat for the S.S.C. Examination. I was 18 years then. I passed that examination. From there I was staying at home for some time, for about six months.

Then in 1952 I came to Zahira College.

Q.—Were you an overage student at that time, how old were you at that time?

A.—I was 19.

Q.—You were 19 years and preparing for the H.S.C.? A.—Yes.

Q.—You sat for the H.S.C. Examination from Zahira College? A.—No.

Q.—In 1952 you joined Zahira and in 1953 you left Zahira you were over 20 years?

A.—I was 20.

20 Q.—Even now do you know that 20 is the age limit for schools?

A.—It may be correct.

Q.—And Zahira wanted you to go because you were too old? A.—No.

Q.—You went of your own accord? A.—Yes.

Q.—Because you were not satisfied with Zahira? A.—Yes.

Q.—Ananda Sastralaya of Kotte took you in? A.—Yes.

Q.—As an over-age student at that time and you sat for the H.S.C. Examination in 1953? A.—Yes.

Q.—And failed? A.—Yes.

Q.—In 1954 you sat for the H.S.C. Examination again? A.—Yes.

30 Q.—Failed again? A.—Yes.

Q.—In 1955 you went and saw Mr. Costa to stay on and try once more for the H.S.C.?

A.—Yes.

Q.—Did you go to him because you had to obtain an indulgence from the Principal?

A.—No.

Q.—Did you go to him and ask for permission?

A.—I was told that those who sat for the examination in 1954 would not be allowed to continue work.

Q.—Whether they were young or old? A.—I did not find out.

Q.—Nor did you try to find out? A.—There was no necessity.

40 Q.—Only later the necessity arose to get information from the Treasury through friends? A.—No answer.

Q.—In 1955 when you wanted to sit for the H.S.C. Examination Mr. Costa said he was not issuing admission cards to those students who were in a position to pay facilities fees and had not paid? A.—Yes.

Q.—You did not meet any of the people you went to see except Mr. Pieter Keuneman? A.—Yes.

No. 6  
Defendants'  
Evidence

Evidence of  
K. Jaya-  
sekera  
Cross-  
examination  
—continued

Q.—On the following day you said Mr. Palliawadana wrote a cheque for a certain amount? A.—Yes.

Q.—You did not find out what the amount was? A.—Yes.

Q.—Are you aware that that was done as a result of an arrangement between the Principal and Mr. Palliawadana? A.—I do not know.

Q.—Are you aware that the Principal had not issued cards as a disciplinary measure? A.—I do not know.

Q.—Are you aware that the Principal had arranged with Mr. Palliawadana that they should go through the formality of Mr. Palliawadana making payment?

(Mr. Samarakoon objects to this question.—I allow it).

10

Q.—I put it to you that the payment of the cheque by Palliawadana was by arrangement with the Principal the form by which the cards could be issued without discipline being affected? Q.—I do not know.

Q.—You were very indignant, very upset at what you considered to be the utterly improper conduct on the part of the Principal? A.—Yes.

Q.—You felt that you had been given a very very raw deal? A.—Yes.

Q.—And you felt that this Principal had acted very unfairly by the students of Ananda Sastralaya? A.—Yes.

Q.—When you found an article in the Lanka Dipa stating that Mr. Costa had retired under certain provisions you promptly wanted to find out for yourself how badly Mr. Costa had behaved.—(Shown the article in the Lanka Dipa marked P4).—Is that the article? A.—Yes.

Q.—That is on the 8th May 1956? A.—Yes.

Q.—You saw that on the 8th May? A.—Yes.

Q.—And you thought for yourself “Now this gentleman who had acted so improperly by the students last December is retiring under a clause under which he should not be able to retire? A.—No, I did not want to take revenge.

Q.—When you saw this article you thought to yourself “Well here is this man who had already acted so unfairly by the students seeking to retire when he is not entitled to retire”?

30

A.—I did not think about the first part.

Q.—You only thought “Here is Mr. Costa seeking to retire”? A.—Yes.

Q.—At that time you did not connect Mr. Costa with the man who had treated you badly a few months earlier? A.—I had forgotten it.

Q.—You were so full of zeal for the country that you thought you should write a letter immediately to the papers about Mr. Costa's retirement? A.—Yes.

Q.—Have you written any other articles to the papers? A.—Yes.

Q.—On what?

A.—About nurses, about their behaviour in hospitals. I saw it in the papers.

Q.—Anything else? A.—No.

40

Q.—When was that letter about nurses written by you?

A.—That was in 1949 or 1950.

Q.—That was when you were a school boy? A.—Yes.

Q.—Then you were not even in Zahira? A.—I was in Deniyaya in the Senior Prep.

I wrote a letter about the nurses' behaviour in the hospitals. I was not in hospital. I had seen an article in the papers.

Q.—From 1949 your desire for improving conditions so far as the public was concerned was held in abeyance till you wrote this letter P5 and after that you have ceased to take an active public interest in promoting the welfare of others? A.—Yes.

Q.—Here again your sense of propriety was injured by seeing that Costa had retired, you were worried by the fact that a number of teachers might retire? A.—Yes.

Q.—You were also worried about the fact because you thought they would be getting full pay? A.—Yes.

Q.—You made inquiries from the Treasury about what?

A.—About Mr. Costa's retirement.

10 Q.—That inquiry you made after you read the newspaper articles? A.—Yes.

Q.—Did you find out from the Treasury whether the newspaper articles were true or not? A.—I wanted to know the facts.

Q.—You wanted to know whether Mr. Costa had retired or not? A. Yes.

Q.—It was not a matter that concerned you whether he got full pay? A. Yes.

Q.—How the department would lose did not concern you? A.—Yes.

Q.—You were frightened that a number of teachers would retire under the scheme? A.—Yes.

Q.—It did not concern you how many would retire? A.—Yes.

20 Q.—Roughly there are over 40,000 teachers in the assisted schools in the Island, certainly more than 10,000? A.—I do not know.

Q.—You did not find out that under 6(c) the total number of retirements in 1957 was 16? A.—No.

Q.—You did not trouble to ascertain that the total number of retirements under 6(c) in 1956 was only 14? A.—No.

Q.—And under 6(b) was 14? A.—No.

Q.—You did not ascertain any of the facts when you or your friend went to the Treasury to ascertain whether Mr. Costa had retired or not? A.—I do not know.

Q.—How did your friend get the information from the Treasury? A.—I do not know.

30 Q.—The thing that worried you was that if Mr. Costa retired all the teachers would abandon the schools? A.—I was frightened of that.

Q.—In fact you did not take the trouble to ascertain whether teachers were retiring in such large numbers? A.—Yes.

Q.—Or whether there was inducement for teachers to retire under this scheme? A.—Yes.

Q.—Having seen this article in the papers you promptly proceeded to write a letter? A.—Yes.

Q.—You went on to say what the paper article stated, that he had a degree in the Indo-Aryan languages? A.—Yes.

Q.—Do you know anything at all about Indo-Aryan languages? A.—Yes, I know.

40 Q.—What do you know? A.—That they had to offer Pali and any other language.

Q.—Do you know that the examination for Indo-Aryan degree is in Roman script? A.—That I do not know.

Q.—Did you know that Sinhalese had anything to do with Pali? A.—Yes.

I had studied Pali up to the Senior. We had used Sinhalese characters in doing Pali. I offered Pali for my Senior.

Q.—From your knowledge of that you thought that an Honours degree in Indo-Aryan necessarily implied a knowledge of Sinhalese? A.—Yes.

No. 6  
Defendants'  
Evidence

Evidence of  
K. Jaya-  
sekera  
Cross-  
examination  
—continued

No. 6  
Defendants'  
Evidence

Evidence of  
K. Jaya-  
sekera  
Cross-  
examination  
—continued

Q.—Did you check up that with any students of Indo Aryan languages?

A.—I did not.

Q.—Did you check up with any Indo Aryan Graduate that a degree in Indo Aryan necessitated a knowledge of Sinhalese? A.—I did not check up.

Q.—Do you know that people have got Honours in Indo-Aryan without a knowledge of one word of Sinhalese? A.—I do not know.

Q.—Do you know that Professor Kanapathipillai is an Indo-Aryan Graduate?

A.—I do not know.

Q.—You assumed that and set out the same fact that the paper has set out, viz., that he had an Indo-Aryan Honours degree and he could teach in Sinhalese? A.—Yes. 10

Q.—You told the Court on the last day that you had knowledge of the fact that the Botany book was approved by the Educational Publications Board? A.—Yes.

Q.—I put it to you that that is not correct? A.—I do not know.

I saw an advertisement. I have not got that advertisement. I cannot say whether I can produce that advertisement.

Q.—You do not know anything at all about it yourself? A.—Yes.

I have seen the book Udbida Vidyawa. I have read the foreword.—(Shown the foreword).

Q.—This is Dias' foreword? A.—Yes.

Q.—Did you read that foreword? A.—Yes.

Q.—Does he refer here to the book "prepared by N. W. de Costa"? A.—Yes. 20

Q.—You offered English for some examinations? A.—Yes.

Q.—For what examinations? A.—The S.S.C.

Q.—I take it you understand the difference between the words "prepared by" and "written by"? A.—Yes.

Q.—You appreciated that difference? A.—I did not.

Q.—You did not give any thought to the difference? A.—I did not.

Q.—You appreciate that difference now? A.—Yes.

Q.—I take it that you read the preface by Mr. de Costa which is in Sinhalese?

A.—Yes.—(Witness is asked to read the last line of the preface). 30

Q.—And he makes acknowledgments and gives thanks to certain people, to those who prepared the diagrams for him? A.—Yes.

Q.—He gives thanks to those who prepared the arrangement of the book for him?

A.—Those who corrected.

Q.—Who assisted him in the arrangement? A.—Who assisted him in writing.

Q.—He thanks those who assisted him in the arrangement of the book? A.—Yes.

Q.—He thanks those who assisted him to write the book in Sinhalese? A.—Yes.

Q.—Does it not refer there to assistance in the language in which the book is written?

A.—I do not know.

Q.—He thanks the people who prepared the diagrams for the book and who assisted him in the arrangement? A.—Yes. 40

Q.—He thanks those who assisted him to write the book in Sinhalese? A.—Yes.

Q.—Would that not suggest to you that he got the help of those two people to write the book in Sinhalese? A.—Yes.

Q.—And you realised before you wrote to the Press that he needed the help of two persons to write the book in Sinhalese? A.—Yes.

Q.—And in writing to the Press you put it down against him that he has written a book in Sinhalese? A.—Yes.

Q.—The papers also referred to the fact that the book Udbida Vidyawa was written by him? A.—Yes.

Q.—And you repeated that in your letter? A.—I know it.

Q.—Those are the only two grounds which you have set out in your letter for your belief that he was in a position to teach in Sinhalese? A.—Yes.

Q.—Those are the only two grounds which you had known to support your belief that he was in a position to teach in Sinhalese?

10 A.—Not only that. He had spoken in the Assembly at school.

Q.—Had he taken any classes in Sinhalese? A.—I have not seen.

Q.—You were in school, have you heard? A.—I have not heard.

Q.—You refer to Dr. Adikaram as his teacher? A.—Yes.

Q.—That plaintiff told you? A.—He told me that when he told me a story one day.

Q.—A fairy tale?

A.—He told me a story about Dr. Adikaram and he told me that Adikaram was his teacher.

Q.—Were you aware at that time that the Lanka Dipa was attacking Dr. Adikaram? (Mr. Samarakoon objects to this question.—I allow it).

20 A.—I did not know.

Q.—Were you aware that there had been trouble in respect of the B.T.S. elections?

A.—I was not interested.

Q.—You were never aware from the Press or otherwise that at the elections of the B.T.S. there had been trouble? A.—No.

Q.—Up to date you are unaware that B.T.S. elections had involved the breaking of chairs, etc.,? A.—I have seen in the papers.

Q.—And you have seen in the papers that there was a tussle between Dr. Adikaram and Dr. Kularatne for the Management? A.—Yes.

Q.—And that from 1954 onwards Mr. Adikaram was successful? A.—Yes.

30 Q.—And that the Lanka Dipa was the paper which supported Dr. Kularatne very vehemently? A.—I did not know that.

Q.—It was by reading the papers that you came to know that there was this trouble?

A.—Yes.

Q.—But by reading the papers you did not know that the paper supported Dr. Kularatne? A.—I did not understand that.

Q.—Nor did you see any articles in the Lanka Dipa which were very vile attacks on Dr. Adikaram? A.—I cannot remember.

Q.—You read English papers also? A.—Yes.

40 Q.—Apart from the Lanka Dipa you know that the Times of Ceylon is from the same group of papers? A.—Very rarely I read the Times of Ceylon.

Q.—Why did you bring Dr. Adikaram's name into this?

A.—Because he has always posed as a very saintly person.

Q.—Where did Dr. Adikaram pose to you?

A.—I had seen that he had made certain speeches in various places regarding truthfulness and good living and various other things and as such I pointed out that he had committed an anti-social and wrong act by recommending Mr. Costa's retirement.

Q.—Were you one of the gentlemen who made an anti-Adikaram speech at the Town Hall? A.—Yes.

No. 6  
Defendants'  
Evidence

Evidence of  
K. Java-  
sekera  
Cross-  
examination  
—continued

Q.—What was it about?

A.—About the B.T.S. election.

Q.—You who did not know that Dr. Adikaram was interested in the B. T. S. elections made an anti-Adikaram speech at the Town Hall?

A.—Yes.

Q.—When was that? A.—Last year.

Q.—What time of last year? A.—I cannot be definite about the month.

Q.—What was the meeting about?

A.—The meeting was about protesting about the bad management of the B.T.S.

Q.—Who organised the meeting?

A.—It was organised by Revd. Baddegama Wimalawansa and some others. 10

Q.—Mr. Kularatne? A.—He was not there.

Q.—Before or after Dr. Adikaram had been elected Manager? A.—It was after.

Q.—Was it a pro-election meeting? A.—after.

Q.—What was the purpose in having the meeting after?

A.—I spoke to Rev. Wimalawansa. They wanted to show the public that they were protesting against the bad management of the B.T.S.

Q.—Is the Manager elected by all the members of the B.T.S. by public vote?

A.—Not by public vote, by the members.

Q.—They had elected Dr. Adikaram Manager in 1954, 1955 and 1956? A.—Yes. 20

Q.—Every time he was contested by Mr. Kularatne? A.—Not every time.

In 1956 he was not contested by Mr. Kularatne, but by one Mr. Edirisuriya.

Q.—After the elections the section who had been against Dr. Adikaram held a public meeting at the Town Hall? A.—Yes.

Q.—And at the Town Hall among themselves protested against the bad management?

A.—Yes.

Q.—Is there a board of management? A.—No.

Q.—No Board of Management of the B.T.S. Schools? A.—I do not know.

Q.—You think the management is done by one man? A.—The General Manager.

Q.—That is your knowledge and view of the management of B.T.S. Schools? 30

A.—Yes.

Q.—How many thousands of B.T.S. Schools are there? A.—I do not know.

Q.—A very large number? A.—Yes.

Q.—Practically all the Buddhist Schools in the Island are under the B.T.S.?

A.—Most of them.

Q.—You brought in Dr. Adikaram's name because you thought he had done an anti-social act? A.—Yes.

Q.—You wanted to make his anti-social act public? A.—Yes.

Q.—Did you try to find out what the rules were with regard to the retirement of teachers who could not teach in Sinhalese? A.—I knew. 40

I knew that those who could not in fact teach in Sinhalese were allowed to retire.

Q.—Under what provisions of the law? A.—That I did not know.

Q.—Somebody had told you that teachers who could not teach in Sinhalese were allowed to retire? A.—Yes.

Q.—And that somebody told you that they could retire with full pay? A.—Yes.



Q.—You did not verify whether any of these statements about retiring with full pay were correct? A.—I did not.

Q.—You did not make use of the Education Code when you were teaching in Anderson College? A.—No.

Q.—Nor in the tutoring you are running today? A.—No.

Q.—You did not try to find out what the regulations were under which Mr. Costa retired? A.—Under the language clause.

Q.—Where is the provision for a language clause? A.—I do not know.

Q.—You did not know whether it is under the Education Act? A.—It must be.

10 Q.—You did not verify under which rules, you assumed that what your friend told you that anybody who could not teach in Sinhalese could retire with full pay was correct? A.—Yes.

Q.—And that anybody who was able to teach anything in Sinhalese could not retire?

A.—I said who was able to teach.

Q.—To teach anybody? A.—Students.

Q.—In what classes, in what subjects did not matter—a person who could teach students in the 2nd Standard could not retire? A.—That I did not know.

Q.—Did you know whether there was any limit placed on the ability to teach?

A.—I do not know.

20 Q.—From these two bits of information and also from the ability of Costa to speak to the assembly, what Form did you think Mr. Costa could teach? A.—The Senior.

I have been taught Sinhalese in the Senior by a priest at the Deniyaya Central College. I was taught Sinhalese in the H.S.C. by Mr. S. E. Samarasinghe at Ananda Sastralaya. There were teachers teaching classes in Sinhalese in the S.S.C. I think there were teachers taking classes in Sinhalese from the S.S.C. downwards in Ananda Sastralaya. I knew the names of some of them.

Q.—You knew that plaintiff had not taken a single class in Sinhalese?

A.—I did not know that.

Q.—Did you know that he took a single class in Sinhalese? A.—I did not know.

30 Q.—You did not find out? A.—I did not.

Q.—Had you information to believe that he had taught Sinhalese at any time?

A.—I did not.

Q.—You said “This man who can teach Sinhalese in the S.S.C. has perpetrated a fraud on the Government?” A.—Yes.

Q.—That he tried to retire before his getting full pay and that he failed? A.—Yes.

Q.—Who told you that, the Treasury again? A.—Yes.

Q.—That friend who gave you that information? A.—Yes.

Q.—You then brought out the fact that he had been allowed to retire by a Minister of Finance who was going out of office shortly? A.—Yes.

40 Q.—You also say there that he worked in the Kotte elections? A.—Yes.

Q.—You did not go to school for the whole of that term?

A.—I did not go to school but I had occasionally gone to see some friends and I became aware of the fact that he did not come to school.

I saw him driving a wagon. It was a Commer wagon. It was driven near the Nugegoda U.N.P. Office. I made a note of it then. I did not tell anybody about it then. I did not write to the Press.

No. 6  
Defendants'  
Evidence

Evidence of  
K. Jaya-  
sekera  
Cross-  
examination  
—continued

Q.—You did not write to the Press that here was a school master on leave driving U.N.P. wagons? A.—I did not.

Q.—Did you know whether he could drive a wagon? A.—He can.

Q.—That is because you saw, otherwise you do not know about his capacity to drive a wagon? A.—Yes.

Q.—Did you find out from the printer who published that pamphlets? A.—No. I had seen the other pamphlet distributed.—(Shown pamphlets marked P14).

Q.—This was the other pamphlet you saw? A.—Yes.

Q.—This is the pamphlet you saw distributed in the area at that time? A.—Yes.

Q.—Which you wanted to attach to the petition you sent to Mr. Dahanayake 10 but of which you could not get a copy? A.—Yes.

(Witness is asked to read the footnote in P14).

Q.—Below Costa's name there is a line drawn? A.—Yes.

Q.—That shows that is the end of the article? A.—Yes.

The pamphlet states " I thought of writing this in order to rectify certain statements made at a meeting in support of Mr. Robert Gunawardene ".

Q.—The statements he refers to are statements made about Costa personally and the replies are by him to those statements? A.—So he says.

Q.—Does he not state that he is not supporting the U.N.P. but is only replying to statements made by Mr. Robert Gunawardena? A.—Yes, he says so. 20

When plaintiff was driving the wagon he was not distributing any pamphlets. Plaintiff worked for Mr. M. D. H. Jayawardene.

Q.—I put it to you that that statement you put in there in the papers is false and to your knowledge false? A.—No, not to my knowledge.

Q.—You have stated that he worked enthusiastically at the Horana, the only evidence of that was that you saw his car between Panadura and Horana?

A.—Yes, bearing a poster of Mr. M. D. H. Jayawardene.

Q.—The road between Horana and Pandura does not belong to the Horana electorate?

A.—Yes. 30

Q.—You knew that? A.—Yes.

Q.—That is the only information you had?

A.—Apart from that I had heard from other students.

Q.—What is the name of those students? A.—I cannot remember the students.

Q.—Did you mention in the petition that any students told you about it? A.—No.

Q.—You suggest dishonesty on the part of plaintiff and Mr. M. D. H. Jayawardene?

A.—Yes.

Q.—On the statement of yourself that you saw his car carrying Mr. Jayawardene's poster on the Horana-Panadura Road? A.—Yes.

Q.—You did not think it necessary before you made these statements that you 40 should investigate these statements more accurately? A.—I did not.

Q.—It was in 1956 you addressed the anti-Adikaram meeting? A.—Yes.

Q.—The B.T.S. elections are held in May and June? A.—Yes.

Q.—And this meeting was held shortly after the elections? A.—Yes.

Q.—Already you were disappointed over Dr. Adikaram's management of B.T.S. Schools? A.—Yes.

Q.—Are you a member of the B.T.S. ? A.—I have not joined but I intend joining.

Q.—Did you know that there was a leaflet campaign also going on against Mr. Costa ?

A.—No.

Q.—Have you heard Mr. Costa on any other occasions also say that Mr. Adikaram was his teacher ? A.—He has not.—(Shown document marked P15).

I have not seen this leaflet distributed in that area.

(Witness is asked to read the first sentence of P5 and the first sentence of P15.

Mr. Samarakoon objects to any of the contents of P15 being put to the witness until he proves it.

10 Mr. Wikremanayake says that he is not relying on the contents of the document but only on the fact that it was distributed at that time and that he would prove that fact.—I allow it).

Q.—The only difference between the two is that in yours you say that it is published in the Lanka Dipa, the other does not contain that ? A.—Yes.

(Witness is asked to read the document further).

Q.—The identical sentiments in practically the identical language ? A.—Yes.

Q.—One is yours, the other you have not seen ? A.—Yes.

Q.—You got all this information from the Treasury before you wrote this letter ?

A.—Yes.

20 Q.—The first intimation you had of the fact that Costa had retired under the clause was the letter in the Lanka Dipa ? A.—Yes.

Q.—That was out on the 8th May ? A.—Yes.

Q.—Your letter was published in the Lanka Dipa on the 11th May ? A.—Yes.

Q.—And in those one or two days you were able to investigate and obtain the information from the Treasury through your friend ?

A.—I did not get that information to write the letter but to send the petition to Mr. Dahanayake.

Q.—Your present position is that after writing to the Press you wanted to write to the Minister ? A.—Yes.

30 Q.—For the purpose of writing to the Press you did not want to verify anything from the Treasury ? A.—About the facts, no.

Q.—But about the same fact about which you wrote to the Press you wanted to verify before you wrote to the Minister ? A.—Yes.

I read the newspaper article in the Lanka Dipa. I accepted the correctness of the statements in that article. I wrote my letter to the Lanka Dipa on the 11th May. Then I thought of sending a petition to the Minister. I thought of sending the petition to the Minister sometime after I wrote the letter. I thought of sending the petition about 2 or 3 days later. Before sending the petition I wanted to verify the facts. I got hold of a friend of mine to verify these facts from the Treasury. He is one Mr. Rana-singhe, I do not know his initials. At that time he was employed at Lever Brothers. He got that information on the very day he went. On the 14th May I wrote to the Minister with the information I obtained from the Treasury.

40 Q.—In your letter to the Minister you say that he worked for the U.N.P. candidate at Kotte ? A.—Yes.

No. 6  
Defendants'  
Evidence

Evidence of  
K. Jaya-  
sekera  
Cross-  
examination

—continued

No. 6  
Defendants'  
Evidence

Q.—And you support that by the pamphlets annexed thereto, annexing only one pamphlet? A.—Yes.

—  
Evidence of  
K. Jaya-  
sekera  
Cross-  
examination  
—continued

Q.—As for his canvassing for the U.N.P. candidate at Horana you made no reference your personal knowledge? A.—No.

Q.—You were hoping to produce evidence if necessary? A.—Yes.

Q.—Have you found that evidence? A.—That was the evidence.

Q.—The statements made to you by the school boys was that before or after you sent the petition? A.—That was before, during the time of the elections.

Q.—You yourself did you go to the Lanka Dipa office at any time? A.—I have.

Q.—To see friends there? A.—I have a friend there. 10

Q.—Manavasinghe?

A.—No. He is one Zaheed. He is in the Times of Ceylon and not in the Lanka Dipa Office.

Evidence of  
K. Jaya-  
sekera  
Re-  
examination

*Re-examined*: I preferred to board outside the school even though the school provided board at Rs. 40/- a month. I preferred to board outside because I had more freedom. I had to earn Rs. 50/- that was by teaching. That was done in the evenings.

Q.—Could you have done that if you were boarded in the school hostel?

A.—I think I could not.

I saw plaintiff in the wagon at Nugegoda. There were the words United National Party painted on the wagon.—(Shown D32). 20

Q.—Does it say in Sinhalese in the preface who had written that book in Sinhalese?

A.—It is understood that Mr. Costa has written it. The last paragraph says "Those who assisted me to write the book are K.C. Weerasinghe and Sunil Wijewickreme".

(Shown P14).

This is the pamphlet I intended sending to the Minister but which I could not get.

Q.—Does that pamphlet meet certain charges made against the plaintiff? A.—Yes.

Q.—That pamphlet is in Sinhalese? A.—Yes.

Q.—Does that pamphlet purport to refute charges made at political meetings?

A.—It does not.

Q.—Does the pamphlet say where and when those charges had been made against 30 him? A.—I do not see that.

Q.—Does the pamphlet say by whom those charges were made against him?

A.—He says in the pamphlet that he wants to meet the charges but I do not see any place where the charges have been refuted.

(Sgd.) A. L. S. SIRIMANNE

A.D.J.

Evidence of  
D. E.  
Heendeniya  
Examination

**Don Edwin Heendeniya**—Affirmed, 53, Storekeeper, Post & Telecommunications Department, Colombo.

I have been here on summons on the last five days. I have been asked by the defendant company to attend Court today and give evidence. 40

I have five children. I draw a salary of about Rs. 400/- a month after deductions including allowances. My eldest child is a girl. She is not married. The second is a girl

named Sita. The third is a son. The fourth is a daughter and the fifth is a son. These children were all at Ananda Sastralaya. They began in 1947. I live at Etul Kotte about 2 miles away from this school.

No. 6  
Defendants'  
Evidence

In 1955 Sita was in the S.S.C. I was aware that there was a thing called facilities fees in this school. We were paying till we were asked not to pay. The Principal Mr. Costa had asked the children not to pay the facilities fees.

Evidence of  
D. E.  
Heendeniya  
Examination  
—continued

Sita was sitting for the S.S.C. Examination in December 1955. I was aware that admission cards had to be obtained to enable her to sit for the examination.

Q.—Did Sita your daughter give you any information about any admission cards?

10 A.—Yes.

Q.—When was that? A.—On the 1st or 2nd December, I cannot be too sure.

Q.—To the effect that she could not get the card? A.—Yes, unless Rs. 50/- was paid.

I sent a letter to the Principal asking him to give the card that I will pay the Rs. 50/- at the end of the month. The card was not given.

On the 2nd morning admission cards had not still been given. I went and saw the Assistant Director. I went to work at 8 a.m. that day. After going to office, that is on the 2nd, she came and told me that the card was refused. I asked her to go to school and I went and saw the Assistant Director. I forget his name. He told me certain things and I came back. I was content with the information I got on the 2nd and I came  
20 back to my office.

Till the 5th no card was given. When I told her to go to school and see if they are getting the cards otherwise I will see about it. Then I went to office and got permission and came to the school.

When I was entering the school my daughter met me and told me certain things. She did not have the card then. I told her then to go back home and come with my son to office. She came with my son to the office.

I took permission from office and went with her to see the Director. I saw the Director personally, that is Mr. Jayasuriya, and he rang up Mr. Iriyagolle and he told him something. I remained there.

30 Later Costa came to Jayasuriya's office and he was taken to the Minister of Education Mr. Banda by Mr. Jayasuriya. Then the Director of Education told me certain things and I was content. Then I told the children to go home and come to the school at 3 o'clock. I went to the office but I was not satisfied. I wanted to see that they got the cards as the next day was the examination.

I got leave from office and went to the College and waited there till 3 o'clock.

At about 3.10 when all the parents and children were there Mr. Costa came and he was in his office.

I went into the Office and asked Mr. Costa for the admission card. He asked me to clear out.

40 I lost my temper but as it was his premises I said "This is the way you treat the parents" and walked out.

No. 6  
Defendants'  
Evidence

As I was leaving four officers from the Education Department came in. One of those officers – Mr. Nanayakkara – was known to me and I told him what had happened. The four officers then went in and the cards were issued.

D. E.  
Heendeniya  
Examination  
—continued

My daughter did not pass that examination. That girl is now married. She is now 20 years of age.

Q.—The question of those admission cards, was it the talk of Kotte? A.—Yes.

(Adjourned for lunch).

(Sgd.) A. I. S. SIRIMANNE  
A.D.J.

10

After lunch.

**D. E. Heendeniya**—Affirmed—Recalled.—*Cross-examined* :

Evidence of  
D. E.  
Heendeniya  
Cross-  
examination

There were three of my children attending Ananda Sastralaya. At that time there was one attending Ananda College. I did not take him out of Ananda Sastralaya because of displeasure with the principal. There was no matter in which I had displeasure with the principal of Ananda Sastralaya. I knew that facilities fees were charged by the school. The purpose for which facilities fees were being charged by the school, also I knew. That they were allowed to charge facilities fees by the Government I knew and that there was need for these facilities fees I knew.

Q.—Did you receive a circular at the time Mr. Costa was principal in 1955 saying that parents of pupils should supply proof of the facts they they were unable to pay facilities fees? A.—I cannot remember.

Q.—It was a requirement that the parents who were unable to pay facilities fees should provide proof of the fact that they were unable to pay the facilities fees? A.—No.

Q.—Did your children bring round to you a circular of this type?—(Shown P13).

A.—I cannot remember.

Q.—You were paying Rs. 75/- a month by way of private tuition fees for your son?

A.—Yes.

Q.—Did you make it known abroad that you were paying Rs. 75/- a month as tuition fees for your son and you were not going to pay Rs. 5/- as facilities fees because they were not a legitimate claim? A.—No. They were asked not to pay.

Q.—Did you tell the principal, although I am paying Rs. 75/- a month as tuition fees for my son I am not prepared to pay one cent by way of facilities fees?

A.—No, I never said that.

Q.—Do you know that there were some 60 odd students who were entered for the S.S.C. Examination that year?

A.—I don't know the number. I don't know how many students there were.

Q.—Do you know that of the students, over 50 were given their admission cards?

A.—I don't know. I did not become aware of that.

Q.—You never became aware of the fact that of the 50 who were given their admission cards only 5 had paid facilities fees? A.—No.

I did not meet the principal. I did not go to see the principal at any time.

Q.—Nor did you tell the principal, look here, I am not paying facilities fees, you have no right to charge facilities fees? A.—No, I sent a letter saying I will pay.

Q.—With regard to facilities fees you say you stopped paying because you were informed by your daughter that children had been asked not to pay facilities fees ?

A.—Yes, and that most of the children were not paying.

Q.—Your children had been told that they were asked not to pay facilities fees, that was in 1953 ? A.—Yes.

Q.—From that date you have been paying no facilities fees at all? A.—Yes.

Q.—It was in 1953 you said that you were told not to pay facilities fees, prior to that you had paid all the fees ? A.—No.

Q.—You were in a position to pay Rs. 5/- a month as facilities fees ? A.—Yes.

10 Only for one month I paid Rs. 75/- as private tuition fees, that is for only one month before the examination. I did not tell the principal that I cannot pay the facilities fees. I wrote a letter to the principal that I will pay. I was in arrears in 1952 because I had sickness at home.

Q.—Why were you in arrears in 1950, 1951, but you paid in 1953 at various times ?

A.—I cannot remember.

Q.—You paid in November 1953 ? A.—I cannot remember.

Q.—It was in the middle of 1953 that you were told not to pay fees ?

A.—I cannot remember. My children came and told me not to pay, that others were not paying, that is all, and then I stopped paying the facilities fees.

20 Q.—Your last payment was, I put it to you in November 1953 ?

A.—May be, I cannot say.

Q.—Do you think that those who could have paid the facilities fees should have paid them ?

(Mr. Samarakoon objects to the question. I uphold the objection).

Q.—Did you think that if you were in a position to pay the facilities fees you should pay it ?

A.—If I am able to pay I must pay. But I have helped the college in other ways.

Q.—Was there political agitation that facilities fees were an improper charge in a free scheme of education ? A.—Not to my knowledge.

30 Q.—So far as you were concerned did you think the principal would have been justified in refusing admission cards to students who could pay but deliberately refused to pay ? A.—In my opinion he should have given the cards at that time.

Q.—Even if they deliberately refused to pay when they were in a position to pay ?

A.—As for me I refused to pay.

Q.—Did you think he would have been justified if he refused cards to those who were in a position to pay and refused to pay ?

A.—If they refused to pay it was justifiable.

Q.—When your children told you that students were not paying facilities fees therefore don't pay did you communicate with the principal ? A.—I did not.

40 *Re-examined :*

Q.—You told the Court that you did not meet the principal personally when he called for facilities fees ? A.—Yes.

Q.—Thereafter you said you met the principal on the day that the cards were issued ? A.—Yes.

Q.—Was that the first time you met the principal regarding this ? A.—Yes.

(Sgd.) A. L. S. SIRIMANNE

A.D.J.

No. 6  
Defendants'  
Evidence

—  
Evidence of  
D. E.  
Heendeniya  
Cross-  
examination  
—continued

Evidence of  
D. E.  
Heendeniya  
Re-  
examination

No. 6  
Defendants'  
Evidence

**Galahenage Wimalaweera Perera**—Affirmed, 20, Private Student, Boralesgamuwa.

Evidence of  
Galahenage  
Wimala-  
weera  
Perera  
Examination

I was at one time a student of the Ananda Sastralya. I joined the school in 1947. I joined in the Lower VI. I left the school in December 1955. My father is not alive, my mother is alive. In 1947 when I joined the school I knew the plaintiff Mr. Costa. He was a teacher in the school at that time; he was teaching Botany and Arts.

(*To Court* : *Q.*—In what classes was he teaching, in all the classes or in a particular class ?

*A.*—I was studying in the Lower VI, but he did not teach us. I cannot say exactly which classes he taught). 10

I know about the facilities fees. Those days we paid facilities fees. Before 1953 I paid facilities fees in the school.

(*To Court* : I paid Rs. 5/- per month as facilities fees).

*Q.*—Did you at any time thereafter stop paying facilities fees ?

*A.*—I stopped paying facilities fees in 1953. One day Mr. Costa told us not to pay facilities fees.

*Q.*—Did he come up to you personally and tell you not to pay ?

*A.*—He came to the class that is the S.S.C. Prep. I was in the S.S.C. Prep. at the time. He came to our class and told us not to pay the facilities fees. He told us the school can run without the facilities fees. 20

*Q.*—At that time was Costa teaching that particular class in the S.S.C. ? *A.*—No.

*Q.*—Had he taught you earlier ?

*A.*—He was teaching art earlier in the S.S.C. Prep. and Botany.

Thereafter I stopped paying facilities fees. I remember the ceremony when Mr. Dudley Senanayake the then Prime Minister came to the school. That ceremony was in connection with the opening of a building in the school. I did not attend that ceremony.

*Q.*—Why didn't you attend that ?

*A.*—One morning I found a leaflet in my desk asking me not to attend this ceremony. The leaflet was in my desk in the class.

*Q.*—Do you know whether you were the only man who found such a leaflet in his 30 desk ? *A.*—No, several others also found. It was a printed leaflet.

*Q.*—Did it give any name of the printer on the leaflet ?

(Mr. Wikremanayake objects.—I uphold the objection).

*Q.*—Did you know personally who were the other students of that class who attended the ceremony ? *A.*—No, I don't think so.

At that time I was a student in the S.S.C. Prep. I sat for the S.S.C. Examination in December 1955. I knew the date of the examination was the 6th December. For the purposes of qualifying to sit for the test we had a pre-selection test a few months before that. Once you have passed that test you had to obtain a card entitling you to sit for the examination. You have to get that card from the principal, it is called an admission 40 card.

*Q.*—Did you get a card for the purpose of sitting for this examination in December 1955 ?



A.—I got the card from the three officers of the Education Department and not from the principal.

I asked the plaintiff for my card.

Q.—How long prior to the 6th did you ask for that card ?

A.—I asked for the card on the 1st December. On the 1st I was in school.

Q.—What made you go and ask the principal for your card ?

A.—He said he was not issuing the admission cards if we did not pay the arrears of facilities fees, so I went up to him and asked him and he told me that he cannot give it without my paying the fees.

10 Q.—Did you have arrears at that time ? A.—I did.

Q.—Did you go alone to the principal to ask for the card or did you go with some other students ? A.—I went with about 12 other students.

Q.—After the plaintiff refused to give you the cards what did you do ?

A.—I came back and went to meet Dharmakirti – I knew Dharmakirti as a student in Ananda Sastralaya. It was he who told us not to pay the facilities fees before this incident because Mr. Costa had asked him to canvass support. I met Dharmakirti at the Kotte junction. I asked him why he told us not to pay the facilities fees, because now the principal is refusing to give our admission cards, what shall we do. The other students tried to assault him. He told us that he will see to it. Then I called him to go  
20 to the Education Department and he came with us. That was on the 1st. On the 1st in the evening at about 4 o'clock about 12 of us went to the Education Department.

Q.—Before you went to the Education Department did you go to any other place ?

A.—Yes, we went to Lake House. We met a news editor of the Dinamina. We told him this story. Thereafter as a result of what he said we went to the Education Department. We tried to meet the Director of Education but we could not meet him because it was after 4 o'clock then, so we had to come back. Then we went to the G.P.O. in Fort and sent a telegram to the M.P. for Kotte, Mr. Robert Gunawardene. After that we went home. I reached home at about 7–30 p.m., I did not do anything  
30 came to the school. I was in school at the time. I met Mr. Robert Gunawardene and we went with him to the Education Department. Three of us went with him to the Education Department, that one Siriwardene and Ameratunge and I. Mr. Gunawardene took us in his car. We went to the Education Department and we met the Minister of Education. Mr. Gunawardene took us to the Minister and we told the Minister what had happened. As a result of our report to the Minister we came home as we were satisfied with our mission there. I came home at 12–30. Thereafter I did not go to school as that day was a holiday. On the Monday following I went to school. Monday was the 5th December and the examinations was to be held on the 6th Tuesday. On Monday when I went to the school I went to meet the plaintiff. He was in the office  
40 and I met him in the office. I spoke to him and asked him for my card. He refused to give the card. I asked him why. His reply was “Pay the facilities fees otherwise I am not giving the card.” Then I rang up Mr. Robert Gunawardene and he came there at about 12–30 and as a result of what he said I came back to the school at 3 o'clock. When I went to the school at 3 o'clock I found other students there. There were about 14 of them there. Mr. Costa was in the office.

Q.—Did you at that moment go and speak to him ?

A.—I personally did not speak to him.

Q.—When you went there at 3 o'clock did you get your cards ?

No. 6  
Defendants'  
Evidence

Evidence of  
Galahenege  
Wimala-  
weera  
Perera  
Examination  
—continued

No. 6  
Defendants'  
Evidence

A.—We got our cards after the officers from the Education Department came. They arrived at about 3.30 p.m., Four of them came and it was they who issued our cards.

I knew Mr. Alagiyawanna as the vice principal of the school.

Q.—Do you know when he came to the school as vice principal?

A.—I cannot remember the exact date but I remember it was in 1953.

Evidence of  
Galahenege  
Wimala-  
weera  
Perera  
Examination  
—continued

Q.—After he came into the school as vice principal did you find any opposition to him from the students? A.—I came to know.

Q.—How did you come to know? A.—I saw some slogans written on the walls.

Q.—When was that, before or after the ceremony to which Mr. Dudley Senanayake came? 10

A.—It was after. I did not take part in writing those slogans. Those slogans were written on the walls in black paint.

My father died in 1948, that is one year after I joined Ananda Sastralaya. My mother has no income of her own. I live with my mother. I have one brother and one sister. My brother is working at Lake House. He started working in Lake House in 1948 soon after my father died. He was supporting me and my mother. My sister is married. She got married in 1950. I have no property. My mother owned only the land in which we are living. It is about 2 acres, planted in coconut.

Evidence of  
Galahenege  
Wimala-  
weera  
Perera  
Cross-  
examination

*Cross-examined :*

My mother could not afford to pay the facilities fees. 20

Q.—And she was in that condition from 1948 onwards?

A.—My brother would have paid.

Q.—Your mother was unable to pay but your brother was able to pay?

A.—He would have paid.

Q.—He was able to pay and paid till 1953? A.—Yes.

Q.—Facilities fees was a thing that a student ought to pay? A.—Yes, till 1953.

Q.—Poor though you were you were regularly paying what was a due payment of the school? A.—Yes.

Q.—Your brother gave you the money and you paid till 1953? A.—Yes.

Q.—In 1953 Mr. Costa himself told you not to pay? A.—Yes. 30

Q.—And he told you that in the classroom? A.—Yes.

Q.—He did not teach you any subject? A.—He taught Botany in that form.

Q.—He did not teach you any subject at any time? A.—No.

Q.—The students who were in that class when he went to teach would be the students who were taking up that subject? A.—Yes.

Q.—The students who were not taking that subject usually do some other subject in a different room? A.—Sometimes.

Q.—And at other times if you were not doing those subjects you would be doing nothing outside the class? A.—Yes.

Q.—No students remain in a class who were doing any other subject? A.—Yes. 40

Q.—When Mr. Costa was teaching Botany the only students who would be in that class would be the Botany students? A.—Yes.

Q.—He told the class he was not teaching that you should not pay facilities fees?

A.—Yes.

Q.—And he told you also that you should not pay facilities fees because the school can do without facilities fees? A.—Yes.

Q.—And so from that day you stopped paying facilities fees? A.—Yes.

Q.—Up to that date you were paying regularly?

A.—I cannot say as my brother pays it. He comes to the school and pays. I told him not to pay after 1953.

Q.—After 1953 not a cent was paid?

A.—I don't know. He must have stopped paying.

Q.—You don't know when the facilities fees got into arrears? A.—I cannot say.

Q.—Would you be surprised to know that in 1954 you paid Rs. 60/- which is 12 months facilities fees? A.—I never paid.

10 Q.—Your brother always paid on your behalf. Would you be surprised to know that he paid Rs. 60/- in 1954? A.—I cannot believe that.

Q.—Because according to your version nothing was paid after 1954? A.—Yes. I am known as G. W. W. Perera. I was in the 5A in the year 1954.

Q.—In the year 1952 not one cent has been paid, that was before Mr. Costa told you not to pay facilities fees, can you explain why nothing was paid in 1952?

A.—I must ask my brother.

Q.—In 1953 sometime after June Costa told you not to pay?

A.—I cannot say exactly when it was. It was certainly sometime in the course of the year.

20 Q.—In the year 1953 not one cent has been paid, can you explain why you had not paid facilities fees before Mr. Costa asked you not to pay?

A.—I don't know. I must ask my brother.

In 1955 I was 18 years old. I was born in March 1937. I studied through the medium of English up to the S.S.C. I sat once for the S.S.C.

Q.—In 1954 did the principal send out circulars from time to time saying that students must set out why they are not able to pay the facilities fees? A.—I don't know.

Q.—You never saw a circular like that, nor was a circular such as this shown to you.—(Shown P13)? A.—I have never seen this.

Q.—Circulars like this were given to every single student and they were asked to 30 bring them back signed by their parents? A.—I am not aware of that.

Q.—May be none was given to you; you were not asked to get it signed by your parents? A.—(No answer).

Q.—When your admission card was refused the man you ran to first was Dharmakirti? A.—Yes.

Q.—Dharmakirti had sat for the H.S.C. a few months earlier? A.—Yes.

Q.—When Dharmakirti had applied for his admission card for the H.S.C. that was refused? A.—I don't know.

Q.—He did not tell you the same thing happened to him last month??

A.—He did not tell me.

40 Q.—Dharmakirti did not tell you we were also refused our cards until Mr. Palliwardene gave a cheque? A.—No.

Q.—You did not hear that there was trouble in the previous examination about admission cards? A.—I never heard.

I know Jayasekere who gave evidence.

Q.—He says he and certain others had to go to see Mr. Peter Keuneman, Dr. N. M. Perera and others about their admission cards, you didn't know that when you were in the school? A.—I don't know.

No. 6  
Defendants'  
Evidence

Q.—Did you know that Dharmakirti was a member of a cell meaning a unit of the communist party? A.—I did not know that.

Evidence of  
Galahenege  
Wimala-  
wccera  
Perera  
Cross-  
examination  
—continued

Dharmakirti was the person who asked us not to pay facilities fees. He did not tell me he was friendly with Mr. Robert Gunawardene, not that he had any association politically with Mr. Robert Gunawardene.

Q.—How did you come in contact with Mr. Robert Gunawardene?

A.—He was the member for Kotte and I sent him a telegram. I have met him before. I have seen him at election meetings. I have gone to election meetings and seen Mr. Robert Gunawardene there.

Q.—Have you met Mr. Robert Gunawardene before?

A.—I have not spoken to him before, but I have been to his election meetings? 10

Q.—How long before this have you been to his election meetings?

A.—That was at the 1952 elections.

Q.—After the 1952 election meetings did you go to any other political meetings of his? A.—No.

I know Mr. Robert Gunawardene has an office close to the Ananda Sastralaya. I have not been to that office. That office is about 500 to 600 yards from the bus stand at Ananda Sastralaya. When I sent that telegram to Mr. Robert Gunawardene I signed my name.

Q.—Where did you meet Robert Gunawardene?

A.—I signed as students of Ananda Sastralaya. 20

Q.—Who were the students who signed?

A.—I wrote “Students of Ananda Sastralaya.” About 14 of us went to the post office with Dharmakirti who was also a student of Ananda Sastralaya.

Q.—Dharmakirti told you that Costa told him to canvass for non-payment of facilities fees? A.—Yes.

Q.—That he himself had not paid facilities fees after 1953? A.—Yes.

Q.—Dharmakirti did not try to take you to Costa? A.—No.

Q.—Instead he took you to the Education Department?

A.—He did not take us, but I suggested that we go to the Education Department. 30 I went to meet Dharmakirti to ask him why he asked us not to pay the facilities fees. He only told me he will also join with us in going to the Education Department. About 60 odd students sat for the S.S.C. Examination that year?

Q.—Of whom over 50 were given their admission cards?

A.—About 14 were not given cards.

Q.—Over 50 had been given their cards? A.—I don't know.

Q.—Do you know that of the 50 only 5 had paid their facilities fees?

A.—I don't know.

Q.—Mr. Costa told you that only those who cannot pay the facilities fees will be given their cards? A.—I did not hear that. 40

Q.—He told you as you did not bring that circular signed you will not get your card? A.—No.

Q.—He was refusing to give you your card because you had been guilty of a breach of discipline in not bringing back signed the circular he gave you?

A.—No. I did not get that circular.

Q.—That was Mr. Costa told you. He said you will not get your cards till you bring back that circular signed? A.—No.

Q.—You spoke about a leaflet in your desk? A.—Yes.

Q.—Did you talk to Dharmakirti about the leaflet? A.—No.

Q.—You just read the leaflet and stayed away from the function? A.—Yes.

Q.—Do you know that there was a lot of political activity in that area? A.—No.

Q.—Although you had been to the election meetings of Mr. Robert Gunawardene, you did not know there was political activity in that area?

A.—It was only in my area that I attended meetings.

10 Q.—The person who was coming to open that building as the principal guest was the then Prime Minister Mr. Dudley Senanayake? A.—Yes.

Q.—You know that there was political agitation in that area against this function?

A.—I did not know.

Q.—Did you see police vans outside? A.—I did not go to the function.

I saw the slogans painted on the wall. They were painted in black paint. I also saw slogans in white paint on the blackboards. They were removed about two or three weeks later, I cannot remember exactly. The white paint was on the blackboard and the black paint was on the wall. I cannot remember for how long it went on. I took no part in it. Nobody asked me to take part in it. I got summons for the last 5 days to 20 attend Court. I got the summons on the 15th or 14th. I was at Borelesgamuwa.

Q.—Are you a reporter to any newspaper?

A.—Now I am not a reporter but I was at the time I was in school. While I was in school I used to earn money by writing articles to the newspapers. I made only about 5 or 6 reports for the whole of 1955 and I was paid for those reports. I earned about Rs. 10/- or Rs. 15/- for the year as I sent only 5 or 6 reports for the whole year. I wrote to the Dinamina and the Janatha. I was a reporter to the two papers from the beginning of 1955 to the end of 1955.

*Re-examined :*

30 Q.—That class into which Mr. Costa came and told you not to pay facilities fees, by whom was that class being taken usually?

A.—By Mr. Goonetilleke. He was absent that day and we were all waiting in class. It was then that Mr. Costa walked in. I did not take the subject Mr. Costa taught.

I was a reporter to the Dinamina and the Janatha. I was paid for it at Rs. 5/- a column that was published. For 1955 the total amount I earned is about Rs. 20/- or Rs. 15/- not more than that. It depends on the column that is reported.

(Sgd.) A. L. S. SIRIMANNE

A.D.J.

**Don Upasena Samarakone**—Affirmed, 33, Teacher, Mirigame.

40 I was for some time on the staff of Ananda Sastralaya. I joined the staff in 1943 and left in 1948. After that I went to Nalanda Vidyalaya, Nugegoda. I was there till the end of 1950. While I was on the staff of Ananda Sastralaya I knew the plaintiff very well. He was a friend of mine.

No. 6  
Defendants'  
Evidence

—  
Evidence of  
Galahenege  
Wimala-  
weera  
Perera  
Cross-  
examination

—continued

Evidence of  
Galahenege  
Wimala-  
weera  
Perera  
Re-  
examination

Evidence of  
Don  
Upasena  
Samarakone  
Examination

No. 6  
Defendants'  
Evidence

(*To Court* : He was on the staff during that period).

Evidence of  
Don  
Upasena  
Samarakone  
Examination  
—continued

While I was on the staff of Ananda Sastralaya I was living in the school hostel. The plaintiff was residing at Nugegoda. I cannot recollect the number of this house but I know the place. I had occasion to converse with the plaintiff in Sinhalese. I became aware that he was very conversant with the Sinhalese language. I know that the plaintiff has published a book in Sinhalese. At the time I was on the staff a book in Sinhalese verse which was supposed to be a translation of Pali text was published by him. The name of that book is Padahanaya. I have seen that book.—(Shown marked D40 a booklet).

This is the book I spoke about. Before this was out for sale he told us that he had printed a translation of a Pali text and he used to discuss many such things with me, those days. He discussed with me particularly about the cover for this book and he said that this would be the best cover in a book Ceylon has ever had. After that this book was out.

Q.—After that book was out did he discuss with you ?     A.—I cannot say.

That book is in Sinhalese verse. He was able to write Sinhalese verse.

Q.—Besides that book which is a translation into Sinhalese verse do you know whether plaintiff has written any Sinhalese verse ?

A.—Yes, I know. He very often used to compose verses and used to come and recite them to me and ask my opinion about them. I also know that on a certain occasion when his sister got married he had composed certain verses which was to be recited at his sister's wedding, and trained three girls in the school to recite them at the wedding. They were in fact recited by the three girls at that wedding. I cannot remember exactly the year in which that wedding took place but it must be somewhere in 1945. I was a very good friend of the plaintiff.

Q.—Did he at any time broadcast over the radio ?     A.—Yes.

I know the plaintiff has broadcast over the radio – I listened to him on the radio.

Q.—What was the recital ?

A.—That was titled a story in Sinhalese verse, and I listened to that whole story.

While I was at Ananda Sastralaya I was in the habit of going about with him in the car. I cannot say whether the car belonged to him but it was a car earlier used by Dr. Adikaram. At that time Dr. Adikaram was away in India.

Q.—Were you involved in an incident when you were travelling in that car ?

A.—Yes. One night at Godigamuwa. It happened that one night while I was in the hostel at about 10.30. That was the period of the promotion tests and some of us were still in the hostel correcting papers. He came and called me to go somewhere. I had been in the habit of going out with him earlier. He used to go to Padukka to transport rice for his home consumption and I used to accompany him on these trips. One night he took me in the car. He stopped the car at a lonely spot and said "I brought you here to kill you." I was seated in the front seat. I simply could not understand him. He then got down from the car and pulled a long iron from behind the car and came round to me in the front seat. He opened the door and pulled me out. Then I asked him what is the meaning of this. He said you must die or I must die, we both of us cannot live in this world. He then pulled me by my shirt and it was torn. I released

myself and jumped away. I then ran back along the road and I saw him looking at me going away. Then he got into the car and drove forward and turned the car and went up and down once or twice calling my name. I was hiding behind a tree he could not find me. Then he went away. Then in the meantime I contracted the Headman of the area and then came to the Aturugiriya Police Station. I reached the police station at about 4.30 in the morning. I described the incident to the police constable on duty. I explained to him that I was worried about going to Court as I suspected something was wrong with Costa, and asked his assistance to come to the school. But he did not allow me to come. He 10 insisted on my making an entry of it but I said I was not able to and walked away. By about 6 o'clock in the morning I reached the school, having walked all night. When I came to the school I discovered that Costa had come back to school, handed over my own shirt and bunch of keys which were in the car to another friend of mine living further away, about 200 yards away from the school, one Jinadasa and told him that he took me in the car to be killed and they had gone in search of me. When I came back to the hostel I discovered that he had tried to assault two other teachers also there. I did not meet Costa then at the time. He came to the school at about 8 o'clock in the morning. After that he was in school. By that time the students had come to know about this and there was a little commotion. I met the principal Mr. Wickremasinghe 20 because my friend Mr. Jinadasa had telephoned that night to the principal. The principal spoke to me about it. Not only the principal but the members of the staff also spoke to me and as a result of this I went to the police station and made a second statement, telling the Inspector that I was not willing to proceed with the case and requesting him not to take any action in the matter. I said that it was in the interests of the institution that I did not wish to proceed against him.

No. 6  
Defendants'  
Evidence

—  
Evidence of  
Don  
Upasena  
Samarakone  
Examination  
—continued

*Cross-examined :*

Up to that date I was very friendly with the plaintiff. I discussed with him the Sinhalese poetry and verses he was writing. That night he took me in the car and suddenly decided to kill me. He said that one of the two could no longer exist. I did 30 not get out of the car, he pulled me out. He did not use the iron rod on me. I made no resistance nor fight whatever. So much so he was able to pull me out bodily out of the car without using that iron bar. He pulled me out and tore my shirt. I offered no resistance. I thought that he was going mad because I know that a brother of his was in the lunatic asylum. I came back to the school and he talked thereafter in the school without any further madness. He did not thereafter call me out to kill me. I cannot say whether he called anybody else to kill either. He made no attempt to kill me.

Evidence of  
Don  
Upasena  
Samarakone  
Cross-  
examination

Q.—And you continued to be his good friend until you left one year later ?

A.—Ever after that I did not associate with him.

Q.—I put it to you there was some trouble between you and Mr. Costa in 1947 ?

40 A.—Yes.

Q.—I put it to you you went and made a false complaint to the police station ?

A.—No.

Q.—And nothing whatever came of it because it was false ? A.—No.

Q.—I put it to you that you were a bitter enemy of Costa from a period long prior to that ? A.—No.

No. 6  
Defendants'  
Evidence

Q.—That there had been trouble between you before that date which culminated in this incident? A.—No.

Q.—Are you here on summons? A.—I received a letter.

Evidence of  
Don  
Upasena  
Samarakone  
Cross-  
examination  
—continued

Q.—How did anybody know that you were in position to testify to the fact that Mr. Costa was a good student of Sinhalese? A.—I cannot say.

Q.—You have not the faintest idea how anybody knew that you knew that Costa was a good student of Sinhalese?

A.—I cannot say. I was not questioned by anybody before I got into the witness box.

Q.—Were you aware of the fact that they knew you were the one man to whom 10 Costa had said he was the author of this book? A.—I cannot say.

Q.—Does that book contain Costa's name anywhere? A.—No.

Q.—Is there anything in that book to indicate that Costa was the author of it?

A.—There is nothing.

Q.—Except that Costa told you he was printing a unique cover to that book?

A.—Yes.

Q.—And that is the unique cover? A.—Yes.

Q.—How the defendant knew that Costa told you that with regard to the book which had a unique cover you don't know? A.—No.

Q.—How the defendant knew that you knew that Costa had composed Sinhalese 20 verse and recited them to you, you don't know?

A.—No. He used to come and recite Sinhalese verse to some members of the staff.

Q.—The broadcast in Sinhalese verse was the singing of Sinhalese verses over the radio?

A.—That I don't know. It was announced on the radio. I listened in to the broadcasts. Mr. Costa was broadcasting verses.

Q.—He took you out that day in Dr. Adikaram's car?

A.—That was the car used by Dr. Adikaram when he was in Ceylon. When Dr. Adikaram was in Ceylon he was the principal of that school. Dr. Adikaram was in India at that time. His car was being used by Mr. Costa. I referred to Dr. Adikaram's 30 car because I was questioned as to the mode of conveyance.

Q.—How the defendants knew that you were in a position to testify that he used Dr. Adikaram's car in his absence you cannot say? A.—No.

*Re-examined*—Nil.

(Sgd.) A. L. S. SIRIMANNE  
A.D.J.

Evidence of  
Mahindapala  
Boteju  
Examination

**Mahindapala Boteju**—Affirmed, 28, Trader, Mirihana.

I am a trader at present running a boutique. I was at one time a pupil at Ananda Sastralaya. I joined Ananda Sastralaya in 1944. I left in 1950. I live at Mirihana about 40  
½ mile away from the school.—(Shown P2). This is a letter written by me.

Q.—In P2 you say “Having read a letter in the Lanka Dipa written by one Dharmasiri you decided to write this letter”?

A.—Yes. I decided to write this letter because Mr. Dharmasiri wanted to safeguard the good name of the principal. I go on to say it may not be possible to avoid the opposition of the public in that area.



Q.—Why did you refer to the public of the area ?

A.—In 1955 among the people of that area there was a talk of some trouble in the Ananda Sastralaya.—(Second para of P2 put to witness).

No. 6  
Defendants'  
Evidence

I came to know about this from the students who were classmates of mine. I used to go about twice a week in the evenings to the school to play volley ball. Thereafter in my letter I refer to the question regarding the senior form and I also stated that the departmental officials spoke to the principal on the telephone and asked the cards to be given. I said when they went for the cards they were told in a threatening manner that because they went to the Department they would not be given the cards at all.

Evidence of  
Mahindapala  
Boteju  
Examination  
—continued

10 Q.—How do you know that they were driven out ?

A.—I was at that time in the Sastralaya. I came to the junction to buy some things and at that time I saw a crowd in the Ananda Sastralaya and went up there. I saw a crowd and I saw some entering the office. Thereafter the plaintiff came out and said you can get these things from the Education Department, I am not going to give you. One of the students went to the post office to telephone Mr. Robert Gunawardene. I went home.

Q.—After you returned home that day did you take any further interest in this matter of the cards ?

20 A.—I went home and came back again to see whether Mr. Robert Gunawardene would come in connection with this matter.

Q.—What time was it when you reached the school ?

A.—It must have been about 12 o'clock. I waited there. Mr. Robert Gunawardene came. He turned up about 12.45. He went inside the office of the school. I did not see what he did inside the office. He went in and came out after about an hour from the office. When he came out he addressed the crowd. After his address to the crowd he took some of the boys from the college and went with them in his car. I went home after that. Thereafter I came to know that the cards had been issued. On the day before the examination they were distributed.

In P2 I referred to the three officials from the Education Dept.

30 Q.—You say it was when the present principal was an assistant teacher in the same school that the children were encouraged not to pay and led astray, how do you know that the present principal it was who had encouraged the children not to pay ?

A.—Two of my aunt's sons were attending the Ananda Sastralaya. My aunt lives about  $\frac{1}{4}$  mile away from my house. The children came home and said something. I was in the habit of going to my aunt's place and it was discussed there. As a result of those discussions I came to know about this.

Q.—You also said in that letter "The staff is opposed to the principal, except  $\frac{1}{3}$  all the rest of the students are opposed to him," how do you know that ?

40 A.—The black stains refer to was that during my time there were no such troubles in the school. At the time I was attending school things were not like that but today everyone has something to say against the school.

Q.—Was this matter being discussed on the road also ?

A.—School affairs were being discussed at junctions and on the road. When I go into the school I find that the teachers get together to go and discuss about the principal and they say on account of him our names are also spoilt.

*Cross-examined :*

I wrote a letter to the press. I left the school in 1950 and started this stores of mine in 1956. Between 1950 and 1956 I was doing nothing. I was living in that area, not interesting myself in politics. I was not going to take part in politics.

Q.—You were going to Mr. Robert Gunawardene's political meetings in 1952 ?

A.—No. I worked during the elections for Robert Gunawardene.

Q.—From 1950 to 1956 you were doing nothing at all ? A.—I had no job.

Q.—But in 1952 you took part in the election campaign ?

A.—Yes, both in 1952 as well as in 1956.

Q.—In between the elections between 1952 and 1956 you hung around Mr. Robert 10  
Gunawardene's political meetings of all sorts ?

A.—Whenever I found a meeting was good I attended. I attended also to Buddhist associations in the village. I started my stores in my own village Mirihana in 1956, which is about  $\frac{1}{4}$  mile away from the Ananda Sastralaya. I and a friend of mine started the business. My friend was one Chandradasa an old boy of Ananda Sastralaya.

Q.—But also a person who took part in those meetings of Robert Gunawardena ?

A.—From the very outset he was doing a trade and did not associate in these matters. The stores was selling tea and like sundries, and people used to come there at all hours to purchase things.

Q.—If you are not there in the shop you can get played out for money ? 20

A.—Besides the other man who worked there was a boy who attended to the work. I put in Rs. 250/- and the other contributed Rs. 250/- as capital.

Q.—You leave him and the boy to work after this and you go down to the Ananda Sastralaya for news and information ?

A.—When I have time I used to go in the evenings to play.

Q.—Except one statement in which you say the principal threatened somebody the rest of the whole of that letter is what various people have told you ? A.—Yes.

Q.—And you have accepted the correctness of what others have told you ? A.—Yes.

Q.—You are not giving us the names of any of the people who told you ?

A.—I know. The people who told me about the S.S.C. examination were Dharma- 30  
kirti, Jayasekera and Balachandra. I have seen Dharmakirti at one meeting of Mr. Robert Gunawardene. My aunt's son Chandradasa told me about the other things.

Q.—With regard to the statement that you yourself made, out of your own personal knowledge, you say that you were there when the students went to the office with the principal ?

A.—Yes. I did not hear what took place in the office. But all the students who were refused cards went inside the office to see the principal. They went into the office, had a talk and came out.

Q.—When they came out the principal came out and made a public statement that he is not giving cards to those who had seen him because they had gone and seen 40  
the Education Department about it ?

A.—He made a threat saying get it from the Education Department I will not give it.

Q.—You cannot explain why he did not tell that to the students when he was with them inside the office ? A.—The parents of these children were outside.

Q.—This was made to the parents who were outside ? A.—I think that is so.

Q.—It was that crowd of persons whom Mr. Robert Gunawardene addressed shortly thereafter? A.—Yes.  
(It is now 4 p.m.—Further hearing tomorrow).

No. 6  
Defendants'  
Evidence

(Sgd.) A. L. S. SIRIMANNE  
A.D.J.

—  
Evidence of  
Mahindapala  
Boteju  
Cross-  
examination  
—continued

**26-3-57**

Trial resumed—Appearances as before.

MAHINDAPALA BOTEJU, Affirmed—recalled.

*Cross-examination continued:*

10 I knew Mr. Robert Gunawardene personally. I have spoken to him, not on political matters. I have spoken to him about the elections.

Q.—Those are the only matters about which you had discussed with Mr. Robert Gunawardene?

A.—I have also spoken to him about my own personal affairs. I have spoken to him in his office.

Q.—Did you go to his office while you were still a student at Ananda Sastralaya?

A.—No, not during that time.

In my letter P2 I have referred to the talks that were going on at the road junctions.

Q.—There were discussions about these matters at every street corner?

20 A.—Yes, near my boutique.

Q.—There were discussions and there were quite a number of leaflets published about this matter?

A.—I had only seen one leaflet. I cannot remember exactly the contents of that leaflet, but I have seen on the top of that leaflet the words “Mr. Costa”.

(Shown P15) I have not seen P15.

Q.—You wrote a letter to the press, in that letter you say “It was when the present principal was an assistant teacher of the same school . . . . were led astray”?

A.—Yes.

30 Q.—You suggest in that letter that it was the plaintiff who was responsible for the students of the school becoming disobedient and rebellious?

A.—I did not mean that.

Q.—What was the suggestion you intended when you said “the present principal at one time told them not to pay and led them astray”?

A.—He had requested the children not to pay.

Q.—What is the “leading astray”?

A.—At the time when the pupils were able to pay this gentleman requested them not to pay and made them do something that was not proper.

Q.—And he as a teacher was getting them to do things that were against the interests of the school?

40 A.—I think that is so.

Q.—That is your suggestion?

A.—Yes.

Q.—And that he was making the children disobey the discipline of the school?

No. 6  
Defendants'  
Evidence

A.—Yes.

Q.—You also suggest further that there were black stains on the name of the school which can be seen from the talks that go on at the junctions?

Evidence of  
Mahindapala  
Boteju  
Cross-  
examination

A.—Yes.

Q.—You suggest that the plaintiff by his conduct has brought dishonour on the school?

A.—Yes.

Q.—You also suggest that he has lost the confidence of the public and of the staff?

A.—Yes.

Q.—And also of the majority of the pupils?

10

A.—Yes.

Q.—You suggest that he was not a fit person to remain the principal of the school?

A.—Yes.

Q.—Had you written any other letters to the press?

A.—No.

Q.—Not at any time?

A.—Not in this connection.

I have written in connection with a road of our village. But attacking any particular individual I never wrote anything. When I wrote that letter the Sinhalese was my own. I can write a letter like that without anybody's assistance. It is not a letter written for me to which I put my signature.

Evidence of  
Mahindapala  
Boteju  
Re-  
examination

*Re-examined*

I have studied Sinhalese up to the 7th standard.

SGD: A. L. S. SIRIMANNE

*A.D.J.*

Evidence of  
S. K.  
Dharmakirti  
Examination

**Samarage Karunadasa Dharmakirthi**—Affirmed.—24—Copy Holder, Government Press (Asst. Proof Reader), Colombo.

I took up appointment in the Government Press in June 1956. I am still on a temporary basis. I draw salary of a about Rs. 6/- per day. My father is dead, my mother is living. My father died in 1948. I have 4 brothers and 4 sisters. My brothers are earning. 30 One sister is married. I was a student at Ananda Sastralaya. I joined Ananda Sastralaya in February 1948. When I joined Ananda Sastralaya I was 15 years old. I left Ananda Sastralaya in 1955 December. I passed the S.S.C. Examination in 1952 December while I was a student at Ananda Sastralaya. For the S.S.C. Examination I offered English Language, Sinhalese Language & Literature, Civics, Geography and Arithmetic. I left Ananda Sastralaya in 1952 after sitting for my S.S.C. Examination. After I left I did not take up employment anywhere, I was staying at home till May 1955. In May 1955 I joined the school again to study for my University entrance. I sat for the University Entrance Examination in November 1954 and came down. While I was in the school I took part in the various activities of the school. There were two literary Asso- 40 ciations in the school, the Sinhalese and the English associations, then there was the Buddhist Brotherhood.

Q.—Were you an office bearer of any one of those associations?

A.—Yes.

I have been the General Secretary of the Sastralaya Union, then Assistant General Secretary of the Sastralaya Union, Secretary of the Sinhalese Literary Association, and on the committee of the Buddhist Brotherhood and Secretary of the Rajasingha clan.

Q.—Did the students publish any kind of magazine during your time?

A.—There were two papers called "Public Opinion" in English and "Sastralaya" in Sinhalese. I was the Co-editor of Public Opinion.

I know what communism means. There were no communist activities in the school during my stay there.

10 Q.—In all these schools are there some boys who wield some kind of influence among the students?

A.—Yes.

Q.—In your time was there any such boy who wielded some kind of influence?

A.—I was one of those who wielded some kind of influence among the students and another was Mr. Amaradasa. Amaradasa left the school in 1954 and joined the University. After he left I remained, in the school.

Q.—After you left school have you taken part in any kind of student activities?

A.—I have.

20 I have organised a students union called the Kotte Students Union and I am the Secretary of the union.

Q.—Are all the students in the Kotte area eligible for membership in that Union?

A.—Yes.

There are three Buddhist Schools in that area and there are two other schools to my knowledge.

Q.—Are all the students of those schools eligible for membership to that students' union?

A.—Yes.

Q.—Do you in fact have members from all those schools?

A.—Yes, except from one school, the Etul Kotte Buddhist School.

30 I took up the H.S.C. Examination in November 1954 and December 1955. In 1953 I was a student in the school. At that time I was residing at No. 268 Rajamaha Vihare road. I know the witness Kirthsiri Ameratunga. I know Mr. Alagiyawanna. He was the Vice Principal of the school. He came into the school in July 1953. I know the plaintiff very well. When I joined the school in 1948 the plaintiff was a teacher in the school; he was teaching art. He has taught me art.

Q.—After Mr. Alagiyawanna was appointed Vice Principal and took up duties in the school did you have occasion to discuss that appointment with the Plaintiff?

A.—I did.

Q.—Who discussed that matter?

40 A.—I discussed with Mr. Costa.

Q.—From your discussions with the plaintiff what did you understand with regard to the plaintiff's attitude towards Mr. Alagiyawanna?

A.—He took up an attitude against Mr. Alagiyawanna.

Q.—You knew there was a ceremony in the school with regard to the opening of a kindergarten block by the then Prime Minister Mr. Dudley Senanayake?

A.—Yes, I remember vaguely it was in August 1953. I did not attend that ceremony. The students of the school were expected to attend that ceremony, but Mr. Costa asked

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Defendants'  
Evidence

Evidence of  
S. K.  
Dharmakirti  
Examination

—continued

No. 6  
Defendants'  
Evidence

—  
Evidence of  
S. K.  
Dharmakirti  
Examination  
—continued

us not to attend. He spoke to me personally about that matter. He gave me some pamphlets and asked me to distribute them then and I distributed them in the school. I gave them personally to the students.

(Shown D41) I have seen this pamphlet. This is the pamphlet that I distributed. That pamphlet purports to be issued by the students of Ananda Sastralaya.

Q.—Do you know whether the staff attended that ceremony?

A.—I did not attend the ceremony myself. I know that Mr. Costa was not there.

I said earlier that the plaintiff's attitude was against Mr. Alagiyawanna. I gathered that from my conversation with him.

Q.—What did he say that made you gather that impression?

10

A.—He told me that when he was at Ananda Sastralaya he was a student and he had to give up his studies in order to join Ananda Sastralaya staff to teach there, because at that time there were no teachers, and he had to sacrifice his studies in order to teach at Ananda Sastralaya. And he said that he was waiting for the principalship of Ananda Sastralaya for a long time and he told me that a great injustice had been done to him by appointing Mr. Algiyawanna to the staff of Ananda Sastralaya as Vice Principal. At the same time he told me that Mr. P. D. S. Kularatne the then General Manager of the B.T.S. was appointing his own men, that is people who belonged to his cast, in various buddhist schools.

Q.—Do you know that there were anti-alagiyawanna slogans written on the school walls?

A.—Yes.

Q.—Did you have anything to do with that?

A.—Yes.

Q.—Were you the person who wrote the slogans?

A.—I did that with Dharmasena and Jinadasa.

Q.—Did the plaintiff make any request to you with regard to those slogans?

A.—Yes. He asked us to write slogans on the walls and the blackboards for which he gave us the paint. He did not tell us what slogans should be written. He gave us the paint—one tin of black and one of white. He asked us to write slogans on the walls. At that time I was living at No. 268, Rajamaha Vihare Road. He gave me the paint and asked me to write the slogans. He came to my residence in Dr. Adikaram's car, and gave me the paint. In the evening I went with the paints to the school with Jinadasa. Jinadasa brought some brushes and we left the paint and brushes under a tree in the school. I asked the hostellers to write the slogans and gave them the brushes and thereafter I went home. That was about 7 o'clock in the evening. The next morning I did not find the slogans on the walls when I went to school. Mr. Costa went and saw that there were no slogans and he came to me and asked me "ko isay ogollage wadda." I felt ashamed. I discussed the matter with Jinadasa and on the following day Jinadasa and Dharmasena came to my place at about 12 mid-night and we went to the school and painted the slogans on the wall of the domestic science block and on the various black boards. I myself painted the slogans; the other two also painted them. The next day the slogans were to be seen on the walls by everybody and all the students and staff saw them. The plaintiff spoke to me thereafter and thanked me.

Q.—How long did those slogans remain on the wall? A.—About two days.

I know about the facilities fees. When I was a student I had to pay facilities fees. In 1952 I paid facilities fees. In 1953 I did not pay facilities fees. Mr. Costa asked me not to pay the facilities fees. Costa spoke to me personally and asked me not to pay. I know he spoke to other students also in my presence, and asked us not to pay the fees.

No. 6  
Defendants'  
Evidence

—  
Evidence of  
S. K.  
Dharmakirti  
Examination.

—continued

Q.—Did he give any reason for you not to pay the fees ?

A.—He told us that a part of the fees went to Mr. Alagiyawanna as an allowance and that we should not pay. I paid heed to his request and stopped paying the facilities fees. Not only did I not pay, but I went to the other students and asked them also not to pay. Plaintiff asked me to go and convince the others also not to pay.

10 I sat for the H.S.C. examination in November 1954. For that purpose I had to get an admission card.

Q.—That card had to be obtained from the principal who was the plaintiff.

A.—At that time Mr. Costa was not there, Mr. Palliawardene was acting. I got my card for the 1954 examination. Again in November 1955 I sat for the H.S.C. examination. For that examination too I had to obtain a card entitling me for admission to the examination.

Q.—Did you obtain that card ?

A.—Mr. Costa came to me one day and told me because you have helped me I will pay your fees and give you your card. You had better go and convince the others  
20 to pay their fees because I have lost money on the carnival and I have to get supplies for the school, therefore I must get some money, so go and ask the others to pay their fees. So I said how can I do that, meaning that I could not ask the others to pay. I was not agreeable to his paying my fees, I asked him to pay the fees of the others also.

Q.—Eventually were the fees paid ? A.—No.

Q.—Did you have any difficulty in obtaining your admission card ? A.—Yes.

Q.—You know the date on which this examination was held ?

A.—I cannot exactly remember the date.

My card was refused. Mr. Costa refused to give my card. I did not ask him personally for the cards. But we went about 14 of us, and Jinadasa spoke on behalf of  
30 all of us. He asked for the cards ; the plaintiff said he was not going to issue the cards because we have not paid the fees. Then Jinadasa said we were reduced to this position by you. Then Mr. Costa said why don't you take action. We said we will get our cards somehow or other and we walked out. Then we came to Colombo to meet the Permanent Secretary to the Ministry of Education. We went to the education office, but we could not meet the permanent Secretary. Then we went to see the Director of Education. About 6 of us went there. We did not meet the Director of Education. This was about 12 noon.

Q.—How many days prior to the examination was this visit to the Education Department ?

40 A.—About one day. We did not meet the Director of Education. We came to know that he had gone to meet Sir John Kotelawala at the Ratmalana Airport. We then went to see the Assistant Director of Education one Mr. Wijesinghe. Jayasekere met him. I did not go with Jayasekere to meet him. Jayasekere met him and came back. He told us what Mr. Wijesinghe said. Jayasekere then went home and I went with the other 5 students to the Lanka Dipa office. There I met one Mr. Abeysinghe the news editor. He is the gentleman in Court today. I told him what has happened in the school. Thereafter we went back to the school.

No. 6  
Defendants'  
Evidence

—  
Evidence of  
S. K.  
Dharmakirti  
Examination

—continued

Q.—Were you then satisfied that you would get your cards? A.—No.

Before going to the school I went to the University College to meet the Assistant Registrar. We tried to meet him at the University Office but we could not meet him. Then we went to see Dr. N. M. Perera. We could not meet him either. We came to know that he had gone to India. Then we met Jayasekera also there. He joined us thereafter and we went to see Mr. Pieter Keuneman. We met Mr. Pieter Keuneman and told him what we had to say. He telephoned to Dr. Adikaram. As a result of his telephone call to Dr. Adikaram we were not satisfied that we would get our cards. We then went home and back to school. This was all on one day before the examination. Then we went to see Mr. Palliawardene and we spoke to him. Mr. Palliawardene asked us to come to school on the following day. On the next day I went to the school early morning. Mr. Palliawardene was there and we got our cards. Mr. Palliawardene wrote out a cheque on our behalf and then we were given our cards. Thereafter I sat for the examination. I failed the examination.

In December that year there was an S.S.C. examination. I know about that personally. I was on study leave at the time. At that time I was staying at Etul Kotte. I know personally that the cards were refused to the S.S.C. students. I took an interest in that matter too. One day when I came to Pita Kotte I met a number of students, about 20 of them. They came to assault me saying that I was responsible for their not getting the cards because I had asked them not to pay the facilities fees, and they did not pay, and as I knew Mr. Costa that I should speak to him and get them their cards. I was ashamed, so I told them I will give them any help they want. They asked me to come with them to the Education Department. I know the witness Wimalaweera Perera ; he was one of the students who tried to assault me.

Before going to the Education Department we went to Lake House to meet the news editor. We met the news editor of the Dinamina. We did not go to the Lanka Dipa because on the previous occasion they did not take any interest, so I thought that the Lanka Dipa was holding pandang to Dr. Adikaram and Mr. Iriyagolle. That is why we went to the Dinamina office and met the news editor. Thereafter we went to see the Director of Education. We did not meet him. At that time it was about 4 30 o'clock so we could not meet him. Then we went to the General Post Office. About three or four students came along with me. They were S.S.C. students due to sit for the examination in December. At the G.P.O. Wimalaweera sent a telegram to Mr. Robert Gunawardene. Thereafter I went home. I did not take any further activity concerning the cards of the S.S.C. students.

I do not know Mr. Robert Gunawardene personally.

Q.—It has been suggested that you were a member of a communist cell at Kotte?

A.—What do you mean by cell?

Q.—Do you belong to any communist group in Kotte? A.—No.

Q.—Have you at any time been summoned to the police station in connection with 40 any political activities? A.—No, never.

Q.—Have you at any time been called up or asked to come to the police station?

A.—Yes, that was on the 7th June 1956, a certain police constable came in Mr. Costa's car to my residence and told me that Mr. Costa has made an entry against me saying that I have been distributing some pamphlets. He asked me to come with him



in Mr. Costa's car and I refused. I told him that I will come with him but not in Mr. Costa's car. Eventually Mr. Costa went away and I went along with the Police constable. When I went to the police station I saw Mr. Costa and Mr. Siripala Padukka seated in the Police Station. One Mr. Jayasinghe the Inspector of Police was there. At the police station, as soon as I entered the Inspector's room, I was with my hands in my pockets, the Inspector said something blackguarding me and asked me to take my hands out of my pockets. I did not take my hand out of my pockets. Then he asked me to take out my hands from my pockets and I did. I asked him why I was summoned to the police station and he replied.

No. 6  
Defendants'  
Evidence

—  
Evidence of  
S. K.  
Dharmakirti  
Examination  
—continued

10 Q.—Did you then know why you were summoned to the police station?

(Mr. Wikremanayake objects to the question).

Q.—Did you come to know that a complaint had been made against you?

A.—Yes, by Mr. Costa, saying that I have been distributing some pamphlets against Mr. Costa and Dr. Adikaram, that was the complaint.

Q.—Did you make a statement to the Police?

A.—I made a statement denying that I had distributed pamphlets.

Q.—Was your statement taken down in writing?

A.—Yes. I had to sign it. Mr. Costa was there all the time.

Q.—After you made your statements and signed it were you detained at the Police Station?

A.—No, I went away. Thereafter I was never questioned by the Police in connection with that matter. No action was taken against me in any Court of law.

I know the witness Mr. Austin Silva. He was a teacher at Ananda Sastralaya when I was a student there.

Q.—Did he question you at any time with regard to these slogans?

A.—Yes. He came to the class and asked the students. He advised the students not to do such things, if they were doing so. So I went and confessed to him. I told him that I was responsible for doing that with some other students. He asked us not to do such things hereafter.

30 He did not tell me anything about the facilities fees.

Q.—What class was he taking? A.—He taught me also.

*Cross-examined.*

Q.—You told us you knew what communism was?

A.—It is a certain doctrine by Karl Marx.

Q.—What about? A.—It is a political doctrine.

Q.—You don't know what a cell is? A.—No.

Q.—Are there any communists in your area? A.—Yes.

Q.—Can you tell us the gist of the doctrine?

(Mr. Samarakone objects as it is not relevant.—I allow it).

40 A.—I don't know. I know it is a doctrine written by Karl Marx, but what the doctrine is I don't know.

Q.—You got a red tie? A.—No.

Q.—You never wear a red tie? A.—I might have worn one.

Q.—Have you been steadily wearing a red tie over a period?

A.—Usually I do not wear ties.

Q.—Have you steadily worn a red tie over a period? A.—No.

Q.—Is there any significance in a red tie? A.—I don't know.

Evidence of  
S. K.  
Dharmakirti  
Cross-  
examination

No. 6  
Defendants'  
Evidence

Evidence of  
S. K.  
Dharmakirti  
Cross-  
examination  
—continued.

Q.—Where Mr. Robert Gunawardene is concerned you don't know what his political activities are ?

A.—I know that he is a Sama Samajist. What his doctrine is I don't know.

Q.—Have you attended his election meetings ? A.—Yes.

Q.—Have you attended his election meetings in 1952 ?

A.—No. I have attended his meetings only in 1956, not in 1952.

Q.—How many of his election meetings have you attended ?

A.—I cannot remember. I attended only two or three. In fact I addressed certain meetings. I addressed three meetings.

Q.—You addressed his meetings without knowing what Mr. Robert Gunawardene's 10 political views were ? A.—I knew that he was a Sama Samajist.

Q.—Isn't it a fact that even in 1952 you were attending his meetings ? A.—No.

Q.—In 1952 have you ever told Dr. Adikaram that you were a member of a cell ?

A.—No.

Q.—Did a number of the young men of Ananda Sastralaya dabble in politics ?

A.—I don't know.

Q.—You were a literary man and a member of the debating society, you were attracted to addressing public meetings ?

A.—I have attended meetings even of Mr. Ananda Tissa de Alwis.

Q.—In 1952 you were a member of the debating societies, both English and 20 Sinhalese ? A.—Yes.

Q.—And a member of the literary society ? A.—Yes.

Q.—You were office-bearer in those societies ? A.—Yes.

Q.—And you were interested in speaking ? A.—Yes.

Q.—I put it to you you used to go round. The meetings of Mr. Robert Gunawardene were fiery meetings ? A.—But in 1952 I was at home.

Q.—In 1952 you left school and stayed at home doing nothing for a whole half year ?

A.—Yes.

Q.—During that period did you take part in any political activities ? A.—No.

Q.—You just stayed at home ?

A.—I did some work at home. I had some home work to do.

Q.—Why did you leave school ?

A.—Mr. Wickremesinghe the then principal said that he considered all those students who sat for the examination as having left school.

I was 19 years of age at the time. I had sat for the S.S.C. Not all overage students were considered as having left school. There was the H.S.C. class.

Q.—All students who sat for the S.S.C. examination whether under age or over age had to leave school.

A.—That was what Mr. Wickremesinghe said. So I stayed away till 1953. In 1953 Mr. Wickremesinghe was on leave for a period. I came to know that Mr. Costa 40 was acting as principal when I came back to the school.

Q.—At the time he was acting principal you came back to school ? A.—Yes.

Q.—He allowed you to come in and to study for the H.S.C.

A.—Yes. I had to go to the teachers and get their recommendations. I was permitted to join the school again to sit for the H.S.C. I sat for the H.S.C. in 1954 and failed. Again in 1955 I sat for the H.S.C. and failed.

Q.—Up to 1952 you told us you paid your facilities fees ?

A.—Yes, that is what I remember.

Q.—You felt it was an obligation on the part of the students to pay their facilities fees ? A.—Yes.

Q.—The facilities fees were collected by the class master ?

A.—No. They were paid straight to the Registrar.

Q.—You paid regularly in 1952 ? A.—Yes.

Q.—In 1953 only after Mr. Alagiyawanna came in there Mr. Costa told you not to pay facilities fees ? A.—Yes.

Q.—Alagiyawanna came in July 1953 ?

10 Q.—Up to July 1953 you were paying your facilities fees regularly ?

A.—I cannot remember.

Q.—After Costa spoke to you you paid not one cent as facilities fees right up to the day you left ? A.—Yes.

Q.—Costa told you don't pay these fees ? A.—Yes.

Q.—And told you to tell the other students also not to pay the fees ? A.—Yes.

Q.—In 1953 you told a number of the students not to pay the fees ? A.—Yes.

Q.—And those students began not to pay the fees ? A.—Yes.

Q.—With the result that facilities fees for the year were very much less.

A.—I think so.

20 Q.—In 1954 Mr. Costa was away in America at the time ? A.—Yes.

Q.—He came back to the school in 1955 ? A.—Yes.

Q.—Finding the facilities fees in 1954 had dropped very severely he went from class to class telling the students that they must pay the facilities fees ?

A.—I don't know. He never came to my class and told me anything.

Q.—Thereafter in 1955 he sent a circular out calling a meeting of the parents ?

A.—I don't know.

I don't know whether a meeting of the parents was held. I don't know whether he addressed the parents and asked them to see that the facilities fees were paid.

Q.—Thereafter from time to time he sent out circulars by each individual pupil ?

30 A.—He never gave such a circular to me.

Q.—And insisted on the pupils bringing back the circular duly signed by their parents ? A.—I deny that.—(Shown P13)—I never saw a document like this.

Q.—Nor did he want you to get any circular signed by your parents ?

A.—He did not give me.

Q.—You had helped Mr. Costa by doing a lot of dirty work ? A.—Yes.

Q.—You and Mr. Costa remained very good friends till the time you left school ?

A.—Not till the time I left school. Only till the date of the examination. When I went for my admission card for the examination I was refused it. There were 23 odd students who sat for the S.S.C. examination that year.

40 Q.—About 5 or 6 of them were refused their cards ?

A.—There were about 12 who were refused their cards. Some others paid.

Q.—Was Jayasekere the one who was refused along with you ? A.—Yes.

Q.—Jayasekere says that 5 or 6 were refused cards.

A.—That was at the last moment. Originally 12 were refused but due to pressure some paid.

Q.—Due to pressure when he called in the students and said he will not give the cards, you said we will get our cards somehow ?

No. 6  
Defendants'  
Evidence

Evidence of  
S. K.  
Dharmakirti  
Cross-  
examination  
—continued

A.—Jinadasa said so. I did not say anything.

Q.—You did not say “What is the meaning of this, we had no idea that we should pay facilities fees”? A.—I did not say so.

Q.—You did not say “You told me not to pay facilities fees”?

A.—I remember I told him. He told me as you have helped me I will pay your fees, but he asked me to get the others to pay their fees.

Q.—Why didn't you tell him “you pay my fees and give me my card.”?

A.—I refused to allow him to pay my fees.

Q.—That was done privately? A.—Yes.

Q.—At the public meeting of all these students you didn't mention this fact? 10

A.—I told them.

Q.—You didn't say anything to Mr. Costa?

A.—No. I let Jinadasa do the talking.

We were all told to secure our cards in other ways. We went to the Lanka Dipa. They published nothing at that time. In the end Mr. Palliawardene gave us our cards.

Q.—What right had he to give the cards? A.—He was the vice-principal.

Q.—Do you know how he had the right to give you your cards without consulting the principal? A.—I don't know.

Q.—Do you know that he gave you the cards after consulting the principal?

A.—I don't know. 20

Q.—Do you know that to maintain discipline he asked Mr. Palliawardene to give a cheque and he would give the cards? A.—I don't know.

Q.—When you were a student would it have been the proper thing for you as a student to refuse to bring the circular to be signed by your parents?

A.—If it was given to me I would have brought it.

Q.—If you did not bring it you would have been doing an improper thing? A.—Yes.

Q.—You were addressing these public meetings of Mr. Robert Gunawardene during the time of Mr. Alagiyawanna. Did you address meetings of students?

A.—The literary associations I have addressed.

Q.—Outside the school did you address meetings of students? A.—No. 30

Q.—There was a strong body of opinion, anti-Alagiyawanna among the students?

A.—Yes. There was another person called Jinadasa who spread it.

Q.—The leaflet that you distributed was a leaflet published by the students?

A.—Mr. Costa got it printed and gave it to me. I do not know at what Press it was printed.

Q.—This was one of the leaflets that was being distributed at the time of the opening ceremony of the kindergarten block?—(Shown D41).

A.—There was another leaflet distributed at the time.

Q.—Did you see any other leaflet purporting to come from a political party?

A.—No. I saw one purporting to come from the principal. 40

Q.—There was another urging a boycott? A.—No.

Q.—You distributed this leaflet and told the students to boycott the ceremony?

A.—Yes. Even the hostellers boycotted the function.

Q.—These slogans which you wrote, you wrote them once in black and white paint?

A.—Yes.

Q.—That was the only occasion in which you wrote the slogans? A.—Yes.

Q.—And that is the one and only occasion in which slogans were written?

A.—I don't know.

There were some other slogans also written in chalk and other things. By other things I mean charcoal and other various things.

No 6  
Defendants'  
Evidence

Q.—The slogans written in chalk and charcoal where were they written ?

A.—In the latrines. I cannot say exactly where else.

Q.—Those slogans written in charcoal and chalk, were they written before the slogans you wrote were put up or after ? A.—After that.

Q.—No slogans came up before the slogans you wrote ? A.—Yes.

Q.—Your slogans were written all on one occasion ? A.—Yes.

Q.—These chalk and charcoal slogans for how long did they continue to be written ?

10 A.—Till the 1953 carnival.

Q.—For how long after you wrote the slogans did other people write slogans ?

A.—I cannot say.

Q.—Months, weeks, days, years ? A.—I cannot say.

Q.—If it went for years even you cannot say for how long these slogans were printed ?

A.—For about two or three months.

Q.—To ask you to do this Mr. Costa came in Dr. Adikaram's car ? A.—Yes.

Q.—Mr. Costa had his own car at the time ?

A.—I think it was his brother's car.

Q.—To come and ask you to write the slogans he came in Dr. Adikaram's car ?

20 A.—When he came to my place he had kept his car at Dr. Adikaram's place and came to my place in Dr. Adikaram's car. Dr. Adikaram's car is C.N. 7831 I think. This was in 1953. I don't know whether it was Dr. Adikaram's car at the time because before that it was owned by a Mr. Wijesekere.

Q.—What is the Kotte Students Union ?

A.—It was a union to cultivate friendship and peace among the students and to look after their interests. There was no patron for the Union. In 1956 the Union was in existence.

Q.—You addressed Mr. Robert Gunawardene's meetings ? A.—Yes.

30 Q.—None of the other union members addressed the meetings nor took part in the meetings ? A.—No.

Q.—In 1954 Mr. Costa was away at the time you sat for your examination ? A.—Yes.

Q.—No difficulties were raised with regard to the admission cards ? A.—No.

Q.—In 1953 there was a principal and a vice-principal ? A.—Yes.

Q.—Mr. Costa was not functioning as principal at all in December ? A.—Yes.

Q.—In 1954 Mr. Costa was away in America ? A.—Yes.

Q.—He left in June ? A.—Yes.

Q.—The fact that you were refused admission cards was well-known in the school ?

A.—Yes.

Q.—There was a lot of talk about it ?

40 A.—I don't know. Only one day we had to agitate to get our cards.

With regard to the admission cards for the H.S.C. we went to the Lanka Dipa office. That happened only on one day.

Q.—And you told various people that these students have not received their admission cards ? A.—We had no time to tell the students.

Q.—Even after the examination was over the other students were unaware of the fact that admission cards were refused ?

Evidence of  
S. K.  
Dharmakirti  
Cross-  
examination  
—continued

No. 6  
Defendants'  
Evidence

*A.*—They might have been aware. I discussed this with the other students of our class. I did not tell anybody that we were refused cards. I only discussed this with the H.S.C. students who were refused cards and not with the other H.S.C. students who were given their cards.

Evidence of  
S. K.  
Dharmakirti  
Cross-  
examination

*Q.*—When the S.S.C. students were not given cards they came across you? *A.*—Yes.  
*Q.*—And threatened to assault you? *A.*—Yes.

—continued.

I asked them not to assault me. Then they suggested that I should help them and I joined them and went to the Lanka Dipa office first and from there to the Education Department.

*Re-examination*—Nil.

(Sgd.) A. L. S. SIRIMANNE  
*A.D.J.*

10

Evidence of  
N. J.  
Jayaratne  
Examination

**N. J. Jayaratne**—Affirmed, 31, Clerk, Ministry of Education, Colombo.

D14, D16 and D26 are certified copies of documents the originals of which are in our files. D37 and D38 are also certified copies of documents the originals of which are in our files.

*Cross-examination*—Nil.

(Sgd.) A. L. S. SIRIMANNE  
*A.D.J.*

Evidence of  
M. A.  
Velupillai  
Examination

**M. A. Velupillai**—Affirmed, Clerk, Education Department, Colombo.

D1, D2, D7, D9, D15, D17 and D18 are certified copies of documents the originals of which are in our files.

M. A.  
Velupillai  
Cross-  
examination

*Cross-examined*—These certified copies have been signed by somebody else and not by me.

*Re-examination*—Nil.

(Sgd.) A. L. S. SIRIMANNE  
*A.D.J.*

20

Evidence of  
S. T.  
Liyanage  
Examination

**S. T. Liyanage**—Sworn, 57, Clerk, Pensions Branch, General Treasury, Colombo.

D13 and D25 are not certified copies issued by my department. D27 is a certified copy of a letter the original of which is in our office. D39 is a certified copy of a minute the original of which is in our file.

*Cross-examination*—Nil.

(Sgd.) A. L. S. SIRIMANNE  
*A.D.J.*

Evidence of  
M. Herat  
Examination

**M. Herat**—Affirmed, 23, Clerk, Ministry of Finance, Colombo.

D13 and D25 are certified copies of minutes the originals of which are in our files.

*Cross-examined* : I have the whole file. It does not contain a minute made by Mr. R. J. Wickremesinghe with regard to the retirement of the plaintiff. It does not contain a minute by Mr. L. J. de S. Seneviratne. I don't know in whose files the minutes by Mr. R. H. Wickremesinghe and by Mr. Seneviratne will be.

No. 6  
Defendants'  
Evidence

—  
Evidence of  
M. Herat  
Cross-  
examination

*Re-examination*—Nil.

(Sgd.) A. L. S. SIRIMANNE  
*A.D.J.*

Mr. Samarakone begs for an adjournment as he says that Mr. Kularatne a material witness is not available today. He begs that it be adjourned for the 29th for which date the case has already been fixed for further hearing.

Mr. Wikremanayake objects to an adjournment. He states that the witness should have been present.

Mr. Samarakone presses his application.

He states that the witness is away on State business. He also urges that practically half the day's work is over now.

I allow the application on terms.

Defendant will pay to the plaintiff 75 guineas as costs of the day.

Further hearing on 29/3.

(Sgd.) A. L. S. SIRIMANNE  
*A.D.J.*

20

### 29-3-57

Trial resumed—Appearances as before.

**P. de S. Kularatne**—Affirmed, 63, Retired Principal of Ananda College, residing at the Orient Club.

Evidence of  
P. de S.  
Kularatne  
Examination

I was summoned to be here in Court the whole of last week. The summons was served on me late. In the meantime I had to leave for India on State business. I was the Chairman of the special Committee appointed to report on the reorganisation of the Art School. I returned from India yesterday.

I was a University scholar. I obtained honours in the B.A. and B.Sc. I am a Barrister of Laws. In my Varsity training at London there was no Sinhalese at all. While I was in Ceylon for my primary education I studied in the Buddhist English School. I studied a little Sinhalese. I studied Sinhalese up to the 7th Standard. I returned to Ceylon in 1917 and I was Principal of Ananda College from 1917. I was installed Principal of Ananda College by Mr. M. W. H. de Silva who was the Superintendent of Schools. He is the present Minister of Justice.

I was Principal of Ananda College till April 1943. During the time I was principal I did teaching. I did not do any Sinhalese teaching.

After I left Ananda College I have been publishing books in Sinhalese. I have written several books on Arithmetic and books on Number Recreations.

No. 6  
Defendants'  
Evidence

Q.—Apart from not teaching in Sinhalese were you able to teach in Sinhalese if the question arose ?

A.—I used to give lectures to teachers in Sinhalese.

Evidence of  
P. de S.  
Kularatne  
Examination  
—continued.

(Mr. Dias objects to this question.—I allow it).

I was able to teach in Sinhalese, after I learnt some technical words. I was able to teach Arithmetic and Algebra in Sinhalese.

After I left Ananda College I was a Member of the State Council for some time.

In 1949 I became the Manager of the B.T.S. Schools. I continued as Manager till 1954.—(Shown D4 dated 30th June 1953).

This is a letter of appointment signed by me. By this I was appointing Mr. Alagiyawanna as vice-principal of Ananda Sastralaya. 10

Prior to that I had known Mr. Costa. He was a teacher in Ananda Sastralaya. I did not know him very well. He had come to see me.

Prior to the appointment of Mr. Alagiyawanna at Ananda Sastralaya Dr. Adikaram had seen me. He intervened on Mr. Costa's behalf. He did not want me to appoint Mr. Alagiyawanna because he thought Mr. Costa had the best claim for the Principalship. I did not agree with him. That was in 1954.

Q.—What was Dr. Adikaram's state of mind when he left ?

(Mr. Dias objects to this question).

Q.—What was your impression of Dr. Adikaram's state of mind ?

A.—He was very angry. 20

Q.—Did Dr. Adikaram see anybody else after he saw you ?

A.—I do not know, I do not think so.

I appointed Mr. Alagiyawanna by D4 of 30th June 1953. The signature on D4 is mine.

I went to Ananda Sastralaya on the date that Mr. Alagiyawanna was to assume duties. The Principal was Mr. Wickremasinghe. I went over there because the Principal was ill. Mr. Costa was acting for him.

I told Mr. Alagiyawanna to meet me in the office of the Ananda Sastralaya. I went there to put him in charge. When I went to the office Mr. Alagiyawanna was there already. Mr. Costa was seated in the Principal's chair in the office. I told Mr. Costa 30 that I had appointed Mr. Alagiyawanna Vice Principal and I had come to put him in charge and that I wanted him to hand over the College to Mr. Alagiyawanna which he refused to do.

Mr. Costa said that he had been appointed to act for the Principal by me. I said yes. I had appointed him to act as Principal. When the Principal is ill naturally the senior teacher acts. I told him that it is quite right that I had appointed him to act and that now I have appointed Mr. Alagiyawanna Vice Pricipal and that he must hand over his duties to the Vice Principal.

Mr. Costa said that he would not do anything of the sort and he refused to carry out my orders. He took up a threatening attitude. He took out a big ruler from the 40 drawer and put it on the table. He appeared to me to be not normal.



I asked him for the College log book to make an entry. He refused to do that. Then he got up and closed one of the doors. I asked him why he closed the door. Then he held me by my hand and wanted to lead me out of the office. I told him that it was not necessary for him to do that and I called Mr. Alagiyawanna and left the place.

(Shown D5).

I left the place and wrote the letter D5 to Mr. Alagiyawanna. I followed up that letter with a letter to the controlling authority of the B.T.S. referring to the conduct of Mr. Costa on the 1st July. I also wrote D28 of 6th July 1953 to Mr. Costa.—(Shown D28).

No. 6  
Defendants'  
Evidence  
—  
Evidence of  
P. de S.  
Kularatne  
Examination  
—continued.

10 This is a copy. It bears my initials.

About that time Mr. Wickramasinghe came back, and I asked Mr. Alagiyawanna to go back and assume duties as Vice Principal.—(Shown D30).

On the 6th July I wrote another letter, that is D30, to the Mirihana Police.

Mr. Alagiyawanna assumed duties on the 7th July 1953 and he continued as such till I ceased to be General Manager of the B.T.S.

(To Court : D28 was sent by post, probably to the Principal. This is initialled by me).

Later on I preferred a complaint to the Board of the B.T.S.

I wrote to Mr. Costa letter D29 of 15th July 1953 asking him to be present before  
20 the Board.—(Witness reads D29).

I cannot say whether it is signed by me. This is signed for me. This is from the General Manager. The Administrative Secretary also signs. I was the General Manager at the time. In pursuance of that letter Mr. Costa appeared before the Board.

As between me and Mr. Costa, the matter was investigated by the Board and the Board found him guilty of the charges that were made and informed him that he would have to be dismissed. The inquiry was held on 21st July I believe.

I was a member of the Board. He was told that if he apologised to me and I accepted the apology the Board would reconsider the matter. He apologised to me and I told the Board that I was prepared to accept the apology but I said that I wanted him to give  
30 it in writing because I wanted it sent to the Principal of the school to be circulated among the Staff so that discipline would not be affected.

I produce marked D42 the Ganitha Ratnaya on number recreations. This is written by me.

(Mr. Dias objects to this document being produced.—I allow it).

D42 was prepared by me.

I produce marked D43 the book Ganitha Rathana. This was written by me. D43 is one of a series of books written by me.

I am aware of the Pension Act 44 of 1953.

(Mr. Thiagalingam marks as D44 rules made under Ordinance 44 of 53 containing rules 6(a), 6(b) and 6(c).

No. 6  
Defendants'  
Evidence

—  
Evidence of  
P. de S.  
Kularatne  
Cross-  
examination

*Cross-examined*—The B.T.S. has an Appointment Board. In 1953 I cannot quite well remember the names of those who were on the Board. The President is a member of the Board. The Secretary and the Treasurer also – these three and the General Manager of Schools and I think one or two others. In 1953 Sir Nicholas Attygalle was the President.

In the matter of appointments to B.T.S. schools appointments are made by the General Manager subject to the approval of this Board. They are brought up before the Board formally, except with regard to important appointments like Principals and Vice Principals.

The General Manager makes appointments and covering sanction is necessary from the Board. It is not correct for the General Manager to act contrary to the decisions of the Board either with regard to important appointments or other appointments.

The appointment of a Vice Principal to a school which had no Vice Principal previously is an important matter. That would require the approval of the Appointments Board.

The Secretary of the Board had to keep minutes of the Board meetings in the ordinary course of business.

Elections in the B.T.S. take place in June or July.

Until June or July 1953 I was General Manager of the B.T.S. schools continuously from 1949.

20

In 1953 the school was a Grade 2 school and the plaintiff had a Grade 2 appointment. Sometime earlier it was a Grade 1 school, it had been reduced, but plaintiff was entitled to only a Grade 2 post at the time.

Q.—Did you in July 1953 promote the plaintiff to a Grade 1 special post?

A.—I made that appointment.

Q.—Was that appointment made with retrospective effect as from the previous year 1952? A.—Not by me.

I merely informed the Director of Education that I would like his appointment to be raised to Grade 1 but I found that the Department had given retrospective effect.

Q.—That was in relation to the appointment made by you in July 1953? A.—Yes. 30

Q.—At any rate retrospective effect was given from 1952? A.—Yes.

Q.—You were aware of that? A.—I was aware of it.

Q.—Was that appointment to the special post made before or after the elections of the B.T.S. in 1953? A.—I cannot quite remember.

Q.—But it would be correct to say that it was round about July?

A.—About that time.

Earlier the school had been a Grade 1 school. I was not aware of the fact that it had ceased to be a Grade 1 school but I took steps to make it a Grade 1 school either at the end of 1952 or early 1953.

Q.—Is it your position then that plaintiff's appointment to a Grade 1 special post was connected with the grading of the school as a Grade 1 school? A.—Yes. 40

Q.—During the year 1952 did you have occasion on a number of times to advertise special posts for B.T.S. schools? A.—I may have quite possible.

Q.—Would it also be correct to say that the salaries attached to a Grade 1 special post are attractive salaries?

A.—To the teaching profession they are the most attractive.

Q.—Would it be correct to say that during the year 1952 you were not able to recruit anyone for a single Grade 1 post from outside?

A.—I cannot remember the facts.

Q.—The plaintiff had applied for a special post in Grade I in 1953.

A.—I cannot remember.—(Shown D10).

Q.—On any occasion have you seen this document? A.—I cannot remember.

10 Q.—You have no recollection of having seen that document? A.—Yes.

Q.—In regard to an appointment of a teacher from a Grade 2 special post to a Grade 1 special post is that a matter requiring the sanction of the Appointments Board?

A.—Not necessarily, if a person is still in the same school.

Q.—The effect of the plaintiff being appointed to a special post in Grade 1 with retrospective effect from 1952 was that he would draw a salary higher than a person who was just appointed in 1953 to a Grade 1 post? A.—Yes.

Q.—You are not certain of the exact date of which plaintiff was appointed to the special post? A.—It was somewhere in 1953.

20 Q.—Immediately prior to the appointment of Mr. Alagiyawanna to the Ananda Sastralaya would it be correct to say that there were only two teachers, one Mr. Wickremasinghe and the other the plaintiff who held special posts in Grade 1 at Ananda Sastralaya? A.—Yes.

Q.—In relation to Mr. Alagiyawanna's appointment to Ananda Sastralaya was a decision taken by the Appointment Board? A.—I placed it before the Board.

I was a member of the Appointments Board.

Q.—Would it be correct to say that Mr. Alagiyawanna's matter was placed before the Board in May 1953 about 2 months before the 1st July?

A.—I cannot remember the exact dates.

30 Q.—It was sufficiently important enough for the matter to be sanctioned by the Board and it was not merely put up for covering sanction? A.—Yes.

Q.—Exactly what was decided by the Appointments Board would be reflected in the minutes kept by the Board? A.—It should be.

Q.—I put it to you that the Appointments Board only decided to appoint Mr. Alagiyawanna to a Grade 1 Special Post in Ananda Sastralaya with effect from 1st July 1953?

A.—That is not correct. My proposal was that he be appointed to a special Grade 1 post and that he be appointed Vice Principal of Ananda Sastralaya with a special allowance.

40 Q.—You are certain that the Board appointed Mr. Alagiyawanna as Vice Principal with that designation? A.—I am certain of the approval of my proposal.

Q.—I suggest that up to date no decision has been subsequently taken by the appointments Board appointing Mr. Alagiyawanna as Vice Principal?

A.—It is quite possible.

I know I made the proposal and that it was approved. I found out later that the Secretary had not minuted the resolution correctly. It came to my notice long afterwards. In justification of my earlier statement I may state that the Board would never have approved the extra allowance if I had not proposed him to the position of Vice Principal.

No. 6  
Defendants'  
Evidence

Evidence of  
P. de S.  
Kularatne  
Cross-  
examination  
—continued.

Q.—You put up a proposal to the Appointments Board with regard to the appointment of Mr. Alagiyawanna as Vice Principal of Ananda Sastralaya? A.—Yes.

Q.—But it has come to your notice subsequently that the minute does not contain any references to the appointment of Mr. Alagiyawanna as Vice Principal of Ananda Sastralaya? A.—Yes.

Q.—The Secretary at that time was .....? A.—I think it was Mr. S. P. Perera.

Q.—I suggest to you that it was Mr. Somawira Gunasekera a proctor of this Court?

A.—I was referring to the Administrative Secretary. He is the person who keeps the minutes of the Appointments Board.

Q.—Who was the person who was Administrative Secretary at that time? 10

A.—I believe it was Mr. S. P. Perera.?

Q.—Do you suggest that he had any reason for making a wrong minute in this matter? A.—No. He merely overlooked it.

Q.—When did it come to your notice that there was an error in this matter?

A.—Several months afterwards, I cannot exactly remember the date.

Q.—You were a member of the Appointments Board at this time? A.—Yes.

Q.—Was it the practice of the Board to read over the minutes of their previous meetings of discussions and confirm them?

A.—Generally. The appointments are not read, there is a long list of appointments.

Q.—The important appointments would they not be read? A.—Yes. 20

Q.—The appointment of a Vice Principal is an important appointment? A.—Yes.

Q.—As General Manager of B.T.S. schools you would generally be present at meetings of the Appointments Board? A.—Yes, generally I would be present.

Q.—Mr. Wickremesinghe was on leave owing to illness in 1953? A.—Yes.

Q.—I suppose an application for leave must have been made to you by Mr. Wickremesinghe? A.—Yes.

Q.—Can you tell us when that was? A.—I cannot remember.

Q.—Was it long before Mr. Alagiyawanna was appointed Vice Principal?

A.—Sometimes before July.

Q.—Can you say how long Mr. Wickremesinghe was on leave, was it as long as 6 30 months? A.—Not as long as 6 months. He was on leave only for several weeks.

Q.—At the time that Mr. Wickremesinghe went on leave the plaintiff was the only teacher in that school holding a Grade 1 special post? A.—Yes.

Q.—At that time I suggest to you that the plaintiff was the only other person besides Mr. Wickremesinghe holding a Grade 1 special post in the school at the time Mr. Wickremesinghe went on leave? A.—Yes.—(Shown P16 letter dated 16/5/53)

This is a letter written by me.

Q.—This must have been written shortly after Mr. Wickremesinghe applied for leave? A.—Yes.

Q.—By that letter you were informing the staff of Ananda Sastralaya that you were appointing plaintiff to act for Mr. Wickremesinghe until he returned from leave? 40

A.—Yes.

Q.—At the time you wrote this letter you knew for how long Mr. Wickremesinghe would be on leave? A.—I did not know.

Q.—Mr. Wickremesinghe applied for leave? A.—Yes.

Q.—Did he indicate the period for which he wanted leave?

A.—I know he was ill, I knew that he had applied for leave on account of his illness.

- Q.—Would a Principal indicate to you as General Manager the period for which he wanted leave? A.—I cannot say, it depends on the nature of the illness.
- Q.—You had some idea of the duration? A.—I had no idea.
- Q.—It might have been for 2 years? A.—Yes, or two weeks.
- Q.—You expected Mr. Wickremesinghe's illness would not last more than 4 or 5 weeks? A.—Yes.
- Q.—At the time you appointed Mr. Costa as Principal you expected it to be for 4 or 5 weeks? A.—It may have been longer.
- Q.—You wanted Mr. Costa to act till Mr. Wickremesinghe returned from leave?
- 10 A.—Yes, that is the usual procedure when the Principal goes on leave.
- Q.—At the time you wrote P16 had the Appointments Board already considered your proposals in regard to the appointment of Mr. Aagiyawanna?
- A.—I cannot remember the exact date on which I made the proposal.
- Q.—The minutes of the Appointments Board would show the exact date? A.—Yes.
- Q.—I suggest to you that at the time you wrote this letter you already knew that there was a proposal for Mr. Alagiyawanna to be appointed to Ananda Sastralaya?
- A.—Quite possible.
- Q.—In fact you had spoken to Mr. Alagiyawanna on this subject?
- A.—I had spoken to him on this subject, I cannot remember exactly the date.
- 20 Q.—Did you offer him the post of Vice Principal of Ananda Sastralaya?
- A.—I said I would recommend him.
- Q.—You induced him to leave Government service?
- A.—Yes, more or less. I knew him very well. He was a head of a Buddhist school earlier. I knew his work and I was very anxious to get him to do Buddhist education again.
- Q.—It came to your notice that the minutes of the Board had been incompletely recorded? A.—Yes.
- Q.—That came to your notice when you were still General Manager of B.T.S. schools? A.—Yes.
- 30 Q.—Did you take any steps to have it corrected? A.—I told the Secretary.
- Q.—Would you say that it was corrected?
- A.—I cannot say, I did not worry about it.
- Q.—The special allowance for Mr. Alagiyawanna, who decided upon the special allowance? A.—I recommended it.
- Q.—Was it allowed by the Board? A.—Yes.
- Q.—Was it decided out of what fund it was to be paid?
- A.—The Appointments Board did not indicate from what fund it was to be paid.
- Q.—Is it correct that in addition to the funds normally available to the school there would be funds available to it from the B.T.S.? A.—Very rarely.
- 40 Q.—When you were the Principal of Ananda College you were paid a special allowance? A.—Yes.
- Q.—From what funds was that paid? A.—From the school.
- Q.—From what fund? A.—From school fees.
- Q.—Would it be correct to say that the special allowance was paid to you out of the Hostel collection fund?
- A.—I was not paid a special allowance. I was only paid a salary. That was out of school funds.
- Q.—You are sure it was not out of the Hostel fund?

No. 6  
Defendants'  
Evidence

Evidence of  
P. de S.  
Kularatne  
Cross-  
examination  
—continued

A.—I cannot be sure of it now.

Q.—Do you know for what purposes facilities fees are levied ?

A.—It is a point that is much discussed now, nothing has been definitely decided.

It is generally accepted that it is to supplement the school income for the various activities of the school. Some schools even use it for scientific equipment.

Q.—Could it be used for the extra-curricular activities of the school ?

A.—It is mainly used for the extra-curricular activities of the schools.

Q.—Would it be a proper use to utilise facilities fees for the payment of special allowances authorised by the B.T.S. Appointments Board ?

A.—It is quite in order, to pay special allowances to teachers from the facilities fees if they do special work.

Q.—Such as ? A.—Various school activities.

Q.—To your knowledge would Mr. Alagiyawanna do any extra-curricular activities as Vice Principal of Ananda Sastralaya ? A.—He was expected to.

Q.—To your knowledge ? A.—I expected him to do that.

Q.—Are you aware that no special allowance is paid to Mr. Wickremesinghe ?

A.—He had a special post, he was a very senior man.

Mr. Alagiyawanna and plaintiff were both on the Grade 1 special post, at different points.

Q.—Would the B.T.S. Appointments Board allow payment of special allowances out of the facilities fees ?

A.—They don't. They approved my proposal. It is for the school to find the funds.

I am not aware of any payments of salaries out of facilities fees. We are paying allowances out of facilities fees to teachers for extra-curricular activities by teachers. That is done in all schools.

D24 was the formal letter appointing Mr. Alagiyawanna which I had issued. I had told Mr. Alagiyawanna about the appointments prior to that informally. I met him after the Appointments Board meeting. He is a friend of mine. I meet him sometimes. I had no feeling for the plaintiff, one way or the other. He was a teacher in a school of which I was the Manager.

30

Q.—Did you inform plaintiff before 1st July that you were making arrangements for someone else to act for the Principal from 1st July 1953 ?

A.—I have no recollection of having done so but he knew that I was appointing. He had discussed it with me.

Much earlier when he came in connection with the raising of the post from Grade 2 to Grade 1 he had a discussion with me. Plaintiff came and saw me on two occasions. Once he came without any authority from the Principal. I told him to come through the Principal. Then he brought a letter from the Principal to see me and I said I would consider the matter. Then he started talking to me and discussing with me and there was some unpleasantness.

40

I did not inform him of the appointment of Mr. Alagiyawanna as Vice Principal and Acting Principal, it was not necessary. I cannot say that I informed him that other arrangements were being made from 1st July with regard to the principal till Mr. Wickremesinghe returned, but he seemed to be aware of it.

In the first paragraph of D4 I informed Mr. Alagiyawanna that he was appointed to act as Vice Principal of Ananda Sastralaya and also to act as Principal till Mr. Wickremesinghe returned.

No. 6  
Defendants'  
Evidence

Q.—Didn't you think it proper to tell the plaintiff beforehand that he would be required to hand over on the 1st July to someone else? A.—I did not think it necessary.

Q.—You did not think that it would be a matter of some humiliation to a senior teacher? A.—There is no humiliation.

Evidence of  
P. de S.  
Kularatne  
Cross-  
examination  
—continued.

Q.—I suggest to you that on that occasion, the 1st July, the plaintiff did not protest against the appointment of Mr. Alagiyawanna as Vice Principal at all?

10 A.—On that day no. Prior to that he had.

Q.—Prior to that he had pressed his claims? A.—That is correct.

Q.—As on the 1st July I suggest to you plaintiff did or said nothing to object to the appointment of Mr. Alagiyawanna as Vice Principal; I suggest he objected to the second part to his acting for the Principal? A.—No, that was not my impression.

I cannot say whether on 1st July 1953 Sir Nicholas Attygalle was not in Ceylon. I cannot say whether he attended the Coronation.

Q.—I suggest to you that Sir Nicholas Attygalle left shortly after the decision of the Board to appoint plaintiff to the special Grade 1 post?

A.—It may be — I am talking of the leaving.

20 I go to schools as the General Manager of B.T.S. schools. I did not go to Ananda Sastralaya that day as a friend of Mr. Alagiyawanna. Under certain conditions the General Manager would go to hand over the school to the new Vice Principal.

I cannot say whether I have gone on every occasion when a person appointed by me went to take over office, if it was necessary I would have gone. I do not think I made any appointments of this importance to any schools.

Q.—Can you recall a single occasion from 1949 to 1954 when you went to a school on the day on which some person appointed by you was due to take up office?

A.—I cannot recollect any occasion when I appointed such a person.

Q.—As General Manager you did not consider it a desirable thing for the incident 30 to be witnessed by the students of the school?

A.—It would not have been at all desirable to have been witnessed by anybody. It was a disgraceful incident in my view.

The plaintiff shut the doors at one stage.

Q.—I suggest to you that the effect of shutting the doors was to prevent the students from hearing or seeing anything which took place between you and the plaintiff?

A.—I do not accept that position. The office of the Principal is not close to any of the classrooms. The classrooms are further away. There were no boys there as far as I can remember. There were some teachers in the adjoining office room as far as I remember.

40 Q.—The result of the interview on that occasion is that he refused to allow anyone to act for the Principal Mr. Wickremesinghe until he returned other than him?

A.—He refused to do anything. He refused to give me the log book and he paid no respect to me at all as the General Manager of B.T.S. schools.

No. 6  
Defendants'  
Evidence

—  
Evidence of  
P. de S.  
Kularatne  
Cross-  
examination  
—continued

There is a log book in every B. T. S. school. The Principal of the school maintains that log book. It is maintained for entries by Inspectors and others. The log book is a record of the visitors. The principal himself may make entries in the log book. I had no occasion to see that log book before. There should have been a log book and I wanted to see it.

Q.—You considered that the conduct of the plaintiff amounted to gross insubordination? A.—Yes.

Q.—You thought that it merited a dismissal? A.—Yes.

Q.—For that purpose you made a report to the General Committee of the B.T.S.?

A.—Not for that purpose, I reported the matter.

Q.—You reported it because you thought his conduct should be investigated by the proper authorities? A.—Yes.

Q.—Generally serious disciplinary matters are referred by the General Committee to the Appointments Board? A.—Yes.

Q.—In this case the plaintiff's conduct was referred to the Appointments Board?

A.—Yes.

Q.—The Appointments Board had the power to impose various punishments?

A.—Yes.

Q.—Ranging from transfers, matters relating to increments even to dismissals?

A.—Yes.

Q.—In this particular case the plaintiff was asked to apologise to you in the presence of the Board? A.—Yes.

Q.—That was done? A.—Yes.

Q.—Apart from that was any other punishment imposed on the plaintiff?

A.—He was told that he would be dismissed if he did not apologise.

Q.—Was he warned in regard to future insubordination?

A.—Yes, he was given a severe warning by Sir Nicholas Attygalle.

Q.—When was that? A.—On the day of the inquiry.

Q.—Do you remember whether the matter of plaintiff's being appointed to the Grade 1 special post came up after the 16th July or before the 16th July?

A.—It was before as far as I can remember.

Q.—Did you bring it to the notice of the Board that he had been just appointed to a Grade 1 special post at Ananda Sastralaya? A.—I cannot remember that.

Q.—At the time of the inquiry on 21st July 1953 Dr. Adikaram was not a member of the Board? A.—No.

Q.—Did you have any occasion ever to boycott any ceremony at Ananda Sastralaya? A.—No, never.

Q.—Do you remember that this school, the Ananda Sastralaya was originally started as a Grade 3 school?

A.—The grading came very much later. It was only a Buddhist English school.

It was graded during the time of Dr. Adikaram. There was a celebration in that school. I do not remember taking any views in that matter. Dr. Adikaram was an old pupil of mine and I was very proud of his work in that school. I cannot remember that function. I may not have gone for that function.

Q.—In August 1953 the Kindergarten block was opened by Mr. Dudley Senanayake? A.—Yes.

Q.—You attended that ceremony? A.—Yes.



Q.—Prior to that date did you have occasion to write a letter to the Mirihana Police ?

A.—Yes, one letter was produced.

Q.—In August 1953 ? A.—I have no recollection.

Q.—Were any pamphlets brought to your notice at this time as being circulated round the school.—(Shown D41). A.—I may have seen this, I cannot remember.

Q.—I suggest to you that you had written to the Police in connection with the Kindergarten opening and asked them to warn the plaintiff not to attend the function ?

A.—Surely I did not, I am horrified at this suggestion.

Q.—Did you anticipate any trouble at that function ?

10 A.—This may have been brought to my notice and the Principal may have requested me to write to the Police. I was wondering why the plaintiff was not there.

Q.—You are unaware up to this date that the Police had warned Mr. Costa not to attend that function ?

A.—This is the first time I have heard that.

Up to June 1954 I was the General Manager.

Q.—During that period are you aware that the plaintiff in 1954 had applied for leave to go to America on a Smith-Mundt Scholarship ? A.—I cannot remember.

Q.—Earlier also during your period as General Manager he went to England ?

A.—Yes.

20 In September 1954 Mr. Alagiyawanna left the school. I advised him to go. That was after Dr. Adikaarm was appointed General Manager of the B.T.S. Schools. He was appointed Principal of Sri Sumangala Vidyalaya. I got that post for him.

I know Mr. Dhanapala the 2nd defendant. I have known him for a long time. I do not know that he supported me. I do not like the Times of Ceylon. I think they are anti-Buddhists. I have written to the Editor. My remarks do not apply so much to the Lanka Dipa, these papers have different policies. I won't say that the Lanka Dipa is an anti-Buddhist paper.

I do not know that the Lanka Dipa supported me in regard to the election as Manager of the B.T.S. as against Dr. Adikaram.

30 I read the Lanka Dipa, only recently I started reading it. Some time ago I have read articles by Dr. Adikaram in the Lanka Dipa. I do not remember recently having read any articles by Dr. Adikaram in the Lanka Dipa. I do not remember seeing any articles against Dr. Adikaram in the Lanka Dipa.

I have studied Sinhalese up to the 7th standard. I read Sinhalese books. When I got a book I read it, I have not done that for some time.

40 I can teach Arithmetic, Algebra and Geometry in Sinhalese. I have taught Arithmetic to teachers in conferences. I was teaching them Algebra and Geometry also, they knew Arithmetic. Those teachers knew Sinhalese. I have gone to schools and taken classes in Sinhalese teaching Arithmetic, Algebra and Geometry, Arithmetic mostly.

I have not taught any other classes in Sinhalese but I think if I make up my mind I can do it. I have gone round taking classes up to the S.S.C. in Sinhalese.

I have written a treatise on Arithmetic in Sinhalese going up to the higher standards. It has sold 25,000 copies.

No. 6  
Defendants'  
Evidence

—  
Evidence of  
P. de S.  
Kularatne  
Cross-  
examination  
—continued.

No. 6  
Defendants'  
Evidence

For my Honours Degree in London I offered Maths and Sciences and I studied science subjects like Political Science and Political Economics.

Evidence of  
P. de S.  
Kularatne  
Cross-  
examination  
—continued

I had no occasion to learn Indo-Aryan languages. I studied only Sinhalese up to the 7th Standard.

Q.—You have never sat for any higher examination in Sinhalese other than the 7th standard? A.—No.

(To Court : Q.—The present S.S.C. would that be higher than the 7th Standard?

A.—Yes.

Q.—A person who passes the S.S.C. would have a greater knowledge of Sinhalese than a person who had passed the 7th Standard? A.—Yes.)

Q.—Would you say that every person who has passed the 7th Standard Sinhalese would be capable of your attainments in this matter? A.—May not be every person.

*Re-examination*—Nil.

*A.D.J.*

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

Defendants' case closed reading in evidence D1 to D44.

### No. 7

#### Plaintiff's Evidence in Rebuttal

Mr. Dias moves to call evidence in rebuttal.

Mr. Thiagalingam opposes the application.

(Adjourned for lunch).

(Sgd.) A. L. S. SIRIMANNE

*A.D.J.*

20

After lunch.

Mr. Dias addresses Court in support of his application to call evidence in rebuttal. He refers to section 163 of the Civil Procedure Code. Mr. Dias refers to issues 29–33. He cites Principles of South African Law, 1st Edition, page 382. Cites Law of Torts, Clarke, Section 1216. He also cites Phipps on Evidence, 9th Edition, by Sir Roland Bowers, page 94, And also 20 N.L.R. 481.

Mr. Thiagalingam addresses Court. He cites Nathan on Defamation page 17, and 30 page 103. He reads section 143 of the C.P.C. He submits that this is not a case where Court will be guided by rules of English procedure. He submits that to succeed in his claim for actionable defamation the plaintiff must prove his case in the setting in which it was said.

#### Order

There are several issues in this case. The burden of proving some of them, *e.g.*, Issues 9–33 (particularly issues 31–33 where the defendant pleads truth privilege and public interest) are in my opinion obviously on the defendant. He has led evidence on these points.

Phipson on Evidence, 11th Edition page 45 states: "In a libel action where justification is pleaded the plaintiff may formally prove the libel (or read it if it has been admitted) but refrain from going into the box until the defendant's case is closed, when he may give evidence in reply."

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

Mr. Thiagalingam however submits that this refers to rules of procedure under English law. But in Masdorp's Institutes of South African Law, Volume IV, page 101 states: "it will not be necessary for the plaintiff to prove in the first instance that the words are false. The law presumes defamatory words to be false until the defendant under a plea of justification has led evidence to prove the truth of the words. All that is necessary to prove is publication."

Mr. Thiagalingam also referred to a testamentary case where a sister of the testator who claimed letters of administration was not allowed to lead evidence in rebuttal where the other claimant a widow led her evidence. I think that case can be distinguished because according to the facts as stated by Mr. Thiagalingam it was held in that case that the burden of proving that there was no widow was on the sister who claimed the letters.

I am of opinion that in the circumstances of this case the Plaintiff is entitled to lead evidence in rebuttal.

(Sgd.) A. L. S. SIRIMANNE  
A.D.J.

20

Mr. Dias calls:

**Kirthisena Chandradasa Weerasinghe**—Affirmed, 40, Teacher, Ananda Sastralaya, Kotte.

K. Chandra-  
dasa  
Weerasinghe  
Examination

I am the Headmaster of the Junior School at Ananda Sastralaya. I have been employed at Ananda Sastralaya for about 10 years. I have held the post of principal of the Junior school at Ananda Sastralaya for nearly two years.—(Shown D32).

This is a Botany book written in Sinhalese. In the last paragraph to the forword there is a reference to Mr. Weerasinghe. I am that person referred to in that paragraph. I helped the plaintiff to write that book in Sinhalese.

(Mr. Dias moves to produce the manuscript in Sinhalese of the book D32, marked P17.

Mr. Thiagalingam objects as it has not been listed.

Mr. Dias points out that it is listed on 16th November.—I allow the document). (Shown P17).

This is the manuscript for part of the book D32. The handwriting on P17 is mine.

Q.—Are you the author of that book?

A.—I wrote these sentences. I composed the sentences.

Q.—Tell the Court the circumstances under which you came to write this manuscript?

A.—Plaintiff asked me to help him to write a book in Sinhalese as he was weak in Sinhalese. I told him that I will help him to write the sentences. So I went to his place and we discussed these matters. He gave me the facts and I wrote down the sentences. At the time of discussion I wrote down the notes, took them home and

40

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

—  
Evidence of  
K. Chandra-  
dasa  
Weerasinghe  
Examination  
—continued

put them into shape. There are alteration marks on the face of the manuscript some of which are in my writing. I find that some other person also has written some words.

Q.—How long did it take you to write that part of the book you prepared in this way ?

A.—It took nearly a year to prepare the manuscript.

I have studied a little Botany in school, but not very much.

Q.—The diagrams in P17 are printed cuttings, where did you get those from ?

A.—They were drawn by Mr. Costa's brother I think. He showed me the diagrams and showed me the places where the words should be put in with reference to the diagrams. The diagrams were printed by a printer and they were pinned to the manuscript after they were printed. 10

The plaintiff's discussions with me took place in both languages, Sinhalese and English, but more often in Sinhalese and sometimes in English.

Q.—In the course of those discussions who fixed upon the technical terms reproduced in that book ? A.—The plaintiff produced the technical terms.

Q.—Do you know where he got them from ?

A.—I cannot exactly say from where he got them but sometimes he referred to a Sanskrit dictionary and some English books as well.

In the foreword to D32 there is the name of a person, Sunil Wijewickreme. I don't know who he is. As Headmaster of the Junior school at Ananda Sastralaya I knew the plaintiff. 20

Q.—Have you ever known the plaintiff to teach any classes in the Sinhalese medium ?

A.—I am not aware of any instances where he taught any classes in the Sinhalese medium of instruction.

Q.—Did the plaintiff teach any classes in the English medium ?

A.—Yes, he used to take English Literature in the Senior Form.

I was in the school in July 1953 when Mr. Alagiyawanna was appointed Vice Principal.

Q.—At that time was there any feelings in the school in relation to Mr. Alagiyawanna's appointment ? A.—Yes. 30

All the teachers did not like him being appointed because there was a special allowance being paid to him. It was said that the special allowance was being paid from the facilities fees. I don't know whether it was true or not. There were staff meetings at which this matter was discussed. I was present at the staff meetings, and various teachers expressed their views on this matter, including myself. I had also talked about it, not particularly this matter, but on another appointment affecting me.

Q.—What was your attitude towards it ?

A.—I also resented the allowance being paid.

Other than that I had no ill-feelings towards anybody. 40

The question of this allowance was also discussed in Mr. Alagiyawanna's presence at staff meetings.

Q.—Apart from members of the staff did the students also have any feelings in this matter or not?

A.—Sometimes the boys used to discuss it. I remember on one occasion when I was director of games. The sports materials came from the facilities fees. Sometimes when the boys were not given sufficient money to buy sports materials they talked about the allowances being paid from their facilities fees. I did not discuss these matters with the students.

Q.—To your knowledge did any of the teachers of the school discuss this matter with the students? A.—I don't know.

10 Q.—Did Mr. Alagiyawanna supervise any extra curricular activities of the school?

A.—I think I have seen him presiding at Literary Association meetings.

*Cross-examination :*

Q.—When the boys said that the materials for their sports were not being bought and that the facilities fees were being used to pay Mr. Alagiyawanna, what did you tell them?

A.—I told them that I will speak to the principal and get them the materials. I did not tell them anything else. I don't think I told them not to discuss this matter of facilities fees being used to pay allowances.

Q.—If they did speak of it did you tell them it was wrong to speak on those lines?

20 A.—No.

Q.—Did you see any Alagiyawanna slogans?

A.—I did not see, but I heard that there were slogans. When I heard about them I went there in the morning to see them but they were not there, they had been there and erased, I saw the marks.

Q.—How far did you do your schooling?

A.—I passed my Senior in English, Arithmetic, Pali, Geography and Art.

Q.—Is that all? A.—Nothing else.

Q.—Did you pass in Tamil? A.—No.

Q.—In Sinhalese? A.—Yes.

30 I passed my Senior with Sinhalese as a subject. I don't know whether Costa passed his examination in Sinhalese, till I read it in the papers. I don't think I asked him about thereafter. I had spoken to him after I saw it in the papers, but about this matter I did not speak to him.

I did not do Botany for my S.S.C. I did a little Botany in the first form for about a year.

Q.—Costa taught you Botany thereafter? A.—No.

He did not teach me Botany while writing the book.

Q.—He taught you for a year what he had to say about the subject of Botany?

40 He gave me certain facts I wrote them down in Sinhalese.

Q.—What you have got there in this manuscript is what he said and you wrote them down?

A.—The facts are his, the sentences are mine.

Q.—He would say something in Sinhalese to you and you would write it down first?

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

—  
Evidence of  
K. Chandra-  
dasa  
Weerasinghe  
Examination  
—continued

Evidence of  
K. Chandra-  
dasa  
Weerasinghe  
Cross-  
examination

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

K. Chandra-  
dasa  
Weerasinghe  
Cross-  
examination  
—continued.

A.—Yes.

Q.—This manuscript is made that way ?

A.—No. I would note the facts down on a sheet of paper and when I go home I write them out in sentences.

Q.—He says something, did you write it here in the manuscript as he said it ?

A.—No. When I go there we discuss it, then he says something and I write it down. After I go home I write out what he has told me in sentences. This manuscript is about the third attempt.

Q.—He tells you something and you write it down first, where is that page on which you first wrote down ? A.—I may have returned it to Costa. 10

Q.—You return it to him, then he makes some corrections and returns it back again ?

A.—No. He gives me the facts and I write out the sentences. Sometimes the sentences were drafted in consultation with him.

The sentences were written by me at home and I took it back and read it to him and found out from him whether his idea was correct. Sometimes he changes the sentences saying his ideas are not right.

Q.—The rough manuscript was taken down by you when he was speaking to you in Sinhalese ? A.—Yes, almost verbatim what he says.

Q.—Then you would go to your home and make any corrections on that ?

A.—I write them into sentences. Sometimes I write certain corrections on the top 20 of that sentence. Then I bring it back to Costa and read it to him and he listens, and if there is any correction which it requires he corrects them. Then he will o.k. it. Sometimes he writes Sinhalese, like letters.

Q.—You wrote on a sheet of paper, you made your corrections, gave it to the Plaintiff who would make corrections, then you would take the sheet of paper back and copy that again on a second sheet of paper ? A.—Yes.

Q.—This is the second sheet of paper ? A.—Yes.

Q.—The document P17 was the second copy that was made after the amendment of the rough notes ?

A.—Yes. Those rough notes I think I returned to Costa. The words were 30 substantially his own words. I helped him to write that book for one year. I don't know much about Botany.

Q.—Costa says he cannot teach in Sinhalese do you agree with him ?

A.—Up to a certain standard he might be able to teach.

Q.—Up to what standard ?

A.—Up to the 4th or 5th standards he might be able to teach in Sinhalese.

Q.—That is the impression you formed ?

A.—I did not form an impression, but I think so now.

Q.—Have you denied a claim for breach of promise of marriage in these Courts ?

A.—No. I have never come to Courts. I received no letter of demand. I am married. 40

Q.—You were really a vocational trained teacher ? A.—No.

Q.—When you were appointed to the Primary School as Headmaster you were appointed by Dr. Adikaram ? A.—Yes.

Q.—Did the department of Education say that your appointment was not in order ?

A.—They did not say it was not in order but there was a difference in my salary. I got a lesser salary, they never said my appointment was not in order. They only cut my salary.

I own certain shares in a shop near the school.—(Shown P17).

I am not aware of any alterations made by Mr. Costa. I used to take down the alterations suggested by Mr. Costa. In this script there are certain alterations, I don't know who made them, I know that Mr. Costa did not make the alterations because he told me that he would get it read by someone else in case I have made mistakes. Apart from what he told me I don't know for a fact whether Costa made any alterations or not on the manuscript.

Q.—Do you say this is the final script? A.—Yes.

Q.—When did you last see this manuscript apart from seeing it now?

10 A.—I must have seen it before Mr. Costa left for America. After that I have not seen it.

(Mr. Thiagalingam marks as × page 23 in P17).

Q.—Is the wording at page 23 in P17 the same as the wording at page 29 of D32?

A.—There is a difference in the wording. I don't know how it came. The meaning is the same but the words are different.

Q.—Complete sentences are different and also a new sentence in between?

A.—I think that is to introduce the diagram. There is a new sentence in between. I did not put that sentence.

*Re-examined :*

20 Q.—Do you think that Mr. Costa is capable of having written that book D32 in the form in which it is now.

(Mr. Thiagalingam objects to the question.— Mr. Dias withdraws it).

Q.—Did the plaintiff in the course of his discussions with you ever dictate Sinhalese words and sentences of the kind that appear in D32 to you in his house?

A.—No, not the sentences. The words he gave me, but not the sentences.

Q.—Did Mr. Costa discuss this matter with you in colloquial Sinhalese or in grammatical language?

30 A.—In colloquial Sinhalese. There is a difference between colloquial Sinhalese when spoken and written. When we write Sinhalese the sentences are different to what it is when we talk Sinhalese.

In the course of my discussions with Costa in his house I took down notes of what he told me on a different sheet of paper. When he gave me the facts I used to write them down in the form of a sentence.

Q.—Was it a sentence dictated by the plaintiff that you wrote down?

A.—Sometimes I may have written down what he said, but almost all the sentences I had to correct. When I wrote down what he told me I tried to make it as precise as possible.

Q.—Mr. Costa's spoken word was always colloquial?

A.—We spoke in conversational Sinhalese.

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

—  
Evidence of  
K. Chandra-  
dasa  
Weerasinghe  
Cross-  
examination  
—continued

Evidence of  
K. Chandra-  
dasa  
Weerasinghe  
Re-  
examination

No. 7  
Plaintiff's  
Evidence in  
Rebuttal  
—  
Evidence of  
C. Seneviratne  
Examination

**C. Seneviratne**—Affirmed, 36, Teacher, Ananda Sastralaya, Kotte.

I am a teacher at Ananda Sastralaya, Kotte. I have been a teacher there for about 6 years. I teach the S.S.C. and the H.S.C. Prep. in Sinhalese and Pali. I am a graduate in Pali and Sinhalese of the University of Ceylon with an Honours degree. I am not the senior teacher in Sinhalese and Pali at the Ananda Sastralaya, there is another teacher who is the senior teacher.

I know the plaintiff in this case. He was at one time the principal of the Ananda Sastralaya.

Q.—To your knowledge as a member of the staff, has the plaintiff ever taught any classes throughout the school in the Sinhalese medium of instruction? 10

A.—Not to my knowledge. I have never seen him teaching a single class in the medium of Sinhalese language during the 6 years that I have been there.

Q.—Has the plaintiff ever asked you to do anything for him apart from school work?

A.—No.

I know that Mr. Alagiyawanna was appointed to Ananda Sastralaya on some date. He came to the school.

Q.—Were there any feelings among the members of the staff at that time in connection with Mr. Alagiyawanna's appointment?

A.—I don't know as I was indifferent.

Q.—You did not take sides, one way or the other? A.—No. 20

Q.—Were you present at staff meetings where matters relating to Mr. Alagiyawanna were discussed? A.—I don't remember.

Q.—Can the plaintiff read and write in Sinhalese?

A.—I think he can read and write in Sinhalese.

Q.—Have you ever written anything for him in Sinhalese?

A.—Sometimes I used to write. He used to show me letters and drafts to see whether there are any mistakes. He used to show me letters and scripts written by himself. There were some mistakes which I corrected.

During the period that I was in school facilities fees were being collected. I did not have anything to do with the collection of facilities fees. 30

Q.—Were you a class master of any class?

A.—I was classmaster of one of the H.S.C. Forms.

Q.—How were the facilities fees collected in respect of your class?

A.—As a form teacher I was not concerned.

Q.—After the appointment of Mr. Alagiyawanna to the school did any slogans appear on the walls of the school?

A.—Yes, on the wall of the domestic science block. I saw that slogan. It was not there for a long time, may be for about half an hour and was erased off.

Q.—You know how that slogan came to be there or who put it there? A.—No. 40  
The principal of the school at one time was the plaintiff.

Q.—How did the plaintiff endeavour to collect the facilities fees?

A.—Sometimes he sent circulars.—(Shown P13).

I have seen circulars of this type before. They were sent to the children of my class and issued through me. They were sent by the principal Mr. Costa.



Q.—Did the children thereafter bring these circulars back to you ?

A.—Some of them brought them signed, others did not bring them at all.

Q.—What did you do with the circulars that were brought back to you ?

A.—I returned them to the office.

*Cross-examined :*

I cannot remember when I first saw this circular P13.

Q.—Can you swear that the circular was in identical terms or do you remember a circular which dealt with facilities fees ?

A.—I cannot swear. If I remember rightly I have seen a similar circular. What 10 the terms of the circular were I cannot remember.

Q.—I put it to you the circular contained a request to parents asking them to undertake to pay facilities fees, can you remember ? A.—Yes.

Q.—Will you admit that there are people who did the S.S.C. examination with Sinhalese who are teaching in the Sinhalese medium at Ananda Sastralaya ?

A.—I cannot say.

Q.—Do you know as a matter of fact that Mr. Costa was opposed to the swabasha policy of the Government ? A.—Yes.

Q.—He said that time and again, that he was opposed to the Swabasha policy of the Government ?

20 A.—He did not tell me. I don't know whether he told others.

Q.—When Alagiyawanna came there you did not take sides, but there was dis-  
sension in the school ? A.—I did not try to find out.

*Re-examined :*

Mr. Costa qualified for the S.S.C. examination offering Sinhalese as a subject.

Q.—He also qualified in the S.S.C. examination on the Sinhalese medium of instruction ?

A.—It has not started yet. It starts this year. Previous to that the S.S.C. was in the English medium with Sinhalese as a subject.

30 Q.—Are there any teachers at Ananda Sastralaya whose only qualifications are the S.S.C. in the English medium with Sinhalese as a subject who are teaching subjects in the Sinhalese medium in standards above the 4th and 5th standards ? A.—I don't know.

I told the Court that I remember a circular which was sent through me in which parents were asked to undertake to pay facilities fees. If the parents were unable to pay the facilities fees they had to substantiate their statements through a J.P. or some other person.

(It is 4 p.m., Further hearing on 1.4).

(Sgd.) A. L. S. SIRIMANNE

A.D.J.

1-4-57

40 Trial resumed—Appearances as before.

**M. D. H. Jayawardane** - Affirmed, 42, Advocate, Padukka.

I am an Advocate of this Court and been practising for quite a number of years. I have also been in politics. I was in the last Government as Minister of Finance. Under the Education Code of rules framed by the Ministry of Finance, teachers were allowed

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

Evidence of  
C. Senevi-  
ratne  
Examination  
—continued

Evidence of  
C. Senevi-  
ratne  
Cross-  
examination

Evidence of  
C. Senevi-  
ratne  
Re-  
examination

Evidence of  
M. D. H.  
Jayawardane  
Examination

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

to retire under certain conditions in the rules 6a, 6b and 6c. Under these regulations the application had to be first made to the Director of Education and there was a right of appeal granted from the order of the Director of Education to the Minister of Finance.

Evidence of  
M. D. H.  
Jayawardane  
Examination  
—continued.

Q.—The plaintiff in this case made an application to retire under 6b in the first instance? A.—I think so.

(Shown D15)—This indicates that the plaintiff's application to retire under section 6b has been refused by the Minister of Finance. Thereafter he made an application to retire under 6c, by D17 of 28th September 1955. D18 shows that it was refused by the Director of Education.

(Shown D25)—This is an application for retirement under rule 6c and made to the 10 Minister of Finance ; really it is an appeal. That is after the refusal on D18.

Q.—Was this the only appeal that came to you under these regulations?

A.—No, there were several others. When they come to me as Minister of Finance, the usual Treasury practice is to refer it to the department concerned for report. If it is addressed to me personally I rarely vary a decision made by me. If it is addressed to the Minister of Finance I refer it to the officer concerned for report.

I am aware that this application was referred to the department concerned for report. In connection with this appeal I received a report from the Department concerned, as Minister of Finance. I saw a minute from the Ministry of Education. It was submitted to the Ministry which recommended the allowance of the appeal. 20

Q.—Apart from the report by the Permanent Secretary to the Ministry of Education was there any other report from your own Ministry? A.—Yes, both were recommended.

(Witness is handed a file which Ministry of Finance is summoned to produce).

There is a report made by Mr. T. D. Jayasuriya ; then there is a report by the Assistant Controller to the Deputy Controller of Establishments. Then there is a minute to the Deputy Secretary to the Treasury by a gentleman who has signed B.F. which is B. Forbes. There is also a minute by Mr. R. H. Wickremesinghe ; he was the Deputy Secretary to the Treasury and then there is a minute by the Permanent Secretary of the Ministry of Finance.

Q.—Was there anybody who knew that in this matter the appeal was to be allowed 30 or not?—(Mr. Thiagalingam objects).

Q.—Was there anybody who was against the granting of the allowance of this appeal?—(Mr. Thiagalingam objects.—I allow the question). A.—No.

Q.—When you allowed this appeal were you influenced by any improper pressure brought to bear on you? A.—No.

Q.—It has been suggested that this plaintiff worked for you at your electorate?

A.—I never saw him.

Q.—It has been suggested that because he worked at the elections you allowed the appeal on the 7th April?

A.—On the 7th April I attended to nearly 145 appeals and allowed the appeals of 40 several other public servants who had appealed to retire under the regulations.

After the date for the elections were fixed I was busy in my electorate. The elections in my electorate were held on the 5th April and I was defeated. I came back to office on the 7th April and attended to matters awaiting me there.

Q.—In that connection what was the principal on which you were guided in connection with these appeals?

A.—As the guiding principal I always had the report of my Permanent Secretary, and the Permanent Secretary for the Ministry of Education. If they disagreed I looked into the papers carefully.

At that time my Government was going out of office and if there was some doubt which I thought the new Government might make a decision I left it to them.

Q.—In this connection why did you sign the papers?

A.—There were so many other cases like this before. At that time there were 10 public servants who were allowed to retire if they were dissatisfied with the Government. Within a few months nearly 547 applications had been allowed. I don't think I was swayed by improper reasons in any of those.

Q.—With regard to Sinhalese teachers and their knowledge of Sinhalese, can you remember the names of other teachers whose appeals were allowed?

A.—I remember one Ponnadurai a teacher of Wesley College. He had a teacher's certificate in Tamil. My permanent secretary did not allow his application for retirement but I allowed it because he was 53 years old.

Q.—Can you remember the application of Mr. Blaze? A.—Yes.

Q.—Can you remember on what grounds he was allowed to retire?

A.—I know his case well. I know that he had some qualifications in Sinhalese and the Department of Education said that he need not retire, but some people in the Treasury were interested in the retirement, but I did not allow it. Subsequently he had put up his papers before the Parliamentary Secretary and he had allowed the application during my absence. There were about 4 other cases where I had allowed the application.

Q.—The suggestion made in the Lanka Dipa was that the Plaintiff was allowed to retire because he worked for your political party, is that correct?

A.—There were people who were never in Ceylon who had applied earlier and had not been allowed to retire, whom I subsequently allowed. There was the case of 30 Mr. K. Williams.

(Mr. Wikremanayake moves to mark certain minutes alleged to be made by Messrs. Seneviratne and R. H. Wickremesinghe.

Mr. Thiagalingam objects as the persons who made the minutes were not on the list of witnesses.

I uphold the objection).

*Cross-examination :*

On the 7th April I allowed a large number of people to retire. I don't think about 100, I think about 20 people were allowed to retire. I cannot recollect how many teachers I allowed.

Q.—The settled policy of your Government was that Swabasha was to be the medium of instruction?

A.—Up to a certain form. I think at that time it was to be up to the 8th standard.

Q.—If work could be found for teachers unable to do swabasha in some of the subjects they were not allowed to retire?

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

—  
Evidence of  
M. D. H.  
Jayawardane  
Examination  
—continued.

Evidence of  
M. D. H.  
Jayawardane  
Cross-  
examination

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

Evidence of  
M. D. H.  
Jayawardane  
Cross-  
examination  
—continued.

A.—Yes, that was the education policy.

Q.—Was it not your function to satisfy yourself that the Ministry of Education was doing the right thing?

A.—No. I thought my function was that if the Ministry of Education unreasonably refused an application that I should allow it.

Q.—If the Ministry of Education wrongly recommended an appeal to you would you have allowed it?

A.—I don't think such appeals would have come to me.

Q.—The course of events is first an application is made to the Ministry of Education under the Pension Regulations. 10

A.—I don't know the regulations. I have not studied the regulations carefully.

Q.—Do you know under what regulation you were called upon to function in regard to appeals?

A.—I knew that the appeals was vested in the Minister of Finance, from the orders of the Director of Education.

Q.—Did you at any time when you were in the Ministry study the rules under which you could allow or dismiss appeals? A.—I never studied those rules.

Q.—How long were you in the Ministry of Finance? A.—Two years.

Q.—For the two years that you were Minister you did not know the rules which regulate the conditions under which you allowed appeals? 20

A.—There were a large number of appeals vested in the Minister of Finance. Usually I look at what the minutes say, the minutes of the Deputy Secretary and the Permanent Secretary and form an opinion.

Q.—Have you during the two years as Minister studied the rules and regulations under which you were called upon to exercise the function as an appellate tribunal in the Ministry of Finance?

A.—Not in the sense that an advocate would study the Civil Procedure Code. I have studied the regulations in a general sense.

Q.—Do you know whether appeals to you have to be preferred within a period of time? 30

A.—I do not know. Even now I do not know. Even after this case commenced I do not know that appeals to me could only be filed within a month of the refusal of the Director of Education.

Q.—You were exercising appellate functions? A.—Yes.

(Shown section 19 of D44)—I have not looked at this section.

(Witness asked to read section 19).

Q.—That section says that appeals to you had to come within a month? A.—Yes.

Q.—You know that only now? A.—Yes.

Q.—You tell us that when you were Minister of Finance for two years you did not know that a teacher was allowed to appeal from the orders of the Director of Education within one month, that you did not know about the requirements of that rule? 40

A.—I would have expected highly paid civil servants to have drawn my attention to it. My Permanent Secretary was Mr. L. J. de S. Seneviratne. Another minute was made by Mr. R. H. Wickremesinghe. There was the Education Department Permanent Secretary Mr. Jinadasa at that time. They were all highly paid civil servants who ought to have known this. Apparently they don't seem to have known that rule.

Q.—Your view was, having been there two years, they knew all about it?

A.—I expected them to know it.

Q.—You told us that you retired about 25 people on the 7th April? A.—I think so.

The policy of the Government was Swabasha up to the 8th Standard. I am a member of the U.N.P.

Q.—The 1956 elections were being fought primarily between the U.N.P. and the M.E.P.?

A.—I don't know whether it was fought primarily between the U.N.P. and the M.E.P. The U.N.P. had everybody against them. The Tamils and a cosmopolitan crew all joined to fight the U.N.P., Communist, Sama Samajists and Communalists and  
10 everybody.

Q.—You did not know that the main group was the M.E.P.?

A.—I never thought they will win so many seats.

Q.—Did you know that when the U.N.P. faced the polls the main group against them was the M.E.P. led by Mr. Bandaranaike?

A.—They had the largest number of candidates.

Q.—When you faced the polls as a member of the U.N.P. didn't you know that the main group against you was the M.E.P. led by Mr. Bandaranaike?

A.—I knew that the largest number of candidates was from the M.E.P.

Q.—Do you know that if there was a single party who was out against the U.N.P.  
20 it was the M.E.P.? A.—All parties were against us.

Q.—The policy of the M.E.P. was swabasha? A.—Yes, of a virulent type.

I knew who Mr. Costa was. I had seen him from about 1938. I have only come to know him recently, within a few months. Before that I did not know him although I had seen him in 1938.

Q.—Did you tell us earlier that you had known him for a long time?

A.—I had seen him, known who he was, but not talked to him.

Q.—Do you know everybody who worked for you at the polls in Horana?

A.—Not everybody. Mr. Costa never worked for me. If a person who worked for  
me was trying to get a favour from me he would have made himself very prominent.  
30 (Shown D6).

This sessional Paper was issued during the time I was Minister of Finance.

Q.—That formulated definitely the swabasha policy of your Government?

A.—This did not formulate the policy of the Government. The policy of the Government is stated in the Hansard, somewhere in January 1955, I think.

Q.—This paper too of 1954 (D6) also contains the policy of your Government?

A.—I am not quite aware of that.

Q.—As an appellate authority you didn't know anything about the new policy of Government in regard to Education.

A.—I knew roughly what the policy of Government was.

Q.—You are aware that on 12th September 1954 Costa had applied to retire under  
40 6b? A.—Yes.

Q.—That was refused by the Director by D9 of November 1954? A.—Yes.

Q.—Then on the 14th March 1955 Costa wrote to you D13? A.—Yes.

Q.—Your attention has been invited to Ponnadurai's case in that?

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

—  
Evidence of  
M. D. H.  
Jayawardane  
Cross-  
examination  
—continued

A.—Yes. I allowed Ponnadurai's application to retire because he was 53 years of age and not because a resident of Colombo. I thought that if people were allowed to retire at 55, why should not he be allowed when he was 53. I think I have referred D13 to the department concerned, for report. I am not quite sure, but I think that is what I did.

Q.—Any way you refused that appeal?

A.—I am not quite certain of the dates there.

First time when he appealed I refused.

Q.—You looked into the matter and refused?

A.—My Permanent Secretary must have refused him so I had to refuse him. I must have read the application also. Sometimes you don't read through everything you roughly glance through it. I was being guided by my Permanent Secretary.

Q.—Are you telling us that you read D13 or you did not read it?

A.—I cannot remember.

By D15 this appeal was turned down. D16 is also to the same effect refusing the application.

Q.—That is, under 6b he had been turned down?

A.—I don't know whether it was under 6b or not. I had refused his appeal. I don't look into these things so carefully. If I see that the Permanent Secretary has disallowed the appeal and that the applicant is a young man then I don't look at it so very carefully unless somebody calls for an interview, in which case I make an order thereafter.

Q.—Would it be right to say that if he was an old man you would have allowed it?

A.—Yes, normally if he had asked me for an interview and that the interview he appeared to me to be too old to learn I would have allowed it. If he was young enough probably I would not have.

I have not done Sinhalese for any school examination. I am learning Sinhalese now. I am 42 years old. I am fairly good in Sinhalese. I know that the plaintiff passed the S.S.C. with Sinhalese and held a degree in Indo-Aryan with Pali and Sanskrit. I had no idea that he had written a botany book.—(Shown D32).

30

Q.—If the plaintiff was the author of D32 and you were aware of it would you have allowed him to resign?

A.—There were other factors to be taken into consideration. The Department must say that they would be able to fit him to a post.

Q.—Even if you knew that Costa was the author of that book would you have exercised your appellate functions and allowed him to retire on the ground that he did not know to teach in Sinhalese?

A.—Not on this point alone, but I would have been influenced by other factors. The department would say that they could find a post for him to teach.

Q.—He could retire only if he could not teach in Sinhalese?

40

A.—Up to the 8th standard.

Q.—He was taking the position that he could not teach in Sinhalese? A.—Yes.

Q.—If you knew he was the author of that book which is before you would you have allowed him to retire on the ground that he could not teach in Sinhalese?

A.—I would have questioned my Permanent Secretary and asked him.

Q.—You would have merely listened to your Permanent Secretary?

A.—I would have asked the Permanent Secretary for a report.

Q.—And after the report you would have looked into the book?

A.—I would have asked the Permanent Secretary to report on it.

Q.—You would not have addressed your own mind to the question whether Costa who could write this book could be allowed to retire on the ground that he was not able to teach in Sinhalese? A.—I am not an expert in Sinhalese.

Q.—You would not have addressed your own mind to the question whether he should be allowed to retire on the ground that he could not speak in Sinhalese?

A.—There were other experts for that.

10 Q.—You yourself did not have the equipment to be able to address your own mind to the question whether he should be allowed to retire?

A.—I did not go into the details.

If a man is very old and is unable to learn I would have normally allowed him to retire. I would not have held a test for him.

(To Court: I am guided a great deal by the minutes made by my Permanent Secretary and the Permanent Secretary to the Ministry of Education).

Q.—Are you ultimately telling us that you as Minister never bring to bear on a problem your own personal impressions?

A.—There are about 80 petitions a day from people wishing to retire and so on. 20 Most of them come to me with the Permanent Secretary's minute "Refused." Then I say "Refuse," unless a person asks for an interview, then I go carefully into the petition and direct my mind to it.

Q.—You tell the Court that you did not know up to now that he was the author of this book? A.—I did not know. I read the papers when this case started.

Q.—The minute sent up to you did not indicate that he was the author? A.—No.

On the 28th September 1955 Costa had made the application D17. That had been refused by D18 on 29th November 1955.

Q.—You now know that if he wanted to appeal from that order he had to appeal by the 29th December? A.—Yes.

30 Q.—And that he had no right of appeal thereafter? A.—Now I know that.

Q.—With your present knowledge of the regulations if an appeal had been given to you after the expiry of one month you would have justly turned it down whatever your Permanent Secretary said?

A.—Yes, if it had been brought to my notice.

Q.—In December 1955 questions had been raised in Parliament about facilities fees in Ananda Sastralaya? A.—I read in the papers about it.

Q.—When you were in Parliament? A.—I do not sit in Parliament the whole day.

Q.—In December 1955 a reference was made to the facilities fees in Parliament?

A.—A Minister is not in Parliament the whole day.

40 Q.—Can you remember while you were in Parliament questions being raised about facilities fees at Ananda Sastralaya? A.—No.

Q.—Do you know that in November 1955 the Dinamina had raised this question of facilities fees in its news papers?

A.—I saw this question being raised in one of the Sinhalese papers. I read the Sinhalese papers but I cannot remember in which paper it was.

They were matters of importance to the Education Department.—(Shown D25)

No.7  
Plaintiff's  
Evidence in  
Rebuttal

—  
Evidence of  
M. D. H.  
Jayawardane  
Cross-  
examination  
—continued.

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

Evidence of  
M. D. H.  
Jayawardane  
Cross-  
examination  
—continued.

Q.—On the 10th February 1956 you now know that this appeal was completely out of time? A.—Now I know—(Shown D25 and D13).

Q.—Is there any difference in the facts set out between D13 and D25?

A.—There are a few facts in the second petition.

Q.—Is there any difference substantially in the grounds urged between the two?

A.—The fact regarding Ponnudurai is in D13 which is not contained in D25.

Q.—Are there any other differences between D13 and D25?

A.—He says “I joined the Education Department on the understanding that I would have to teach in English.” That is also contained in D13. In D13 there are a number of facts which are not contained in D25.

10

D13 of a previous date – 14th March 1955 – I had refused. On the 10th February 1956 I had D25 before me.

Q.—The U.N.P. had made up its mind to dissolve Parliament early in February 1956. They first made up their minds at the Kelaniya Sessions on the 19th February 1956. They announced that they are going to dissolve Parliament.

Q.—As far as the Cabinet was concerned they must have known it earlier?

A.—The Cabinet knew about it two days earlier. Nobody knew it on the 1st February. The Prime Minister makes statements which nobody in the Cabinet takes seriously.

Q.—The Prime Minister had indicated that he was going to dissolve Parliament 20 early in February?

A.—Even earlier he had said that. He is supposed to have made statements in Jaffna, may be on behalf of the U.N.P.

Q.—He told the Jaffna man in Jaffna something and came here and told them something else? A.—Yes.

I understand he made a statement but the Tamil members misinterpreted the statement. The Tamils made a very serious change of front, and the U.N.P. did in consequence.

Q.—In February 1956 Costa was on leave? A.—I don't know.

Q.—Do you know that Costa was working for the U.N.P. anywhere?

A.—I don't know, except what I read in the papers.

30

I was working in my electorate in February, March and April. My election was fixed for the 5th April.

Q.—Lots of U.N.P. big men in the party had their elections fixed for the 5th April?

A.—Not fixed. They had their elections for the 5th April, may be coincidental, may be deliberately.

Q.—On the 5th evening everybody knew that the U.N.P. was being routed?

A.—I did not think so, till my count was over.

Q.—When the other results came over the radio am I right in saying that you dashed the radio on the ground?

40

A.—My radio now is in good condition. I was in the Kachcheri at the time. When the results of my electorate were announced I was in the Kachcheri.

Q.—When the election results of the 5th April came over the radio where were you?

A.—About 10 results were announced when I was in the Kachcheri. After that I came home about 2 o'clock in the morning. When I returned home I took a drink



and went to sleep. After I lost I was not concerned very much. I thought I could read the papers in the morning for the other results. I was thoroughly tired. Victory would have made very little difference. I would have gone to sleep even then. On the 6th morning I knew the U.N.P. had been routed. On the 7th I went to the Ministry. There were people seeking retirement.

Q.—Didn't you think it was your duty to let everyone await the new Government?

A.—I had dealt with over 500 cases here and I thought it was my duty to finish the balance of my work.

Q.—Depriving the new Minister of a teacher?

10 A.—The files are still there. Till the 15th I had to discharge my duties as Minister.

Q.—When this appeal D25 came up to you you called for reports? A.—I think so.

Q.—One of the reports you read was P9? A.—Yes.

Q.—You knew then that he was the author of the book in Botany?

A.—What I said was that when these things are put up to me I don't read every single sentence. I did not read every sentence of P9.

Q.—You read part of it?

A.—No. When I found the Director of Education had recommended it I did not have to read it. I cannot recollect whether I read P9.

Q.—Is there any fact in D25 which is not contained in D13? A.—No.

20 Q.—You thought it fit as Minister of Finance on the 7th April to approve of his retirement on D25?

A.—I thought it fit because several other people had recommended it.

Q.—The Director of Education had refused it before? A.—Yes.

Q.—The Director of Education had refused the application by D18? A.—I think so.

Q.—D29 was an appeal from the order of the Director of Education? A.—Yes.

Q.—When the appeal came to you from the Director of Education's order you referred it back to the Director of Education for report? A.—I think so.

Q.—And the Director of Education was making a recommendation according to you in the teeth of and in opposition to his earlier refusal?

30 A.—Yes. When a man makes an appeal against somebody he puts down certain references to find.

Q.—First the Director of Education had refused his application? A.—Yes.

Q.—The appeal came to you? A.—Yes.

Q.—And you referred the appeal to the Ministry of Education?

A.—I don't know what appeal you are referring to.

Q.—There was a second appeal made by him to the Director of Education on P17, that had been refused by the Director of Education on P18? A.—Yes.

Q.—The appeal to you came over a month after D25? A.—Yes.

40 had brought it to your notice you would have turned it down? A.—Yes.

Q.—And the Permanent Secretaries did not appear to know their jobs?

A.—They did not see that.

Q.—When D25 came up to you you referred it back to the Director of Education?

A.—Yes.

Q.—And this time the Director of Education according to you suggested that the appeal may be allowed? A.—That is what the minute says.

Q.—Then didn't you think it your duty to find out why the Director of Education who at first refused the application was now supporting it?

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

—  
Evidence of  
M. D. H.  
Jayawardane  
Cross-  
examination  
—continued.

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

Evidence of  
M. D. H.  
Jayawardane  
Cross-  
examination  
*continued.*

A.—At times the Head of the Department may change his views and send contradictory reports.

Q.—When you sent the appeal back to the Director of Education he on this occasion returned it suggesting that the appeal may be allowed? A.—Yes.

Q.—And your Permanent Secretary sent that view of the Director to you? A.—Yes.

Q.—Didn't you think it your duty as the Minister to find out why this Director who had earlier refused the application was now sanctioning it?

A.—At that time there were 400–500 public servants seeking to retire and when a person wants to retire and his application is recommended I just allow it. I had about 140 files to deal with that day.—(Shown D26). 10

I have never seen this. This is not to me. This is addressed to Mr. Wijetunga who is the private secretary of Mr. Banda. On the 7th April I allowed the plaintiff's retirement. I know that this question was raised in Parliament after the M.E.P. came into power.—(Shown D38).

This is all wrong. The last sentence is wrong.

Q.—According to you was there any valid reason why Mr. Costa should have been allowed to retire?

A.—The reason being that he was recommended by the Permanent Secretary of the Ministry.

Q.—Because you could not bring your mind to bear on the question on it? 20

A.—If in each of these cases you try to bring your mind, to bear on the question, I do not think you can finish your work even if you work 48 hours a day.

Q.—You didn't know of the existence of D26 in the files? A.—No.

Q.—But if D26 was in the files written by Costa to the private secretary to the Minister of Education it does show private personal pressure to bear on the question of retirement?

(Mr. Wikremanayake objects.—I allow it).

A.—It all depends on what influence Wijetunge had on the Minister.

Q.—It is correct to say in D38 that you sanctioned the retirement on 7th April 1956?

A.—Yes.

Q.—And it is correct to say that it was two days after the rout of your Government? 30

A.—Yes.

Q.—It is also correct to say you were unusually busy when you knew you had to get out?

A.—No. When I have work to do I do it, that is my habit. The 15th was the last day and I wanted to clear up all my work.

Q.—Is it a possible view to take that the whole thing looks so bad? A.—Yes.

Q.—You also know that this matter of retirement was raised in Parliament after the present Government came into power? A.—Yes.

Q.—Do you know that Costa published pamphlets in connection with the elections at Kotte? A.—Not to my knowledge. 40

Q.—It is correct to say "Although he failed in his attempts to resign previously the Ministers of Education and Finance of the new Government will have no difficulty in realising how he succeeded in doing so during the time of the elections?"

A.—It was not during the time of the elections. It also says that these minutes have been put up on the 16th March 1956.

Q.—In P5 the writer says that it is a desirable thing to hold an inquiry over the resignation of Mr. Costa ?

A.—If there was anything improper an inquiry should be held. When I think that the appeal has been allowed out of time, then I think every other case may have been allowed out of time.

Q.—Do you remember that the Blaze appeal came to you a month after the order ?

A.—I remember the Blaze case well. In my absence the Parliamentary Secretary had sanctioned it. It must certainly have been after a month. Blaze is a burgher gentleman according to his name.

10 Q.—He said he could not teach Sinhalese ? A.—I don't know what he said.

Q.—But you turned down his appeal ? A.—Yes.

Q.—It was your view that the Parliamentary Secretary in your absence allowed that appeal ? A.—Yes.

The Parliamentary Secretary may have had good reasons. But I refused it because he was less than 50 years but if he happened to be a day over 50 I would have allowed the appeal. I don't know how old Costa is. I know that he must be a young man because I have seen him. I have not kept account of how often I have seen him between 1938 and 1956. I have seen him several times. I have also seen him when I went to Ananda Sastralaya to open carnivals, not when he was principal.

20 *Re-examined :*

I referred to the minutes relating to the 16th March 1956. They are the minutes of the Permanent Secretary and the Deputy Secretary to the Treasury on the 15th.

Q.—With reference to the question of appeals being in time or out of time, in these matters of appeal they come strictly on the basis that they come within time or out of time ?

A.—They don't look into these appeals as the Crown Counsel would look into the Magistrate's Court appeals.

Q.—You said you were not prepared to keep on any person who was dissatisfied ?

30 A.—That was the guiding principal. Sir John said if a person is dissatisfied with the services why keep him. There were certain Engineers who wanted to retire and I had doubts because the Government will lose. But Sir John said, if they are dissatisfied don't keep them.

Q.—Was this in relation to the elections — before or after ?

A.—Long before, from the date public officers were allowed to retire if they were dissatisfied with the service.—(Shown D13 and D25).

Q.—Under what section or sections was he asking for the right to make his application to retire under D13 ? A.—Under rule 6b. In D25 under rule 6c.

40 I was asked whether questions were raised in Parliament. Questions were raised by Mr. Sagara Palansuriya. He is the gentleman who defeated me. He is a member of the Government Party. He raised the question and the Minister of Education gave the reply as stage manager. When a question is raised in Parliament that is the way they do things. I could have understood questions being raised about Ponnadurai being allowed to retire.

(Sgd.) A. L. S. SIRIMANNE

A.D.J.

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

—  
Evidence of  
M. D. H.  
Jayawardane  
Cross-  
examination  
—continued.

Evidence of  
M. D. H.  
Jayawardane  
Re-  
examination

No. 7  
Plaintiff's  
Evidence in  
Rebuttal  
—  
Evidence of  
J. A. A.  
Perera  
Examination

**J. A. A. Perera**—Sworn, 48, A.S.P. Crimes, Colombo.

In 1953 I was A.S.P. Nugegoda District. I remember the function at Ananda Sastralaya in Kotte to which the Prime Minister Mr. Dudley Senanayake came to open some buildings. That was very shortly after the hartal, about 1½ months after.

*Q.*—Did you go and speak to Mr. Costa in connection with this matter ?

*A.*—I went to see him but could not meet him and he came to my office.

*Q.*—What was it you told Costa ?

*A.*—We discussed this matter. I told him that it would be a good thing if he did not attend the function. Certain information had come to the Mirihana Police. In consequence of that information I went to his house but failed to meet him. Then he came and saw me and I told him that it would be a good thing for him to stay away. I am not very sure whether I gave him the information.

*Q.*—Have you any record of this matter ?

*A.*—I have a record of the fact that I met Mr. Costa.

(Mr. Thiagalingam begs for permission to look at the entry in that connection.—I allow it.

Mr. Wikremanayake now moves to mark the documents P18 the entry made by this witness on 2/8/53.)

I discussed with Mr. Costa a possible boycott. Everybody said that there will be a boycott. I said that is the information I had. Then I asked him whether he had any- thing to do with this boycott. He said that he had nothing to do with it, except that he had information. There were some leaflets being spread at the time.

*Q.*—What did you tell Mr. Costa exactly when you told him to stay away ?

*A.*—I said if there was any trouble or disturbance it might be pinned on him and I advised him in his own interests to stay away.

I attended the function. There was no boycott. It was one of the best functions I have seen in that school.

Evidence of  
J. A. A.  
Perera  
Cross-  
examination

*Cross-examined :*

I had certain information.

*Q.*—Which rather induced you to talk to Costa ?

*A.*—I went to talk to Mr. Costa because he was one of the few masters I knew that was on the staff.

*Q.*—You rather took the view that if he kept away it would have been better for him ? *A.*—Yes.

*Q.*—You detail certain special men for special duty at the Ananda Sastralaya at the time of the opening ceremony ? *A.*—Yes.

(Sgd.) A. L. S. SIRIMANNE

*A.D.J.*

Evidence of  
S. Bandara  
Ratnaike  
Examination

**S. Bandara Ratnaike**—Affirmed, 40, Teacher, Ananda Sastralaya, Pagoda Road, Kotte.

I was the registrar of the school for a number of years. This school levied facilities fees. At the beginning of the year I prepare a budget. I have the facilities fees register here.

Q.—In the year 1952 did you collect the amount of facilities fees budgeted for ?

A.—We budgeted for Rs. 25,000/- and collected Rs. 24,000/-. In 1953 we budgeted for Rs 19,000/- and collected Rs. 19,000/- odd, a little over the budgeted figure.

Q.—In 1953 were facilities fees levied on the same scale as before or was there an alteration ?

A.—On the same scale as before. The budgeted amount for 1953 was Rs. 19,000/- and we collected a little more.

Q.—In 1954 did you collect the budgeted amount ?

A.—I was not there at the time but I came to know when I came back. I have  
10 the register here.

(Mr. Wikremanayake asks witness to refer to the amount of facilities fees paid by Kirthsiri Ameratunge in 1952. Mr. Thiagalingam objects. Hesays that only the books for 1955 were listed. Mr. Wikremanayeke submits that he cross-examined the witnesses on these very points and the other side was not taken by surprise.—I allow it).  
Kirthsiri Ameratunge has not paid one cent in 1952. For 1952 he has paid in January Rs. 25/-, in September he paid Rs. 50/- and in November he paid Rs. 50/-, making a total of Rs. 125/-. For 1954 he has paid Rs. 50/- in November. In 1955 his name is not on the register.

(Adjourned).

20

(Sgd.) A. L. S. SIRIMANNE

A.D.J.

#### 1-4-57

After lunch—Same appearances.

S. B. RATNAYAKE—Recalled—Affirmed—Examination-in-Chief continued.

(Shown a document. Witness is asked to look at the entry against the name of G. W. W. Perera in Class iiiA in 1952).

In 1952 he has not paid one cent as facilities fees.—(Shown a document).

In 1953 also he has not paid one cent. In December 1954 he has paid Rs. 60/-.

(Witness is asked to look at the entry against the name S. K. Dharmakirti).

30 In 1952 there is Rs. 25/- arrears. In 1952 he has paid Rs. 30/- in July and Rs. 30/- in December leaving the Rs. 25/- arrears.

In 1953 there is Rs. 25/- as arrears. For the whole of the year 1953 he has not paid anything.

In 1954 he has not paid a cent.

I produce an extract from the register for 1952 showing the entries in relation to these 3 persons marked P19. I produce an extract for the year 1953 in respect of these three persons marked P20. I Produce an extract for 1954 in respect of those three persons marked P21.

40 I have the list of the S.S.C. students for 1955. I produce this list marked P22.  
(Shown a document).

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

—  
Evidence of  
S. Bandara  
Ratnaike  
Examination

—continued

No. 7  
Plaintiff's  
Evidence in  
Rebuttal  
—  
Evidence of  
S. Bandara  
Ratnaike  
Examination  
—continued

This is a copy I made of the list. I have been asked to make out a copy of the list of students for the S.S.C. for 1955 and the facilities fees paid by those students. P22 is a list of students sent up for the S.S.C. Examination in 1955. I produce the copy I made showing the list of those students showing the facilities fees due from them marked P22A.

(Mr. Wikremanayake marks as P22A a copy of P22 with the amounts of arrears of facilities fees due from the students for 1952, 1953 and 1954.

The register for 1952 is marked P23 and the Register for 1953 and 1954 is marked P24 but these Registers may be removed after certified copies are furnished of all the entries regarding the facilities fees relating to the students mentioned in P22). 10

Evidence of  
S. Bandara  
Ratnaike  
Cross-  
examination

*Cross-examined :*

I have with me the Register for 1955. One book contains the entries for 1953 to 1956, that is P24.

I was in charge of the cash of the school up to the end of 1953. In 1954 I was away on study leave.

Q.—When Mr. Wickremesinghe left and Mr. Costa was appointed Principal you were not in the School? A.—Yes.

Q.—You were in the school when Mr. Alagiyawanna was appointed Vice Principal? A.—Yes.

Q.—A circular was sent up to you wherein Mr. Costa expressed regrets for the 20 incident that occurred when Mr. Alagiyawanna was introduced as Vice Principal?

A.—Yes.

Q.—It was circularised by the Principal to the staff? A.—Yes.

Q.—And Mr. Costa said that he was apologising to the Manager and that he would create no further trouble? A.—Yes.

Q.—The facilities fees are not a compulsory fee? A.—Yes.

Q.—Boys who were unable to pay were not called upon to pay? A.—Yes.

Q.—There was no circular sent out asking any boy to pay or asking their parents to pay in 1952? A.—I cannot remember.

Q.—As far as you know till you left the school in 1953 no circular was sent to the 30 parents asking them to pay these fees? A.—Yes.

Q.—You came back to the school? A.—In 1956.

Q.—Was such a circular sent out in 1956? A.—No.

Q.—You know of no circular sent to the boys or to their parents asking them to pay facilities fees? A.—I cannot remember.

Q.—What was the trouble when Mr. Alagiyawanna was brought to be installed as the Vice Principal?

(Mr. Wikremanayake objects to this question.—Mr. Thiagalaingam withdraws it)

Q.—What was Mr. Costa apologising for?

A.—He did not allow the Manager to instal Mr. Alagiyawanna as the Vice Principal 40 of the school. Mr. Costa was acting for the Principal.

Q.—What had he done?

A.—I do not know. I was in class at the time the General Manager came to instal Mr. Alagiyawanna as the Vice Principal.

Q.—Who told you that Mr. Costa had not allowed Mr. Kularatne to instal Mr. Alagiyawanna as Vice Principal?

A.—That was the talk, because both of them went away.

Q.—Was there a talk that Mr. Costa was to be dismissed from the school?

(Mr. Wikremanayake objects to this question.—I uphold the objection).

Q.—Mr. Costa did not approve as far as you know of the appointment of Mr. Alagiyawanna? A.—Yes.

Q.—You know about the anti-Alagiyawanna slogans in the school?

10 Q.—Dharmakirthi was one of the leading boys in that school?

A.—I know him as a student in the S.S.C. Form. I was educated in this same school.

Q.—During your time in the school weren't there some school boys who were looked upon as leaders of the school? A.—There were.

Q.—Who were they? A.—There was one Ameresekere.

Q.—In the same way Dharmakirthi was the chief man in the school when he was in the H.S.C. Form? A.—I cannot say, there were several others.

Q.—Was Dharmakirthi one of them? A.—He must have been one of them.

Q.—Why do you say that? A.—He was one of the senior boys.

(To Court : Q.—Wasn't he the President and Secretary of a number of debating 20 unions and other unions? A.—Yes.)

Q.—He was Secretary of the Sastralaya Union? A.—Yes.

Q.—He was the Secretary of the Sinhalese Literary Association? A.—Yes.

Q.—He was one of the Committee of the Buddhist Brotherhood? A.—Yes.

Q.—He was the Secretary of the Rajasinghe Clan? A.—Yes.

Q.—He was editing a paper called Public Opinion in English? A.—Yes.

Q.—He was a co-editor? A.—Yes.

Q.—And he was one of the chief men in the school? A.—Yes.

Q.—As far as you knew him he was a good boy?

A.—I have nothing to say against him.

30 Q.—Was he a friend of Mr. Costa? A.—That I cannot say.

Q.—In 1953 did you keep these registers? A.—Yes.

(Witness is asked to turn to the page on which Kithsiri Ameratunge's name appears in 1953).—P24 is not paged.

Q.—The very first opening in P24 contains as the 6th name that of Kithsiri Ameratunge? A.—Yes.

Q.—The payments made in the month of January whether on account arrears or whether on account school facilities fees would appear in a column under the month of January? A.—Not necessarily.

Q.—Did Jayasinghe, the 5th name on that page, make any payments in January?

40 A.—He did not.

Q.—Did the 4th name on that list make any payment as facilities fees in January?

A.—No.

Q.—The only payments made in the month of January appears in red ink under the column headed January? A.—Yes.

Q.—In 1953 January only 8 boys had made any payments on account facilities fees? A.—Yes.

Q.—In 1953 February 3 boys had made payments? A.—Yes.

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

Evidence of  
S. Bandara  
Ratnaik  
Cross-  
examination  
—continued.

Q.—In 1953 March 11 boys had made payment on that? A.—Yes.  
Q.—The figures I have given now are in regard to the boys in the class H.S.C. and H.S.C. (B)? A.—Yes.

On the first opening there are 53 boys. In April 1953 4 boys had made payments as facilities fees. In May 5 boys had made payments on account facilities fees. In June 7 boys had made payments on account facilities fees. In July 15 boys had made payments on account facilities fees. In August 4 boys had made payments on account facilities fees. In September 3 boys had made payments on account facilities fees. In October 6 boys had made payments on account facilities fees. In November 13 boys had made payments on account facilities fees. In December 12 boys had made payments on account facilities fees.

(Witness is asked to take the 1954 register for these boys).

In 1954 in the Final H.S.C. (B) there were 79 boys. In the month of January not a single boy had paid facilities fees from the H.S.C. Prep. Class. In the month of February 2 boys had paid. In March 2 boys had paid. In April 1 boy had paid. In May 3 boys have paid. In June 2 boys have paid. In July none have paid. In August none have paid. In September none have paid. In October none have paid. In November none have paid. In December none have paid facilities fees.

Q.—Why was that?

A.—I do not know. I was absent from school at that time.

Q.—Do you remember Mr. Dudley Senanayake's opening of the Kindergarten block? A.—Yes.

Q.—Was Mr. Costa distributing pamphlets to boycott that function? A.—No.

Q.—Was Mr. Costa present at that function? A.—No.

I saw the anti-Alagiyawanna slogans.

Q.—That would have been after Mr. Dudley Senanayake's opening of the Kindergarten block? A.—It must have been.

*Re-examination* : Nil.

(Sgd.) A. L. S. SIRIMANNE

A.D.J.

30

Evidence of  
Dr. W. A. E.  
A. Fonseka  
Examination

**Dr. W. A. E. A. Fonseka**—Affirmed, 51, Medical Practitioner, Pamankade.

(Shown a document marked P25).

This is a medical certificate I issued. This was issued by me to Mr. Costa on 19th January 1956.

Evidence of  
Dr. W. A. E.  
A. Fonseka  
Cross-  
examination

*Cross-examined* : The nature of the illness I have given here as neurasthenia. He was upset over a certain matter. He told me that he had seen some things in the Press accusing him of something and that there were some pamphlets issued against him and he was upset about it. He had various ailments he complained of such as nervousness, pressure in the head, inability to speak and so on. He told me all these things.

Q.—Do you keep a book where you record the various ailments of various patients?

A.—No.

40



Q.—Do you remember now examining him?

A.—Yes, I remember examining him.

Q.—Do you remember whom else you examined on the 19th January?

A.—Because this certificate is produced I know the date.

Q.—Was this certificate shown to you again recently? A.—Yes.

Q.—Who showed it to you? A.—The Advocate, Mr. Wikremanayake.

Q.—Did you speak to Mr. Costa? A.—Yes.

Q.—Did you ask Mr. Costa what the trouble with him was? A.—No.

Q.—When Counsel showed it to you you remembered the case at once? A.—Yes.

10 Q.—Had you known Mr. Costa before? A.—Yes, for a very long time.

Q.—Can you tell the Court how many people you examined on the 19th?

A.—I cannot.

Q.—On the 20th? A.—I cannot.

Q.—Now you remember in the box what he told you on the 19th January?

A.—I remember very well. In fact I had a very long chat with him. I myself had a pamphlet and I asked him what this was.

I practise at Pamankade and Nugegoda and I am the hostel doctor for Ananda Sastralaya where he was Principal.

20 Q.—You knew that at the end of 1955 there was a terrible amount of trouble in the school over facilities fees? A.—Yes.

Q.—You knew that questions were being asked in Parliament about the facilities fees? A.—I knew there was something.

Q.—You knew that there were pamphlets being distributed? A.—Yes.

Q.—And you knew also that the elections were due to take place in early 1956?

A.—What elections.

Q.—The General Elections? A.—No, I did not know.

Q.—Anyway about the 19th January Mr. Costa came to you? A.—Yes.

Q.—Had he ever been treated by you before?

A.—I was the family doctor. Not ever, I have always treated him.

30 Q.—Is he married? A.—No.

Q.—Has he got children? A.—No.

Q.—What do you mean by family doctor?

A.—Whenever he falls ill he comes to me.

Q.—That is what is meant by family doctor?

A.—Yes.

Q.—Nothing else?

A.—Yes.

Q.—He is the only one in the family?

A.—He was staying with his mother and brothers and sisters.

40 He had 2 brothers and one sister.

Q.—And you had been attending on that family for a very very long time?

A.—For a very long time.

Q.—Are his brothers still with him?

A.—One brother is in the Asylum.

Q.—In your knowledge of Mr. Costa was he inclined to be tempestuous?

A.—I do not understand.

Q.—Was he highly strung?

Plaintiff's  
Evidence in  
Rebuttal

—  
Evidence of  
Dr. W. A. E.  
A. Fonseka  
Cross-  
examination  
—continued.

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

—  
Evidence of  
Dr. W. A. E.  
A. Fonseka  
Cross-  
examination  
—continued.

A.—He was a sort of a neurotic.

Q.—For how long did you know that?

A.—For 7 or 8 years.

Q.—Before this had he complained to you of neurasthenia?

A.—Yes, I think he complained of these symptoms before this also.

Q.—When was that?

A.—I do not remember exactly. But I remember recommending him for holidays.

Q.—Do you know that at the end of 1954 he went to America?

A.—Yes.

Q.—You recommended that too?

10

A.—As a holiday in America.

Q.—Did you recommend that?

A.—No.

Q.—In 1956 he came and told you these stories and you have no note of any examination held on him that day?

A.—No.

Q.—Did you prescribe anything for him?

A.—I think I prescribed a holiday upcountry for a month.

Q.—Did he go up country?

A.—I do not know.

20

Q.—Do you know that he worked for the elections here?

A.—No.

(Mr. Wikramanayake objects to this question. The question has already been answered).

Q.—I put it to you that he was working in the Kotte electorate?

A.—I do not know that.

Q.—You prescribed him a holiday for a month?

A.—Yes.

Q.—Why did he want that certificate?

A.—He was working in some place and he wanted to annex this certificate to his application for leave.

Q.—Did you see him after the 19th January?

A.—Not immediately after that.

Q.—About how much later would you have seen him?

A.—Many months later.

Dr. W. A. E.  
A. Fonseka  
Re-  
examination

*Re-Examination:* Q.—Can neurasthenia be a troublesome disease?

A.—Yes.

Q.—Can it be serious?

A.—It can turn serious.

Q.—And literally it is a disease of the nerves?

40

A.—Yes.

Q.—How do you find out that a patient has neurasthenia?

A.—The patient comes with the history of his case and the doctor diagnoses from the symptoms.

SGD: A. L. S. SIRIMANNE,  
A.D.J.

**N. W. De Costa**—Affirmed. 41, Pensioner, 25 Church Street, Nugegoda.

I am the plaintiff. I retired from the Education Department as a teacher in B.T.S. schools. Prior to retirement I was the Principal of Ananda Sastralaya College. It is from that position that I retired.

I was a previous student of Ananda Sastralaya. The first public examination I sat for was the E.S.L.C. No education was imparted in swabasha in the school at that time. I did not take up Sinhalese for the E.S.L.C.

No. 7  
Plaintiff's  
Evidence in  
Rebuttal  
—  
Evidence of  
N. W. de  
Costa  
Examination

The next public examination I sat for was the Senior, the S.S.C. By the time I sat for the S.S.C. Sinhalese was a compulsory subject and I did Sinhalese for the S.S.C. That was in 1934. I passed the S.S.C. in 1934. I took up the S.S.C. before 1934. I took it up in 1933 and failed in Art.

I have since then got a degree from a London University.

*Q.*—When did you matriculate?

*A.*—In 1940.

I passed my Inter in 1944. I got my degree in 1950. My degree is an Honours Degree in Indo-Aryan Languages. The main subject was Pali and the subsidiary Sanskrit. I studied partly in the University of London for the Indo-Aryan degree.

My professor was Dr. Steid. By citizenship he was an Englishman but by birth he was a German.

For the degree I answered papers in the Roman script. From the Pali the translations are done into English. The answers to the questions would be made in English.

I was appointed to the staff of Ananda Sastralaya in 1934. Dr. Adikaram was the Principal of Ananda Sastralaya at one time. That was in the beginning of 1934, I am not sure.

Dr. Adikaram was never my teacher.

I was on the staff of Ananda Sastralaya at the time I got my Honours Degree. I was on leave at the time, study leave.

I continued to be on the staff of Ananda Sastralaya throughout till I became Principal.

When I started as a teacher at Ananda Sastralaya it had only one tiled roof building. Very many buildings have come up after that. The place has been very greatly improved. The funds for this have been collected from Kotte area and outside. Funds were mainly collected from the Kotte area.

In 1953 Mr. P. de S. Kularatne was the General Manager of B.T.S. Schools. Ananda Sastralaya is run by the Buddhist Theosophical Society.

Mr. Wickremesinghe was the Principal. He went on leave in 1953. When Mr. Wickremesinghe went on leave I was appointed to act as Principal on his behalf.

I received a letter authorising me to act for Mr. Wickremesinghe as Principal. (Shown P16)

No. 7  
Plaintiff's  
Evidence in  
Rebuttal  
—  
Evidence of  
N. W. de  
Costa  
Examination  
—continued.

I received this letter. I was functioning thereafter as Principal.

Q.—Did you become aware of any moves to appoint Mr. Alagiyawanna to that school?

A.—Yes.

Q.—You remember 1st July the day on which Mr. Alagiyawanna came there?

A.—Yes.

Q.—And Mr. Kularatne came there to instal him as Vice Principal?

A.—Yes.

Q.—Have you ever known the Manager of the B.T.S. coming at any other time to instal anybody in Ananda Sastralaya? 10

A.—No.

Q.—Either Mr. Kularatne or any other Manager?

A.—No.

Q.—When Mr. Alagiyawanna and Mr. Kularatne came there what was the position you took up. ?

A.—I told the Manager that I was given a letter by him to act till the Principal returned. I said that till that letter is revoked by another letter I would not be able to vacate my post. I showed him a copy of his letter because I was afraid to give him the letter itself.

Q.—You have heard the evidence about your closing a door in that office room? 20

A.—Yes.

Q.—Is that correct?

A.—Yes.

Q.—Why did you close the door?

A.—Because the fact that Mr. Kularatne was coming was known in that area and even people were gathered round the fence to see me being thrown out and even the boys could see it and I thought it best to close the doors because if Mr. Kularatne spoke loud the children might want to see.

Q.—Did you make an attempt to assault anybody?

A.—No. 30

Q.—Did you try to prevent anybody from leaving the place?

A.—No.

Q.—Did you try to lock them in that room and assault them with a ruler?

A.—No.

Mr. Kularatne and Mr. Alagiyawanna went away.

Mr. Wickremasinghe returned to the school on the 7th July and I gave over the Principalship to Mr. Wickremasinghe.

Mr. Alagiyawanna came there after that and he functioned as Vice Principal. I think Mr. Alagiyawanna came there one or two days after Mr. Wickremasinghe came there.

Mr. Kularatne reported me to the Committee of the B.T.S. The matter was inquired 40 into by the Board of Appointments. The charges against me were very serious.

Q.—Were you dismissed from that school?

(Mr. Thiagalingam objects to this question. He states it is a leading question. I allow the question).

Q.—You were asked to apologise?

A.—May I describe what happened.

Q.—Yes.

A.—Mr. Kularatne did not ask any questions from me.

Q.—The members of the Board asked you various things and the upshot of it was that you apologised to Mr. Kularatne?

A.—Yes.

Q.—Did you get any other punishment whatsoever?

A.—No.

10 Q.—Were you reduced in salary or any other punishment given to you?

A.—No.

Q.—How did your age compare with that of Mr. Kularatne at that time?

A.—He was about 20 years older than me.

Q.—At the request of the Board you apologised to Mr. Kularatne?

A.—Yes.

I continued to teach in the school. Mr. Alagiyawanna was also there and Mr. Kularatne continued to be the General Manager. I did not obstruct Mr. Alagiyawanna in any way.

I deny that I instigated some students to create a disturbance.

20 When Mr. Alagiyawanna came there a large section of the staff was opposed to Mr. Alagiyawanna, I think nearly every-body was opposed to it.

I could not exactly say whether the students were opposed to Mr. Alagiyawanna. Twice slogans appeared on the walls against Mr. Alagiyawanna. I never asked the students to put slogans on the walls.

It is an utter lie to say that I gave the students paint to write anti-Alagiyawanna slogans on the walls.

I remember the function to which Mr. Dudley Senanayake came. He was the Prime Minister at that time. Shortly before that there were some disturbances in the country. That was the general strike.

30 I did not attend the function. I was advised by the A.S.P. of the area not to do so. The ceremony which Mr. Dudley Senanayake attended was in August 1953.

When the A.S.P. advised me about not attending the function I went and spoke to Dr. Attygalle about it. I told him that I had been warned to keep away from the function by the A.S.P. of the area. I told him what the A.S.P. had told me and Dr. Attygalle said something to me. After he had spoken to me I went and saw Mr. Dudley Senanayake himself. I told him that I was sorry that I had to keep away from the function and that I was asked to do so by the A.S.P. of that area. I told him what Dr. Attygalle had told me.

Q.—Were you sorry that you were not able to go to that function?

40 A.—I was both sorry and happy.

In 1954 Dr. Adikaram became the Manager of the B.T.S. and after he became Manager he sent a circular in which he set out who was to act for the Principal. My name was the first and the next was Mr. Palliawadana's.

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

I was an old boy of Ananda Sastralaya. I live in the Kotte area. My home is in Nugegoda. I have lived in Nugegoda and in that area since the date of my birth. My parents are from the Kotte area. No villages lie between Nugegoda and Kotte.

Evidence of  
N. W. de  
Costa  
Examination  
—continued

Mr. Palliawadana's native place is Matara. He has been at Ananda Sastralaya as a pupil. After he passed out he became a teacher at Ananda Sastralaya and from that time up to now he is teaching in Ananda Sastralaya.

At the time Mr. Alagiyawanna left the school I was not in Ceylon. I left Ceylon in July 1954 and came back in February 1955 or in late January.

I went to America on that occasion. The funds were provided by the American Government. I went to America on a Smith-Mundt Scholarship. I studied School Administration there. When I came back Mr. Palliawadana was acting as Principal.

When Mr. Kularatne was the Manager I was recommended for a special post in Grade 1. That was on the recommendation of Mr. Kularatne.

Q.—Taking effect from?

A.—From 1952.

Q.—When did your appointment take effect?

A.—From 1952 September.

I received a salary of a Grade 1 special post as from 1952.

In 1955 when I came back Palliawadana was acting as Principal. I was appointed Principal and I functioned as Principal from that time. I functioned in that capacity as 20 Principal till the time of my retirement.

Facilities fees are levied in assisted schools. These facilities fees are to be used to provide facilities for the school children such as libraries, games and science equipment. Facilities fees are levied in schools.

Till I went to America in 1954 there was no drop in the collection of facilities fees. When I took up the Principalship I found that the amount of collection for 1954 was less.

I took steps to increase the collection. Facilities fees are leviable from those who can afford to pay only. I took steps to find out who could pay and to see that they paid.

I called a meeting of the parents and a meeting was held. About 500 came. I addressed them on this question of facilities fees. I went round each class and told the students that those who could pay should pay the facilities fees.

From term to term I sent circulars, in two terms I sent circulars. The circulars were sent to the parents through the students. By sending those circulars I wanted to check on their ability to pay.

(Shown P13)

This is the last circular I sent out. By this circular they were expected to get the signature of the parents or guardian and return them to me. The majority of the students brought back the circulars.

There were those who did not bring it back. I treated their conduct in not bringing back the circular as being very bad for the discipline of the school.

I know personally that there were students themselves who avoided the payment of facilities fees. One student brought Rs 5/- and said that it was the facilities fees he could afford. I suspected it and I went in my car to the parents' home and she told me that she had sent Rs. 15/- and that I should accept it.

(Mr. Thiagalingam objects to this evidence. The witness has already answered.)  
I made efforts to stop this sort of thing.

I became Principal in 1955, in April. There was a July examination. I wonder whether I sent up any students for that examination.

There was a November H.S.C. Examination. There was a number of students  
10 sitting for the November examination. There were a number of students who had not paid facilities fees.

I had given the H.S.C. students also this circular to be brought back. I found that some of them did not bring the circular back. Some of them brought the circular back saying that they could not pay and I gave them the cards.

Some of the students, about 4 or 5 in the H.S.C. class, did not bring back the letter saying that they need not give it and I did not give them the admission cards.

Ultimately the cards were given to them. I arranged with Mr. Palliawadana that he should give a cheque for their fees so that the other boys in the school would think that they would have to pay to get their cards. It was a temporary measure in order to  
20 make certain that the other students would pay. Mr. Palliawadana paid by cheque. It was not honoured. He withdrew the cheque later, it was not presented for payment. I am sorry that I used the word not honoured. It was done with my knowledge and consent.

It was very bad for the rest of the students and I had to take this measure.

The S.S.C. Examination was in December. 67 students were entered for the S.S.C. Examination. I think of them about 7 had paid the facilities fees. The rest were in arrears. I gave admission cards to 54 students. I did not refuse cards to anybody who had paid. I gave cards to a number of students who had not paid. I refused cards to the other 13 because they were disobedient, they did not bring back this circular. Besides  
30 they were telling the other students that the circular need not be returned and that the facilities fees should not be charged.

There was agitation among politicians about facilities fees at that time. The Member of that area for the last two parliaments was Mr. Robert Gunawardene. He belongs to the L.S.S.P. His office is about 150 yards away from the school. There were overage students in the school. There were students in the school who were interested in Politics. There were some who were interested in politics on the leftist side. I was aware of that.

When I refused to give them cards about 2 weeks later Mr. Robert Gunawardene raised the question in Parliament. When he raised the question in Parliament I wrote  
40 letters to the Press.

I wrote to the Times of Ceylon and the Daily News.

I produce marked P26 the Ceylon Daily News of 9th December 1955 containing the letter which I wrote.

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

Evidence of  
N. W. de  
Costa  
Examination  
—continued

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

(Mr. Thiagalingam objects to it being marked unless this document is proved.

Mr. Wickramanayake says that it is proved because the witness says that this is a letter that he wrote.

—  
Evidence of  
N. W. de  
Costa  
Examination  
—continued.

I allow it).

The letter I wrote was published in full in the Ceylon Daily News. I sent it to the Times of Ceylon as well. It was not published by the Times.

The Times was publishing other articles in regard to this matter. It was giving publicity to Mr. Robert Gunawardene's statements.

It is false to say that I asked students not to pay facilities fees in 1953. I heard 10 Dharmakirithi giving evidence. It is an utter lie when he says that I asked him not to pay and asked him to canvass other students not to pay. I was not punishing anybody for non-payment.

Prior to a certain stage all teaching in schools was in the medium of English. Then gradually swabasha was introduced as the medium of instruction. I did not consider myself competent to teach in swabasha.

Q.—The regulations under the Pension Act 44 of 53 made provision for teachers to retire if they were unable to teach in swabasha?

A.—Yes.

I made an application to retire.

20

I made my first application under Rule 6(b). That provided for teachers who could not teach up to the 8th standard to retire. I had to make my application to the Director of Education. It was turned down. I had to appeal to the Minister of Finance. That was ineffectual.

Thereafter I made an application to retire under rule (6c). That was refused by the Director of Education. I appealed to the Minister of Finance. Ultimately I was allowed to retire.

In the book Udbida Vidyawa the Preface is by me. (The witness is asked to read the Preface in Sinhalese and he does so).

Here I gave my thanks to two persons who helped me to write this book in Sinhalese. 30 I was not at all competent to write this in Sinhalese. I was competent to write a Botany Book, but not in Sinhalese.

Q.—The Indo-Aryan degree does not help you to teach Sinhalese to anybody at all?

A.—I do not know whether it has.

Question repeated.

Q.—Does an Honours Degree in Indo-Aryan help you in any way to teach pupils in Sinhalese?

A.—I do not think.

Q.—Did you do anything at all in Sinhalese for your Honours Degree?

A.—No.

40

My appeal was allowed by the Minister of Finance.



It is not true that I worked in the Horana elections, it is utterly false. I had nothing to do with the Horana elections. I did not go and drive a car with Mr. Jayawardene's poster on it. I never drove a station wagon belonging to the U.N.P.

I issued a pamphlet against Mr. Robert Gunawardene. I was not acting on that occasion on behalf of any political party. Mr. Robert Gunawardene was speaking publicly against me and I had to explain to the people of the area my position.

I did not publish any other pamphlet. I did not take any other part in any other election activity.

(Shown D24)

10 This is a pamphlet that I caused to be published. I knew of this pamphlet before this case.

(Further hearing tomorrow 2/4/57).

SGD: A. .L .S SIRIMANNE,  
A.D.J.

### 2-4-57

Trial resumed. Same appearances.

Mr. Thiagalingam states that at page 359 he was allowed to look at the document by Court when Mr. Wickramanayake denied his right to look into it and that it was only then that Mr. Wickramanayake marked that document as P18.

20 N. W. DE COSTA.—Recalled. Affirmed. Examination-in-chief continued.

At Ananda Sastralaya I had no occasion to take any classes at all in the Sinhalese medium of instruction. In the whole course of my teaching career at Ananda Sastralaya I had no occasion to take any classes at all in the Sinhalese medium of instruction.

Since I took my honours Degree in Indo-Aryan languages up to date I have not opened a book in Pali or Sanskrit.

Q.—When you were an assistant teacher at Ananda Sastralaya did you carry on a powerful campaign requesting the children of that school not to pay facilities fees?

A.—No.

Q.—Did you lead the children of that school astray?

30 A.—No, never.

(Shown document P15)

Q.—Have you seen that document before?

A.—Yes.

Q.—When have you seen it?

A.—I saw this the day before this bill was passed in Parliament.

(Mr. Thiagalingam objects. He wishes to know on what issue this question is relevant.

Mr. Dias states that he does not seek to prove the contents of the document but only the fact that it was circulated at the time).

Q.—You saw this a day before the Sinhala Bill was passed ?

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

Evidence of  
N. W. de  
Costa  
Examination

—continued.

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

Evidence of  
N. W. de  
Costa  
Examination  
—continued

A.—Yes.

Q.—Where did you see this document?

A.—I saw one or two of these documents distributed in the Kotte area. This particular document came into my possession. I produce this document marked P15.

Q.—During the time you were Principal of Ananda Sastralaya was the Staff of Ananda Sastralaya opposed to you?

A.—No.

Q.—During the time you were Principal were 2/3 rd of the students opposed to you?

A.—No.

Q.—Did your being the principal of that school affect the glory of that school in any way? 10

A.—No.

Q.—Did you make the students disobedient?

A.—No.

Q.—Did you set up the children against Mr. Alagiyawanna at the time that Mr. Wickremesinghe was the Principal?

A.—No.

Q.—Did you induce the parents of the children in your school not to pay facilities fees?

A.—No.

Q.—Did you do anything to obstruct the work of the school when you were an assistant teacher? 20

A.—No.

Q.—You now receive the full pension?

A.—No.

Q.—Have you retired with full pension?

A.—No.

Q.—Is it true that you were retired with full pension?

A.—No.

Q.—What is the pension you receive? 30

A.—2/5th of my substantive salary.

Q.—If you had retired in the normal course of events what would have you been entitled to by way of pension?

A.—I would have got 2/3rds of Rs. 800/-

Q.—What was the substantive salary you were drawing at the time of your retirement?

A.—About Rs. 530/00—

Evidence of  
N. W. de  
Costa  
Cross-  
examination

*Cross-Examination:* Q.—You got the full pension you were entitled to under the Pension Regulations under which you sought retirement?

A.—Yes. 40

I am an Indo-Aryan Honours Graduate of the University of London, third class. I hold the S.S.C. Certificate of Ceylon with Sinhalese as one subject. I am the author of a text book on Botany called Udbida Vidyawa.

The Ananda Sastralaya is a school run by the B.T.S.

Q.—Entitled to the benefits of the Free Education Scheme of the Government of Ceylon?

A.—I cannot quite understand you.

Question repeated.

A.—Yes.

Q.—In Ananda Sastralaya was a fee called facilities fees levied?

A.—Yes.

Q.—Were admission cards necessary to enable approved students of your school to sit for the S.S.C. Examination held on 6th December 1955?

A.—I want a clarification of this point.

Q.—You had to approve of boys who were competent to sit for the examination  
10 which was going to be held on the 6th December 1955?

A.—Yes, boys and girls.

Q.—And to enable them to sit you had to give them admission cards? A.—Yes.

Q.—Were any admission cards withheld from students who had been approved by you as being competent to sit for the examination of 6th December 1955? A.—No.

Q.—At no time were they withheld? A.—No.

Q.—You never refused them on any occasion? A.—I have explained that.

Q.—Did you refuse the admission cards on any occasion?

A.—Yes or no is not the answer to the question.

Q.—Were you ultimately ordered by the Department of Education to issue admis-  
20 sion cards without insisting on facilities fees? A.—No.

Q.—Were the cards issued on the eve of the examination?

A.—I do not quite understand the meaning of that question.

Q.—Do you understand what is meant by “eve of the examination?”

A.—I take it it is the day before.

Question repeated? A.—I am afraid not.

Q.—Did you issue the cards only a day before the examination?

A.—I had issued cards even prior to that.

Q.—To some students you issued the cards the day previous to the examination?

A.—Yes.

Q.—In April 1955 the progressive use of swabasha in schools was the declared  
30 policy of the Government of Ceylon? A.—No, not completely.

Q.—Was the progressive use of swabasha the declared policy of the Government of Ceylon in April 1955?

A.—I do not quite understand what is meant by “the declared policy of the Government.”

Q.—Do you understand the meaning of the word progressive?

A.—I understand the meaning of the word progressive but whether it was a declared policy of the Government till today I am not sure.

Q.—Did you seek and apply for retirement on 12th September 1954 under the  
40 Pensions Act 44 of 1953? A.—Yes.

Q.—Was the application for retirement made on grounds amongst others that the turn over to swabasha was not in the best interest of the country? A.—Yes.

Q.—Had the country turned over to swabasha at that date? A.—No.

Q.—You state that you could not conscientiously do your best as a teacher?

A.—Under the expected swabasha policy.

Q.—The swabasha scheme was being expected in September 1954? A.—Not quite.

Q.—Was your application of 12th September refused by the Director of Education on 23rd November 1954? A.—I do not exactly remember the dates.

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

—  
Evidence of  
N. W. de  
Costa  
Cross-  
examination  
—continued.

Q.—But the first application was refused by the Director? A.—Yes.

Q.—Did you again seek retirement by applying to the Minister of Finance Mr. M. D. H. Jayawardene?

A.—It was not seeking retirement, I was appealing to the Finance Minister.

I knew the Pension Regulations. I knew that I had to appeal within a month.

Q.—Your first appeal was long after a month of the first refusal? A.—I forget now.

Q.—Did you again seek to retire on 21st April 1955 by applying to the Minister of Education?

A.—I would not have applied to the Minister of Education for retirement.

Q.—To whom would you have applied for retirement in April 1955?

A.—I do not think I applied to anyone.

Q.—Did you again seek retirement on 28th September 1955? A.—Yes.

Q.—And there also did you take up the position that it was difficult to continue in the profession under the Government's swabasha policy? A.—Yes.

Q.—Do you know whether your application of the 28th September was refused on the 29th November? A.—Yes.

Q.—You did not do anything in the month of December, you did not appeal in the month of December? A.—Appeal to the Minister of Finance.

Q.—To anybody? A.—I appealed to the Director and the Minister of Education.

Q.—The Minister of Education had refused your application on the 29th November 1955? A.—The Director of Education had refused it.

Q.—The next authority who could deal with that application was the Minister of Finance under the Pensions Minute? A.—Not necessarily.

Q.—Who was the next authority to whom you could appeal?

A.—I could again appeal to the Director because his order is not the final word. I could have verbal communications with him.

Q.—You had verbal communications with him in the month of December?

A.—I went and explained to him.

Q.—In the month of December? A.—I cannot say.

Q.—Certainly in the month of December you had made no appeal to the Minister of Finance? A.—No.

Q.—In the month of January you had made no appeal to the Minister of Finance?

A.—No.

Q.—And you appealed to him on the 10th February 1956?

A.—Yes. That was 2 days after I got the final communication from the Director of Education.

That communication is not necessarily a written communication, it could be a verbal communication.

Q.—The communication you received was a verbal communication?

A.—Yes. The Director told me.....

Q.—Are you calling the Director?

A.—I think the document is marked.

Q.—After the Director refused your application on the 29th November has he written to you? A.—No.

Q.—Your appeal was allowed on the 7th April? A.—I do not know.

Q.—You could not say whether it was after the end of the U.N.P. Government that your appeal to the Minister of Finance was allowed?

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A.—I beg your pardon, I do not know what you mean by the U.N.P. Government.

Q.—Did you get information allowing your appeal to the Minister of Finance after your appeal to the Minister of Finance?

A.—It is difficult to answer that question.

(The evidence of witness Weerasinghe at the bottom of page 331 is put to the witness).

Q.—Is that evidence correct; when Mr. Weerasinghe told the Court that the rough manuscript was taken down by him verbatim when he spoke to him?

A.—Not hundred per cent correct.

10 Q.—Is it 90% correct? A.—No.

Q.—Is it 50% correct? A.—I might say so.

Q.—Is it 60% correct? A.—No.

(The evidence of Weerasinghe at the middle of page 332 is put to the witness).

Q.—The question was “The document P17 was the second copy that was made after the —— of the rough notes?” and his answer was “Yes,” and he returned the original rough notes to you, is that correct? A.—I cannot remember.

Q.—Is it correct – Mr. Weerasinghe further said that the words in the rough notes were substantially your words, is that correct? A.—No, that is not correct.

(Evidence of Seneviratne at page 336 is put to the witness).

20 Q.—To the question “Have you ever written anything for Costa in Sinhalese” Seneviratne said “sometimes he used to write. He used to show me letters and drafts to see whether there were any mistakes” – is that correct? A.—That is correct.

Q.—And he also said “He used to show me letters and scripts written by him?”

A.—By me.

Q.—Yes? A.—I forget. When you say drafts, a sentence or two I may have shown.

Q.—Is Seneviratne's statement correct – that you showed him letters and scripts written by yourself? A.—I forget.

Q.—Your father I believe was a printing foreman? A.—At some time of his life.

Q.—What was your father doing? A.—When.

30 Q.—At any time, was he not employed anywhere?

A.—Yes, in the Municipal Printing Press.

Q.—Was he doing work in English or Sinhalese? A.—I suppose both.

Q.—Your father was a Sinhalese gentleman? A.—I think, for all practical purposes.

Q.—Was your mother a Sinhalese lady? A.—I think, for all practical purposes.

Q.—Your home language was Sinhalese? A.—Yes.

Q.—At Ananda Sastralaya there was a vernacular section?

A.—There was a primary section, it was not necessarily vernacular.

Q.—In 1938 was there not a vernacular stream in Ananda Sastralaya? A.—I forget.

40 Q.—In your application for enrolment as a teacher did you say that there was a vernacular stream in Ananda Sastralaya? A.—I forget.

Q.—Isn't it a fact that in 1938 there was a vernacular stream in Ananda Sastralaya?

A.—I do not know.

(Shown witness' original application from the File of the Director of Education Mr. Thiagalingam marks a certified copy dated 3-2-37—D45).

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

Evidence of  
N. W. de  
Costa  
Cross-  
examination  
—continued

Q.—This is the application you made? A.—I cannot remember.

Q.—Do you know anything about this document? A.—I forget.

(Mr. Dias points out that D45 is not the original application but a letter of appointment.)

I examine the document and find it is so.

Mr. Thiagalingam withdraws D45).

Q.—Having seen this document you still cannot recall that there was a vernacular stream in Ananda Sastralaya? A.—No.

I was at Ananda Sastralaya.

Q.—All the time you were speaking Sinhalese at home?

A.—Not all the time. To my brother and sister I would speak in English. To my mother I would speak in Sinhalese and to my father most of the time I would speak in Sinhalese.

My brother was the eldest child in the family.

Q.—Where is he now? A.—Must I answer this question?

(Mr. Dias objects to this question. He says it is not relevant. I uphold the objection).

I have one sister and two brothers. The eldest is a brother. The second was a brother. Before me is a girl who is now married. I am the youngest. I speak to my sister in English.

I sat for the E.S.L.C. from school.

Q.—You had not done Sinhalese in the school?

A.—It would not be correct to say that.

Q.—You had been doing Sinhalese in school? A.—Yes, a little.

Q.—How much till you sat for the E.S.L.C.? A.—I cannot measure it.

Q.—You cannot tell the Court up to what standard you went? A.—I forget.

Q.—How long after the E.S.L.C. did you sit for the S.S.C.? A.—In two years.

Q.—Offering Sinhalese as a subject? A.—Yes.

Q.—And you passed in the first shot in Sinhalese? A.—I am not sure.

Q.—Did you pretend to anybody that you failed in Sinhalese the first time you sat for the S.S.C.? A.—No.

Q.—You sat for the S.S.C. a second time? A.—Yes.

Q.—Again too with Sinhalese? A.—Yes.

Q.—The first time you came down only in Art? A.—I think so.

Q.—Sinhalese you passed on both occasions? A.—I do not know.

Q.—How long after did you do your matriculation? A.—6 years after.

Q.—Offered Sinhalese? A.—I did.

Q.—You were in Court when I was cross-examining Dr. Adikaram? A.—Yes.

Q.—Dr. Adikaram did not know that you had done Matriculation Sinhalese?

A.—I cannot remember.

Q.—You heard Dr. Adikaram's evidence?

A.—I cannot remember the whole of the evidence.

Q.—Were you seated in Court the whole time Dr. Adikaram gave evidence?

A.—No, I went out at certain times.

Q.—Can you remember my trying to produce a document from the London University about your Matriculation and Sinhalese?

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

(Mr. Dias objects to this question.—Mr. Thiagalingam withdraws the question).

Evidence of  
N. W. de  
Costa  
Cross-  
examination  
—continued.

Q.—Do you remember my application in Court when I said “Sir, this is a document regarding Matriculation and Sinhalese?”

A.—No. I remember your trying to produce a document.

Q.—Your Counsel looked at that document? A.—I do not remember.

Q.—Your Counsel called for the document from me and looked at it? A.—No.

10 Q.—Did you now know even then that you had passed the Matriculation in Sinhalese? A.—I had known it earlier.

Q.—Even at that point of time did you tell your Counsel that you have passed the Matriculation in Sinhalese? A.—I have been telling them.

I passed the Matriculation in 1940. I failed my Matriculation about four times.

Q.—In Sinhalese? A.—Yes.

Q.—Ultimately you passed it? A.—Yes.

Q.—The standard of Sinhalese for the Matriculation being higher?

A.—It is lower in my opinion.

20 Q.—You passed the more difficult examination in the first shot — S.S.C. Sinhalese, and failed in the easier Sinhalese in the Matriculation? A.—It happens that way.

Q.—Did you tell anybody that you wrote Udbida Vidyawa in English in the first instance? A.—Never.

Q.—Did you try to convey that impression to anybody? A.—No.

Q.—Did you know or did you not that the swabasha policy of Government was being started as early as 1948? A.—I did not know.

Q.—Up to date you do not know? A.—No.

Q.—Do you know today that the policy of the present Government is to impart education in swabasha? A.—Not completely.

Q.—To some extent? A.—Yes.

30 Q.—When did the policy of Government to impart education in swabasha to some students commence as far as you know? A.—In 1954.

Q.—Not before? A.—I do not recollect it.

Q.—In 1954 you knew that the Government policy was to introduce swabasha by stages into these schools?

A.—They tried to introduce it but whether it was the definite policy I did not know.

Q.—Did you want to retire on the ground that it was the policy of the Government to introduce swabasha? A.—Yes.

Q.—So you know what the policy of the Government was?

40 A.—No, I did not know what the policy of the Government was.

(Shown the original of D8 dated 12th September 1954).

This is signed by me.

Q.—Under the regulations referred to in D8 you would not be allowed to retire if work could be found for you in the English medium?

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

Evidence of  
N. W. de  
Costa  
Cross-  
examination  
—continued.

A.—By the Manager or the Director ?

Q.—By anybody ? A.—I cannot say.

Q.—In paragraph 4 of this letter you say ' as I feel that the turn-over to swabasha is not in the best interests of the country I cannot conscientiously do my best as a teacher ' ; did you intend to say by that that you did not intend to teach in Sinhalese because you did not agree with the policy of the Government ?

A.—My letter was drafted by a lawyer. I gave my facts to him.

Q.—What did you mean to convey by that sentence that you cannot conscientiously do your work as a teacher ?

A.—If the Government were to finalise its policy about swabasha I would not be able to work conscientiously. 10

Q.—Meaning thereby that you were not going to make an endeavour to learn Sinhalese ? A.—No.

Q.—At the date of this letter you knew what the policy of the Government was ?

A.—No, it does not completely indicate that.

Q.—I put it to you that at the date of this letter you knew what the present policy of the Government was ? A.—I would not say that I exactly knew.

Q.—But you say that if you had known the present policy of the Government you would not have taken to the teaching profession ?

A.—That was the possibility imagined.

Q.—At that date were you repenting having taken to the teaching profession ? 20

A.—I did not use the word repenting.

Q.—Were you unhappy that you had taken to the teaching profession ? A.—Yes.

Q.—And you did not want to continue in the teaching profession at the date of this letter ?

A.—No. I wanted to stay in the teaching profession as long as I could.

Q.—When you signed D8 did you want to continue as a teacher ?

A.—I was not quite sure.

Q.—Why do you say then on the 12th September 1954 that you would not have taken to the teaching profession ? A.—It was just an application. 30

Q.—Anything was good enough to be said to retire ? A.—Not necessarily.

Q.—Were you telling there fibs or stories to enable you to retire ?

A.—I cannot say I was telling stories.

Q.—Were you telling lies to enable you to retire ? A.—No.

Q.—Were you of the view at the date of this letter that you should not have taken to the teaching profession ? A.—Yes.

Q.—Prior to this letter in 1950 you had done Indo-Aryan and obtained third class honours with Sanskrit and Pali ? A.—Yes.

Q.—You had gone on full pay leave ? A.—No pay leave.

Q.—You had applied for leave earlier and it had been refused on a number of occasions ? A.—On one occasion. 40

Q.—Did you tell the Department of Education that they did not know what they were about and that they should amend their regulations to let you go as it was a good thing and it would help you to gain better experience ? A.—I forget.

Q.—Could you have said a thing like that ? A.—May have been possible.

Q.—Shortly before D8 you had gone on the Smith-Mundt Scholarship to America ?

A.—Yes.

Q.—Only with a view to enable you to gain experience as a teacher in our schools ?



A.—That was not the only reason. My primary intention was to undergo a course of training in America.

Q.—Was it to enable you to gain experience as a teacher that you went to America ?

A.—That did not occur to me.

Q.—Did you go to America to take a course in School Administration and Supervision ? A.—Yes.

Q.—Where were you going to do school administration and supervision after that ?

A.—In the Education Department.

Q.—In Ceylon ? A.—In the U.S.

10 Q.—When you went to America in 1955, prior to the date of P8, you went there for taking a course in School Administration and Supervision ? A.—Yes.

Q.—You wanted to gain that knowledge ? A.—Partly.

Q.—What is the other reason you wanted to go there ?

A.—I was interested in going to America, that was the primary reason.

Q.—Did you go to America to study School Administration and Supervision or for any other purpose ?

A.—I went for several reasons, one reason was to study and the other reason to see the country.

20 Q.—Did you mention that one of the reasons was because you wanted to see the country ? A.—No, you do not normally give that reason.

Q.—You went to study school administration and Supervision to enable you to do your work in which country ?

A.—That idea did not occur to me.

Q.—At the time you went on that scholarship did you intend to come back to Ceylon and do teaching ? A.—I was not decided.

Q.—In D8 you say ‘ I am at present on pay leave for 6 months ’ ; you were given full pay leave for six months ? A.—Yes.

Q.—And you say you will refund the money when your application for retirement is allowed ? A.—Yes.

30 Q.—This application was turned down, refused ? A.—Yes.

Q.—Your application D8 was refused by D9 of 29th November 1954 while you were still in America ?

A.—I did not get this information, this had been written to the General Manager of Buddhist Schools.

I was here when Dr. Adikaram was in the witness box.

Q.—Did he give his evidence in Court that this came to him and that he conveyed that information to you ? A.—I do not know.

Q.—This is the first time you are seeing this letter D9 ? A.—Yes.

40 Q.—Did you know while you were in America that your application for retirement had been refused ?

A.—No. It was only after I came back.

Q.—While you were in America you were recalled by the General Manager of the B.T.S. ? A.—Yes.

Q.—By Dr. Adikaram ? A.—Yes.

Q.—He told you to come here and assume the post of Principal ? A.—Yes.

Q.—And you came before your six months was over ?

A.—To be in charge of the school, to act till I was appointed Principal.

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

Evidence of  
N. W. de  
Costa  
Cross-  
examination  
—continued

No. 7  
Plaintiff's  
Evidence in  
Rebuttal  
—  
Evidence of  
N. W. de  
Costa  
Cross-  
examination  
—continued

Q.—Did you come back before your six months was over? A.—Yes.

Q.—You came back ; you knew that you were going to be appointed Principal when you came? A.—I expected it.

Q.—Because of what Dr. Adikaram had written to you?

A.—Not necessarily because of that.

Q.—But that was one of the reasons? A.—Yes.

Q.—And here when you came back they went through a sham procedure of calling for applications to fill the post? A.—I do not understand that.

Q.—After you came back was the post of Principal advertised? A.—Yes.

Q.—And people applied including yourself? A.—Yes. 10

Q.—And you were appointed? A.—Yes.

Q.—Wasn't that whole scheme of calling for applications a sham procedure?

A.—I did not think so.

(To Court : Mr. Wickremesinghe had retired on the 8th January. Mr. Palliwardene was acting and there was a little trouble in the school as he was young and inexperienced. I was asked to come back by Dr. Adikaram.

Q.—Were you promised the Principalship? A.—No.

I was never sure of it. I came back because I expected to be given the Principalship).

Q.—Certainly before you were appointed Principal you knew that your application D8 had been refused? A.—Yes. 20

I was appointed Principal on 1st April 1955.

Q.—By D13 (shown) your appeal to the Minister of Finance had been refused?

A.—Yes.

Q.—And you sought appointment as Principal of Ananda Sastralaya when you knew what the policy of the Government was in regard to the medium of instruction?

A.—I was not sure of the policy of the Government.

Q.—You had known the policy of the Government when you wrote D8—(shown)?

A.—That does not 100 per cent indicate that.

Q.—At the end of 1954 and early 1955 Dr. Adikaram was the Manager of the B.T.S.?

A.—Yes. 30

Q.—And the first thing you did after being appointed Principal was again to seek to retire? A.—Yes.

Q.—Why did you do that?

A.—Because my promotions were my legitimate right independent of the policy of the Government.

Q.—And were you making every endeavour to improve your own personal position?

A.—Oh yes.

Q.—And that is why you sought appointment as Principal of Ananda Sastralaya?

A.—Yes.

Q.—And it is to improve your own personal position that you sought to retire on 40 the 25th April 1955?

A.—Not to improve my position, because I could not help it.

Q.—What were you going to do after retirement? A.—I was never sure of that.

Q.—Are you sure today? A.—No.

Q.—Your application D14 of 21st April 1955 (shown) is signed by you? A.—Yes.

Q.—You are making a second appeal under section 6(b)? A.—No.

Q.—Have you made any previous application to retire under 6(b)?

A.—I applied to the Director of Education and this is only a letter to the Minister asking for his assistance in the matter. This is not an application.

Q.—When he had refused it already?

A.—He had not refused it, the Director had refused.

Q.—And the Minister of Finance had refused it? A.—No.—(Shown D13).

Q.—In the second paragraph you say 'I have no background in Sinhalese'; what is your background—English or Sinhalese?

10 A.—Is it in connection with this sentence? It is not possible to answer that.

Q.—Did you mean to convey by the third paragraph that you failed the Sinhalese on the first occasion? A.—No.

Q.—Why did you not say there that you passed in Sinhalese both times you sat for the S.S.C.? A.—You don't usually write letters like that?

Q.—I put it to you that you were attempting to suppress the truth in paragraph 3 deliberately when you referred to your having to offer Sinhalese for the S.S.C. and that you were successful at the examination only at the second attempt?

A.—Not deliberately. Reading paragraph 3 now I would like to amend it.

20 Q.—By paragraph 3 you conveyed the impression that you had failed in Sinhalese the first time you sat for the S.S.C.? A.—It can convey that meaning.

Q.—Did you not suppress the fact in paragraph 4 that you had done Sinhalese for the Matriculation? A.—No definitely not.

Q.—Why did you not state here that you did the Matriculation also with Sinhalese?

A.—Not necessary, because in my opinion Matriculation Sinhalese was lower than S.S.C.

Q.—Both Dr. Adikaram and Mr. Kularatne say that Matriculation Sinhalese is higher than S.S.C. Sinhalese?

A.—In that case I think Dr. Adikaram was confused because he was thinking of the Cambridge Senior which is higher.

30 Q.—You were here when Dr. Adikaram said that? A.—Yes.

Q.—You do not agree with that? A.—No.

Q.—You know at that date again that there was a change over to swabasha at the date of this appeal? A.—I cannot definitely say that.

Q.—You refer to Ponnadurai having been allowed to retire? A.—Yes.

Q.—Do you know the reason given by Mr. M. D. H. Jayawardene for his retirement.

A.—I heard that.

Q.—From where? A.—From somebody who was in Court.

Q.—This appeal too had been refused? A.—Yes.

40 In June 1955 I was Principal of Ananda Sastralaya. At that time I was doing some work in that school.

Q.—There was full time work as Principal and you were taking some classes?

A.—Yes.

Q.—On 28th September 1955 there was enough work for you in the school in the English medium? A.—Yes.

Q.—And you would not have been allowed to retire in September 1955 because there was work for you in the English medium?

A.—There is this difference - a Principal of a school is not expected to teach for more than 10 hours I think.

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

—  
Evidence of  
N. W. de  
Costa  
Cross-  
examination  
—continued.

Q.—In September 1955 you could have done 10 hours work teaching in that school in English very well? A.—Yes.

Q.—And you could not have retired in September 1955 under the Pensions Regulations because there was enough work for you in the school to be done in English?

A.—I could yet have retired.

Q.—In September 1955 there was enough work in the English medium in your schools which would have prevented you from retiring under the Pensions Regulations?

A.—No.

Q.—Do you know that under those regulations although you were unable to do work in the Sinhalese medium if there was work for yourself in the school in the English 10 medium you would not be allowed to retire? A.—No.

Q.—You do not agree with me? A.—No.—D17 was a re-writing of D13.

Q.—Was that re-writing of the same letter an attempt at suppressing the truth?

A.—No.

Q.—You agree that the fourth paragraph can give a doubtful meaning A.—Yes.

Q.—And it can be construed that you intended to suppress a fact.....?

A.—If one is inclined to do so.

Q.—Again there you suppressed the fact that you sat for the Matriculation with Sinhalese? A.—No.

Q.—Do you say that in D17? A.—No.

Q.—Is there any paper or document anywhere where you told anybody that you passed the Matriculation Sinhalese? A.—It is not necessary.

Question repeated.

A.—I do not know whether there is anything anywhere.

Q.—D17 was refused on 29th November 1955? A.—Yes.

Q.—Your school closed when in 1955? A.—On December 9th, I am not sure.

Q.—And there was re-opening after the Christmas holidays? A.—Yes.

Q.—That was on the 8th or 19th January? A.—I forget.

Q.—After the first term began you consulted your doctor?

A.—I saw him on the 19th.

Q.—You know that P25 was produced in Court yesterday? A.—Yes.

Q.—You gave this to your Counsel Mr. Wikremanayake?

A.—My proctor must have given it.

Q.—Who gave it to your proctor? A.—I gave it.

Q.—When? A.—I forget the date.

Q.—Was it two days ago or three days ago?

A.—I had given it to my earlier proctor Mr. Nissanka a long time ago.

Q.—About a year ago? A.—About 7 or 8 months ago.

Q.—From where did you get P25? A.—The doctor gave it to me.

Q.—Has it been with you since then?

A.—It has been for about two days with the General Manager.

Q.—How did it get to the General Manager? A.—I showed it to him.

Q.—In support of an application for leave?

A.—I did not make an application for leave.

Q.—Did you make a written application for leave?

A.—No, it is a verbal application I made.

Q.—You made a verbal application to Dr. Adikaram? A.—Yes.

Q.—And you showed him P25 and took it back? A.—Yes.

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Q.—That is how applications for leave are made in the B.T.S. ?

A.—I do not know. I did that.

Q.—And Dr. Adikaram verbally told you to keep away ?

A.—He gave the leave verbally.

Q.—For a month ? A.—Even more.

Q.—You brought the certificate back ? A.—I showed it to him and took it back.

Q.—Why ?

A.—Because when the department comes for the Annual Returns I would need it.

I was the Principal of the school and I would have to keep this document.

10 Q.—Did you keep this document in the school file ?

A.—I was not going to school at the time. I kept it with me.—(Shown P16).

Q.—That was not a letter addressed to you ?

A.—A letter addressed to Ananda Sastralaya, Kotte. It is not addressed to me direct.

Q.—Where should this letter be ? A.—In the school file.

Q.—How did you get it ? A.—I was the Principal and I took it.

Q.—And you took it with you when you obtained your leave in January 1956 ?

A.—This was a document of some importance to me and I had preserved it with me, I had kept it with me.

20 Q.—You kept it with you from 1953 ? A.—Yes.

Q.—And you never let that go into the school files ? A.—No.

Q.—Was that the proper thing to have done ?

A.—I think so, otherwise I would have fallen into trouble.

Q.—So you were taking documents from the school files ?

A.—I did not put this in the file.

Q.—Were you taking any documents from the school files with a view to improving your personal position ? A.—No.—(Shown P13).

Q.—Did you hand this to your lawyers ? A.—I had several of these.

Q.—From where did you get this ? A.—I was the person who was responsible for this.

30 Q.—From where did you get P13 ? A.—From the school.

Q.—From the files of Ananda Sastralaya ?

A.—P13 never went into the file as such. File means, I may have made a mistake there; this circular was collected and after it is collected it is of no importance and it is destroyed.

After I handed over my papers to the lawyers I went over to the school to see whether I could find any. I found about three of these on searching the drawers and Mr. Palliwardene had destroyed the rest.

Q.—These were in a file ?

A.—There is a store room where the rubbish is put. I found these three in a drawer.

40 Q.—Who asked you to get this document ?

A.—Because they asked me to get the documents.....

Q.—Who asked you to get the documents ?

A.—I think you asked me to get this document. Because I consulted you three times. You gave me so much advice and you promised not to appear on the other side.

Q.—When did you get that document into your hands ?

A.—I cannot remember the date.

Q.—Was it after this case commenced ? A.—No, after I filed plaint.

Q.—You went to the school ? A.—Yes.

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

—  
Evidence of  
N. W. de  
Costa  
Cross-  
examination  
—continued

Q.—You got this document from the school files ?

A.—I cannot say from the files, I searched for the documents and found them.

In January 1956 I did not go to school. In February 1956 I did not go to school. In January I was in India. I think for the most part of January I was in India. I was at the Theosophical Society at Adayar. It is more than 4 miles, it is about 10 miles from Madras. It is very cool there.

Q.—You got a certificate from your doctor to go upcountry ?

A.—Is it written there?

Q.—You do not know what is written in P25 ?

A.—I know, one of the statements is that it is neurasthenia and he asked me to go 10 for a holiday, for a change.

Q.—Did he ask you to go to India ? A.—No, I selected that myself.

Q.—Did he ask you to go upcountry ? A.—I forget.

Q.—I put it to you that you obtained P25 under false pretences ?

A.—No, I never do things like that.

Q.—When did you return ?

A.—I cannot remember the exact date, I returned by the end of January.

Q.—You were in India from the 19th January till the end of January ?

A.—I think so.

Q.—By the time you returned it was known here that the then Parliament was to 20 be dissolved ? A.—In February?

Q.—Yes ? A.—I forget.

Q.—Why did you ask the question ' In February ' ?

A.—Because I knew it was in March or so.

Q.—The first thing you did after you came from India was on 10th February to write to Mr. M. D. H. Jayawardene ? A.—Yes.

Q.—In D25 you have stated nothing new in regard to your reasons for retirement ?

A.—I must read the documents.—(Witness reads D25).

Q.—Is there anything new in that letter ? A.—The last paragraph in D25 is new.

Q.—That is all that is new ? A.—I have to read again.—(Shown D13). 30

Q.—Is there anything new in D25 as against D13 ? A.—Only the last paragraph.

Q.—In 1956 your present post was Headmaster of a school ? A.—Principal

Q.—What was your post in April 1955 ? A.—The same.

Q.—Did your post in April 1955 require a very sound knowledge of Sinhalese ?

A.—I was not aware of it so much.

Q.—Did your position in the school in April 1955 require a very sound knowledge of Sinhalese ?

A.—To some questions yes or no is not the answer.

Q.—After you wrote that letter of 10th February 1956 the election campaigns had started for the general elections of 1956—(Shown D25). 40

A.—I think so.

Q.—Do you know to drive a station wagon ?

A.—I have not so far driven, I may be able to, I can drive a motor car.

Q.—Did you distribute any pamphlets in the Kotte electorate supporting Tissa de Alwis ? A.—No.

Q.—The two candidates were Tissa de Alwis and Robert Gunawardene ?

A.—There were three candidates.

Q.—Who was the third? A.—One Mr. Fonseka.

Q.—Was he in the running at all?

A.—Your idiom I find it difficult to appreciate.

Q.—You understand the meaning of my question?

A.—I am afraid about your terms because you are so very clever.

Q.—You understand the meaning of my question – was he in the running?

A.—I do not.

Q.—Was he one of the persons who was seriously expected to win? A.—No.

Q.—The two real rivals were Tissa de Alwis and Robert Gunawardene? A.—Yes.

10 Q.—Did you work against Robert Gunawardene?

A.—Again yes or no is not the answer, because my issuing the pamphlets may have affected him.

Q.—Did you ask people not to vote for Mr. Robert Gunawardene by this pamphlet?

A.—Let me read it please.

Q.—Without reading the pamphlet now you cannot say whether you issued the pamphlets asking the people to vote against Robert Gunawardene?

A.—I think I asked. I asked my students that he should not be supported.

Q.—Did you ask everybody who reads the pamphlets not to vote for Robert Gunawardene? A.—I cannot remember.

20 Q.—You said that ‘Indians are a menace to Ceylon and for that reason they should not vote for Robert Gunawardene’? A.—I said that Indians are a menace to Ceylon.

Q.—Are Indians a menace to Ceylon?

A.—I think we had an Indian on the staff and I do not like to answer that.

Q.—Did you raise the Indian question when you asked people to vote against Robert Gunawardene? A.—Yes.

Q.—Was the Indian question anything connected with Ananda Sastralaya?

A.—If you ask me strictly speaking it is.

Q.—Because there was an Indian teacher at Ananda Sastralaya that you referred to the Indian question? A.—No.

30 Q.—Was it because there was an Indian teacher in that school that you raised the Indian question in that pamphlet? A.—No.

Q.—Then why?

A.—Because my intention was to see that Mr. Robert Gunawardene was defeated.

Q.—And Tissa de Alwis returned? A.—No.

I wanted Robert Gunawardene defeated and the automatic result would have been the return of Tissa de Alwis.

Q.—The fact of your working against Robert Gunawardene was a well-known fact?

A.—Even that I could not say because I issued that pamphlet on the 7th morning, people did not know.

40 Q.—Did you address any meetings? A.—No.

Q.—During that period you were busy in seeing Mr. Jayasuriya?

A.—Yes or no cannot be the answer.

Q.—Did you tell Mr. Jayasuriya that your text book in Botany was prepared by you over a period of years in English? A.—No.—(Shown P9 paragraph 3).

Q.—Mr. Jayasuriya says that you had taken up the position that over a period of years you had prepared that Botany book in English, he says that?

A.—In this letter he mentions it.

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

—  
Evidence of  
N. W. de  
Costa  
Cross-  
examination  
—continued

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

—  
Evidence of  
N. W. de  
Costa  
Cross-  
examination  
—continued

Q.—Is it right or wrong? A.—It is wrong.

Q.—Did you convey that wrong impression to him? A.—No.

Q.—I put it to you that you were seeing Mr. Jayasuriya and telling him lies about the Udbida Vidyawa? A.—No.

Q.—You pretended to Mr. Jayasuriya that you did it in English and got somebody to translate it? A.—I never did that.

Q.—But Mr. Jayasuriya misunderstood you?

A.—That is what I expect he has done.

Q.—You had appealed to the Minister of Finance at that time? A.—No.

Q.—At the date of 7th March 1956 were you interviewing Mr. Jayasuriya? 10

A.—No.

Q.—Prior to that were you interviewing Mr. Jayasuriya? A.—Yes.

Q.—How long before that, 2 or 3 days before?

A.—I think I interviewed him in February, just before I made my appeal.

I returned from India at the end of January or in early February. Then I appealed to the Minister of Finance.

Q.—Then you started interviewing Mr. Jayasuriya?

A.—No, I had started interviewing Mr. Jayssuriya before I went to India.

Q.—After you returned from India did you interview Mr. Jayasuriya?

A.—Most likely. 20

Q.—And did you interview Mr. Jayasuriya after the 10th February?

A.—I cannot remember.

Q.—Is it likely that you saw him after the 10th February? A.—Yes.

Q.—And did you tell him that even the Udbida Vidyawa that is held against you was done by you in English?

A.—No, I think he had got the wrong impression. Many got the impression that I had written it in English and that it was translated.

Q.—Were you asked that by Mr. Jayasuriya? A.—I forget.

I remember very well that Mr. M. D. Banda asked me that.—(Counsel refers to D25).

Q.—Apart from Mr. Jayasuriya did you see anybody else in the Ministry of 30 Education? A.—Yes, I went to see the Minister Mr. Banda.

Q.—He was a member of the U.N.P. A.—Yes.

Q.—And you know Mr. Wijetunga? A.—Yes.

Q.—How is he related to the Minister?

A.—I know that he is related but I do not know how he is related.

Q.—How many times did you see Mr. Wijetunge?

A.—I must have seen him over 25 times.

Q.—After you returned from India? A.—No before that.

Q.—After you returned from India how many times?

A.—I am sorry I made a mistake in saying 25 times. I cannot remember how many 40 times I went and saw Mr. Wijetunge after I came from India. After I returned from India I met him several times.

Q.—And worried him to speak to the Minister?

A.—I did not worry him, I asked him to speak to the Minister.

Q.—And do what?

A.—And recommend my application to the Minister of Finance.

Q.—You thought that was the proper thing to do? A.—Oh yes.



Q.—And you went to the office one day and left this note D26 (shown) in the office, can you remember that note?

A.—I can now remember this because it was discussed 5 or 6 days in Court.

Q.—Otherwise you would have forgotten about it? A.—Yes.

Q.—Can you tell me the date of this document?

A.—There is a date here in ink, I do not know whether that is the date.

Q.—What is the date of this document? A.—I do not know.

Q.—You thought that the date 19/3/57 might be the date? A.—No.

When you asked me the question “What is the date?” naturally my eyes went 10 to that and I could not follow.—(Adjourned for lunch).

(Sgd.) A. L. S. SIRIMANNE

A.D.J.

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

—  
Evidence of  
N. W. de  
Costa  
Cross-  
examination  
—continued.

After lunch.

N. W. DE COSTA—Recalled—Affirmed—Cross-examination continued.

Q.—You had tea with one Mr. Siriwardene in the Parliamentary lobby and D40 was your dedication to him? A.—Yes.

Q.—That is a translation by you in the Sinhalese from Sanskrit or Pali verse?

A.—No.

Q.—Is that dedication in the nature of a translation from the Sanskrit or Pali into 20 Sinhalese?

A.—This is a translation from Pali but it was not done by me.

Q.—You didn't know anything about that?

A.—I know about this book but I did not write it.

Q.—When did you first see this book? A.—About 10 years ago.

(Witness asked to read first page of D40).

Q.—Is the author of the book mentioned there? A.—No.

Q.—Is the address of the author given here? A.—Yes. That is my home address.

Q.—Is that address put down in D40 right or wrong?

A.—That was my old number. That is the correct address.

30 Q.—That refers to the fact that you were the author of that book?

A.—No. That was translated by Mr. Siriwardene himself. He is very good in Sinhalese. I gave him the Pali scripture.

Q.—Was there anybody staying in your house who was the author of this book?

A.—No.

Q.—The place from where this book issued is in D40, and that address is your house?

A.—Yes.

Q.—When you came back from America in 1955 you intended to go back to America?

A.—No.

Q.—Didn't you say so to Dr. Adikaram, that you intend going back to America?

40 A.—No, I did not.

Q.—Did you know the American Ambassador Mr. Esterline? A.—Yes.

Q.—Did you ask him for a job? A.—No.

Q.—Did you apply there for a job? A.—No.

I never told Dr. Adikaram that I was going back to America. I never indicated that at all to him.

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

Evidence of  
N. W. de  
Costa  
Cross-  
examination  
—continued.

Q.—You did retire under the new Pensions regulations on the basis that you were not able to teach in Sinhalese ?

A.—That was one of the reasons. The other reason was that I was opposed to the policy.

Q.—You would not have been allowed to retire because you were opposed to the policy only ?

A.—I think I would have been allowed to retire. That is how I understood the regulations.

Q.—In December 1955 there were three Buddhist schools in Kotte and I believe there are three Buddhist schools there even today ? A.—I know of three. <sup>10</sup>

Q.—In June 1953 Mr. Kularatne had appointed Mr. Alagiyawanna as the vice principal of your school as from the 1st July ? A.—So he told me.

Q.—You were present in Court when Mr. Kularatne gave evidence ? A.—Yes.

Q.—You knew that Mr. Kularatne and Alagiyawanna were coming to the school on the 1st July ? A.—I heard about it.

Q.—Did you know that they were coming to the school on the 1st July ?

A.—No. I had just guessed that they would come from what I heard.

Q.—Everybody in the school knew about it ?

A.—I do not say everybody knew about it, a large number knew.

Q.—You had made up your mind to resist Alagiyawanna acting as vice principal ? <sup>20</sup>

A.—No.

Q.—Had you made up your mind to allow Alagiyawanna to function there as vice principal before he came ? A.—No.

Q.—You had made up your mind to resist Alagiyawanna acting as vice principal ?

A.—No.

Q.—Mr. Kularatne came and told you that it was no doubt true that you were appointed to act for the principal Mr. Wickremesinghe, but that he was appointing Alagiyawanna as vice principal ? A.—He did not tell me all that.

Q.—He asked for the log book ?

A.—Yes. I could not give him the log book as it was under lock and key and the key was with the principal who was in hospital at the time. That is all I told him. I <sup>30</sup> did not refuse to give it to him. I told him I cannot find the log.

Q.—Was there a ruler in your drawer ? A.—I don't remember.

Q.—You are very easily upset ? A.—In certain matters.

Q.—Were you upset that day ? A.—Yes.

Q.—Very much upset ? A.—I was upset.

Q.—So upset that you don't know what you did ?

A.—I quite remember what I did. Most of those things I remember.

Q.—Some of the things you cannot remember ?

A.—Some things you don't remember. I remember giving a copy of that letter to Mr. Kularatne. I remember my even touching his arm and Mr. Kularatne said that <sup>40</sup> I caught him by the arm, which is untrue.

Q.—Why did you touch his arm ?

A.—Because I had closed the door and because there was a door at the back through which he wanted to go. I told him " Sir you can go this way " and touched him on the arm. He brushed my hand and went away.

Q.—Mr. Alagiyawanna came and started working in the school after Mr. Wickremesinghe returned from the hospital ? A.—Yes.

Q.—Had you been summoned by the B.T.S. board in connection with the incident on the 1st July, to appear before them? A.—Yes.

Q.—Was what happened at the B.T.S. a decision in your favour? A.—No.

Q.—Why do you say in the other Court when giving evidence in chief before Mr. Talgodapitiya, in answer to the question “What happened at the B.T.S.?” A.—It was decided in my favour?”

A.—Because I understood this much – that I was only asked to apologise, and that I was not even transferred and no other punishment given. According to the charges I should have been immediately suspended and even discontinued. I personally felt 10 that they did not consider me to be so much at fault.

Q.—Did you give your earlier answer to Court in answer to my question “Was what happened at the B.T.S. a decision in your favour.” A.—No.

A.—I said “no,” but how can I remember everything.

I had signed a written apology. I did not circularise it. I was asked to circularise it but I did not do so.

Q.—Was the circular letter of apology sent to Mr. Wickremesinghe?

A.—I think Mr. Wickremesinghe was sent my letter of apology and asked to circularise it among the membrs of the staff.

Q.—You did not think that punishment enough? A.—No.

20 Q.—Were you not ashamed of yourself that that apology was sent to every member of the staff? A.—Never.

Q.—Were you angry with Alagiyawanna because that aplogy had been circularised to the members of the staff? A.—No.

Q.—Do you know the occasion when the Kindergarten school was opened in 1953, somewhere about September or October?

A.—I remember, but I cannot remember the date.

Q.—I put it to you that it was long before the hartal or general strike?

A.—I think it may have been before that.

Q.—I put it to you that it was before? A.—I agree with you.

30 Q.—Did you tell the Court at the trial before Mr. Talgodapitiya that you were calling Mr. Dudley Senanayake? A.—Yes.

Q.—Are you calling him?

A.—I took out summons on the last day; he was in hospital and could not be served.

Q.—In answer to the question “Did you boycott the function when Mr. Dudley Senanayake came,” did you say that you did not? A.—Yes.

Q.—You attended that function? A.—I did not.

Q.—You had been told by the Police not to attend that function?

A.—I had been told by the A.S.P. not to attend the function.

40 Q.—You were the only teacher of the school who was told by the A.S.P. not to attend that function? A.—I don't know.

Q.—Up to date you don't know whether you were the only teacher told by the A.S.P. not to attend the function? A.—No.

Q.—Do you know Dharmakirthi?

A.—If it is the person hwo is concerned in this case, I know him.

Q.—He is the school boy who gave evidence? A.—Yes.

Q.—There were handbills distributed in the school calling on the boys to boycott that function? A.—Yes.

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

Evidence of  
N. W. de  
Costa  
Cross-  
examination  
—continued

Q.—And you knew fully well that that function was going to be boycotted ?

A.—No. I did not know at all.

Q.—Didn't you say so to anybody that the function was going to be boycotted ?

A.—That it was going to be boycotted I did not tell anyone.

Q.—Did you tell the A.S.P. that you had information that the boys will boycott that function ? A.—I don't quite remember, but I think I may have said so.

Q.—The boys told you that ? A.—No. I saw the pamphlets.

Q.—Did you assure the A.S.P. that the boys would never create any trouble ?

A.—I could not assure him, but I said that in my opinion I did not know of any such move among the boys that they would boycott the function. 10

(Shown P18.—Witness asked to read the last four sentences in the first paragraph).

Q.—Is that a correct statement that you made or not ?

A.—I don't remember that. I had no right to assure him. I think it is wrong.

Q.—Did you not know that the boys were going to boycott that function ?

A.—No. I only saw the pamphlet.

Q.—Didn't you draw the inference that the boys may boycott that function ?

A.—The boys may have boycotted it.

I did not tell any boy " Don't boycott that function."

Q.—Do you know why you were singled out by the Police to be told to boycott that function ?—(Mr. Dias objects.—Mr. Thiagalingam withdraws the question). 20

Q.—After that kindergarten opening ceremony, facilities fees did not come in as well as they might have in 1954 ?

A.—The facilities fees for 1954 were very good.

Q.—Will you take it from me that hardly any boy has paid facilities fees for 1954 ?

A.—I cannot believe that.

Q.—In 1954 Dr. Adikaram was appointed General Manager of Buddhist schools ?

A.—Yes.

Q.—At that time Mr. Alagiyawanna was acting as Vice Principal ? A.—Yes.

Q.—A vice principal's function is to act for the principal when he was on leave or away ? A.—I don't know. 30

Q.—Even up to date you don't know ? A.—Yes.

Q.—You think that when a vice principal is there on the staff anybody else can act for the principal ? A.—No. I cannot say why.

Q.—You agree that when there is a vice principal on the staff nobody else can act for the principal during his absence ? A.—I could not come to that conclusion.

Q.—Do you take the position that when there is a vice principal on the staff that anybody else could act for the principal during the principal's absence ?

A.—It depends on the position of the vice principal.

Q.—In any event if there is a vice principal on the staff in the permanent establishment of the staff could anybody other than he act for the principal in his absence ? 40

A.—There are two things to be considered. Departmentally it is not valid. Where the Manager is concerned the Vice Principal may act.

Q.—What is not valid ? A.—The post of vice principal being used or not.

Q.—If there is a vice principal on the staff of a school in permanent employ would anybody else act for the principal in the principal's absence ? A.—Not normally.

Q.—Abnormally ‘yes’?

A.—No. Abnormally is not the opposite of normally.

Q.—Can you give any circumstances when any third party can act for the principal when there was a vice principal who is the permanent holder of that office?

A.—Yes, the General Manager can appoint a deputy principal.

Q.—Can you give any circumstances in which any other person can act for the principal when there is a vice principal? A.—Question again please?

Q.—You were appointed to act for Mr. Wickremesinghe when Mr. Alagiyawanna was the vice principal of that school? A.—I think so.

10 Q.—Anti Alagiyawanna slogans had appeared on the school wall? A.—Yes.

Q.—It is a shameful thing for the school? A.—Very bad.

Q.—Whoever got that done was throwing mud on the name of the school? A.—Yes.

Q.—And it was a matter of common talk in the Kotte area?

A.—No, I don't think so.

Q.—Did you find out who did it? A.—No.

Q.—Who was the man most angry with Mr. Alagiyawanna in that school?

A.—I don't know.

Q.—You know where Dharmakirti was staying?

A.—No. Up to date I do not know.

20 Q.—He was a boy who was wielding a lot of influence in that school during his time?

A.—No.

Q.—He was not one of the boys who wielded a lot of influence in that school?

A.—He was an office-bearer. I think I was asked whether he was a boy who was wielding influence; I cannot understand that.

Q.—In 1954 when you were on your scholarship in America Alagiyawanna had left the school? A.—Yes.

Q.—And he assumed office as principal of Sri Sumangala in 1954? A.—Yes.

Q.—One of the first things you did when you came back was to hold a fair or carnival in that school? A.—That was six months later.

30 Q.—Mr. Wickremesinghe on his retirement had left over a lakh of rupees in the school funds?

A.—No, there was a sum of Rs. 29,000/-. I cannot say that Wickremesinghe had left it. That is the Government grant that accumulated with the school moneys.

Q.—When you left, how much was there?

A.—There was the other Government grant due. There was about Rs. 10,000/-.

Q.—Of the Rs. 29,000/- that was there when Mr. Wickremesinghe left, how much was left? A.—There must have been about Rs. 1,000/-.

Q.—At the end of 1955 was there a deficit of Rs. 290/24 when you left, in that fund?

A.—I don't know.

40 Q.—I put it to you that you frittered away all that money that Mr. Wickremesinghe left? A.—No.

Q.—At the end of 1955 there was not enough money in the school under the head of carnivals, collections and so on?

A.—There were no such head. There was only one school fund. I believe that there was Rs. 1,000/- left over.

(To Court : Q.—How do you account for that drop?

A.—A land was bought for Rs. 18,000/-).

Q.—Did you drop any money on that fair that you ran?

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

—  
Evidence of  
N. W. de  
Costa  
Cross-  
examination  
—continued.

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

—  
Evidence of  
N. W. de  
Costa  
Cross-  
examination  
—continued.

A.—Yes there was a loss of about Rs. 6,000/-.

Q.—Did you give accounts for it?

A.—The accounts were altered when I left the school.

Q.—Do you know that the auditors noticed a shortfall in your accounting?

(Mr. Dias objects to the question.—I uphold the objection).

A.—The school funds were low in 1955? A.—Yes.

Q.—And then you started telling everybody to pay facilities fees?

A.—When you say “and then you started,” that is all wrong.

Q.—Did you tell people to start paying facilities fees? A.—Yes.

Q.—The first circular you issued was in November 1955?

10

A.—No. That refers to an earlier circular.

Q.—You heard Mr. Heendeniya in the witness box? A.—Yes.

Q.—Did you order him out of your room?

A.—I asked him to keep away from the office.

Q.—He told you to allow his daughter Sita to sit for the examination and that he would pay the money later? A.—No.

(To Court : Q.—His daughter was taking up that examination? A.—Yes.

Q.—Had you refused her an admission card? A.—Yes).

Q.—You yourself was a comparatively poor boy, you got your education free throughout, went on scholarships and one thing and another?

20

A.—No. My father was well to do.

Q.—Did he leave any estate on his death? A.—He left some wealth.

Q.—You had refused admission cards to boys who were sitting for the Varsity entrance? A.—To some boys.

Q.—And ultimately they had to get them from Mr. Palliwardene? A.—Yes.

Q.—With Palliwardene you went through the sham proceeding of getting Palliwardene to write a cheque? A.—If the word sham is applicable, yes.

Q.—You and Palliwardene agreed that the cheque Palliwardene was going to write was to be waste paper? A.—No.

Q.—Was it to be used for purposes of cashing that cheque? A.—No.

30

Q.—Then it was waste paper? A.—No, it would serve some purpose.

Q.—You were summoned by the Minister of Education in connection with the S.S.C. cards? A.—No.

Q.—Then by the Director of Education? A.—No.

Q.—Did you go and see him?

A.—Yes because Mr. Iriyagolle the Secretary of the B.T.S. wanted me to come. He said that if I come over to the office the matter could be amicably settled. I was requested by the Director of Education to issue the cards. But I refused to issue the cards because the Director said that he would send some inspectors at 3 o'clock to wait till then.

40

Q.—You told the Director that you would issue the cards?

A.—Yes, that is what I inferred from what he said.

Q.—The Director was not sure that you would issue the cards?

A.—I think he took my word for it.

Q.—Why did he send the inspectors?

A.—Perhaps to see that they were issued.

I had started issuing the cards when about two inspectors came, then later two others followed.

Q.—All the girls and boys who sat for that examination failed. Everyone of them failed the S.S.C. examination? A.—Yes.

(To Court : Q.—Was that boy Jayasekere also in the school?

A.—Yes. He was in the H.S.C. He was one of those who had been refused admission cards).

Austin de Silva was a teacher in the school. Kithsiri Ameratunge was a schoolboy in the school. Jayasekere was one of those who was refused his admission card by me.

10 Q.—Kithsiri Ameratunge had been able to sit for the Varsity entrance when you were in America? A.—Yes. Wimalaweera Perera was a student in the school.

I know D.U. Samarakoon. He was not a friend of mine at any time. I don't know whether there was any information to the police about Samarakoon. Up to date I don't know. I never heard about it. I heard his evidence in the witness box.

Q.—He told us a story about your running riot on one occasion?

A.—Is that correct.

Q.—Did you hear D.U. Samarakoon in the witness box talk about your trying to kill him? A.—I heard that.

20 Q.—According to him you were running riot on that occasion?

A.—I don't understand.

Q.—Mahindapala Boteju had been in your school?

A.—I don't know. I did not know him. Till I saw him I did not know who he was.

Q.—But now that you have seen him you know him?

A.—I don't know that he was an old student of the school.

(To Court : Q.—Had you any kind of trouble with Samarakoon?

A.—Nothing at all).

I remember he was struck by lightening one day and I helped him. He was one of those Sama Samajists.

30 Q.—Did he attend your sister's wedding? A.—I cannot remember.

Q.—Were there any verses recited at your sister's wedding? A.—Yes.

Q.—Who composed them?

A.—I usually get them composed by my friends, Mr. Siriwardene or somebody like that.

Q.—These facilities fees were primarily meant for extra curricular work?

A.—The department has stated that they should be used for library facilities, play ground equipment and domestic science.

Q.—Domestic science is not extra curricular work? A.—No.

Q.—Literary Associations would be extra curricular work?

40 A.—It is difficult to distinguish what is school work and what is extra curricular work.

Q.—Did you instruct your lawyers that facilities fees were being paid to meet Alagiyawanna's allowance? A.—Yes.

Q.—Who told you that? A.—I knew it.

Q.—You thought it was a very wrong thing to do, to pay Alagiyawanna's special allowance out of the facilities fees? A.—Yes.

Q.—You mentioned that to the staff? A.—We were discussing.....

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

Evidence of  
N. W. de  
Costa  
Cross-  
examination  
—continued.

Q.—Did you mention it to the staff that it was a wrong thing to do ?

A.—I may have mentioned it to one or two members.

Q.—Did you tell that to the boys ? A.—No.

But I spoke about at the staff meetings when Alagiyawanna was there. I mentioned this because you asked me whether I spoke to the staff about it. You did not ask me whether Alagiyawanna was there.

Q.—Dharmasiri had written a letter to the Lanka Dipa approving of your conduct in regard to facilities fees ?

A.—There was a letter written by one Dharmasiri which I did not consider in my favour.

Q.—Is he related to you ? A.—I know one Dharmasiri de Costa.

Q.—Is Dharmasiri de Costa the writer of that letter ?

A.—I don't know. Up to date I don't know.

I read the letter. I don't know who that Dharmasiri is. On Mr. Thiagalingam's advice I went and asked the person that I thought was W. Dharmasiri whether he wrote the letter and he said no.

Q.—Did you tell the boys to get the admission cards from the Education Department if they can ?

A.—Quite likely I would have said it. Those few students who were disobedient I would have asked them to do so.—(Shown P22).

Q.—The education department had undertaken to present the students for the S.S.C. examination even if you did not give their cards ? A.—Yes.

Q.—You were annoyed about it ? A.—I was displeased about it.

Q.—You were trying to tell the Education Department that they were doing the wrong thing ? A.—Yes, and I told them.

Q.—That is not disobeying the director according to you ? A.—Yes.

Q.—The Director of Education's orders have to be carried out by you ?

A.—No. At that discussion Mr. Walpita said the cards belong to the Commissioner of Examinations. I told him I would like to return those cards to him because I do not like to hand them to the Director of Education and not to the students because they were disobedient.

Q.—According to you the facilities fees were being used to pay Alagiyawanna's extra allowance ? A.—Yes.

Q.—According to you facilities fees should not be used for that purpose ? A.—Yes.

Q.—Therefore facilities fees should not be paid for that purpose ?

A.—If it is for that purpose, yes.

A.—Did you tell the boys so ? A.—Never.

Q.—You told them to pay the facilities fees although the money would go to pay Alagiyawanna's extra allowance ?

A.—I did not even do that. I was completely careful about myself. I was advised by the other B.T.S. officials to be careful about my conduct in the school so that they would see to my interests.

Q.—Your conduct was a matter of great concern to the B.T.S. officials ?

A.—Yes. They knew that I had worked very hard.

Q.—And that any time you would do the wrong thing ?—(No answer).

Q.—Mr. Robert Gunawardene had come and seen you and asked you to issue the cards ? A.—No.



Q.—Mr. Robert Gunawardene never came with the students and tried his best to get the admission cards ?

A.—I heard that he had come one day and gone. I was away on a holiday. I don't know why he came. Now I am aware that he came to speak about the admission cards. The examination was on the 6th December. I don't know whether the 5th December was a holiday. The 5th was a Monday. The two previous days were non-school days. Friday was a holiday.

Q.—Did Mr. Robert Gunawardene come on one of those days ?

A.—I heard that he had come on Friday. I don't know why he came. I came to 10 know of it very much later.

Q.—Did you say “ Let the M.P. pay the arrears ?” A.—No.

Q.—You heard that the M.P. had come there to the school ? A.—Yes.

Q.—You knew it was in connection with the admission cards ? A.—I guessed it.

Q.—Did you get into a temper ? A.—No.

Q.—You were quite calm and collected, you did not bother about it ?

A.—I think I would have bothered about it.

Q.—Did you say “ Let the M.P. pay the fees ?” A.—No.

Q.—This matter of facilities fees was raised in Parliament ? A.—Yes.

Q.—There had been large arrears in facilities fees in 1955 ? A.—There were arrears.

20 Q.—Had Dharmakirti come to your house at Nugegoda ? A.—I don't think so.

Q.—You live near the junction at Kohuwella ?

A.—Not quite close, about 200 yards away.

Q.—Mr. Gunawardene a teacher in the junior school supported your action with regard to facilities fees ? A.—What was the action with regard to facilities fees.

Q.—You refused admission cards to some boys for indiscipline ? A.—Yes.

Q.—Mr. Gunawardene a teacher of the junior school approved of your attitude ?

A.—I don't know whether he did so at that time, but later on he did.

Q.—Gunawardene had written a letter in support of it ? A.—Yes.

30 Q.—Anyway the things at Ananda Sastralaya were getting talked about in the whole of Kotte ? A.—I did not know that.

Q.—Even after the question of facilities fees were raised in Parliament ? A.—No.

Q.—Do you know that the question of facilities fees was first raised in the Dinamina even before the Lanka Dipa ?

A.—I forget. There were statements in the papers regarding facilities fees.

Q.—In the Dinamina before it appeared in the Lanka Dipa ?

A.—Not with reference to Ananda Sastralaya.

*Re-examination :*

I was asked various questions about the policy of the last Government at different times in regard to the medium of instruction in schools.

40 Q.—Can you tell us what do you understand by the language policy of the Government in Schools ?

A.—That the medium of instruction should be gradually introduced in the schools in swabasha.

Q.—Are you aware of the language policy of the present Government today ?

A.—I know that they are very anxious about Sinhalese.

Q.—In what spheres of activity ?

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

—  
Evidence of  
N. W. de  
Costa  
Cross-  
examination  
—continued.

Evidence of  
N. W. de  
Costa  
Re-  
examination

No. 7  
Plaintiff's  
Evidence in  
Rebuttal  
—  
Evidence of  
N. W. de  
Costa  
Re-  
examination  
—continued.

A.—I think they want to introduce the language even in the courts.

Q.—When did you first become aware that the last Government wanted to gradually introduce swabasha in the schools?

A.—I came to know of it with reference to my application in June 1954.

Q.—Did you discover the existence of this policy from the regulations of the Government? A.—I guessed it from the regulations.

(To Court : Q.—You went on leave to prepare for some examination?

A.—That was in 1950 for the degree. I was away for 4 months. I took three months leave. I think I went somewhere in April and came back in August. I was in England at that time).

10

At this time when I became aware of this policy of the Government to introduce Sinhalese gradually as the medium of instruction. I was a teacher at Ananda Sastralaya. I was opposed to that policy.

Q.—Because you were opposed to it did you think it was necessary that you should quit your job? A.—No.

Q.—Did you think it necessary that you should find other employment?

A.—Not immediately.

Q.—Did you see any reason for foregoing any advancement that you could have obtained in that profession that you had chosen? A.—No.

Q.—From the time that you became aware that Sinhalese was being gradually introduced as the medium of instruction in schools you continued to work for your own advancement as a teacher? A.—Yes.

Q.—Did you think that you employed improper measures to secure your own advancement? A.—No.

Q.—You were questioned about this botany text book that you have published. How did that book come to be written, what was the method that obtained in the writing of that book?

A.—Mr. Weerasinghe and I discussed it. He made some notes and on the following day we used to correct it. The book contains certain technical terms as well as other Sinhalese words. We got the technical words from the Sanskrit dictionary. The rest of the Sinhalese words, the non-technical words, were Mr. Weerasinghe's. The technical terms are all considered to be incorrect now.

I have done Sinhalese for the S.S.C. examination as well as for the London Matriculation. On the first occasion I failed the examination. On that occasion I offered Sinhalese as a subject. On the second occasion I was successful in the examination. But I passed in Sinhalese on both occasions.

Q.—Were there any prescribed text books in Sinhalese? A.—Even that I cannot say.

Q.—For the London Matriculation were there any prescribed textbooks in Sinhalese?

A.—There were no prescribed textbooks. There were translations from English into Sinhalese for the London Matriculation as well as translations from the Sinhalese into English. In the S.S.C. also there were passages for translation in both.

Q.—Were those passages given, passages from a textbook?

A.—In the Matriculation they were unseen passages. For the S.S.C. I think they were unseen passages in that examination too.

Q.—You told us that standards in the London Matriculation were lower than the standards for the S.S.C.?

A.—Yes. Because for the S.S.C. I remember there were grammar questions and no grammar questions for the Matriculation. If you get your translation from Sinhalese into English you can pass.

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

I made various applications under rule 6B and 6C for retirement. I had two reasons for seeking to retire, first that I was unable to teach in the Sinhalese medium of instruction and secondly that I was opposed to the Policy of Government. I supported my applications on those two grounds. The first of those applications, D8, was made when I was in America. In that application I was assisted by a lawyer who was also in the United States. He was a Ceylonese lawyer in the United States at the time, he was  
10 Mr. Terrence Amerasinghe.

Evidence of  
N. W. de  
Costa  
Re-  
examination  
—continued

Q.—At the time that you wanted to retire did you have any indication of leaving the teaching profession? A.—No.

Q.—Where would you have liked to have taught?

A.—There were private schools which I could teach which are not controlled by the Government.

Q.—You had no intention of leaving the teaching profession at the time you made this application for retirement? A.—No.

Q.—While you had made these applications you had already obtained your degree and also gone to America for study? A.—Yes.

20 Q.—In a private school which is not controlled by the Government would it have been obligatory on you to teach in the school in the Sinhalese medium of instruction?

A.—Not necessarily.

St. Thomas' College Mt. Lavinia teaches up to the Varsity entrance.

Q.—Do you know that you had to come back from the United States before the period of 6 months in the United States was over? A.—Yes.

Q.—Would you have liked to have returned to the United States for any reason at all?

A.—I would have liked to go again because it is a nice country. I would have liked to have stayed there until I got fed up. I would have liked to have gone to California.

30 Q.—Did you tell Dr. Adikaram that you would have liked to have gone back to California?

A.—I heard him say so, but whether I told him so or not I cannot remember.

Q.—You told the court that you went and had certain discussions with the Director of Education after your first application had been refused? A.—Yes.

Q.—Were those discussions before you had appealed to the Minister of Finance or after that? A.—I believe both before and after.

Q.—There were certain discussions that took place before you made your appeal to the Minister of Finance? A.—Yes.

40 Q.—Was it in consequence of those discussions that you had been to the Minister of Finance? A.—Yes.

When Mr. Wickremesinghe left there was Rs. 29,000/- left in the school funds.

Q.—Mr. Palliwardene would know exactly what the state of the funds was when you left?

(Mr. Thiagalingam objects).

A.—There was no purpose for me to know. I kept away from school in January.

After I retired Mr. Palliwardene took over the accounts as principal. Of the Rs. 29,000/- that was left Rs. 18,000/- was used for the purpose of purchasing a land.

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

Evidence of  
N. W. de  
Costa  
Re-  
examination  
—continued.

The land was adjoining the school. It is not being used but we did not want to lose the opportunity of buying it. There is a house on that land. At the time I took over as principal of the school there was no water service in the school. Now there is water service in the school. It was installed in the school during my time.

Q.—How much was expended on the installation of water service?

A.—This was not from the school funds. I collected money for the purpose.

Q.—Did you add to the school funds during the time you were principal?

A.—By other collections I added money to the school funds.

Q.—You told us that Mr. Kithsiri Ameratunge was a Sama Samajist? A.—Yes.

Q.—Were you and he on good terms or bad terms?

A.—At the beginning there was nothing but later on there were differences. Three other teachers had joined him; they were also leftist minded and Mr. Ameratunge was teaching the students about politics and things like that. I was not a sama samajist.

I remember I helped Mr. Samarakoon when he was struck by lightning.

Q.—Was that in the earlier period when you knew him or in the later period?

A.—I think it was the earlier period.

Q.—Were you in the habit of going about with Samarakoon?

A.—I used to go sometimes. I had no reason to threaten to cause his death.

Q.—You were questioned as to the extra curricular activities of the school. Do you know that the President of the literary association at Ananda Sastralaya is ex officio the principal? A.—It was not an established practice.

Q.—You know that the principal of the school was the most senior person? A.—No.

Q.—Do you know that there was also the junior president who was one of the masters whoever the senior president may be? A.—Yes.

Q.—During the time of 1953 onwards while you were in the school was Alagiya-wanna at any time the junior president of the literary association?

A.—I forget. I cannot say.

The question of facilities fees was discussed at the staff meetings by other members of the staff as well as myself.

(Sgd.) A. L. S. SIRIMANNE

A.D.J.

30

Evidence of  
M. G. Palli-  
wardene  
Examination

**M. G. Palliwardene**—Affirmed, 31, Teacher, Ananda Sastralaya, Kotte.

I am the acting principal of the Ananda Sastralaya today. I have been a teacher at Ananda Sastralaya for 10 years. I took my M.A. while I was a teacher there. I was a teacher in the school at the time Mr. Wickremesinghe was the principal. The administration of the office of the school today is in my hands. I knew that when Mr. Wickramasinghe was principal a circular was sent to the parents of the children reminding them every year with regard to the payment of facilities fees. I have a copy of that circular in my possession. If I remember rightly Mr. Wickremesinghe was principal of the school from 1946 to 1954. During that period facilities fees were payable in this school. I am aware that he had sent out circulars.

In July 1953 I was aware that Mr. Alagiya-wanna was appointed to this school. There were certain persons both on the staff as well as among the students who were opposed to Mr. Alagiya-wanna's appointment.

Q.—Did you take any views in this matter yourself?

A.—I was opposed to his appointment in the school. I protested in writing to the General Manager at that time.

Q.—Apart from that did you have occasion to express your opinions at staff meetings?

A.—Informally in the course of discussions with the staff.

Q.—What was the opinion that you expressed in the course of your informal discussions at the staff meetings? A.—I expressed my dissatisfaction.

There was a general talk that Alagiyawanna was paid an allowance out of the 10 facilities fees. I did not know for certain that it was out of the facilities fees but that was my impression at that time and on that information I expressed my opinion. Some of the others also expressed that opinion. I don't know whether it happened to be in the presence of Alagiyawanna.

Q.—In regard to the payment of facilities fees are you aware that certain students who had to sit for the H.S.C. examination were refused their admission cards by the plaintiff? A.—Yes.

Q.—Do you know why those students were refused their cards?

A.—They had not paid their fees and there was also the question of disobedience.

Q.—In that connection is there a letter in the school files from the students who were 20 refused their cards?

A.—Yes, there is. I have that letter in my possession in the school files, signed by certain boys.

Q.—Can you tell us the names of those boys?

(Mr. Thiagalingam objects as counsel seeks to get in the contents of a document.—I uphold the objection).

Q.—Were you aware that such a letter was received in the school?

A.—Round about that time I saw the letter and recently also I saw that letter.

Q.—Round about the time of that letter did you have occasion to write a cheque?

A.—The boys had been agitating about this and they had communicated with 30 certain political leaders about this and ultimately before the examination they came to me and explained the position and pleaded and begged with me to get them their admission cards. I told them I have not got the money and that if I had the money I would have gladly given them and showed them my bank balance. I told them that if necessary I will certainly guarantee the money. The following morning I went to the school and the principal also came and the principal spoke to me and he asked me whether there was anything I could do to save the situation. Then I asked him what I could do. I said I will write a cheque and was prepared to write a cheque and post date it so that I could deposit some money later. The principal himself suggested that I might write a cheque as guarantee. Then I called the boys into the office and told them that 40 I am writing this cheque purely as a guarantee that they would pay up their fees and everyone said that they would pay their fees after the examination. Then I issued the cheque and the cards were issued.

Q.—What happened to that cheque?

A.—It was not presented to the bank. It was not meant that I should pay the money. It was not intended that I should pay the money. That cheque is with me. The counterfoil of that cheque is also with me. That cheque was in the school file. I took it from the school file and brought into Court today.

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

—  
Evidence of  
M. G. Pallia-  
wardene  
Examination  
—continued

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

—  
Evidence of  
M. G. Pallia-  
wardene  
Examination  
—continued

I am acting as principal. I was appointed to act as principal from the beginning of last year, I think it was from the 9th January. In 1954 I had occasion to act for the principal. I had occasion to act when Mr. Wikremesinghe fell ill about the end of November. The school year was over on the 3rd December.

*Q.*—Would it be correct to say that the plaintiff Mr. Costa went away to America in the month of July 1954 ?

*A.*—I am not sure about the month, it was towards the middle of that year. In the middle of that year there were certain B.T.S. elections at which Dr. Adikaram replaced Mr. Kularatne as General Manager of Buddhist schools. Shortly after that Mr. Alagiyawanna the vice principal of the school also went away. From that time 10 onwards I was the senior master in the school.

The Registrar and the principal are responsible for the collection of facilities fees. During the latter half of 1954 Mr. Ratnayake was the Registrar, but he was on leave He was on leave from the end of 1954 to early 1955.

*Q.*—Whose business was it to collect facilities fees during that period in 1954 ?

*A.*—The registrar was on leave ; it was the principals, but much of the office administration was in the hands of the registrar at that time.

*Q.*—Was there to your knowledge a falling off in the payment of facilities fees in 1954 ? *A.*—There might have been.

*Q.*—Do you know the reason for that ?

*A.*—I presume that it was because most of the facilities fees come at the end of the year, Mr. Wickremesinghe was ill, the person acting for him was in America, Mr. Alagiyawanna was away and I was only appointed to act before the end of the term. 20

*Q.*—Do you know whether Mr. Costa had ever taught Sinhalese in any class ?

*A.*—I don't know.—I had given him private tuition in Sanskrit.

*Q.*—Was Sanskrit one of the subjects he offered for his degree ?

*A.*—He got tuition from me.

*Q.*—Do you know anything of his attainments in Sinhalese ?

(Mr. Thiagalingam objects.—I uphold the objection).

*Q.*—Did you have occasion to talk to Mr. Costa in Sinhalese ? *A.*—I have. 30

*Q.*—You have had occasion to try to teach him Sanskrit ? *A.*—Yes.

*Q.*—Have you ever known him to be capable of teaching in the Sinhalese medium of instruction ?

(Mr. Thiagalingam objects.—I allow it).

*A.*—No. No. I don't think he can teach the higher classes. By higher classes I mean the upper school. The upper school commences from the 6th standard.

(It is 4 p.m. now.—Further hearing on 5/4).

(Sgd.) A. L. S. SIRIMANNE  
A.D.J.

Trial resumed.—Appearances as before.

M. G. PALLIAWARDENE—Recalled—Affirmed—Examination-in-chief continued.

Q.—You have told the Court that you issued a cheque for those moneys due from the H.S.C. students?

A.—Yes. I have got the counterfoil and the cheque with me.

(Mr. Wikremanayake moves to produce the counterfoil and cheque. He refers to Section 54 of the Civil Procedure Code. Mr. Thiagalingam objects to their being produced.—I allow the documents.

10 Mr. Wikremanayake produces cheque No. Z385162 for Rs. 315/- dated 31st. December marked P27 and the counterfoil dated 3rd December marked P27A).

The counterfoil is in the counterfoil book and is dated 3rd December, the cheque is dated 31st December.

Q.—You told the Court that circulars were sent out with regard to the collections of facilities fees? A.—Yes.

Q.—Was that done by Mr. Wickremesinghe when he was principal? A.—Yes.

Q.—Have you got any circular sent out by Mr. Wickremesinghe? A.—Yes.

At the time of Mr. Wickremesinghe I was an assistant teacher. I am the acting principal now.

20 (Mr. Wikremanayake moves to produce marked P28 a form of circular alleged to have been sent out by the principal Mr. Wickremesinghe.

Mr. Thiagalingam objects because Mr. Wickremesinghe is not being called, nor is a parent who got that circular being called, nor has it been listed. Mr. Wikremanayake says he is merely producing a form of circular not signed by anybody which is in custody of this witness as the present principal.—I allow the document).

Q.—Were there forms of circulars after Mr. Costa became principal or when he was acting as principal? A.—Yes. I have got one of the forms.

(Mr. Wikremanayake moves to produce a form of circular marked P29.

Mr. Thiagalingam objects.—I allow it).

30 P29 was a circular sent out earlier than the other circulars.

I know Dharmakirthi. He was a communist. I know that personally.

Q.—Can you tell us how you came to know that personally?

(Mr. Thiagalingam objects.—I allow it).

A.—First of all he presented some books to the school library. One of those books was the Life of Stalin. He had also arranged to get down some books from the Tass representative at New Delhi for the school Library. I was the librarian at that time.

I know that he took part in the elections and quite recently at the Pita Kotte Urban Council elections he was canvassing for the communist man, including the Sama Samajist candidate.

40 Q.—Did you have any reason in that school at the time of Mr. Alagiyawanna and at the time of Mr. Costa was there to feel that Mr. Costa was conducting any activities against the interests of the school or agitating anybody? A.—No.

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

Evidence of  
M. G. Pallia-  
wardene  
Cross-  
examination

*Cross-examination :*

- Q.—Where was the book that Dharmakirti gave you on the Life of Stalin ?  
A.—It is with me.
- Q.—Why, you knew that you were to be questioned about that book ? A.—No.
- Q.—You told no one that Dharmakirti had presented that book ? A.—No.
- Q.—From whose custody or from where does that book come?  
A.—From the school. It was on the shelf of the school library.
- Q.—Did you put it into the shelf of the school library?  
A.—It was donated to the library and as librarian it was handed to me. I put it on the shelf of the library at that time. 10
- Q.—It might have been removed by somebody for reading?  
A.—Yes, with the permission of the librarian.
- Q.—That book was donated to the school library and you put it on the shelf?  
A.—Yes.
- Q.—Then the librarian would issue the books to any students who wanted to read it?  
A.—Yes.
- Q.—Is there anything wrong in that?  
A.—No.
- Q.—You kept it in the library because it is a very good thing to know about Marx and Stalin? 20  
A.—Otherwise I would not have accepted the book.
- Q.—There was nothing wrong in Dharmakirti giving you that book?  
A.—I do not suggest there was anything wrong.
- Q.—Did he get that book from the Tass Agency in India?  
A.—He wrote to the Agency and got some books.
- Q.—There was a periodical Soviet Land?  
A.—Now that periodical does not come, but at that time it used to come. I put them into the library.
- Q.—That is a very good thing to do?  
A.—I don't see any harm in putting them in the library. 30
- Q.—Dharmakirti was a very influential boy in the school?  
A.—I cannot say that.
- Q.—He would go round the school telling school boys lots of things about communists?  
A.—Perhaps, I don't know.
- Q.—He would go round telling school boys lots of things about facilities fees?  
A.—I don't know.
- Q.—Why do you say 'perhaps' to the earlier question whether he went about the school talking about communists. Your answer was 'perhaps'?  
A.—Yes. 40
- Q.—Could he have gone about the school talking about facilities fees—he may or may not have?  
A.—Yes.
- Q.—You were not happy about Mr. Alagiyawanna's appointment?  
A.—I was not.
- Q.—Indeed you were one of those who took sides with Costa in sending a written protest against Alagiyawanna's appointment?  
A.—That is not correct. I protested on my own.



Q.—Do you know whether Costa had protested?

A.—He might have protested.

Q.—Do you know as a matter of fact that Costa protested?

A.—I don't know.

Q.—Up to now you don't know whether Costa protested?

A.—He might have protested. I have heard that he protested but I don't know.

There was a general talk that he had protested.

Q.—Did you hear of it from Costa?

A.—I don't think so.

10 Q.—Did you talk to Costa before Alagiyawanna's appointment was made?

A.—I don't remember.

Q.—Did you not act in concert with him?

A.—No, that is not true. I acted independently.

Q.—You never told Mr. Costa that you are writing to the authorities protesting against Alagiyawanna's appointment?

A.—I might have told him that.

Q.—Was it not the truth that you told Costa that you are protesting against Alagiyawanna's appointment?

(Mr. Wikramanayake objects. Objection upheld).

20 Q.—I put it to you that you told Costa that you were protesting to the authorities against Alagiyawanna's appointment?

A.—I might have told him.

Q.—You did tell him in fact?

A.—I am not sure about it.

Q.—Costa was then acting for the principal Mr. Wickremasinghe?

A.—At the time Mr. Alagiyawanna came, Yes.

Q.—It was before Alagiyawanna came that you wrote to the authorities protesting against his appointment?

A.—No. It was after.

30 Q.—You wrote to the authorities protesting against Alagiyawanna's appointment because Costa was then acting as the principal?

A.—Not at all.

Q.—Do you know that there was trouble the day Alagiyawanna came to that school on the 1st. July?

A.—I heard so. I don't remember from whom I heard about it.

Q.—Did you hear about it from Costa?

A.—I cannot remember.

Q.—Did you talk over the matter with Mr. Costa?

A.—I don't remember.

40 Q.—I put it to you you would normally have talked to Costa that very day?

A.—I might have talked, but I don't remember.

Q.—Will you think for a while and let us know if you did talk to Costa that day?

A.—I repeat I don't remember.

Q.—It was after that that you wrote to the authorities protesting against Alagiyawanna's appointment?

A.—It was subsequent to Alagiyawanna's coming to the school.

Q.—It was after the 1st July that you wrote protesting against Alagiyawanna's appointment?

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

—  
Evidence of  
M. G. Pallia-  
wardene  
Cross-  
examination  
—continued

A.—Yes.

Q.—You never mentioned a word to Costa that you were writing a protest to the authorities?

A.—I might have, or might not have.

Q.—Did you know that Alagiyawanna was going to be paid an extra allowance?

A.—I came to know about that.

I don't know how I came to know that Alagiyawanna was going to be paid an extra allowance. I don't remember whether Costa told me about it.

Q.—Did you know that facilities fees was going to be used to pay Alagiyawanna's allowance?

A.—Yes, that was the general impression among some of the teachers with whom I associated and perhaps some students. 10

Q.—Teachers, including Costa?

A.—I don't know.

Q.—You don't remember? A.—I don't remember.

Q.—The teachers who held that view you don't remember? A.—I cannot remember.

Q.—Have you been told by anybody to say "I cannot remember?" A.—Not at all.

Q.—Can you tell if any of the students rather took the view that Alagiyawanna's allowance might come from the facilities fees? A.—I don't know.

Q.—Can you say if Dharmakirti took that view? A.—He might have. 20

Q.—How would he come to know that? A.—I don't know.

Q.—Was Dharmakirti under you for a long time?

A.—I cannot understand the question.

Q.—Did he study under you?

A.—Yes, he might have.

Q.—You don't remember?

A.—Probably he might have studied under me.

Q.—But you don't remember?

A.—I cannot say under oath whether he studied under me.

Q.—As best as you know did he leave any impression on your mind about his general character and conduct? 30

A.—Up to recent times I had a feeling that he was a very good boy. By recent times I mean till the facilities fees trouble came up.

Q.—The facilities fees trouble came up in November or December 1955? A.—Yes.

Q.—And till then you thought he was a good boy? A.—Yes.

Q.—What had Dharmakirti to do with the facilities fees trouble?

A.—I heard that he was one of the agitators.

Q.—He was one of the agitators, agitating the school boys not to pay the facilities fees? A.—Perhaps.

Q.—You heard that he was one of the agitators, what did you hear exactly? 40

A.—I heard from several people that Dharmakirti was one of the students who refused to pay facilities fees.

Q.—What do you mean by one of the agitators?

A.—When some students went to see political leaders, he was also one of them.

Q.—In regard to facilities fees was he an agitator? A.—I believe so.

Q.—Was he telling the other students not to pay facilities fees?

A.—I had that impression.

Q.—Did you ask him why he did that?

A.—I don't remember to have asked him, but I remember to have advised him.

Q.—Didn't he say, what is the meaning of this, Costa told us then not to pay the facilities fees, now he is telling us to pay the fees? A.—No, he did not say that.

Q.—Was he a very intelligent or enthusiastic student? A.—He was.

Q.—Was he a person with a wide variety of interests? A.—He was.

Q.—When did you know that he was a communist? A.—I knew it throughout.

Q.—Did he play a prominent part in the social activities of Ananda Sastralaya?

A.—He was the secretary of certain associations. He was active.

Q.—Did he play a prominent part in the social activities of Ananda Sastralaya?

10 A.—It would be correct to say that.

Q.—Did he play a prominent part in the religious activities of Ananda Sastralaya?

A.—He was a member of the religious study circle. If I remember rightly he was at one time the editor of the magazine.

Q.—Did he take a prominent part? A.—He did.

Q.—Did he take a prominent part in the literary activities of Ananda Sastralaya?

A.—Now and then he would become the Secretary, so that it is correct to say that he took a prominent part.

Q.—You have said that he took a prominent part in social religious and literary activities of Ananda Sastralaya?

20 A.—I might have given him a certificate to that effect.

Q.—Did you say you might have given him a certificate after looking at the document in my hands?

A.—I cannot recognise the document in your hands.

Q.—Did he command a wide circle of friends among the past and present pupils of the school? A.—Yes.

Q.—Was he a person of reliability? A.—I thought so.

Q.—Was he a person of unostentatious energy? A.—Yes.

Q.—A loyal and trustworthy worker? A.—Yes.

Q.—A person on whom responsibility could be placed without hesitation?

30 A.—He had been given responsibilities and I would agree with that statement.

(Mr. Thiagalingam produces marked D45 letter dated 28/9/55).—(Shown D45).

It is correct to say that he has been a student at Ananda Sastralaya, Kotte.

Q.—What are the wide varieties of interest mentioned?

A.—He was secretary of the literary association; he took part in the religious study circle; he was the editor of the magazine. Like that, there were various activities and he was a member.

Q.—What is meant by "He commands a wide circle of friends?"

A.—He had many friends, and his friends were attached to him.

40 Q.—This is a fine certificate for that boy? A.—It is a good certificate.

Q.—In 1955 the H.S.C. examinations were to be held on the 4th December?

A.—Not on the 4th. If I remember rightly it was earlier than that.

Q.—Earlier than the 3rd? A.—Yes.

Q.—Did the boys get their cards for the H.S.C.?

A.—Not till the date of the examination.

Q.—When was the examination?

A.—On the 26th November, not the 3rd December.

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

Evidence of  
M. G. Pallia-  
wardene  
Cross-  
examination  
—continued

Q.—On the 3rd December you issued some cards? A.—No.

Q.—You issued no cards on the 3rd? A.—No.

Q.—Did you issue any cards to the boys?

A.—I issued the cards on the 26th November to the boys.

Q.—Did you write any cheque on that date?

A.—Not on that date. On the 26th November I wrote the cheque but I post-dated it.

Q.—You wrote the cheque P27 on the 26th November? A.—Yes.

Q.—The Cheque P 27 is the counterfoil of P27a? A.—Yes.

Q.—P27 has the number Z385162? A.—Yes.

Q.—The Previous cheque bears No. Z385161? A.—Yes. 10

Q.—Was that previous cheque counterfoil written on the 26th November?

A.—I cannot remember. I must see that.

(Shown the counterfoil book containing P27a).

This is the counterfoil of a cheque that has been cancelled.

Q.—You told us that on the 26th November you issued certain cards? A.—Yes.

Q.—Was the counterfoil of cheque Z385161 written on that day?

A.—Yes, now that I see it.

Q.—What do you see now?

A.—I cannot understand the question.

Q.—Why do you say “now I see it?” 20

A.—I saw the date on the counterfoil.

Q.—Can you remember the date you issued the cards you wrote out the cheque in the presence of the students? A.—Yes.

Q.—You remember the incident very well? A.—I remember writing the cheque.

Q.—Apart from looking at the document you remember giving the cards to the students on the 26th November? A.—Yes.

Q.—And you remember the incident that you issued the cards after writing the cheque? A.—Yes.—(Shown cheque Z385161).

Q.—Does it contain any date?

A.—It contains the date 26/11/1926 which is my date of birth. 30

Q.—Is that the reason why you wrote the cheque? A.—No.

Q.—On your birthday did you want to be generous? A.—No.

Q.—Is the cheque Z385161 for the same amount as cheque No. Z385162?

A.—It is for the same amount.—26th November was my birthday.

Q.—The boys came to you and wanted their cards, you wrote out a cheque, where is that cheque?

A.—That had been cancelled because I had inadvertently put the date of my birth. I cancelled it there and then.

Q.—You cancelled it after or before the boys went? A.—That I cannot remember.

Q.—When did you write the next cheque P27a? 40

A.—I wrote it on the same day but I post-dated it.

Q.—That is, on the 26th November you wrote P27a? A.—Yes.

Q.—And you post-dated it for the 3rd December? A.—Yes.

Q.—You post-dated it for the 3rd December because you expected the boys to pay before that date? A.—No, that was not the reason. The reason why I post-dated the cheque was because in case I had to pay, I would have had to have money in the bank; on the 26th November I did not have sufficient funds in my account.

Q.—Why did you write the cheque P27 and give a different date from P27a ?

A.—That I believe is a mistake.

Q.—When did you discover that mistake ? A.—Only now.

Q.—The H.S.C. examination was on the 26th November or 27th November ?

A.—I am not sure. I believe it was on the 26th November.

Q.—So early morning you must have given the cards to them to enable them to go to the examination ? A.—Yes.

Q.—The only error you made in cheque Z385161 was that you put the wrong date ; in place of 1955 you put 1956 ?

10 A.—Yes. The other thing is the date 26/11 should not have been put there in my opinion. So there were two dates.

Q.—You started off writing 26th November ?

A.—That is natural because it was my date of birth and it got stuck in my memory.

Q.—Therefore you put the correct date and the month ? A.—Yes.

Q.—In place of 1955 you put 1956 ? A.—Yes.

Q.—In that entry of the dates the only factual thing incorrect was 26th November 1956 in place of 1955 ? A.—Yes.

Q.—Then the date is correct the month is correct ? A.—Yes.

Q.—You have seen the Alagiyawanna slogans on the school wall ?

20 A.—No, I have not seen.—(Shown counterfoil cheque book marked P27b).

Q.—Was your balance on the 26th November, 1955 Rs. 578/73 ?

A.—I have my bank statement here with me. I may have made a mistake.

Q.—In P27b your book of counterfoils you have a habit of doing your additions and subtractions with a view to determining your bank balance at any particular point of time ? A.—Yes.—(Shown the reverse of counterfoil 385159).

Q.—Your bank balance on the 26th October 1955 was Rs. 311/93, according to the counterfoil P27b ?

A.—That is not correct. My bank balance as it stood after writing the previous cheque according to that balance on the 10th October 1955 was Rs. 311/93.

30 Q.—On the 15th October 1955 you wrote cheque for Rs. 130/45 ? A.—Yes.

Q.—At the time you wrote that cheque what was your bank balance according to that book ? A.—Rs. 181/40.

Q.—Before you wrote that cheque what was your bank balance ?

A.—Before I wrote that cheque it was Rs. 311/93. It may be correct or may not be correct.

Q.—Having written the cheque for Rs. 130/45 your bank balance was Rs. 181/48 ?

A.—Yes.

Q.—Here I find that you refer to a cheque for Rs. 174/80, what is the meaning of that ?

40 A.—This is not a cheque. Because I have taken a loan from the bank this is the deduction of that loan. They make monthly deductions.

Q.—Have you taken loans from the facilities fees of the school ?

A.—I have not taken from the facilities fees.

Q.—Have you taken any loans from facilities fees ? A.—Not at all.

Q.—Have you taken any loans from the school ?

A.—I have taken from the hostel fund. There is a separate fund for the hostel. It is not the same fund as the facilities fees. I might have taken sundry loans from the

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hostel fund, I might have taken perhaps Rs. 100/- or perhaps a little more, but not Rs. 500/- or Rs. 1,000/-. I had returned it. I take it and return it within two weeks.

Q.—Did you hand this cheque P27 to Mr. Costa on the 26th November ?

A.—Mr. Costa was away at the time. I handed it to the gentleman in charge of the keys.

Q.—You told him to send it to the credit of the account for December 1955 ?

A.—No. I did not give him instructions.

Q.—Did you give him those instructions first and countermand those instructions ?

A.—I cannot remember.

Q.—On the reverse of cheque P27 there is a stamp "credit Ananda Sastralaya 10 Hostel account ?" A.—Yes.

Q.—It was intended to be put to that account ? A.—No.

Q.—You are a good friend of Mr. Costa ? A.—I am a friend of Mr. Costa.

Q.—Not a good friend ? A.—He is a friend of mine.

Q.—Not a good friend ? A.—He is a good friend of mine.

Q.—In 1944 there was a protest by Alagiyawanna against Costa and you were being asked to act for the principal during his absence ? A.—In 1944.

Q.—Was there any protest against Mr. Costa and your being asked to act for the principal in his absence ?

A.—Mr. Alagiyawanna would have protested. That would have been I believe at 20 the time his appointment was made. I did not officially know about it, but I heard about it.

Q.—You heard nothing about anti-alagiyawanna slogans ?

A.—I heard, but I did not see.

Q.—You remember the function held on the opening of the kindergarten block by Mr. Dudley Senanayake, on that occasion were there any pamphlets in the school asking the boys to boycott that function ?

A.—I heard there were pamphlets.—I saw one.

Q.—Were you sent for by the Police on that occasion ? A.—No.

Q.—Do you know of anybody who was sent for by the police on that occasion ? 30

A.—I don't know.

Q.—Did the police send for anybody from the school on that occasion ?

A.—Not to my knowledge.

Q.—Do you know if Costa attended that function ?

A.—I heard that he did not attend.

Q.—Apart from hearing — were you there at that function ?

A.—I was not there. I did not attend that function.

Q.—It was your duty to attend that function ? A.—But I was not well.

Q.—You fell ill that day ?

A.—I was ill with pleurisy for three months before this incident and I did not 40 attend functions at all.

Q.—Did you attend school ? A.—I went to the school.

Q.—On the date of the function you went to school ?

A.—I don't think school was held on that day. I might have gone on the previous day to the school. I cannot remember whether I went to the school on the next day.

Q.—You were keeping away on account of illness ? A.—Yes.

—  
Evidence of  
M. G. Pallia-  
wardene  
Cross-  
examination  
—continued

Q.—Were you keeping away because Alagiyawanna was at that time acting as vice principal? A.—No.

I was not annoyed that he was acting as vice principal. I had protsted against his appointment.

Q.—Were there any teachers who took the side of Alagiyawanna? A.—I don't know.

Q.—Did any teachers take the side of Costa?

A.—I don't know whether they were taking sides.

Q.—You were taking the side of Costa? A.—That is not correct.

Q.—Did Costa protest against the appointment of Mr. Alagiyawanna?

10 A.—He might have.

Q.—The anti-Alagiyawanna slogans appeared thereafter—after this function of the opening of the kindergarten block? A.—I cannot remember.

Q.—In 1954, about July or August Alagiyawanna had been appointed principal of Sri Sumangala at Panadura?

A.—I think it was later than that — I think it was in September.

Q.—At that time Costa was away on a scholarship? A.—He was away.

Q.—You were acting for the principal? A.—Yes, when the principal was absent.

Q.—That boy, the Varsity student Kithsiri Ameratunge got his card from you to sit for the examination?

20 A.—If he sat for the examination that year he would have got it from me.

Q.—In a circular there is a reference to a J.P. being a recognized authority from whom parents might get a certificate of their inability to pay the facilities fees?

(Mr. Wikremanayake objects.—I think the circular should be shown to the witness).

Q.—Do you know of any circular where a parent was told that he must comply with some formality before a child could be exempted from the payment of facilities fees?

A.—Yes.

Q.—When did such a circular first come into being?

A.—The circular was sent by Mr. Costa.

Q.—When did that circular come into vogue?

30 A.—Probably, I am not sure of the date, about October or November 1955.

Q.—Was it after the carnival of 1955?

A.—I don't remember the date, whether it was before or after the carnival. The carnival was in September I am sure of that.

Q.—The carnival had resulted in a loss? A.—Yes.

Q.—It resulted in a loss of how many thousand rupees? A.—I am not sure.

Q.—Can you roughly say? A.—I don't know.

Q.—And the school funds had been depleted by reason of that carnival?

A.—The carnival was a loss, so there must have been a proportionate depletion of funds.

40 Q.—It was for the first time after the depletion of the schools funds that a circular was sent out requiring parents to prove their inability to pay facilities fees before children could be exempted from payment of facilities fees?

A.—The circular was sent in October 1955 or perhaps that period. But I don't know whether it was in point of time that was the date.

Q.—Perhaps it was October or November?

A.—But I am sure of September as the date of the carnival.—(Shown P13).

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

—  
Evidence of  
M. G. Pallia-  
wardene  
Cross-  
examination  
—continued

Q.—That is the first occasion when parents were called upon to produce evidence of their inability to pay facilities fees?

A.—To my knowledge it is.

Q.—That was long after the carnival?

A.—The circular bears the date 21st. November, 1955.

Q.—Therefore long after the date of the carnival?

A.—Yes.

Q.—You are a member of the B.T.S.?

A.—No. Teachers cannot be members.

Q.—Did you help anybody to pay subscriptions to the B.T.S.?

10

A.—No.

I am an associate member of the B.T.S., but not a full member. I have been a member, but I am not at the moment.

Q.—In 1956, last year, were you a member?

A.—I cannot remember the year.

Q.—In 1955?

A.—I cannot remember the year.

Q.—Last year you were an associate member or any kind of member?

A.—Probably I was.

Q.—Are you still an associate member?

A.—I may be. They may or may not have expelled me.

20

Q.—You have not resigned?

A.—No.

Q.—In 1955 you were an associate member?

A.—Whether I was an associate member in 1955 I don't remember.

Q.—How long have you been an associate member, roughly?

A.—I cannot say that. Roughly, perhaps two years.

Q.—Were you an associate member in 1955 and 1956?

A.—I cannot remember the exact time in which I enrolled. I don't think it was in 1954—perhaps it was in 1955.

30

Q.—In 1954?

A.—I don't remember the date.

Q.—You remember Dr. Adikaram's election?

A.—Yes.

Q.—Then you were a member?

A.—No.

Associate members pay -/50 cents a month or Rs. 6/- a year.

Q.—Are you any office bearer in that association?

A.—I was elected to the general committee. I was a representative of the teachers.

Q.—What is the full membership fee of the B.T.S.?

A.—Once a person becomes a member of the general committee he has to pay more. 40  
If I remember right he pays Rs. 5/- a month.

Q.—You remember when Alagiyawanna assumed office as vice principal, a written apology by Costa being sent to members of the staff?

A.—I remember something like that. I can remember it accurately.

Q.—Can you remember very distinctly that an apology by Costa was circulated to members of the staff?

A.—Yes, I remember.



Q.—It was a very humiliating thing for Costa?

A.—I don't know.

Q.—What did you think of it?

A.—If I was apologising to an office bearer of the school I don't think it was very humiliating.

Q.—Was that humiliating to the man who apologised in sending the apology to the members of the staff?

A.—If he apologised it was humiliating.

Q.—Was that apology sent to members of the staff. Was that not a humiliating thing for the man who made the apology?

(Mr. Wikramanayake objects. I uphold the objection).

Q.—Had you read the Dinamina of the 30th November 1955?

(Witness asked to read D23, the news item Waga Thuga).

Q.—The last paragraph in that article "The payment of facilities fees and its acceptance is a transaction between parents and teachers . . . who at an earlier time incited children not to pay facilities fees to the principal". Do you know to what that reference was?

A.—It does not refer to any story in particular.

Q.—Do you know what that reference is?

A.—I don't know.

Q.—Do you know what that reference is to the principal who at an earlier time incited children not to pay facilities fees?

A.—I don't know.

(Shown P1)

I don't remember reading this. I don't know to whom that refers. Even now I don't know to whom it refers.

Q.—The facilities fees question and the impropriety of levying it was first raised in the Dinamina?

A.—I don't know, whether it was first raised in the Dinamina or some other papers.

Q.—As between the Lanka Dipa and the Dinamina, it was first raised in the Dinamina?

A.—I don't know.

Q.—You remember that you issued the cards on the 26th November 1955 to enable the H.S.C. students to sit for the examination?

A.—Yes.

Q.—There was no end of trouble for some students in regard to the S.S.C. examination held in December that year with reference to admission cards?

A.—I cannot quite follow you.

Q.—In December 1955 some boys were doing the S.S.C. examination?

A.—Yes.

Q.—Did some of them have trouble about their admission cards at Ananda Sastralaya?

A.—Yes.

I heard so. I had nothing to do with that.

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

—  
Evidence of  
M. G. Palli-  
wardene  
Cross-  
examination  
—continued

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

Evidence of  
M. G. Pallia-  
wardene  
Cross-  
examination  
-continued

Q.—You don't know that officers from the Education Department came the day previous to the examination and had the cards issued?

A.—I did not see that but I heard so.

Q.—Had you taken one step to induce the principal to issue those cards?

A.—No.

Q.—In 1954 when Costa was away in America you were acting as principal?

A.—Yes, for a short time.

Q.—Was there any trouble in your school while you were principal?

A.—No.

Q.—While you were acting?

A.—No.

Q.—In 1954 you were acting as principal of Ananda Sastralaya?

A.—Yes.

Q.—You were really principal functioning from what month?

A.—I was acting principal.

Q.—You were functioning as acting principal in 1954?

A.—Yes, from November till the end of the year. Then Mr Costa came back and took over. He came back at the end of January.

Q.—During that period there was no trouble of any kind?

A.—There was no trouble except disciplinary problems in the school.

Q.—You could not control the school?

A.—I did.

Q.—Was there any trouble of any kind during that time?

A.—There was no trouble.

Q.—What were the disciplinary problems that arose?

A.—There were many, but I cannot remember.

Q.—Were you found unable to deal the school?

A.—I don't think so. When two boys fight they come to the principal, that is a disciplinary problem and I dealt with it.

Q.—Were you found wanting in dealing with those questions of discipline between 30 boy and boy?

(Mr. Wickramanayke objects to the question — I allow it.)

Q.—Was there any trouble in the school during the time you were acting principal because you were young and inexperienced?

Q.—There were disciplinary problems but I would not call them troubles.

Q.—Was there any trouble in the school as you were young and inexperienced?

A.—No.

Q.—Were you young in 1954?

A.—I was younger than I am. Today I am 31 years old. In 1954 I was 28 years old.

Q.—Would you call that young?

A.—Perhaps.

Q.—31 is old enough?

A.—I don't know.

Q.—Were you inexperienced in 1954?

A.—I had no administrative experience.

Q.—Is it true that because of trouble in the school—you were young and inexperienced—Dr. Adikaram recalled Mr. Costa from America?

10

20

40

A.—I don't know whether he did that.

Q.—You had been appointed in 1954 in June to act in place of the principal over the head of Alagiyawanna?

A.—It was this way. There was the principal Mr. Wickremesinghe and there was Mr. Costa and for the third place to act I was appointed.

Q.—In 1954 June you were to be preferred to Mr. Alagiyawanna in acting for the principal?

A.—I don't know what you mean by preferred in the sense in which you are using it.

Q.—What did you do for your degree?

10 A.—Sanskrit.

Q.—In 1954 Dr. Adikaram elected you along with Costa to act for Mr. Wickremesinghe during his absence over the head of Alagiyawanna?

A.—Mr. Alagiyawanna was the vice principal and Costa was appointed to act for the principal and when Mr. Wickremesinghe and Costa were both absent I was to act.

Q.—Were you to act in a situation over the head of Alagiyawanna?

A.—I cannot quite understand the full significance of the statement "over the head of Alagiyawanna"?

(To Court: Q.—Even when Alagiyawanna was Vice Principal Costa and you were called upon to act for Mr. Wickremesinghe during the absence of Mr. Wickremesinghe?

20 A.—Yes.)

Q.—When Costa came back at the end of January 1955 everybody knew that he was to be appointed principal?

A.—I would not know.

*Re-Examination:*

Q.—You were asked how you happened to bring that book to Court and you were going to give an answer when you were stopped?

A.—Yes.

Q.—How did you happen to bring this book?

30 Q.—I was reading the press reports of this case and there was the question raised whether Dharmakirti was a communist or not.

Q.—You told the Court that you thought that Dharmakirti was a good boy till the trouble about facilities fees arose?

A.—Yes.

Q.—D45 was dated 28th September 1955, when was the first trouble about facilities fees?

A.—In November 1955.

Q.—You were questioned about the stamp in P27?

40 A.—Yes. We have got two bank accounts in the school. For one account we have one stamp "credit to Ananda Sastralaya school account". When we send the cheques we strike it out. This cheque was handed over to the clerk and he put the stamp on it.

Q.—You told us you did not attend the function for the opening of the kindergarten block?

A.—Yes. I was ill in hospital for three months and I got a relapse about June and I could not attend any extra functions on that account. It is not correct to say that I boycotted that function.

No. 7  
Plaintiff's  
Evidence in  
Rebuttal

—  
Evidence of  
M. G. Pallia-  
wardene  
Cross-  
examination  
—continued

Evidence of  
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Plaintiff's  
Evidence in  
Rebuttal

—  
Evidence of  
M. G. Pallia-  
wardene  
Re-  
examination  
—continued.

Q.—You were also asked whether you were annoyed with Mr. Alagiyawanna. Were you annoyed with him?

A.—I was not annoyed with the person Mr. Alagiyawanna. I resented his appointment and I protested against it.

Q.—In regard to P27 and P27a your cheque No.Z385163 what was the date of that?

A.—2nd. December.

Q.—You were asked questions about the state of your bank balance on the footing of the calculations on the counterfoils?

A.—Yes.

Q.—Your position was that on the 26th November you did not have Rs. 315/- 10 in the bank that is why you post-dated the cheque 3rd. December?

A.—Yes. I have my bank statements with me. It shows that on that date I had Rs. 7/23.

Q.—You were asked some questions as to whether that circular D13 came out after the carnival. Do you know whether there was any other form in which Mr. Costa tried to influence parents with regard to the facilities fees?

A.—Yes, I know. Almost immediately after he took over the appointment as principal he summoned a meeting of the parents and explained to them the position regarding facilities fees and required them to pay. He summoned the parents to come to discuss the question of facilities fees and quite a large number of them turned up, Perhaps 20 about 800 or so of them came.

There are about 1200 students in the school. Mr. Costa addressed the parents on the purpose of facilities fees.

Q.—You were asked about a carnival and the fact that it was run at a loss?

A.—Yes.

Q.—Was this carnival fixed for any particular time, was it fixed to correspond with what?

A.—It was fixed to correspond with the Kotte Perehera.

Q.—In this particular year was there any unfortunate incident at the time with regard to the Perehera? 30

A.—The High Priest of the Temple died and the Perehera was cancelled.

Q.—Was there any particular distinction attached to your M.A.?

(Mr. Thiagalingam objects to the question. I allow the question).

I got my M.A. with a distinction. In the Ceylon University I was the first to get an M.A. with distinction in any subject. I got my distinction in Indo Aryan.

SGD: A. L. S. SIRIMANNE  
A.D.J.

Mr. Wickramanayake closes his case.  
(Adjourned)

SGD: A. L. S. SIRIMANNE  
A.D.J.

**No. 8**  
**Addresses to Court**

No. 8:  
Addresses to  
Court.

After Lunch.

Mr. Thiagalingam addresses Court. He hands over to Court a list of all the documents produced at the trial.

He refers to P18, wherein it was stated that Costa assured the police officer that there would not be any trouble by the boys, but in cross-examination he stated that Costa says that he had no right to assure the police officer of any such thing. (Costa's evidence at page 420).

10 He refers to page 399 of the evidence. He says that there is no question in the mind of Costa that he was called back from America to be appointed principal of Ananda Sastralaya.

He submits that if the plaintiff's version that he refused admission cards because the circular was not signed be true there can be no explanation of Palliawardene's signing the cheque.

(Mr. Wickramanayake says that the script at the bottom of page 382 is incorrect).

Mr. Thiagalingam refers to pages 389/90, Costa's evidence in regard to the manuscript P17.

He cites Nathan on Defamation 1938 Edn. page 103 and 202. He submits that every-  
20 thing is substantially true.

(It is 4 p.m. now. Further hearing on 17/5.

SGD: A. L. S. SIRIMANNE  
A.D.J.

17-5-57

Appearances as before.

Mr. Wikramanayake addresses Court. He submits that if the defence proves that the statements complained of are true and for the public good, then they are entitled to succeed whether the publisher had an improper motive or not. But he says that the newspaper has no greater immunity than a private individual. Where it is for the benefit  
30 of the public, in that defence truth must be established and the fact that it is for the public good. The defences of privilege, fair comment and for the benefit of the public good are mutually exclusive. He refers to Issue 33; here those defences are all in one issue. He submits that that is with a view to create a confusion in the mind of the Court that there is something common in all those, that it is bona fide and without *animus injuriandi*. He submits that in the pleadings as well as in the issues there has been confusion so as to focus attention upon matters which really did not need attention and they seek to demolish a case which they themselves sought to establish. Plaintiff came to Court complaining of certain libels, each separate libel is an actionable ground. In the  
40 same documents there are other matters which are libellous for which there may be better answers. When he selects certain libels the defence says that the documents contain other matters which are true and draws the attention of Court to those. He refers

No. 8  
Addresses to  
Court.  
—continued.

to paragraph 4 of the plaint. He has restricted himself to certain passages in certain publications. Those are libels and he is claiming damages in respect of them. He has pleaded an innuendo which has now been proved by the admission of the writers. It is improper to say of any schoolmaster that he misused his position to do certain things. This has nothing whatsoever to do with the refusal or withholding of admission cards, or whether his conduct there was right or wrong or whether the criticism as such of his conduct in withholding the admission cards is true or not. In the matter of the withholding of the admission cards different people may hold different views of the fairness of conduct like that. Plaintiff's position is that they would not pay facilities fees and therefore he wanted them to pay or satisfy him that they could not pay. Those who 10 refused to pay he was punishing them for insubordination. Whether that was correct as a disciplinary matter or not there may be divergent views with regard to that. He does not concede that that is not libellous matter but even in respect of that he submits that the facts were incorrectly set out. He refers to paragraph 4 of the answer. He submits that those facts are irrelevant because they do not relate to his plea and do not afford any answer to his plea. He refers to Nathan at page 228. A newspaper cannot plead privilege except in reports of parliamentary proceedings, judicial proceedings, proceedings of certain statutory bodies, etc. with regard to the plea of fair comment, for a comment there must be a text. Comment is the criticism on it. If a person relies on the plea of fair comment he cannot say the comment is fair if the text is incorrect. He 20 must satisfy the Court that the text is correct. If he merely says that he believed it true that is not enough. He refers to Nathan at page 215 and page 275 where he sets out the essentials of the defence of fair comment. Mr. Wikremanayake concedes that most of those are matters of public interest, that is that it should be a comment and not a statement of facts. He refers to Nathan at pages 282, 283. He refers to Ogers' Law of Libel 6th Edn. page 162. He submits that the plea of justification is the only plea available to the defence. He refers to Nathan at page 199, you must plead and prove that it is for the public benefit. He refers to Nathan at page 202. He cites 53 N.L.R. 481. He refers to D1, D8, P9. He refers to paragraph 3(5) of the answer. He refers to D14, D17 and D18.

(Adjourned for lunch).

SGD: A. L. S. SIRIMANNE  
A.D.J.

30

After lunch.

Mr. Wikramanayake continues his address.

He refers to Mr. Jayawardene's evidence. Mr. Jayawardene has stated that he did not know the plaintiff nor did the plaintiff work in his electorate at the time of the elections.

He refers to the evidence of the school boys with regard to the payment of facilities fees. He submits that the Fees Register shows that these school boys who denies having paid any fees during the time of Mr. Alagiyawanna did actually pay the fees with full 40 arrears. He submits that these boys are lying merely because of some grievance against the plaintiff.

(Further hearing on 24/5).

SGD: A. L. S. SIRIMANNE  
A.D.J.

24-5-57

No. 8  
Addresses to  
Court.

—continued

Trial resumed.

Appearances as before.

Mr. Wikramanayake continues his address. He cites Vol. I page 501 at 505 of All England Law Reports 1952, which says that fair comment must be based on true facts.

He refers to P26. The Daily News was fair enough to publish this letter. Neither the Times nor the Lanka Dipa published this letter in which the plaintiff denied the refusal of cards for non-payment of facilities fees.

10 With regard to the other charge, he refers to the evidence of Jayasekere at page 243. He cites 1931 South African Law Reports page 126.

On the question of damages he cites Clark & Lindsel on Torts, 11th Edn. at page 826.

He also cites 1 S.C.C. at page 29.

He submits that everywhere the defendants have tagged on the plaintiff and Mr. Adikaram and attached the two together. They made all sorts of allegations about the plaintiff being sponsored by Dr. Adikaram. He says that the date on which the Dinamina published the report P8 is very relevant—that is 29th August 1953.

(He reads translation of P8)

20 This publication came out just 4 days after the plaintiff filed his action against the Lanka Dipa. Throughout the whole of their case in Court and out of Court throughout their publications everyone of them refers to Dr. Adikaram and the plaintiff. There is also the fact that they persisted in this campaign. There is the fact that publicity is given to the fact that the plaintiff's brother was insane, whether it be true or false. There is a motive in the Lanka Dipa spreading this libel. They have made a series of suggestions of this nature throughout the whole of the proceedings.

30 With regard to the question of damages he concedes that Rs. 110,000/- for the two causes of action is certainly on the high side even under the circumstances here. He is not suggesting that it is a correct assessment of the damages. But what has been done is that for the libel itself and for the aggravation the measure must be substantial in respect of the two causes of action.

Mr. Samarakone cites pages 163, 195 and 253 of Gatley on Libel and Slander.

Documents with list to be filed in office on 27/5.

Judgment on 10/6.

SGD: A. L. S. SIRIMANNE  
A.D.J.

No. 9  
Judgment of the District Court

JUDGMENT

No. 9  
Judgment of  
the District  
Court-  
10. 6. 57

40 Plaintiff was a teacher and later the principal of a school known as Ananda Sas-tralaya, Kotte. He complains that certain news items and letters published in a news paper called the Lanka Dipe, owned by the 1st. defendant (The Times of Ceylon) are defamatory of him, and claims a total sum of Rs. 110,000/- as damages. The 2nd defen-

dant is the editor of this paper. The defendants plead, inter alia, that these news items were true and published in the public interest and that they, or some of them, constitute “fair comment” on matters of public importance and public interest.

Before examining the passages which are alleged to contain the defamatory statements one may first ascertain certain facts relating to the matters and the incidents referred to in those passages. The plaintiff has a degree in Indo Aryan. He had previously passed his S.S.C. examination and the London Matriculation examination with Sinhalese as a subject. He was the author of a book on Botany in Sinhalese called the Ubhida Vidyawa. There is also some evidence that he was able to write verses in Sinhalese.

Soon after the achievement of Independence in 1948 the Government took steps to put into effect its new educational Policy. Quite naturally the national languages (Swabasha) which had hitherto been looked upon with condescension, if not with contempt, occupied a prominent place in the new scheme of things. Though few people took objection to this, yet there was much controversy as to whether the medium of instruction in such subjects as Science and Mathematics could or should be in Swabasha. For the purposes of this case it is only necessary to note that the availability of teachers to carry out the Government’s new policy was a matter of public interest and importance, and every teacher knew about this policy. If formal proof of this is necessary there is the circular D1 of the 3rd September 1948, which gave the teachers who were unable to teach in Sinhalese or Tamil the option of retiring before the end of that month. The plaintiff did not exercise the option. Instead, he applied by his letter D3 of 13th December 1948 for full pay leave to sit “. . . for the degree examination in London and to study for the diploma in education . . .”—which, according to his letter, would make him “much more accomplished as a teacher”. (He actually obtained this leave only in 1950).

In the meantime, Ananda Sastralaya, from small beginnings had developed into a large and influential school in Kotte, and admittedly its affairs were of the utmost importance to the Buddhist public.

In 1953 when the permanent principal (Mr. Wickremesinghe) was away on leave the plaintiff acted in that post. On the 30th June of that year Mr. Alagiyawanna was appointed Vice principal of the school. He is an M.A. (Lond), A barrister at Law, has a Diploma in Education and plenty of teaching experience. He was undoubtedly suited for the post, and struck me as a sincere and honest man. But this school had flourished with the help of the people of the locality and Dr. Adikaram had played no small part in its rapid progress. The plaintiff who was then acting Principal was an old boy of the school and a person of the locality. In these circumstances the appointment of Mr. Alagiyawanna was perhaps an unhappy one. It certainly met with violent opposition—particularly from the plaintiff. Dr. Adikaram (the plaintiff’s witness) who wielded some influence in the sphere of Buddhist education and succeeded Mr. Kularatne as Manager of the Buddhist Theosophical Society in 1954, paid a visit to Mr. Alagiyawanna and attempted to dissuade him from accepting the post. He thought that the appointment would be unfair to the plaintiff. When Mr. Kularatne went with Mr. Alagiyawanna on 1/7/53 to the school, the plaintiff refused to admit them—and his conduct in closing the doors and taking out a large ruler indicate that his opposition would not be restricted to words only. I accept the evidence of Mr. Alagiyawanna and Mr. Kularatne on this point.



Apart from their oral evidence there is the letter D5 dated 1/7/57 written by Mr. Kularatne to Mr. Alagiyawanna apologising for the incident—D28 a letter dated 6/7/53 by Mr. Kularatne to the plaintiff expressing amazement at his conduct—D30 bearing the same date, the copy of a letter written by Mr. Kularatne to the Mirihana Police and D29 dated 15/7/53 addressed to the plaintiff from the Buddhist Tehosophical Society asking him to explain his conduct at an inquiry to be held by the Appointments Board. I reject the suggestion that all these are forgeries. So that there can be no doubt that the appointment of Mr. Alagiyawanna was deeply resented by the plaintiff.

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10. 6. 57  
—continued

10 After the principal returned Mr. Alagiyawanna assumed duties but many things were done to make his work there most unpleasant. The two main forms of opposition were the writing of “Anti-Alagiyawanna slogans” on the walls of the school, and a campaign to dissuade parents and pupils from paying facilities fees. Here we have the evidence of four youngmen—Kithsiri Ameratunge, K. Jayasekere, Wimalaweera Perera and S.K. Dharmakirti. According to them it was the plaintiff who was responsible for the anti-Alagiyawanna slogans, and it was he who instigated students to refrain from paying facilities fees.

20 Mr. Wikramanayake for the plaintiff has asked me to reject this evidence as false. The main reason urged is, that though these youths say that they did not pay facilities fees, yet the registers show that they did. Facilities fees are not necessarily paid by the student himself. Someone else (a parent or a brother for example) may make the payment on his behalf. Despite the campaign for non-payment, there was a section of the school opposed to it and every endeavour must have been made by that section to collect these fees by appealing to parents and guardians of the boys. Wimalaweera Perera when questioned on this point stated that though he could hardly believe it, it was possible that his brother had paid these fees at that time. This is, in my view, not an unlikely explanation.

30 In regard to these registers, I cannot agree that the entries therein do not show any fall in the payment of facilities fees during this period. In cross-examination, one of these Registers P24 was casually opened at the first page. It showed that in 1953 there were 53 boys in the H.S.C. form who had made 97 payments in all throughout that year. In 1954 there were 79 boys who had made only 10 payments throughout that whole year. One has also got to remember the fact that at a certain stage (I shall refer to this later) Mr. Palliawardene gave a cheque to the plaintiff to induce him to issue admission cards to those who were in arrears. One does not know whether the books were brought up to date as a result.

I have carefully considered Mr. Wikramanayake’s criticism of the evidence of these witnesses, but I cannot agree with him that they are unworthy of credit. They impressed me favourably, and I accept their evidence in preference to that of the plaintiff.

40 The evidence of Kithsiri Ameratunge shows that the plaintiff had in some instances tried to prevent the parents from paying facilities fees. It must also be noted here that canvassing for the general elections were in progress towards the end of 1955. Jayasekere had seen the plaintiff driving a motor vehicle belonging to a political party (The United National Party) near that party’s office at Nugegoda, and also driving a car at Horana which carried on it a poster bearing the photograph of one of the candidates of that party for that seat—Mr. M. D. H. Jayawardene. Here, Mr. Jayawardene says that he

did not see Costa in his electorate, but it does often happen that many workers fail to catch a busy candidate's eye even if some effort is made to do so. One has also to notice here the pamphlet P14 issued by the plaintiff. Another pamphlet D24 was referred to during the course of the trial but this cannot be taken into consideration as it was not proved. The four youngmen I have referred to above were, during the Anti-Alagiyawanna campaign, strong supporters of the plaintiff—particularly Dharmakirti, a very enthusiastic and impressionable youth, with quite a following of students who would have been a very useful ally. Though the plaintiff's witnesses Dr. Adikaram and Mr. Palliawardene now look upon him with disfavour, they had held him in high esteem earlier. D36 is a certificate granted to him by Dr. Adikaram dated 27th January 1955 where he 10 (Dharmakirti) is referred to as one who is "intelligent and bears a very good character". D45 is a certificate by Mr. Palliawardene as late as 28/9/55 where among other things he is referred to as "a person of reliability on whom responsibility can be placed without hesitation." I think he deserves at least some measure of the praise that these witnesses lavished on him at that time.

The evidence of these youths is corroborated by that of Mr. Austin Silva a teacher (in my view an obviously truthful witness), and to some extent by the evidence of Mr. Alagiyawanna.

In 1955 Dr. Adikaram beat Mr. Kularatne in a contest to become the manager of the Buddhist Theosophical Society. The principalship of the Ananda Sastralaya fell 20 vacant and on 1/4/55 the plaintiff who was then in America was appointed principal. One cannot help getting the impression that appointments to this school were coloured by the rivalry between Dr. Adikaram and Mr. Kularatne in the Buddhist Theosophical Society.

As principal, the plaintiff was keen on collecting facilities fees. But then he had to undo much of what had already been done in this matter. In December each year the Public examinations take place and students cannot sit for them unless they obtain "admission cards" from the head of their school. This requirement is a powerful weapon in the hands of a principal in order to compel the payment of facilities fees—but a weapon which in my opinion should never be used. One need not expand on the hardships 30 that could be caused to students by the adoption of such measures. It would be a very cruel thing indeed to prevent a student who has studied for an examination from sitting for it merely because he has failed to pay a certain sum of money. Free education which the students are supposed to enjoy would be reduced to a farce. But the plaintiff says that he refused admission cards as a disciplinary measure—because some students disobeyed his orders to get replies from their parents to a letter relating to their ability to pay facilities fees. I am sceptical about this. None of the students whose evidence I have referred to above saw this letter P13, and when at the very last moment they appealed to Mr. Palliawardene, the latter had to write out a cheque as a sort of security for payment, before the admission cards were issued. I fail to see how this cheque could have 40 taken the place of replies to the letter P13—or how it could have excused disobedience. The evidence of Jayasekere (the son of a cultivator who did not have the means to pay up the arrears at short notice) shows the plight some students were in—and that of Heedeniya, the anxieties of a parent of moderate means.

In the days immediately preceding the examination, when the students should have been at their books, they and their parents were rushing hither and thither from

this official to that, from one politician to another, in the hope that they would help them to obtain the admission cards. The plaintiff's attitude was one of defiance, and it was only after three officers of the Education Department actually came into his school that he reluctantly issued the cards on the eve of the examination. It is no wonder that every student failed.

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—continued

However, this question of withholding admission cards on account of non-payment of facilities fees was quite rightly drawing public attention and in my view it is for the public good that such questions should be publicly discussed. We find at about this time (November and December 1955) in the newspaper "Dinamina" (which belongs  
10 to a group of newspapers not owned by the 1st. defendant) articles relating to this question (Vide D21, D22 and D23). The Hansard of 6/12/55 (D19) and 8/12/55 (D20) show that this matter was the subject of heated debate in Parliament.

I shall now turn to the applications made by the plaintiff to retire. By letter D8 dated 12th September 1954 he applied to the Director of Education to retire under Rule 6(b) of the Teachers' Pension Regulations. Under these rules (vide D44) a teacher who is unable to give instruction in Swabasha in Standard 6, 7 or 8, may be permitted to retire on pension, if, but only if, he has completed a certain period of service, the Director is satisfied that he is unable to give such instruction, and further, that no other suitable employment as a teacher can be found for him. I have already referred to the  
20 plaintiff's qualifications in Sinhalese. He says that a knowledge of Sinhalese is unnecessary for a degree in Indo Aryan (which is quite true), and that despite his other qualifications, he found that he was unable to take classes in Sinhalese. In the case of the book Ubhida Vidyawa, he says that his ideas were put into grammatical Sinhalese by such friends as the witness Mr. Weerasinghe. There is some evidence which indicates that he was also qualified to teach drawing. However, I do not think it necessary to decide whether his application should have been allowed or not. It is only necessary to observe the events that took place immediately before he succeeded in retiring.

The Director by the letter D9 dated 25/11/54 refused the application made in D8. Under rule 19 of these Regulations (D44) a person aggrieved by such an order can appeal  
30 to the Minister of Finance within one month. The plaintiff did not do so. But on 14th March 1955, by the letter D13 he made an application to retire to the Minister of Finance, Mr. M. D. H. Jayawardene the plaintiff calls it an appeal. He followed this up with the letter D14 dated 21st April 1955 addressed to the Minister of Education in which he made a request that his appeal to the Minister of Finance be recommended. By letter D15 dated 17th June 1955 he was informed by the Director of Education that the Minister of Finance had refused his application. D16 dated 20th June 1955 is a letter to the plaintiff from the Permanent Secretary to the Ministry of Education, once again intimating him that the Minister of Finance had refused his application.

In the meantime Rule 6(c) had been published in the Government Gazette. It is in  
40 the same terms as rule 6(b) referred to earlier—the only difference being that the right to retire was extended to those teachers who could not instruct the Swabasha in the Pre-Senior School Certificate class and the Senior School Certificate class. By letter D17 dated 28th September 1955 the plaintiff applied to the Director again on the same grounds to retire. This application too was refused by the Director by letter D18 of 29th November 1955. Again there was no appeal within a period of 30 days. The plaintiff was on a month's leave from 19/1/56 (P25). The various candidates had started their

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—continues

election campaigns by then. During the period that he was on leave i.e. on 10/2/56, he made another application to retire under rule 6(c) to the Minister of Finance (D25), on the very same grounds which he had unsuccessfully urged earlier. We then come across a note D26 which though undated must have been written about this time. It is written by the plaintiff to one Mr. Wijetunge who was the Private Secretary to the then Minister of Education. In D26 the plaintiff wants Mr. Wijetunge to remind the Minister to "ring up the S.E."—S.E. being an abbreviated form for the Permanent Secretary to the Minister of Education. The elections were held early in April and on 5/4/56 Mr. Jayawardene the then Minister of Finance was beaten. On 7/4/56 he made an order by which the plaintiff was allowed to retire.

10

Now, I accept the evidence of Mr. Jayawardene that he did not bring his own mind to bear on the question of the plaintiff's retirement. There were some 145 appeals among other papers which he had to attend to before he relinquished office. He relied entirely on the minutes made by officials of his Ministry and the Ministry of Education. In fact, he says that if his attention had been drawn to the time limit for an appeal imposed by section 19, he would have dismissed the plaintiff's appeal. Though I do not for a moment believe that Mr. Jayawardene's action was prompted by any improper motives, yet it is quite clear that those who were responsible for advising him in this matter had at this point of time completely changed their minds or been persuaded to do so—without any fresh material being placed before them.

20

The evidence of the present Minister of Education shows that questions were asked in Parliament on this subject—it had certainly aroused much public interest and curiosity. Those then are the facts as I find them.

I turn now to the passages themselves but would pause for a moment to quote this passage from Nathan on the Law of Defamation at page 272, dealing with the defence of fair comment.

"With regard to the history of the subject, we are told that 'fair comment upon a matter of public interest' is a defence originally elaborated by English decisions with a view to protect the press in the discharge of its important duty of commenting fully and freely upon all matters of public importance . . . ."

30

The first passage P1 appears in a news item entitled Kasu Kusu published on 5/12/55 and reads as follows:—

"The people of Kotte question as to why an assistant teacher who carried on a powerful campaign requesting the children of a certain Buddhist school in Kotte not to pay facilities fees, is enforcing the payment (of facilities fees) on becoming the Principal."

The statements there are true and in my view it was in the public interest that it should have been made.

The next passage appears in a letter written by the witness Mahindapala Boteju and published in the Lanka Daily of 23rd December 1955. It is by way of reply to another letter which the same paper had published. Boteju is an old boy of Ananda Sastralaya, who though a trader still keeps in touch with his old school as he goes there regularly to play roller ball. He was well aware of the controversy over facilities fees and the rivalry in the school. He therefore wrote the letter P2. Plaintiff complains of the following passages in it:

40

(a) “. . . it was when the present Principal was an Assistant Teacher in the same school that the children were encouraged not to pay and led astray.”

(b) “. . . the fact that black stains are sprinkled on the glory that was of the school can be seen from the talks that go on at the road junctions here. The staff is opposed to the principal; except one-third, all the rest of the students are opposed to him.”

Here again, though the mathematical fraction may be incorrect, the facts are true. It is not necessary to prove the truth of every word of a libel (Gatley on Libel and Slander, 4th Edition, page 163). The same remarks as in the case of P1 would in my opinion apply. It has to be noted that in some of these letters a comment is mixed with a statement of fact. When the whole of the letter P2 is read one gets the impression that the passage concerning “black stains being sprinkled on the glory of the school” and the division of the school into factions is really a comment.

“A statement does not necessarily cease to be comment because it appears in the form of a statement of fact.” (Nathan page 278).

The comment in my opinion is a fair one.

The next passage appears in a letter P3 written by the witness Kithsiri Ameratunge referred to earlier. Once again the opening sentences of P3 show that this paper had published two other letters, in at least one of which the allegation had been made that non-payment of facilities fees had been induced by Mr. Robert Gunawardene the Member of Parliament for Kotte, against whom the plaintiff’s pamphlet P14 was primarily directed. Here is the passage to which the plaintiff takes exception.

P3a. “. . . as a past student I know that it was the present principal who made the students disobedient and act as rebels. Everyone who was at the Sastralaya during the time of the principalship of Mr. B. Wickremesinghe knows that it was the present principal who set the children against the then Vice Principal Mr. Alagiyawanna who is now the principal of Sri Summangala Vidyalaya Panadura. To obstruct the work of the school the present principal who was then an Assistant Teacher, induced not only the students but also their parents not to pay facilities fees. It is not a secret as to who got the students to write the Anti-Alagiyawanna slogans on the school buildings.”

Here again the facts were true and their publication in the public interest, and here too it would appear that the last sentence is really a comment in the guise of a statement—a comment which in the circumstances is a fair one.

I will reproduce here the next two passages in regard to both of which the plea of justification (in my view) is entitled to succeed.

P4a is a news paragraph dated 8/5/56. “Mr. N. W. de Costa principal, Ananda Sastralaya, Kotte, has retired from the post of Principal. He who has a degree in Indo Aryan has retired on full pension under the regulation for retirement due to his inability to teach in Sinhalese. The Sinhalese book Ubhida Vidyawa is a book written by him. In a very short time he will be leaving for America to teach English”.

(P5a) “It was published in the Lanka Dipe that Mr. N. W. de Costa, Principal Ananda Sastralaya, Kotte, retired on the ground of inability to teach in Sinhalese. He has an external degree in Indo Aryan of the University of London. The book titled Ubhida Vidyawa which is accepted by the Educational Publications Board is written by him. But it is a wonder to the people of Kotte and Horana as to how he retired with full pay. Though he did not go to school for the whole of last term he worked hard at Kotte and at Horana for a certain political party. Further, he issued leaflets under his name. It is not difficult for the Education Minister and the Finance Minister of the New Government to know how he could retire during the time of the election though his previous attempts to retire were unsuccessful.” 10

P5a is a passage in a letter written by the witness K. Jayasekera.

In P4a there are certain inaccuracies, e.g. the reference to “full pension” is incorrect, because a Government Servant can get full pension only after working some 35 years. Obviously the writer meant the *full Pension Plaintiff was entitled to* at the time of retirement without any deduction. The statement that he will be leaving for America is also incorrect, for he had just returned from there. Similarly, in P5a there is an obviously erroneous statement that he retired on full *Pay* and that his book Ubhida Vidyawa was accepted by the Educational Publications Board. But these inaccuracies do not (in my opinion) in any way affect the substantial truth in the statements set out. If 20 one reads the whole of the letter P5 one could see that the writer sets out facts which are substantially true and makes the comment that if the new Government adopted the same policy in regard to retirement of teachers the country would soon be left without any teachers at all.

I agree with Mr. Wikramanayake that most of the issues raised by the defendant really relate to matters of evidence and that those issues relating to justification and fair comment might have been raised with specific reference to those parts of the passages to which they would apply,—(these issues had been raised on an earlier occasion and adopted before me at the trial de novo)—but I cannot agree that it is impossible or incorrect to raise both the defences of justification and fair comment. Nathan on the 30 Law of Defamation, says at page 306:—

“A great diversity of defences may be pleaded in an action for defamation, even though some of them may be inconsistent . . . (the defendant) may also plead privilege or justification *and* fair comment.”

Again at page 312 he says:—

“Therefore the proper and usual and accepted way of pleading the defence of fair comment is to begin by asserting that the facts on which the comment is based are true.”

The defence of privilege or qualified privilege was not pressed and I cannot see how this plea could have succeeded, for a newspaper does not enjoy any particular privilege when publications of this kind are made. Nor do I see any substance in the alle- 40 gation of express malice made by the plaintiff. There is no reliable evidence from which such an inference can be drawn. On the contrary, the letters P2 and P3 themselves show that letters favourable to the plaintiff had also been published.

I would answer the issues as follows:—

- |            |  |         |   |
|------------|--|---------|---|
| 1.         | Yes.                                     | 17.     | Yes.  |
| 1. (a)     | No.                                      | 18. (1) | Yes.  |
| 2.         | Yes.                                     | (2)     | Yes.  |
| 3.         | No—in view of the reasons set out above. | 19.     | Yes.  |
| 4.         | Does not arise.                          | 20.     | Yes.  |
| 5.         | Yes.                                     | 21.     | It is not possible to answer this issue on the evidence despite P9. |
| 10 5. (a)  | No.                                      | 22.     | Yes.  |
| 6.         | Yes.                                     | 23.     | Yes.  |
| 7.         | No—in view of the reason set out above.  | 24. (a) | Yes.  |
| 8.         | Does not arise.                          | (b)     | Yes.  |
| 9. (a)     | Yes.                                     | 25.     | It is not possible to answer this issue on the evidence.            |
| (b)        | Yes.                                     | 26.     | Yes.  |
| (c)        | Yes.                                     | 27.     | Yes.  |
| 10.        | Yes.                                     | 28.     | Yes.  |
| 11.        | Yes.                                     | 29.     | Yes.  |
| 20 12. (a) | Yes.                                     | 30. (a) | Yes.  |
| (b)        | Yes.                                     | (b)     | Yes.  |
| 13. (a)    | Yes.                                     | 31. (a) | Yes.  |
| (b)        | Yes.                                     | (b)     | Yes.  |
| 14. (i)    | Yes.                                     | 32.     | Yes.  |
| (ii) (a)   | Yes.                                     | 33. (a) | Yes.  |
| (b)        | Yes.                                     | (b)     | No.   |
| 15.        | Yes.                                     | (c)     | Yes.  |
| 16. (a)    | Yes.                                     | (d)     | Yes.  |
| (b)        | Yes.                                     | 34.     | No.   |

30 Plaintiff's action is dismissed.

SGD: A. L. S. SIRIMANNE  
A.D.J.

10th June, 1957.

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—continued

No. 10  
Decree of the  
District  
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**No. 10**  
**Decree of the District Court**  
**DECREE**

IN THE DISTRICT COURT OF COLOMBO

**No. 38683/M**

N. W. DE COSTA OF 24 CHURCH STREET,  
NUGEGODA.....

*Plaintiff*

*Against*

1. THE TIMES OF CEYLON LTD., 3 BRISTOL BUILDINGS FORT, COLOMBO.
2. D. B. DHANAPALA, 3 DE FONSEKA PLACE, BAMBALAPITIYA, COLOMBO.

10

*Defendants*

This action coming on for final disposal before A. L. S. Sirimanne, Esqr., Additional District Judge, Colombo on the 10th day of June 1957 in the presence of proctor on the part of the plaintiff and of proctor on the part of the defendants it is ordered and decreed that the plaintiff's action be and the same is hereby dismissed with costs.

SGD: A. L. S. SIRIMANNE.  
*Additional District Judge, Colombo.*

The 10th day of June 1957.

No. 11  
Petition of  
appeal to the  
Supreme  
Court.  
22. 6. 57

**No. 11**  
**Petition of Appeal to the Supreme Court**

20

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

S.C. No. 325/57 (Final)  
D.C. Colombo No. 38683/M

N. W. DE COSTA OF No. 24, CHURCH STREET,  
NUGEGODA.....

*Plaintiff-Appellant*

*Vs.*

1. THE TIMES OF CEYLON LIMITED, 3, BRISTOL BUILDING, FORT, COLOMBO.
2. D. B. DHANAPALA OF DE FONSEKA PLACE, BAMBALAPITIYA, COLOMBO.

30

*Defendants-Respondents*

TO THE HONOURABLE THE CHIEF JUSTICE AND THE OTHER  
JUDGES OF THE SUPREME COURT OF THE ISLAND OF CEYLON.

On this 22nd day of June 1957.

The Petition of Appeal of the Plaintiff-Appellant abovenamed appearing by Edward R. de Silva, his Proctor, states as follows:



1. The Plaintiff-Appellant filed this action against the defendants-respondents claiming damages in a sum of Rs. 110,000/- upon two causes of action in respect of certain defamatory statements published by the defendants-respondents concerning the Plaintiff-Appellant.

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—continued.

2. The defendants-respondents in their answer pleaded and put in issue thereby certain facts, which were alleged to be true and in the public interests and raised defence of justification, fair comment and qualified privilege after admitting the publication.

10 3. The case proceeded to trial on the several issues suggested by the parties and accepted by the Court and after trial the Learned District Judge gave judgment dismissing the plaintiff's action with costs.

4. Being aggrieved thereby the plaintiff-appellant begs to appeal to Your Lordships Court on the following among other grounds:

(a) that the said Judgment is contrary to law and against the weight of evidence.

(b) that the Learned Judge has erred in considering the truth or otherwise of matters outside the defamatory statements complained of in as much as . . . (torn) . . . defence to one libel to seek to justify another libel.

20 (c) that the Learned Judge has erred in the assessment of evidence of the several witnesses and has failed to assess the evidence in relation to the subject matter of the alleged libel.

(d) that in view of the acceptance of the evidence of Mr. M. D. H. Jayawardena, the Learned Judge has erred in holding against the plaintiff-appellant.

(e) that the learned District Judge has failed to distinguish between fact and comment and the necessity for the facts to be truthfully set out before a defence of fair comment arises.

(f) that the Learned Judge has erred in law on questions of burden of proof on particular questions of fact.

30 (g) that the Learned Judge's reasons attaching credit to some of the witnesses are unreal and improbable.

Wherefore the Plaintiff-Appellant prays that Your Lordships Court may be pleased to set aside the Judgment of the Learned District Judge, that the appeal may be allowed, for costs and for such other and further relief as to this Court shall seem meet.

SGD: E. R. DE SILVA  
*Proctor for Plaintiff-Appellant.*

*Settled by:*

SGD: FELIX R. DIAS ESQR., *Advocate.*

No. 12  
Judgment of the Supreme Court

S.C. No. 325

D.C. Colombo No. 38683

COSTA V. TIMES OF CEYLON & ANOTHER

*Present:* Basnayake, C. J., Pulle, J., and Sinnetamby, J.

*Counsel:* The Plaintiff-Appellant in person, H. W. Jayawardene, Q.C., with N. D. M. Samarakoon, V. T. Martyn and N. R. M. Daluwatte for Defendants-Respondents.

*Argued on:* 22nd, 23rd, 24th, 25th, and 26th June, and 1st, 2nd, 3rd, 15th, 16th and 17th July 1959.

*Decided on:* 23rd October, 1959.

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**Basnayake, C. J.**

The plaintiff-appellant (hereinafter referred to as the plaintiff), a teacher by profession, was from 1934 to 1955 an assistant teacher at the Senior Secondary School known as the Ananda Sastralaya at Kotte at which he had himself received his education. From April 1955 till his retirement in May 1956 he was Principal of that school. The 1st defendant-respondent is a limited liability Company registered in Ceylon and was at all relevant times the proprietor of a Sinhalese Newspaper known as the "Lankadipa". The 2nd defendant-respondent was at all material times the Editor of that newspaper. It will be convenient hereinafter to refer to the 1st and 2nd defendants-respondents collectively as the defendants.

20

The plaintiff complains that on 5th and 23rd December 1955, and on 3rd January 1956 and on 8th and 11th May 1956, the defendants published in the "Lankadipa" certain defamatory matter of and concerning him. The following extracts from the publications referred to are specially pleaded in the plaint:

"4.(i) In a paragraph headed "කසුකුසු" (Kasu Kusu) written in Sinhalese and published in the issue of the Lankadipa dated 5th December 1955, the words following, that is to say—

"කෝට්ටේ එක්තරා බෞද්ධ පාසැලක ශිෂ්‍යයන්ට විද්‍යාල උපකරණ ගාස්තු නොගෙවන හැටියට ඉල්ලමින් ප්‍රබල ව්‍යාපාරයක් ගෙන ගිය උප ගුරුවරයෙක් ඔහු ප්‍රධානාචාර්ය වරයා වූ පසු දැන් එම මුදල් ගෙවන ලෙස බල කරන්නේ මන්දැයි කෝට්ටේ පළාත් වාසිනු ප්‍රශ්න කරති".

The literal English translation of the said words is as follows:

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The people of Kotte question as to why an assistant teacher who carried on a powerful campaign requesting the children of a certain Buddhist School in Kotte not to pay the facilities fees is enforcing the payment (of facilities fees) on becoming the Principal.

(ii) In a letter in Sinhalese headed "ආනන්ද ශාස්ත්‍රාලය" (Ananda Sastralaya) purporting to be written and signed by one "සී. මහින්දපාල බොත්තේ" (C. Mahindapala Boteju) and published in the issue of the Lankadipa dated 23rd December 1955, the words following, that is to say—

“පාසැල් ගාස්තු නොගෙවීමට අනුබල දී ශිෂ්‍යයින් නොමග යැවුවේ වර්තමාන ප්‍රධාන කුමා මේ පාසැලේම උප ගුරුවරයා වී සිටියදී ය”.

“එද පාසැලේ පැවති කීර්තියට අද කළු පැල්ලම් ඉසි තිබෙනු මෙහි මංසන්ධිවල කෙරෙන කථා වලින් පෙනේ. ආචාර්ය මණ්ඩලය ප්‍රධාන කුමාට විරුද්ධ ය. ශිෂ්‍යයින් අතුරින් තුනෙන් පංගුවක් හැර ඉතිරි හැම දෙන එතුමාට විරුද්ධය”.

The literal English translation of the said words is as follows:

(a) . . . It was when the present Principal was an assistant teacher in the same school that the children were encouraged not to pay and led astray.

10 (b) . . . The fact that black stains are sprinkled on the glory that was of the school can be seen from the talks that go on at the (road) junctions here. The staff is opposed to the Principal; excepting one third all the rest of the students are opposed to him.

(iii) In a letter in Sinhalese purporting to be written by one “කිත්සිරි අමරතුංග” (Kitsiri Ameratunga) and published in the issue of the Lankadipa dated 3rd January 1956 the words following, that is to say—

“ශිෂ්‍යයන් විජ්‍යාව වාදී ලෙස ක්‍රියා කරවීමට පෙළඹවූයේත් ඔවුන් විද්‍යාලයට අකීකරු කරවූයේත් වර්තමාන විද්‍යාලයාධිපතිවරයා බව විද්‍යාලයේ ආදි ශිෂ්‍යයකු වශයෙන් මම දනිමි”.

20 “බී. වික්‍රමසිංහ මහතා විද්‍යාලයාධිපතිව සිටියදී, වර්තමාන විද්‍යාලයාධිපතිවරයා, එවකට උප විද්‍යාලයාධිපතිව සිටි, දැනට පානදුරේ ශ්‍රී සුමංගල විද්‍යාලයාධිපති කේ. ඇල්. ටී. අලගියවත්ත මහතාට විරුද්ධව ශිෂ්‍යයන් පෙළඹ වූ බව එකල ආනන්ද ගාස්තූලයේ සිටි කවුරුන් දනිති”.

“විද්‍යාලයේ පාලන කටයුතු වලට බාධා කිරීම සඳහා, එකල උප ගුරුවරයකුව සිටි වර්තමාන විද්‍යාලයාධිපති වරයා, පහසුකම් ගාස්තු නොගෙවන ලෙස ශිෂ්‍යයන් පමණක් නොව ඔවුන්ගේ දෙමව්පියන් ද පෙළඹ වූයේය. එකල ශිෂ්‍යයන් ලවා විද්‍යාලයේ ගොඩනැගිලිවල අලගියවත්ත විරෝධී පාඨ ලියවූයේ කවුරුද යන්න රහසක් නොවේ”.

The literal English translation of the said words is as follows:

As a past student I know that it was the present Principal who made the students disobedient and act as rebels.

30 Everyone who was at the Sastralaya during the time of the Principalship of Mr. B. Wickremasinghe knows that it was the present Principal who set the children against the then Vice-Principal Mr. Alagiyawanna who is now the Principal of Sri Sumangala Vidyalaya, Panadura.

To obstruct the work of the school the present Principal, who was then an assistant teacher, induced not only the students but also their parents not to pay facilities fees. It is not a secret as to who got the students to write the Anti-Alagiyawanna slogans on the school buildings.

40 “7.(i) In a paragraph written in Sinhalese headed “සිංහල බැහැ කියා අස්වේ” (Resigns as he is unable to do Sinhalese) in the issue of the Lankadipa dated 8th May 1956, the words following, that is to say—

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23. 10. 59  
—continued.

“කෝට්ටේ ආනන්ද ශාස්ත්‍රාලයාධිපති ඇත්. ඩබ්ලිව්. ද කොස්තා මහතා විද්‍යාලයාධිපති පදවියෙන් විශ්‍රාම ගෙන ඇත. ඉන්දු ආර්ය භාෂා පිළිබඳ උපාධියක් ලබා ඇති ඒ මහතා සිංහලෙන් ඉගැන්වීමට නොහැකි කම නිසා විශ්‍රාම ගැනීමේ නීතිය යටතේ සම්පූර්ණ විශ්‍රාම වැටුප් සහිතව විශ්‍රාම ගෙන තිබේ. උද්භිද විද්‍යාව නමැති සිංහල පොත කොස්තා මහතා විසින් ලියන ලද්දකි. ඒ මහතා ළඟදීම ඉංග්‍රීසි ඉගැන්වීම සඳහා ඇමෙරිකාව බලා යනු ඇත”.

The literal English translation of the said words is as follows:

Mr. N. W. de Costa, Principal, Ananda Sastralaya, Kotte, has retired from the post of Principal. He who has a degree in Indo-Aryan has retired on full pension under the regulation for retirement due to his inability to teach in Sinhalese. The Sinhalese book titled “UDBHIDA VIDYAWA” is a book written by him. In a very 10 short time he will be leaving for America to teach English.

(ii) In a letter in Sinhalese headed “කෝට්ටේ ආනන්ද ශාස්ත්‍රාලයාධිපති” (The Principal, Ananda Sastralaya, Kotte) purporting to be written and signed by one “කේ. ජයසේකර” (K. Jayasekera) and published in the issue of the Lankadipa dated 11th May 1956, the words following, that is to say—

“කෝට්ටේ ආනන්ද ශාස්ත්‍රාලයාධිපති එන්. ඩබ්ලිව්. ද කොස්තා මහතා සිංහලෙන් ඉගැන්වීමට නොහැකිය යන කරුණ උඩ විශ්‍රාම ගත් බව “ලංකාදීප” යේ පළවිය. ඔහුට ලන්ඩන් විශ්ව විද්‍යාලයේ ඉන්දු ආර්ය භාෂා පිළිබඳ බාහිර උපාධියක් තිබේ. “උද්භිද විද්‍යාව” නමැති අධ්‍යාපන ග්‍රන්ථ ප්‍රකාශක මණ්ඩලයෙන් අනුමත කරන ලද, නවීන විද්‍යා පොත ඔහු විසින් සිංහලෙන් ලියා තිබේ. නමුත් ඔහු සම්පූර්ණ වැටුප් සහිත විශ්‍රාම 20 ලබා ගත්තේ කෙසේද යන්න කෝට්ටේ සහ හොරණ පළාත් වාසින්ට පුද්ගලයන් වේ. ඔහු පසුගිය වාරයේම පාසැලට නොපැමිණි නමුදු එක්තරා දේශපාලන පක්ෂයක මන්ත්‍රී- දූරාපේක්ෂයන් දෙදෙනෙකුට කෝට්ටේ සහ හොරණ මන්ත්‍රී කොට්ඨාශවල ඉතා උනන්දුවෙන් වැඩ කළේය. එපමණක් නොව තමාගේ නමින් පත්‍රිකා ප්‍රසිද්ධ කර විසුරුවා හැරියේය. මීට කලින් විශ්‍රාම ගැනීමට ඔහු කළ පරිශ්‍රමය සාර්ථක නොවූ නමුදු මැතිවරණ සමයේදී ඔහු කෙසේ විශ්‍රාම ලබා ගත්තේ ද යන්න නව ආණ්ඩුවේ අධ්‍යාපන සහ මුදල් ඇමති තුමන් දෙපළට වටහා ගැනීම උගහට නොවේ”.

The literal English translation of the said words is as follows:—

It was published in the Lankadipa that Mr. N. W. de Costa, Principal, Ananda Sastralaya, Kotte, retired on the ground of inability to teach in Sinhalese. He 30 has an external degree in Indo-Aryan of the University of London. The book titled “UDBHIDA VIDYAWA” which is accepted by the Educational Publications Board is written by him. But it is a wonder to the people of Kotte and Horana as to how he retired with full pay. Though he did not go to school for the whole of last term he worked hard at Kotte and at Horana for a certain political party. Further, he issued leaflets under his name. It is not difficult for the Education Minister and the Finance Minister of the New Government to know how he could retire during the time of the election though his previous attempts to retire were unsuccessful.

The defendants pleaded justification, qualified privilege, fair comment, and absence of *animus in juriandi*. 40

The plaintiff appeared in person and argued his appeal. He explained that he had exhausted his resources at the trial and had not the means wherewith to retain counsel for the appeal. He presented his case with moderation and with care and did justice to his case. He urged that some of the findings of fact against him should be reversed.

It is well settled that questions relating to defamation fall to be determined in this country according to the principles of Roman-Dutch law. When approaching questions of Roman-Dutch law, especially in a branch of law like defamation it is well to bear in mind the words of Lord Tomlin in the case of *Pearl Assurance Company Ltd. v. Government of the Union of South Africa*, (1934) A.C. 570—

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10 “In the first place, the questions to be resolved are questions of Roman Dutch law. That law is a virile living system of law, ever seeking, as every such system must, to adapt itself consistently with its inherent basic principles to deal effectively with the increasing complexities of modern organized society. That those principles are capable of such adaptation cannot be doubted and, while it would be idle to assert that the development of the Roman Dutch law in the territories now constituting the Union has not been affected appreciably by the English law, yet in their Lordships’ judgment, approach should be made to any question governed by Roman Dutch law without any fetter imposed by recollections of other systems, and through the principles of Roman Dutch law alone.

20 “The fact that the solution of a particular problem reached by the Roman Dutch law bears a similarity to the solution provided by another system does not necessarily indicate any imposition of the rules of one system upon the other, but may be cogent evidence of a resemblance between the relevant basic principles of the two systems.”

The existence of well-annotated standard treatises on the law of defamation in England and America is a great inducement for lawyers and judges almost instinctively to resort to them for the solution of problems which should be solved according to the principles of Roman Dutch law. At the same time I do not wish to be understood as saying that under no circumstances should we examine the decisions of courts of other jurisdictions when called upon to solve an intricate question of law in our system. But the tendency to resort to English and American treatises and decisions without first endeavouring to solve the problems that arise according to Roman-Dutch Law should be resisted. Melius De Villiers’s *Treatise on the Law of Injuries and Manfred Nathan’s*  
30 *Treatise on the Law of Defamation in South Africa* afford considerable assistance in ascertaining the Roman-Dutch law as developed in South Africa.

Of the Roman-Dutch Law writers Voet alone discusses the law in detail. For this reason Voet has been cited and followed by the Privy Council and the courts both here and in South Africa. I shall therefore not refer except in passing to Van der Keessel, Van der Linden, Groenewegen, or Van Leeuwen. As for Grotius, I think, his definition of defamation is important and should be reproduced. (Grotius, Bk III Ch. XXXVI Sec. II, Herbert’s translation, p. 447). It reads as follows:—

40 “In this respect all parties are liable who either verbally or in writing, in presence or absence, secretly or openly, publish anything whereby a man’s honour is injured even were the same true; except when the same is notified to the authorities for the punishment of the offence.”

The expression “honour” in this context is used in the sense of the good opinion others have of us.

The kind of defamation that arises for consideration in the instant case, viz: publication by a newspaper to all and sundry, is the type of defamation known to Roman-Dutch Law as *Famosis libellis* and falls into the classification of *Injuria litteris*. (Voet 47.10.10—7 Gane 226)—

“A wrong is done by writing when a person has assailed the reputation of someone by handing a screed to the Emperor or to another; or with a view to the contemning and mockery and loss of reputation of someone has made up, published, noised abroad, made known to others or printed an information, narrative, comedy, screed or jingle; or has with evil intent brought about the happening of any of those things.”

10

Now when dealing with this type of defamation it is well to bear in mind that in this country a newspaper enjoys no greater right than the individual citizen. The following words of Lord Shaw in the case of *Arnold—The King Emperor of India*, (1914) 30 T.L.R., p. 462 (Privy Council), though expressed in a criminal case in relation to Burma, can with equal force be used in relation to Ceylon—

“The freedom of the journalist is an ordinary part of the freedom of the subject, and to whatever lengths the subject in general may go, so also may the journalist but apart from statute-law, his privilege is no other and no higher. The responsibilities which attach to his power in the dissemination of printed matter may, and in the case of a conscientious journalist do, make him more careful; but the range of his assertions, his criticisms, or his comments, is as wide as, and no wider than, that of any other subject. No privilege attaches to his position.”

The learned District Judge appears to have overlooked this aspect of the law when he held that the 1st and 2nd defendants as proprietor and editor of the “Lankadipa” respectively had a common interest with the public and owed a duty to the public—

- (i) to publish information on matters of general importance and public interest,
- (ii) to allow the use of the columns of the “Lankadipa” for the *bona fide* discussion by members of the public of matters of general importance in the public interest.

The learned District Judge is wrong in thinking that the press has privileges which the ordinary citizen has not. Defamation by the written word is more serious than defa- 30 mation by the spoken word; because a person who writes matter which is defamatory has time to think and therefore his act is deliberate.

On account of the wide publicity that defamatory matter published in a newspaper receives and of the serious consequences of such wide publicity to the person defamed, a defamation committed by a newspaper is a more serious infringement of a person's rights than a mere publication in writing to a third person. Defamation by a newspaper falls within the class of savage wrongs (*Atrox injuria*) referred to by Voet in 47.10.13 (7 Gane 231). He says that wrong is more savage when wreaked in the theatre or in a public meeting place.

In our Law defamation is a species of *injuria*. *Injuria* is defined by Voet (Bk 47.10, 40 s. 1-7 Gane 204) as a wrong-doing committed in contempt of a free human being and by which his person or dignity or reputation is injured with evil intent. There are four ways of inflicting *injuria*, viz: by act, by words, in writing and by agreement with

another (Voet 47.10, s. 7). Each of these divisions of *injuria* is discussed in detail by Voet in the title to which I have already referred. For the purpose of this judgment I shall confine myself to *injuria litteris*. This *injuria litteris* is committed when a person has assailed the reputation of another by publishing to a third person matter intended to bring him into contempt, ridicule or hatred *animo injuriandi*.

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As the use of the word defamation in relation to *injuria*, by words, in writing or by pictorial representation is now established it might be as well to define it. Defamation is the publication of any matter with the intention (*animo injuriandi*) of injuring another in his fair name and reputation, or of bringing him into hatred, contempt or ridicule or  
10 of lowering him in the esteem of others. *Animus injuriandi* is the intention to produce the consequences of one's act or the frame of mind of a person who knows that the commission of a certain act will reflect injuriously on another, yet does not refrain from the commission of the act. Such a person cannot rightly assert an absence of intention (Voet 47.10.20).

In our country *animus injuriandi* is an essential element of defamation (*Perera v. Peiris*, 50 N.L.R. 145 (P.C.)). This is in keeping with the principle *Nemo facit injuriam nisi qui scit se injuriam facere. Affectus, non eventus, distinguit maleficia*. The South African decisions also show that in that country too the courts regard *animus injuriandi* as essential. (See the cases referred to in the judgment of Gregorowski, J. in *Jooste v. Claassens* (1916) T.P.D. 723 at 737 *et seq*; and *Laloe Janoe v. Bronkhorst* (1918) T.P.D.  
20 165). The Law presumes that a man intends to produce the natural consequences of his own act. *Animus injuriandi* being a state of mind has in the generality of cases to be inferred from the words and the occasion on which and the context and the circumstances in which they are used. Voet says (Bk 47.10.20—Gane, p. 242) that if the language uttered was such as in itself and in its proper meaning to inflict an insult, the intention to do a wrong is regarded as having been present, and the burden of proof that a plan to wreak a wrong was lacking lies upon him who uttered such statements. The existence of *animus injuriandi* is presumed if the natural effect of the words, when used in their ordinary sense, brings about any of the above results (*G.A. Fichardt Ltd. v. The Friend*  
30 *Newspapers Ltd.* (1916) A.D. 1 at p. 11) and it is for the person who publishes the words to establish circumstances which rebut the presumption (*Botha v. Brink*, 8th Buch 118 at 123).

In dealing with the Roman-Dutch law of defamation it is advisable as suggested by De Villiers (48 S.A.L.J. 467) to avoid such expressions as "malice", "express malice", "legal malice", "implied malice", and "actual malice". The expression "malice" in English law has given rise to a great deal of misunderstanding and some of the English jurists, notably Pollock, have adopted the formula of absence of good faith", which is the expression used in section 479 of our Penal Code. In Roman-Dutch Law for defama-  
40 tion to be actionable it is not necessary that it should have entailed special damage or actual pecuniary loss to the person defamed (*Fradd. v. Jacquelin*, 3 Natal Law Reports 144 at 146). It is sufficient that his feelings have been injured and that the writer intends to do so. (*Boyd Moss v. Ferguson* (1876); Ramanathan Reports (1872-76) p. 165).

In our law truth by itself is not a defence to an action for defamation. On this point Grotius (Bk III Ch. XXXVI Sec. II—Herbert's translation, page 447); Groenewegen (Digest, Lit. XLVII Tit. X); Van Leeuwen (Commentaries on Roman Dutch Law, Ch. XXXVII Kotze's translation, 2nd Edn, Vol. II, p. 295); *Censura Forensis*, Bk V Ch.

XXV); and Van der Linden, p. 250 Juta's translation, all take the same view. Van der Keessel's opinion which is different (Van der Keessel Select These DCCII & DCCIII; Lorensz's translation, pp. 293 & 294); appears from the context to have been expressed in relation to the criminal law of defamation.

In defamation by spoken words if the defendant can prove that what he spoke is true and that they were for the public benefit or in the public interest he would not be condemned (Voet 47.10, s. 9) but Voet thinks that even truth expressed for the public benefit or in the public interest is no excuse in defamation published to the public in writing (Voet 47.10, s. 10). But Voet's view that even where truth is stated for the public good in a written defamation it is no defence has not been followed by the courts both 10 here and in South Africa. We have adopted the rule that unless the defendant proves that the defamatory words are both true and for the public good he cannot succeed. The plea that defamatory words are true and for the public good is known as the plea of justification. The law on this point is well settled both here and in South Africa. Our decisions are *Bastian Pulle v. David Hugens*, Morgan's Digest (1833-42) p. 117 at 123 & 2 Thomas Institute, p. 464. Those of South Africa are *Botha v. Brink*, 8 Buch 123; *Duning v. Queen* (1905) T. H. 39; *Patterson v. Engelenburg and Wallach's Ltd.* (1917) T.P.D. 350 at 356; *Lyon v. Steyn* (1931) T.P.D. 247 at 251.

A plea of justification is not divisible. The defendant must prove both elements truth and for the public good or in the public interest. If he proves truth alone and fails 20 to prove the other element he fails altogether (*Queen v. Shaw and Fennell*, 3 E.D. C. 323 at 327), *Leibenguth v. Van Straaten* (1910 T.P.D. 1203 at 1207-1208). Even in the matter of proving truth partial proof is insufficient. The truth of all the offending words must be proved (Gane, Voet 47.10, s. 9, Vol. 7, p. 225). Proof of rumour is not proof of truth of defamation (1938 N.P.D. 277 at 302) (Van Leeuwen Censura Forensis 1-5-25) *Jooste v. Claassens* (1916) T.P.D. 723 (Gane, Vol. 7, P. 225).

Though truth by itself is not a defence to an action for defamation it would in certain circumstances be relevant in the assessment of damages (*Daniel v. Denoon*, 18 Natal L.R. 125; *Leibenguth v. Van Straaten* (1910) T.P.D. 1203. In this respect our civil and criminal law are the same. The first exception to the offence of defamation 30 (s. 479 Penal Code) reads—

“It is not defamation to impute anything which is true concerning any person, if it be for the public good that the imputation should be made or published. Whether or not it is for the public good is a question of fact.”

So much for the plea of justification. It is now necessary to examine the defence of fair comment. This plea like the plea of justification is not the peculiar privilege of the press. A newspaper has no greater right to comment upon a public servant or officer or a person occupying a public situation than has the ordinary citizen.

An essential for this defence is that the facts on which the comments are based should be true and in the public interest or for the public good. The comments based 40 on facts truly and fully stated must not come within the ambit of *injuria verbis*. If they do, the comments do not receive protection. Comment is not fair if the facts on which it is based are not accurate (*Patterson v. Engelenburg and Wallach's Ltd.*, (1917) T.P.D. at 362-363). Besides comments outside the stated facts cannot be regarded as negating *animus injuriandi* as the reader cannot judge for himself on facts which are



not stated whether the comment does not constitute an *injuria*. Where the expression of opinion depends upon nothing but the publisher's own authority then the matter so expressed stands in the same position as an allegation of fact (*Roos v. Stent & Pretoria Printing Works Ltd.*, (1909) T.P.D. 988).

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Before I conclude this summary of the relevant law I should state that a person is not entitled under the guise of truth and pretence of acting in the public interest to rake up another's past. In such a case a heavy burden lies on the defendant to show how the resurrection of the past serves the public interest. (*Stanley v. Robinson*, (1913) T.P.D. 202 at 107, and *Lyon v. Steyn*, (1931) T.P.D. 247 at 251—Voet 47.10.9).

10 As the learned Judge has held that the plea of qualified privilege does not lie in the instant case and there has been no appeal from that decision it is not necessary to consider that defence.

Keeping in mind the above principles of law I shall now turn to the defamatory publications themselves and examine them one by one.

The first is the publication of 5th December, 1955. It reads—

“කෝට්ටේ එක්තරා බෞද්ධ පාසැලක ශිෂ්‍යයන්ට විද්‍යාල උපකරණ ගාස්තු නොගෙවන හැටියට ඉල්ලමින් ප්‍රබල ව්‍යාපාරයක් ගෙන ගිය උපගුරුවරයෙක් ඔහු ප්‍රධානාචාර්ය වරයා වූ පසු දැන් එම මුදල් ගෙවන ලෙස බලකරන්නේ මන්දැයි කෝට්ටේ පලාත් වාසිහු ප්‍රශ්න කරති”.

20 The English version in the plaint reads—

“The people of Kotte question as to why an assistant teacher who carried on a powerful campaign requesting the children of a certain Buddhist School in Kotte not to pay the facilities fees is enforcing the payment (of facilities fees) on becoming the Principal.”

Now there is no evidence whatsoever that “the people of Kotte” raised the question referred to in the publication. The only evidence that any matter was the talk of Kotte is in the deposition of the defendants’ witness Heendeniya. He was asked in examination-in-chief—“The question of those admission cards, was it the talk of Kotte?” and he answered “Yes”. Such a vague question and an affirmative answer to it do not  
30 establish the truth of the fact stated. It does not prove that in December, 1955 the people of Kotte were agitated over the past conduct of the plaintiff at all. The rumour itself is not proved. But even if it had been, as stated earlier, rumour is not proof of fact. The contents of the rumour must be proved which the defendants have failed to do. There is also no evidence that the plaintiff “carried on a powerful campaign” requesting the children of the Ananda Sastralaya, which is the school referred to not to pay facilities fees. The testimony of the witnesses Kirthisiri Ameratunga, K. Jayasekera, Wimalaweera Perera, and Dharmakirti whose evidence on this point the learned Judge has accepted only shows that the plaintiff requested only those persons and some others unnamed not to pay facilities fees. But their evidence does not establish that a  
40 “powerful campaign” was carried on by the plaintiff. The Witness Heendeniya’s evidence, which is hearsay, even if it is treated as relevant evidence, does not prove that the plaintiff was engaged in a campaign against the payment of facilities fees. In answer to the following question: “With regard to facilities fees you say you stopped paying because you were informed by your daughter that children had been asked not to pay

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facilities fees?" he said "Yes", and added that most of the children were not paying. Again in answer to the question—"It was in the middle of 1953 that you were told not to pay fees?" he said "I cannot remember. My children came and told me not to pay, that others were not paying, that is all, and then I stopped paying the facilities fees." On the other hand Dharmakirti's evidence shows that if there was a campaign against the payment of facilities fees it was he and not the plaintiff who carried it on. He says "In 1953 I did not pay facilities fees. Mr. Costa asked me not to pay. I know he spoke to other students also in my presence and asked us not to pay the fees."

Q.—"Did he give any reason for you not to pay the fees?"

A.—He told us that a part of the fees went to Mr. Alagiyawanna as an allowance 10 and that we should not pay. I paid heed to his request and stopped paying the facilities fees. Not only did I not pay, but I went to the other students and asked them also not to pay. Plaintiff asked me to go and convince others also not to pay."

But strangely enough he says more than once that when the Senior School Certificate candidates were not given cards they went across to him and threatened to beat him up saying that he was responsible for their not getting the cards because he had asked them not to pay the facilities fees. Then, he says, "I asked them not to assault me. Then they suggested that I should help them and I joined them and went to the Lanka-dipa office first and from there to the Education Department." In examining the truth 20 of the allegation that the plaintiff carried on a powerful campaign against facilities fees it is relevant to look at the register of collections which has been produced in evidence by the witness Ratnaike, the Registrar of the School. He says that in 1952 the School budgeted for Rs. 25,000/- and collected Rs. 24,000/- in facilities fees. In 1953 the year of the alleged "powerful campaign" they budgeted for Rs. 19,000/- and collected a little over Rs. 19,000/-. The witness Kirthisiri Ameratunga who said that he did not pay the facilities fees in 1953 because the plaintiff asked him not to do so has in fact paid Rs. 50/- in September and Rs. 50/- in November, 1953, while in the same year K. Jayasekera has paid Rs. 120/- in October, November and December, Wimalaweera Perera Rs. 120/-, and Heendeniya's daughter Rs. 60/-. These figures show that these witnesses were not 30 speaking the truth when they said that they and others did not pay facilities fees after July, 1953 because of the campaign carried on by the plaintiff. In Ameratunga's case it would appear that in 1952, when it is not alleged that the plaintiff carried on a campaign, he had paid no facilities fees at all. The facts that the witnesses themselves paid their facilities fees and that the estimate of facilities fees for 1953 was exceeded, negative the statement that a powerful campaign was being carried on against the payment of facilities fees. The evidence of Weerasinghe the head master of the lower school shows that there was resentment on the part of the staff and the pupils because a special monthly allowance of Rs. 150/- was paid to Alagiyawanna out of these fees.

Now it is common ground that the refusal by the plaintiff to give cards was in 40 November and December, 1955. If his action was contrary to regulations or unwarranted or intended to harass the students, complaint to a competent authority such as the Director of Education or the Permanent Secretary to the Ministry of Education in order to obtain redress is a course which is justifiable; but why publish in the newspaper an article raking up the past, even if it were true, that the plaintiff carried on a powerful

campaign against facilities fees two years before the publication and say that he is now enforcing the payment of those very fees. I am unable to escape the conclusion that the writer intended to injure the plaintiff by doing so.

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—continued

The publisher has not only failed to prove the truth of his defamatory statements; but he has failed to establish that they were made in the public interest or for the public good. How is the public interest served by raking up the past? The plaintiff's action in enforcing the payment of the facilities fee by those who could afford to pay it was not open to objection and he was entitled to do so. I am unable to escape the conclusion that the writer's intention was to injure the plaintiff. To my mind this publication is defa-  
10 matory and the learned Judge is wrong in holding that it is not.

The next publication is on 23rd December 1955. It reads —

“පාසැල් ගාස්තු නොගෙවීමට අනුබල දී ශිෂ්‍යයින් නොමග යැවූවේ වර්තමාන ප්‍රධාන කුමා මේ පාසැලේම උප ගුරුවරයා විසින්ය.”

“එද පාසැලේ පැවති කීර්තියට අද කළු පැල්ලම් ඉසි තිබෙනු මෙහි මංසන්ධිවල කෙරෙන කලා වලින් පෙනේ. ආචාර්ය මණ්ඩලය ප්‍රධාන කුමාට විරුද්ධය. ශිෂ්‍යයින් අතුරින් කුනෙන් පංගුවක් හැර ඉතිරි හැම දෙන එකුමාට විරුද්ධය”.

The English version in the plaint reads as follows:

(a) “It was when the present Principal was an assistant teacher in the same school that the children were encouraged not to pay and led astray.

20 (b) “The fact that black stains are sprinkled on the glory that was of the school can be seen from the talks that go on at the (road) junctions here. The staff is opposed to the Principal; excepting one-third all the rest of the students are opposed to him.”

The first of the above statements is clearly a reference to the alleged campaign against facilities fees in 1953. I have already dealt with it. As stated above even if it be true that he encouraged students not to pay facilities fees in that year how is the public good served by publishing it to the world in December 1955?

The author of this publication, the witness Mahindapala Boteju, was a pupil of the school till 1950 in which year he left the school. His statements are admittedly based on  
30 hearsay. This is what he says about them in his evidence.

Q.—“Except one statement in which you say the principal threatened somebody the rest of the whole of that letter is what various people told you?”

A.—Yes.

Q.—And you have accepted the correctness of what others have told you?

A.—Yes”.

It is clear that the writer did not know his facts and wrote to the Press what he had heard from others and that the defendants published his communication without verifying its accuracy. The defendants have not proved the truth of those facts. The writer himself is unable to help because they are not facts within his own knowledge.

40 I am unable to hold that the evidence supports the finding of the learned Judge that this publication is true. Besides there is no proof that it is either in the public interest or for the public good that the past actions of the plaintiff in this respect should be raked up.

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Now in regard to (b) there is no evidence “that black stains are sprinkled on the glory that was of the school.” The writer’s explanation of this statement is “The black stains referred to was that during my time there were no such troubles in the school. At the time I was attending school things were not like that but today everyone has something to say against the school.” If it is a matter of comment the matter on which the comment is based is not placed before the reader in order that he may judge whether it is fair and is without *animus injuriandi*. The talks that go on at the road junctions turn out when examined to be talks near witness Boteju’s boutique. There is also no evidence to show that the staff, which must be taken to mean the entire staff, was opposed to the plaintiff as Principal nor is there evidence that two-thirds of the students were 10 opposed to him. As stated above the plea of justification cannot succeed without proof that the statements are true and in the public interest. (7 Gane 225). That has not been done in this case.

I now come to the third publication. It was on 3rd January 1956. It reads—

“ශිෂ්‍යයන් විජලව වාදී ලෙස ක්‍රියා කරවීමට පෙළඹවූයේත් ඔවුන් විද්‍යාලයට අතීකරු කරවූයේත් වර්තමාන විද්‍යාලයාධිපතිවරයා බව විද්‍යාලයේ ආදී ශිෂ්‍යයකු වශයෙන් මම දනිමි”.

“බී. වික්‍රමසිංහ මහතා විද්‍යාලයාධිපතිව සිටියදී, වර්තමාන විද්‍යාලයාධිපති වරයා, එවකට උප විද්‍යාලයාධිපතිව සිටි, දැනට පානදුරේ ශ්‍රී සුමංගල විද්‍යාලයාධිපති කේ. ඇල්. ඩී. අලගියවත්ත මහතාට විරුද්ධව ශිෂ්‍යයන් පෙළඹවූ බව එකල ආනන්ද ශාස්ත්‍රාලයේ සිටි 20 කවුරුත් දනිති”.

“විද්‍යාලයේ පාලන කටයුතු වලට බාධා කිරීම සඳහා, එකල උප ගුරුවරයකුව සිටි වර්තමාන විද්‍යාලයාධිපතිවරයා, පහසුකම් ගාස්තු නොගෙවන ලෙස ශිෂ්‍යයන් පමණක් නොව ඔවුන්ගේ දෙමව්පියන්ද පෙළඹවූයේය. එකල ශිෂ්‍යයන් ලවා විද්‍යාලයේ ගොඩනැගිලිවල අලගියවත්ත විරෝධී පාඨ ලියවූයේ කවුරු ද යන්න රහස්‍ය නොවේ”.

The English version in the plaint reads—

“As a past student I know that it was the present Principal who made the students disobedient and act as rebels.

“Everyone who was at the Sastralaya during the time of the Principalship of Mr. B. Wickremasinghe knows that it was the present Principal who set the children 30 against the then Vice-Principal Mr. Alagiyawanna who is now the Principal of Sri Sumangala Vidyalaya, Panadura. To obstruct the work of the school, the present Principal, who was then an assistant teacher, induced not only the students but also their parents not to pay facilities fees. It is not a secret as to who got the students to write the anti-Alagiyawanna slogans on the school buildings.”

The author of this publication is the witness Kirthisiri Ameratunga. In January 1956 he is referring to alleged happenings in 1953. Now is there evidence that the plaintiff made the students disobedient and act as rebels? There is no evidence whatsoever of this. Ameratunga’s explanation of his statement is: “He told us not to pay the facilities fees. He told us that a part of it is being given to Mr. Alagiyawanna as an allowance and that 40 the fees are not properly used to maintain the school.” As stated above the writer has paid his facilities fees for 1953, the year in which he says the plaintiff asked him not to pay. In 1953 the year in which he says the plaintiff made the students disobedient and act as rebels the collection of facilities fees exceeded the budgeted amount. The evidence

of Weerasinghe the head master of the lower school shows that the opposition to Alagi-yawanna was not one engineered by the plaintiff but one that arose out of the payment of a special monthly allowance to him out of the facilities fees. The statement relating to the slogans is also raking up the past in order to expose the plaintiff to ridicule. Alagiyawanna himself did not know that slogans were written on the walls against him. But there is evidence that they were. Except the witnesses Ameratunga and Dharmakirti no one says that the plaintiff instigated their writing. The learned District Judge has accepted their evidence. However it is defamation to refer to events of the past even if true for in the instant case there appears to be no other object in doing so except to

10 harm the plaintiff.

The fourth publication is that of 8th May 1956. It reads:

“කෝට්ටේ ආනන්ද ශාස්ත්‍රාලයාධිපති ඇත්. ඩබ්ලිව්. ද කොස්තා මහතා විද්‍යාලයාධිපති පදවියෙන් විශ්‍රාම ගෙන ඇත. ඉන්දු ආර්ය භාෂා පිළිබඳ උපාධියක් ලබා ඇති ඒ මහතා සිංහලෙන් ඉගැන්වීමට නොහැකි කම නිසා විශ්‍රාම ගැනීමේ නීතිය යටතේ සම්පූර්ණ විශ්‍රාම වැටුප් සහිතව විශ්‍රාම ගෙන තිබේ. උද්භිද විද්‍යාව නමැති සිංහල පොත කොස්තා මහතා විසින් ලියන ලද්දෙකි. ඒ මහතා ළඟදීම ඉංග්‍රීසි ඉගැන්වීම සඳහා ඇමෙරිකාව බලා යනු ඇත”.

The English version in the plaint reads—

20 Mr. N. W. de Costa, Principal, Ananda Sastralaya, Kotte, has retired from the post of Principal. He who has a degree in Indo-Aryan has retired on full pension under the regulation for retirement due to his inability to teach in Sinhalese. The Sinhalese book entitled ‘Udbhida Vidyawa’ is a book written by him. In a very short time he will be leaving for America to teach English.”

It is correct that the plaintiff had at that date retired from his post of Principal. That he retired on full pension is untrue. It is not correct that he retired owing to his inability to teach at all in Sinhalese. The suggestion that a person who has a degree in Indo-Aryan is by reason of that fact alone competent to teach through the medium of Sinhalese is not proved, nor is it proved that the plaintiff obtained his degree with Sinhalese as a subject. The writer confessed that he thought that an Honours degree in Indo-  
30 Aryan necessarily implied a knowledge of Sinhalese and that he did not check up his facts; but that he assumed that because the plaintiff had an Honours degree in Indo-Aryan he was competent to teach in Sinhalese.

The plaintiff was allowed to retire under the rule which permitted those who were not able to teach Standards VI, VII and VIII in Sinhalese in certain approved subjects to retire. It is also not correct that the book “Udbhida Vidyawa” was written by the plaintiff. The author of the book on the face of it does not claim that he wrote it in Sinhalese by himself. In the Preface the plaintiff thanks those who helped him to write the book in Sinhalese—K. C. Weerasinghe and Sunil Wijayawickrema. The witness Weerasinghe who assisted the plaintiff to write it says:—

40 “He gave me the facts and I wrote them down in Sinhalese . . . The facts are his, the sentences are mine . . . Sometimes the sentences were drafted in consultation with him . . . The words he gave me but not the sentences.”

The last sentence that the plaintiff will be leaving for America to teach English is sarcastic and appears to be designed to hold up the plaintiff to ridicule.

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The last defamatory statement pleaded by the plaintiff is in the “Lankadipa” of 11th May 1956 and is as follows:—

“කෝට්ටේ ආනන්ද ශාස්ත්‍රාලයාධිපති එන්. ඩබ්ලිව්. ද කොස්තා මහතා සිංහලෙන් ඉගැන්වීමට නොහැකිය යන කරුණු උඩ විශ්‍රාම ගත් බව “ලංකාදීප” යේ පළවිය. ඔහු ලන්ඩන් විශ්ව විද්‍යාලයේ ඉන්දු ආර්ය භාෂා පිළිබඳ බාහිර උපාධියක් තිබේ. “උද්භිද විද්‍යාව නමැති අධ්‍යාපන ග්‍රන්ථ ප්‍රකාශක මණ්ඩලයෙන් අනුමත කරන ලද, නවීන විද්‍යා පොත ඔහු විසින් සිංහලෙන් ලියා තිබේ. නමුත් ඔහු සම්පූර්ණ වැටුප් සහිත විශ්‍රාම ලබා ගත්තේ කෙසේද යන්න කෝට්ටේ සහ හොරණ පළාත් වාසින්ට පුද්ගලයන් වේ. ඔහු පසු ගිය වාරයේම පාසැලට නොපැමිණි නමුදු එක්තරා දේශපාලන පක්ෂයක මන්ත්‍රීධුරාපෙක්- 10  
ෂකයන් දෙදෙනෙකුට කෝට්ටේ සහ හොරණ මන්ත්‍රී කොට්ඨාශවල ඉතා උනන්දුවෙන් වැඩ කළේය. එපමණක් නොව තමාගේ නමින් පත්‍රිකා ප්‍රසිද්ධ කර විසුරුවා හැරියේය. මීට කලින් විශ්‍රාම ගැනීමට ඔහු කළ පරිශ්‍රමය සාර්ථක නොවූ නමුදු මැතිවරණ සමයේදී ඔහු කෙසේ විශ්‍රාම ලබා ගත්තේ ද යන්න නව ආණ්ඩුවේ අධ්‍යාපන සහ මුදල් ඇමති තුමන් දෙපළට වටහා ගැනීම උගහට නොවේ”.

The English rendering reads—

“It was published in the Lankadipa that Mr. N. W. de Costa, Principal, Ananda Sastralaya, Kotte, retired on the ground of inability to teach in Sinhalese. He has an external degree in Indo-Aryan of the University of London. The book titled ‘UDBHIDA VIDYAWA’ which is accepted by the Educational Publications Board is written by him. But it is a wonder to the people of Kotte and Horana as to how he 20 retired with full pay. Though he did not go to school for the whole of last term he worked hard at Kotte and at Horana for a certain political party. Further, he issued leaflets under his name. It is not difficult for the Education Minister and the Finance Minister of the New Government to know how he could retire during the time of the election though his previous attempts to retire were unsuccessful.”

I have already dealt with the suggestion that the plaintiff was able to teach through the medium of Sinhalese just because he had a degree in Indo-Aryan. It has not been shown by the defendants that a degree in Indo-Aryan in the University of London involves the passing of an examination in Sinhalese or that the plaintiff offered Sinhalese as a subject for his degree. In fact it is not proved that it necessarily follows that a 30 person who has a degree in Indo-Aryan is competent to teach Standards VI, VII and VIII through the medium of Sinhalese. The evidence does not prove that—

- (a) the book entitled “Udbhida Vidyawa” was written by the plaintiff in Sinhalese,
- (b) it was accepted by the Educational Publications Board,
- (c) he retired with full pay,
- (d) he worked *hard* at Kotte and Horana for a certain political party.

I have already pointed out that (a) and (b) are untrue. So is (c). He retired on a pension payable to him according to the School Teachers’ Pension Rules and definitely not on “full pay”. The evidence in support of the truth of (d) is that of the witness 40 Jayasekera. He says—

“I have seen Mr. de Costa driving a wagon belonging to the U.N.P. at Nugegoda near the office of the U.N.P. There he had issued pamphlets supporting Mr. Ananda-tissa de Alwis.

“I have seen the plaintiff’s car at Panadura coming along the Horana Road near the Junction when I was passing that place in a car. That car bore a poster bearing the picture of Mr. M. D. Jayawardene.”

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This material does not justify the statement that the plaintiff worked hard for a political party at Kotte and Horana. But a statement that a person worked for a political party is not by itself defamatory. The defamation lies in the suggestion contained in the last sentence. That by working for the political party to which the then Minister of Finance belonged he was able to retire though his previous attempts to retire were unsuccessful. The U.N.P. candidate for Horana who was the Minister of Finance at the 10 relevant date has given evidence. His evidence has been accepted by the learned trial Judge. He says that the plaintiff did not work for him and that he did not even see him in his electorate. He also says that if the plaintiff was anxious to obtain his favour by working for him the plaintiff would have made himself prominent or even made it a point to be seen by him in his electorate. The witness Jayawardene’s evidence that in deciding to allow the plaintiff to retire he was uninfluenced by any considerations other than the merits of the case has been accepted, and I think rightly, by the learned trial Judge. There is no proof that the plaintiff resorted to any corrupt means as suggested by the writer in order to obtain permission to retire. The publication is clearly defamatory.

20 Now as to the question of damages—the plaintiff has not shown how he arrives at the figures of Rs. 50,000/- and Rs. 60,000/- making Rs. 110,000/- in all claimed by him. In the absence of such proof I can only award the plaintiff a sum I consider reasonable for the harm done to him. I think he is entitled to the actual expenses incurred by him in these legal proceedings which he had to institute in order to vindicate his reputation and name. I also award him a sum of Rs. 5,000/- for the injury done to him.

SGD: HEMA H. BASNAYAKE  
*Chief Justice.*

**Sinnetaamby, J.**

This is the judgment of my brother Pulle and of myself.

30 The plaintiff, Mr. N. W. de Costa, was a teacher in the school called Ananda Sas-tralaya at Kotte from 1934 up to April, 1955. He was appointed Principal in April, 1955, and retired in May, 1956, on the ground that he was unable to teach in Sinhalese. The first defendant company is the proprietor of a Sinhalese newspaper called the ‘Lankadipa’ and the second defendant is its editor.

The plaintiff instituted the present action for defamation on two causes of action. The first cause of action relates to the publication of—

(1) a news item in the issue of the ‘Lankadipa’ dated 5th December, 1955, under the heading “Kasu Kusu”, and

40 (2) two letters in the issues of the ‘Lankadipa’ on 23rd December, 1955, and 3rd January, 1956, respectively.

The news item in question (P1 of 5th December, 1955) is as follows:—

“The people of Kotte question as to why the assistant teacher who carried on a powerful campaign requesting the children of a certain Buddhist school in Kotte not to pay facilities fees is enforcing the payment (of facilities fees) on becoming the Principal.”

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The letter published on 23rd December, 1955, is from one Mahindapala Boteju (P2) but the complaint is only in respect of the following passages contained therein:—

(a) “It was when the present Principal was an assistant teacher in the same school that the children were encouraged not to pay and led astray.”

(b) “The fact that black stains are sprinkled on the glory that was of the school can be seen from the talks that go on at the (road) junctions here. The staff is opposed to the Principal; excepting one third, all the rest of the students are opposed to him.”

The letter of 3rd January, 1956, (P3) is written by one Kirtisiri Ameratunga and the passage complained of in the letter is as follows:—

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“As a past student I know that it was the present Principal who made the students disobedient and act as rebels. Everyone who was at the Sastralaya during the time of the Principalship of Mr. S. Wickremasinghe knows that it was the present Principal who set the children against the then Vice Principal Mr. Alagiyawanna who is now the Principal of Sri Sumangala Vidyalaya, Panadura.”

“To obstruct the work of the school the present Principal who was then as assistant teacher induced not only the students but also their parents not to pay facilities fees. It is not a secret as to who got the students to write the anti-Alagiyawanna slogans on the school buildings.”

The plaintiff pleaded that these statements involved the following innuendos:— 20

(1) that the plaintiff when an assistant teacher misused his position as teacher by inciting the students and their parents not to pay facilities fees and that in so doing he was actuated by unworthy and dishonest motives:

(2) that the plaintiff secured his appointment as Principal by these unfair and unworthy methods;

(3) that the plaintiff was directly responsible for the students of the said school becoming disobedient and rebellious;

(4) that the plaintiff by these actions had forfeited the confidence of the people of Kotte, his own staff and pupils and was, therefore, not a fit and proper person to be either a teacher or a Principal; and

30

(5) that the plaintiff by his actions has brought dishonour on the name of the school.

On this cause of action the plaintiff claimed a sum of Rs. 50,000/-.

The second cause of action refers to certain publications appearing in the same newspaper after the plaintiff had retired from the post of Principal.

The first of these publications appeared in the ‘Lankadipa’ of 8th May, 1956, as a news item. It is as follows:—

“Mr. N.W. de Costa, Principal, Ananda Sastralaya, Kotte, has retired from the post of Principal. He who has a degree in Indo-Aryan has retired on full pension under the regulations for retirement due to his inability to teach in Sinhalese. The Sinhalese book titled “Udbhida Vidyawa” is a book written by him. In a short time he will be leaving for America to teach English.” 40



The second publication is a letter written by one K. Jayasekera and published in the issue of the 'Lankadipa' of 11th May, 1956. The passages complained of are as follows:—

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10 "It was published in the Lankadipa that Mr. N. W. de Costa, Principal, Ananda Sastralaya, Kotte, retired on the ground of inability to teach in Sinhalese. He has an external degree in Indo-Aryan of the University of London. The book titled "Udbhida Vidyawa" which is accepted by the Education Publications Board is written by him. But it is a wonder to the people of Kotte and Horana as to how he retired with full pay. Though he did not go to school for the whole of last term, he worked hard at Kotte and at Horana for a certain political party. Further, he issued leaflets under his name. It is not difficult for the Education Minister and the Finance Minister of the new Government to know how he could retire during the time of the election though his previous attempts to retire were unsuccessful." The innuendo pleaded in respect of these publications is as follows:—

"The plaintiff although well qualified in Sinhalese had by falsely pretending he could not teach in Sinhalese and by employing other corrupt means obtained the permission of the Government to retire from the teaching service."

On the second cause of action the plaintiff claimed a sum of Rs. 60,000/-.

20 The defendants in their answer admitted the publications but stated that the facts referred to in the publications were substantially true and that the comments were fair and that their publication was in the public interest. The parties went to trial on the issues of justification and fair comment. At the conclusion of the case the learned Judge held with the defendants in regard to their pleas and dismissed the plaintiff's action with costs. Against this finding the plaintiff has appealed.

In regard to factual matters in controversy between the parties the learned trial Judge has come to very strong findings against the plaintiff and we do not see how we can in any way disturb them by holding that they were either unreasonable or not supported by the evidence. The plaintiff, however, contended that some of the findings were wrong and that in law the Judge had misdirected himself. No satisfactory grounds, 30 in our opinion, exist for reversing the findings of the Judge on the facts.

40 In his judgment the trial Judge found that the passages complained of carried the innuendos attributed to them. This is a matter of inference from established facts and in regard to that we as a Court of Appeal are in as good a position as the Trial Court, to come to a conclusion. The plaintiff in support of his case first called only one witness Dr. Adikaram, presumably to prove the innuendos in the publications. His counsel then closed his case leaving it to the defendant, as he well might, the burden of establishing the pleas set out in the answer. The plaintiff himself, it may be noted, was not called into the witness box until after the defendant's case had been closed and evidence in rebuttal permitted to be led, and even then only after all his other witnesses bar one had given evidence. This is a circumstance which reduces the value to be placed on his evidence to a considerable extent having regard to the fact that he heard what his witnesses said thus enabling him to adjust his own evidence to bring it into line with what he had heard.

The learned Judge held that all the innuendos pleaded by the plaintiff had been established. We find ourselves in agreement with him except in regard to the second

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innuendo pleaded under the first cause of action and the innuendo which is the basis of the second cause of action.

In regard to the first cause of action, there is nothing in the passages which suggests to the average reader that the plaintiff secured his appointment as Principal by inducing students not to pay facilities fees. In the second cause of action, while the passages themselves convey to the minds of the reader the suggestion that the plaintiff retired by falsely pretending that he could not teach in Sinhalese though well qualified in that language, it does not necessarily suggest that corrupt means were employed in obtaining permission to retire. Indeed, these passages were put by the plaintiff to Dr. Adikaram, the plaintiff's chief witness, who was then the Manager of the School and fully conversant with the relevant facts and circumstances—much more than the average reader—and Dr. Adikaram was asked what impression they created on him. Referring to the publications relating to the facilities fees, Dr. Adikaram stated that to him these passages conveyed the impression “that when he (plaintiff) was an assistant teacher he was against the Principal and asked the boys not to pay facilities fees and that now he is doing the very same thing he asked them not to do.” Dr. Adikaram is not quite correct when he says “against the Principal”; presumably he meant “Vice-Principal”—The letter P 3 refers to animosity to the Vice-Principal. We agree with Dr. Adikaram. There is nothing in P 1, P 2 or P 3 to suggest that plaintiff secured his appointment by “these unfair and unworthy methods.”

In regard to the innuendos pleaded in respect of the second cause of action, Dr. Adikaram stated that the impression created on him by these publications was that Mr. Costa though good in his Sinhalese yet wanted to retire on the ground that he could not teach in Sinhalese and that by working for some political candidate he obtained permission to retire. These publications do not suggest corruption as such unless it be limited to the fact that plaintiff was able to retire by working for a “certain political party.”

In order to constitute defamation under the Roman Dutch Law it must be established that there existed in the mind of the defendant what Roman-Dutch jurists call the *animus injuriandi*; but where the words are either *per se* defamatory or shown to have the defamatory meaning attributed to them in the innuendo, the *animus injuriandi* is presumed and it is for the defendant in such a case to exonerate himself by establishing circumstances which rebut the presumption.

Nathan in his work the Law of Defamation in South Africa states at page 87:—

“A classic passage on the subject is contained in Voets Commentaries. ‘With regard to the person alleged to have committed an *injuria* (here defamation), the fact that he had entertained no *animus injuriandi* is a good ground for his not being held liable in *actio injuriarum*. The fact that such intention was absent is to be gathered from the circumstance of each particular case; for an intention of this kind has its seat in the mind, and in case of doubt its existence should not be presumed; moreover, it cannot reveal itself or be proved otherwise than by taking into account the nature of the occurrence . . . On this ground, if certain words which have been uttered are ambiguous and susceptible of a twofold meaning, then, in case of doubt, they should be interpreted in the more favourable sense; since one should not presume a delict to exist as long as it is possible to suppose the contrary.

But if a person uses expressions of such a nature that in themselves and in their proper significance they convey a defamatory meaning (insult) the intention to injure (*animus injuriandi*) is considered to have been present, and the burden of proving that no such intention existed lies upon the person who has used such expressions.”

In the case of *Associated Newspapers of Ceylon Ltd. v. C. H. Gunasekera* <sup>(1)</sup> acting Chief Justice Nagalingam after referring to certain extracts from De Villiers' commentary on Voet, Book 47 Title 10 Section 1 page 27, and to Maasdorp stated—

10 “The authorities, therefore, establish that where a man publishes words concerning another, not necessarily with an express intent to cause hurt or injury to him but without knowledge of the truth of the statements, and reckless whether they be true or false, if the consequence of the publication be in fact to injure the person defamed in his person, dignity or reputation, “*animus injuriandi*” is made out.”

It will thus be seen that the mere absence of an express intention to injure is *per se* no defence and is not sufficient to displace the presumption of malice. *Tothill v. Foster* <sup>(2)</sup> and *Associated Newspapers of Ceylon Ltd. v. C. H. Gunasekera* <sup>(Supra)</sup>. The same view is expressed by Nathan in the work already cited at Page 97.

It is, however, recognised that certain defences well known to the English Common Law will, if established, have the effect of negating the existence of *animus injuriandi*, 20 for instance, pleas of justification, privilege and fair comment.

The Privy Council in *Perera v. Peiris* <sup>(3)</sup> laid down the law applicable to Ceylon in the following terms:—

30 “In Roman-Dutch Law *animus injuriandi* is an essential element in proceedings for defamation. When words used are defamatory of the complainant the burden of negating *animus injuriandi* rests upon the defendant. The course of development of the Roman-Dutch Law in Ceylon has particularly been to recognise as defences those matters which under the inapt name of privilege and the apt name of fair comment have in the course of the history of the common law come to be recognised as affording defences to proceedings for defamation. But it must be emphasized that those defences, or more accurately the principles which underlie them, find their technical setting in Roman-Dutch Law as matters relevant to negating *animus injuriandi*. In that setting they are perhaps capable of a wider scope than that accorded by the common law. Decisions under the common law are indeed of the greatest value in exemplifying the principles but do not necessarily mark out rules under the Roman-Dutch Law.”

40 *Perera v. Peiris* (supra) was an action brought by Dr. M. G. Perera against the Proprietors and publishers of The Ceylon Daily News claiming damages on the ground that the defendants had published in their paper extracts from a report containing statements defamatory of the plaintiff issued by a Bribery Commissioner who had been empowered by statute to investigate bribery among members of the State Council. The Commissioner had in due course made his report to the Governor who had caused the report to be published in a Sessional Paper.

In the course of argument it was contended that the publication was merely a fair report of judicial proceedings or of proceedings in the nature of judicial proceedings. Lord Uthwatt who delivered the opinion of the Privy Council stated:—

“ . . . much time might be spent in an inquiry whether the proceedings before the Commissioner fell within one or the other of these categories. Their Lordships did not propose to enter upon that inquiry. They prefer to relate their conclusions to the wide general principle which underlies the defence of privilege in all its aspects rather than to debate the question where the case falls within some specific category.”

“The wide general principle was stated by Their Lordships in *Mackintosh v. Dun* <sup>(4)</sup> 10 to be the ‘common convenience and welfare of society’ or ‘the general interest of society’ . . . ”

“In the case of reports of judicial and parliamentary proceedings the basis of privilege is not the circumstance that the proceedings reported are judicial or parliamentary viewed as isolated facts—but that it is in the public interests that all such proceedings should be fairly reported.”

Dealing with reports of proceedings of other bodies Their Lordships continued:—

“If it appears that it is in the public interest that a particular report should be published privilege will attach. If malice in the publication is not present and public interest is served by the publication the publication must be taken for the purpose 20 of Roman-Dutch Law as being in truth directed to serve that interest. *Animus injuriandi* is negatived.”

Their Lordships, assuming that the statements of the appellant’s conduct as a witness which formed the basis of the plaintiff’s claim did not accord with the facts, nevertheless, proceeded to hold that it was in the public interest to publish the report, and that, therefore, there was no *animus injuriandi*. In the circumstances they advised His Majesty that the appellant’s appeal should be dismissed. Referring to this case, acting Chief Justice Nagalingam in *Associated Newspapers of Ceylon Ltd. v. C. H. Gunasekera* (supra) observed:—

“It is true that the judgment is very much in advance of the views held previously 30 but, nevertheless, though not necessarily one of the express forms or qualified privileges as understood prior thereto had to be made out.”

The effect of the Privy Council decision, therefore, is that under the Roman-Dutch Law as it exists in Ceylon today it is necessary for a plaintiff to establish *animus injuriandi* on the part of the defendant and in cases where it is shown or presumed to exist it is open to the defendant to negative it by showing that one of the clearly established defences to an action for defamation under the English Common Law is available to the defendant or that the occasion was a privileged occasion by reason of the fact that the publication was for “common convenience and welfare of the society.”

Justification as such was recognised even by the earlier Roman-Dutch jurists as a 40 defence which negatived *animus injuriandi*, provided also that the publication was in the public interest. This was first laid down in South Africa in the case of *Botha v. Brink* <sup>(5)</sup>. In his appendix to Chapter 14 of his book on the Law of Defamation Nathan collects

the authorities in support of the principle. He refers to passages from all the leading Roman-Dutch jurists. It is not necessary to repeat them here though many of them were cited in the course of the argument. The defence of fair and bona fide comment was unknown to the early Roman-Dutch jurists and is something which developed with the passage of time. It has, however, been fully debated in South Africa and in Ceylon and is now accepted as a defence on the ground that it negatives the existence of *animus injuriandi*—*Van Cuylenberg v. Capper* (6). To succeed in a defence of fair and bona fide comment it is necessary for the defendant in the first instance to establish the truth of the facts on which the comment is based and then to show that the comment based upon those facts is fair and bona fide; it must also be shown that the comment was on a matter of public interest. These are the principles governing the defence of fair comment which have been fully developed under the English Law and have been adopted by the Courts in Ceylon and South Africa.

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We propose now to analyse the libellous publications and to separate the statements of facts from statements which are merely comment. It may here be mentioned that the plaintiff who argued his own appeal submitted that from his point of view it was of the utmost importance that findings of fact by the trial Judge which involved the rejection of his evidence should be reversed.

In regard to the first cause of action, the facts which the defendant must establish are:—

1. that the plaintiff carried on a powerful campaign requesting students and their parents not to pay facilities fees;
2. that at that time he was an assistant teacher;
3. that on becoming Principal, he enforced the payment of facilities fees;
4. that the plaintiff set up the children against the Vice-Principal Mr. Alagiya-wanna; and
5. that the plaintiff got students to write anti-Alagiyawanna slogans on the school buildings.

The other statements contained in P1, P2 and P3, it seems to us, are comments which are unobjectable.

In regard to the second cause of action, the facts which the defendant must establish are:—

1. that Mr. Costa retired from the post of Principal due to his alleged inability to teach in Sinhalese;
2. that he had a degree in Indo-Aryan;
3. that he wrote the Sinhalese book entitled “Udbhida Vidyawa”;
4. that the plaintiff did not go to school for the whole of the previous term, namely, January, February and March, 1956;
5. that instead he worked hard at Kotte and Horana for a certain political party;
6. that he issued leaflets in connection with his political work under his name;
7. that he retired under the regulations with full pension during the time of the election, and
8. that previous attempts at retirement failed.

The other statements appear to be mere comment and also unobjectionable.

At the stage of framing issues, learned Counsel for the defendant did not seek to separate the facts from comment and to have issues framed on that basis; instead he framed issues on many matters which really were matters of evidence, and then framed composite issues 31, 32 and 33 to cover all his defences. This procedure is unsatisfactory but no objection was taken to it at that time by learned Counsel for the plaintiff and the trial Judge proceeded to deal with the issues on the basis that the question for determination were whether the statements of fact contained in the several publications were true and if so, whether the comments thereon were fair.

In regard to the facts relevant to the first cause of action which we have earlier set 10 out the learned trial Judge has found in favour of the defendants. There is no dispute in regard to items 2 and 3 which are admitted by the plaintiff. In regard to (1), (4) and (5) plaintiff denied that he carried on any campaign to prevent students from paying facilities fees and that he was in any way responsible for the anti-Alagiyawanna slogans which undoubtedly did appear on the school buildings.

The Alagiyawanna incident arose as a result of the appointment of Mr. K. L. V. Alagiyawanna on 30th June, 1953, as Vice-Principal of the Ananda Sastralaya by letter D 4 with effect from 1st July, 1953, a post which the then Manager of the B.T.S. Schools, Mr. P. de S. Kularatne, created for the first time. Mr. Alagiyawanna was requested to act for the Principal, Mr. Wickremasinghe, who was ill and on 1st July, 1953, Mr. P. de 20 S. Kularatne went with Mr. Alagiyawanna to instal him in his new office. The plaintiff, who was vehemently opposed to the appointment and had earlier seen Mr. Alagiyawanna and tried to dissuade him from accepting this post, adopted an attitude which no Manager of a school would tolerate from an acting Principal—plaintiff was then acting—and virtually turned Mr. Kularatne and Mr. Alagiyawanna out of his office. The learned trial Judge has accepted the evidence of Mr. Kularatne and Mr. Alagiyawanna on the details of this incident and has recorded his impressions and opinion of Mr. Alagiyawanna as a “sincere and honest man”. The plaintiff’s explanation of this incident which the learned Judge did not accept was that he merely closed the doors of his office after Messrs. Kularatne and Alagiyawanna came in with the object of prevent- 30 ing those outside from seeing what was happening and touched Mr Kularatne’s arm to show him by which door he should go as Mr. Kularatne was making his way to the door at the back of the office. Mr. Kularatne and Mr. Alagiyawanna have both stated that plaintiff in the course of that interview pulled out a ruler from his drawer and acted in a way which created in their minds the impression that even violence might be used. The plaintiff does not remember this. The sequel to this was that the plaintiff had to apologize to Mr. Kularatne and to sign a written apology which the B.T.S. directed him to circulate to the staff. He says he did not do so, but the Principal Mr. Wickremasinghe circulated it. Nevertheless, plaintiff did not think these steps taken by the B.T.S. as amount- 40 ing to punishment though he admits that punishment of a much more severe nature would have been imposed had Mr. Kularatne not been willing to accept the apology.

Now much of the difficulty that arose in consequence of Mr. Alagiyawanna’s appointment can be traced to the fact that he was a nominee of Mr. Kularatne while plaintiff received the support of Dr. Adikaram who succeeded Mr. Kularatne as Manager of Buddhist Schools in 1954 and who was at all times opposed not only to the principles and policies of Mr. Kularatne but also to the man himself. Dr. Adikaram admits that

he had tried to persuade Mr. Alagiyawanna not to take the post but without success. Shortly after Mr. Alagiyawanna took up duties—an event which occurred only after the permanent Principal resumed duties—there appeared on the walls of the school anti-Alagiyawanna slogans. The evidence shows that for about two days these slogans were painted but subsequently they were written with chalk and charcoal. On this point there is the positive evidence of Kirtisiri Ameratunge and Dharmakirti, both senior students of the school, according to whom the plaintiff gave Dharmakirti the tins of paint with which to paint the slogans in pursuance of which Dharmakirti himself painted some. The learned Judge has accepted their evidence as well as the evidence of two other students, namely, Wimalaweera Perera and K. Jayasekera in preference to that of the plaintiff. One has only to peruse the recorded evidence of the plaintiff and observe the way in which he answered questions to appreciate the reason for the Judge's preference. In regard to the question of facilities fees and the part played by plaintiff in persuading students not to pay, the evidence of the four students mentioned has been accepted by the learned District Judge. It will thus be seen that the defendants have satisfactorily established the truth of the allegations contained in the news item P 1, and the letters P 2 and P 3. In regard to P 1, it was contended that no evidence was led to show that the "people of Kotte" were interested in the question of facilities fees and that even if a "campaign" was being carried on it was not a "powerful" campaign. In regard to the first of these arguments there is the positive evidence of Don Edwin Heendeniya, a parent of a girl attending the school and a resident of Kotte whose daughter Sita had been refused an "admission card" by plaintiff to sit for her S.S.C. examination because she had failed to pay facilities fees, to the effect that the question of these admission cards was the "talk of Kotte". With regard to the word "powerful" that itself is a relative term and even if there was an element of exaggeration in it one cannot say that the use of the word in any way added to the "sting" of the libel. As Wessels J. A. observed in *Johnson v. Rand Daily Mails, Limited.* (7)

"The fact that there is some exaggeration in the language used does not deprive a plea of justification of its effect. The test is whether the exaggeration leaves a wrong impression on the readers mind to the detriment of the plaintiff."

In the same case Stratford A. J. observed:—

"It is difficult to measure degree when expressed by epithets."

With reference to the letter P 2, we agree with the learned Judge that the sentence "the fact that black stains are sprinkled on the glory that was of the school can be seen from the talks that go on at the road junctions here" is merely a comment and must not be taken too literally. Comment is often to be recognised and distinguished from allegations of fact by the use of a metaphor. Referring to the words "the Staff is opposed to the Principal; except one third all the rest of the students are opposed to him" contained in the letter P 2 the learned Judge held that the facts are true though the mathematical proportion is incorrect. Be that as it may, it seems to us that even if the facts in the passage quoted are incorrect the words are not defamatory and in any event it is not necessary to justify every word of the libel. In *Edwards v. Bell* (8) the defendants alleged in their Newspaper that a serious misunderstanding had taken place amongst the independent dissenters of Great Marlow and their pastor in consequence of some personal invectives uttered from the pulpit against a young lady and that "the matter was to be taken up seriously." It was held that proof of the fact that personal invectives were

thrown out from the pulpit was insufficient to establish justification; Parke, J. observed “the statement that the matter was to be taken up seriously though part of the publication complained of can scarcely be termed libellous.”

The facts referred to in Kirtisiri Ameratunge’s letter P 3 have been justified in full and as the learned Judge observed the last sentence is more in the nature of a comment based on a reasonable inference from the surrounding circumstances and has actually been also established by positive evidence.

We shall now deal with the second cause of action. In regard to the facts which we have enumerated and which the defendants had to prove to succeed on the plea of justification, 1, 2, 4 & 8 were practically admitted by the plaintiff in the course of his 10 evidence. In regard to the honours degree in Indo-Aryan it was suggested on behalf of the plaintiff that the average reader would assume that he offered Sinhalese also as a subject in order to obtain that qualification. In spite of what the writer of the letter, Jayasekera, had to say, we do not think so; but we do agree that the average reader would assume that the possession of such a degree would considerably assist the holder in teaching Sinhalese. Even Dr. Adikaram, whose sympathies were undoubtedly with the plaintiff, did not say in his examination by plaintiff’s counsel that the possession of a degree in Indo-Aryan connotes that the holder had obtained it by offering Sinhalese also as a subject. Referring to the letter P 4 the examination of Dr. Adikaram proceeded as follows:—

20

Q.—Does it refer to his degree in Indo Aryan language?

A.—Yes.

Q.—What is the suggestion there?

A.—That one who has a degree in Indo Aryan should be able to teach Sinhalese but he is deceiving someone.

Dr. Adikaram admits that Sanskrit and Pali which plaintiff offered for his Indo-Aryan degree are the root languages of Sinhalese. That being so, knowledge of these languages would be a great asset to a teacher in Sinhalese.

In any event the publications complained of do not state that the plaintiff offered Sinhalese as a subject for his Indo-Aryan degree and the truth of the statement that 30 plaintiff possesses an Indo-Aryan degree is admitted by him. Plaintiff himself was not prepared to say that obtaining the degree would in no way be helpful in teaching Sinhalese. Despite a leading question his examination in chief proceeded as follows:—

Q.—The Indo-Aryan degree does not help you to teach Sinhalese to anybody at all?

A.—I do not know whether it has.

Counsel was not satisfied with his client’s answer and the question was repeated,

Q.—Does an honours degree in Indo-Aryan help you in any way to teach pupils in Sinhalese?

A.—I do not think.

40

Even then the answer was not a categorical “no”.

In support of the contention that plaintiff is able to teach in Sinhalese reference is made in these articles to a text book in Botany entitled “Udbhida Vidyawa” written in Sinhalese. Plaintiff while admitting that he was the author of the book denies that he



wrote it in Sinhalese. Indeed in his examination in chief all he said was that the preface which he read in Sinhalese was by him and that the two persons to whom he gave thanks helped him to write it. He added that he was competent to write a book on Botany but not in Sinhalese. Weerasinghe who helped him to write the book stated that the rough manuscript was taken down by him at plaintiff's dictation almost verbatim and then touched up. According to Weerasinghe the rough notes were substantially plaintiff's words but he denies this. P 17 is the second copy that was made. Weerasinghe passed only his senior in Sinhalese while the plaintiff qualified in Sinhalese in the Matriculation which according to both Dr. Adikaram and Mr. Kularatne is of a higher standard.

10 If one were to accept the representations plaintiff made to the Director of Education in regard to this book it would appear from the document P 9 that he told the Director that he prepared the book in English and it was translated into Sinhalese by Weerasinghe and Wijewickrema. Plaintiff denies that he made any such representation and that he was probably misunderstood. It is difficult to reconcile these different versions with each other and one can only conclude that the book was in fact written in Sinhalese by plaintiff with the help of the two gentlemen mentioned in the preface. In any event any person who sees the book and reads its preface would be justified in drawing the inference that it was written by plaintiff. The learned Judge though he does not expressly hold that the book was written in Sinhalese by plaintiff finds that the statement in letter P 5

20 to that effect is substantially true and that the only erroneous statement is the reference to the fact that it was approved by the Education Publications Board. Jayasekera who wrote P 5 states that the advertisements by Gunasena & Co. offering the book for sale stated that it was approved by the Publications Board. Plaintiff denies it but Dr. Adikaram in his evidence states that the book (D32) is used as a text book in several schools and that only books approved by the Publications Board can be so used.

It seems to us, therefore, that this statement too is not erroneous; but even if it were, it does not effect the plea of justification as it is in an innocuous statement which does not effect the main question as to who wrote the book in the language in which it was presented to the public.

30

In support of the statement that plaintiff could teach in Sinhalese there were produced an election pamphlet P 14 admittedly written by him and D 40 a book entitled "Pada Lamaya" which is a translation in Sinhalese verse of a Pali text and was published by plaintiff according to Samarakoon a co-teacher. Plaintiff denied this, although he admitted that the author's address as given in the book is the same as his. There is, furthermore, the oral evidence of Samarakoon that plaintiff used to compose Sinhalese verses which he recited over the Radio, and trained three girls to sing on the occasion of his sister's wedding verses in Sinhalese which he composed. It is also significant that throughout his efforts to retire on the ground that he could not teach in Sinhalese the plaintiff concealed the fact that he passed the London Matriculation in Sinhalese which was calculated to create the wrong impression that he passed in Sinhalese only in the S.S.C., and that too at the second attempt, vide D 17; actually, though he failed the entire examination in his first attempt, he passed in Sinhalese.

40

With regard to items 5 and 6 the learned trial Judge has accepted the evidence of Jayasekera that just prior to the elections Costa was seen at Nugegoda driving a vehicle "belonging" to the U.N.P. and at Panadura, on the Horana Road driving a car carrying the poster of Mr M. D. H. Jayawardene, the U.N.P. Candidate. At about this time was

distributed the pamphlet P 14 the authorship of which is admitted by defendant and D24 which the learned Judge erroneously thought had not been proved. D 24 is an election pamphlet addressed to the people of Kotte to vote for the "Elephant", which was the U.N.P. symbol, and not for the "Key" which was the symbol of the L.S.S.P. The impression formed in the Judge's mind in regard to this document D 24 was probably due to the fact that when D 24 was put to Dr. Adikaram in cross examination Mr. Wickremanayake who appeared for the plaintiff objected, unless it was proved and Mr. Thiagalingam who appeared for the defendants said he would prove it by calling the plaintiff. Mr. Wickremanayake then denied the authorship of D 24 and stated that he had in his possession another pamphlet which was the correct one. What the learned Judge apparently lost sight of was that when plaintiff was in the box, D 24 was put to him and he admitted authorship. It was the last question put to him when he was under cross examination on the 1st April, 1957. At one stage in the course of the argument before us it was suggested that this admission may have been a mistake in recording, but one has to accept the accuracy of the record especially as it is customary for mistakes in the recorded evidence to be corrected on a subsequent date, as has happened in this case itself in respect of other matters. This item of evidence was never sought to be corrected and, so far as the Appeal Court is concerned, it must be taken that the plaintiff admitted the authorship of D 24 in his evidence. 10

In regard to items 7 and 8 the learned Judge had dealt with the question of plaintiff's retirement in detail and it is unnecessary to go over the same ground. The established facts are that the plaintiff, who had gone to America to study School administration on a Smith Mundt Scholarship, was opposed to the Swabasha policy of the Government and sought unsuccessfully twice to retire under the rules framed to give teachers who were unable to teach in Sinhalese an opportunity to retire with pension. Under the regulations a teacher has in the first instance to apply to the Director of Education for permission to retire and, if the Director refuses, he is given the right of appeal to the Minister of Finance. This right has to be exercised within one month of the Director's refusal. The plaintiff had on both occasions also appealed to the Minister unsuccessfully. Then occurred the unexpected dissolution of Parliament followed by new elections. 30 The plaintiff was seen working for the U.N.P. at Kotte and supporting the Finance Minister of the U.N.P. Government, Mr. M. D. H. Jayawardene, at Horana. The U.N.P. was defeated at the polls and Mr. Jayawardene lost his seat but till the new Government was formed he continued under the provisions of the Constitution to exercise Ministerial functions. It was during this period, although the time within which under the regulations appeals should be forwarded had elapsed, that the plaintiff successfully appealed to the outgoing Finance Minister and secured permission to retire. It was in these circumstances as found by the learned Judge that P4 and P5 came to be published.

It was contended that there were misstatements of facts in both P 4 and P 5 which would render the pleas of justification and fair comment untenable. It was pointed out 40 that P 4 refers to retirement on "full pension" and P 5 to retirement on "full pay" neither of which is correct. We do not think it can be seriously urged that any reader would infer therefrom that the plaintiff was allowed to retire with the full pay which he drew at the time, as opposed to pension which he was entitled to draw on retirement, nor can it be urged that the plaintiff was permitted to retire on the basis that he had by service earned the right to draw the maximum pension a public officer could draw under the pension regulations. As the Judge himself observes, what any reader would infer

is that under the regulations the plaintiff was permitted to retire drawing the maximum amount of pension his period of service would have entitled him to draw and not the maximum he might have qualified for had he served the full period of 35 years.

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—continued

In any event these inaccuracies do not add to the sting of the alleged libel. The statement in P 4 that plaintiff would shortly be going to America to teach English though incorrect is not altogether unwarranted—there is evidence that at the time plaintiff was endeavouring to go to America with the assistance of the American Embassy and he himself says that his visit to America on the Smith Mundt Scholarship was with a view to eventually working in the Education Department in the United States. These  
10 mistatements are harmless by themselves and do not directly or by innuendo bring discredit on the plaintiff. In this connection it must be borne in mind that when a passage is capable of two meanings and is ambiguous that meaning which favours the defendant should be adopted. The presumption is in favour of the innocent use of words, so that words which are not in themselves defamatory will be regarded as uttered in a non-defamatory sense. De Villiers Voet p. 189—quoted by Nathan at p. 87—see also Voet Vol 7 Title IV Sections 20 (Ganes translation p. 241).

In the letter P 5 Jayasekera makes the following statement:—

“It is not difficult for the Education Minister and Finance Minister of the new Government to inquire how he could retire during the time of the election though  
20 his previous endeavours to retire were unsuccessful.”

This passage it was contended carried with it the imputation that plaintiff by corrupt means obtained permission to retire. As stated before, it certainly suggests that by improper means he was able to retire but the allegation, obviously, is mainly directed against the retiring Finance Minister. This passage in P 5 is undoubtedly a comment and what are the facts on which it is based. First there are the facts which are intended to show that plaintiff was sufficiently learned in Sinhalese to teach in that language, secondly, that all his previous applications to retire on the ground of inability to teach in Sinhalese were refused, thirdly, that he worked during the elections for the U.N.P. and issued leaflets in support of that party and, fourthly, that during the time of elections  
30 he was allowed to retire by the outgoing Minister for whom he had worked and who had previously refused all his appeals. These must be considered also in the light of the facts then well known to every newspaper reader, namely, that many U.N.P. candidates were defeated at the polls and a new Government was being formed with a new Finance Minister. In these circumstances is it not a reasonable inference for any fair minded person to suspect that something improper had taken place which resulted in the same Minister allowing an application which previously he had refused more than once? The learned Judge has held that the outgoing Minister was not guilty of any mala fides and that he was guided in this instance solely by the recommendation of his advisers whose action the Minister admits was wrong. The fact that the Minister had been erroneously  
40 advised was, however, not known to the writer or the general public. The law as it stands today is that where the facts truly stated warrant an inference of evil motive, even though in fact no evil motive exists, the defence of fair comment is available. In our opinion, the facts of this case as stated in P 5 are true and the inference, therefore, having regard to the context in which the letter was written, perfectly reasonable and fair.

In *Merivale v. Carson* <sup>(9)</sup> Lord Esher, Master of the Rolls, so far back as 1887 laid down the law in the following terms:—

“It is possible, however, to conceive of cases in which the known facts may be so strong that any reasonable man would infer therefrom the existence of improper motives, and yet in which those facts may be explained by others neither known nor accessible to the critic. In such cases it is desirable that the sanctuary of fair comment should be available . . . . . So that I think the defence of fair comment will cover imputations as to motive if such imputations are reasonable inferences from the facts truly stated.”

A similar view was taken by the South African Courts in the case of *Upington v. Saul Solomon & Co.* <sup>(10)</sup> In this case the Attorney General of the Cape of Good Hope sued the proprietors of a newspaper called the “Cape Argus” for publishing defamatory statements which imputed to the Attorney General improper motives in the conduct of certain prosecutions, condemned him as unfit to hold his office and charged him with taking an active hand in bringing about the failure of Justice. These statements in the newspaper were made in connection with the manner in which certain prosecutions were conducted and which included certain preliminary steps taken by the Attorney General and were to some extent based on observations of the trial Judge. De Villiers, C. J. who delivered the main judgment said:—

“It is not necessary for the Court to hold that the plaintiff was unfit to hold his office before they can hold that the comments were fair and bona fide . . . . . I could hardly imagine a fitter man intellectually for the office of Attorney General than the plaintiff in this case, but the question is not the actual fact of his fitness for office, but whether the defendants might not reasonably, from what they had seen of the whole case come to the conclusion that he was not fit for the office . . . . . No doubt the article of 7th October, is severe but taking the whole of the article, taking every statement in that article, if I asked myself, as a juror, whether I believed that that article exceeded fair and bona fide comment . . . . . I should be bound to answer the question in the negative.”

Fair comment does not mean that it is comment which is impartial, well balanced, or commends itself to the Court, *Crawford v. Albu* <sup>(11)</sup>. The only requirement is that it must be honest. The Courts should not adopt a narrow view in deciding whether comment is fair. In *Lyon & Lyon v. Daily Telegraph* <sup>(12)</sup> Scott, L. J. expressed the view of the Court of Appeal in the following terms:—

“It is one of the fundamental rights of free speech and writing which is so dear to the British Nation and it is of vital importance to the rule of law upon which we depend for our personal freedom that the Courts should preserve the right of fair comment undiminished and unimpaired. . . . . Some people seem to think . . . . . that what the defendant wrote or said was within his right of fair comment means that the Court accepts and endorses his opinion. The Court may as private individuals agree or disagree with the opinions expressed; indeed it may disagree very much and yet hold that there is nothing in the language used which exceeds the limits of public criticism so as to become personal defamation.”

Having regard to the above principles it cannot be said on the facts found that the comment was neither fair nor bona fide.

In order to succeed in establishing the plea of justification it is necessary under the Roman-Dutch Law to prove in addition to the truth of the facts contained in the defamatory statement, that its publication was in the public interest. The defence of fair comment, likewise, is not available unless it is made in the public interest. There now remains only to consider whether in this case the publications complained of were made in the public interest. The plaintiff who appeared in person rightly conceded, indeed claimed, that he as Principal of a school was a public figure and that the matters referred to in the defamatory articles related to questions of public interest. Nevertheless, as he was not represented by a lawyer it is necessary to refer to this aspect of the case briefly.

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—continued.

10 Apart from the news item P 1 the other letters P 2 and P 3 relating to the question of facilities fees were written after the plaintiff himself had invited public discussion in a letter to the Press P 26 of 9th December, 1955. When a person invites criticism on any subject it becomes a matter of public interest (Gatley 3rd ed. p. 401) Apart from that, facilities fees are recovered under the provisions of the Education Amendment Act No. 5 of 1951 read with Section 41A(2) of Ordinance No. 26 of 1947 which permits the recovery of such fees in Assisted Schools. The term "Assisted Schools" is defined in Section 50 of Ordinance No. 31 of 1939 to mean "a school to which aid is contributed from state funds". Ananda Sastralaya was an Assisted School recovering facilities fees and supported by State funds. The manner in which the fees were recovered is thus a  
20 matter of public interest. It had given rise to questions in Parliament and involved the question of whether students should be allowed to sit for public examinations. When we come to consider the right of a teacher paid from public funds to retire under rules framed by the Government that too undoubtedly is a matter which concerns the public. The head of a school is a public figure and his conduct can be the subject of public criticism. *Sturrock v. Birt*<sup>(13)</sup> referred to by Nathan, is a case in which defamatory words were used of plaintiff in her capacity as head of a school. A plea of justification was sufficient to exonerate the defendant.

In our opinion, the pleas of justification and fair comment are entitled to succeed. We would accordingly affirm the judgment of the learned District Judge and dismiss  
30 the appeal with costs.

SGD: N. SINNETAMBY  
*Puisne Justice*

SGD: M. F. S. PULLE  
*Puisne Justice.*

- 40
- (1) 53 N.L.R. 481.
  - (2) 1925 T.P.D. 863.
  - (3) 50 N.L.R. 145 at p. 158.
  - (4) 1908 A.C. 390.
  - (5) 1878 Buchanans repts. 118.
  - (6) 12 N.L.R. 225.
  - (7) 1928 A.D. 190 at 206.  
Referred to in Nathan Page 202.
  - (8) (1824) 1 Bing 403 130 E.R. 162.
  - (9) (1887) 20 Q.B.D. 275.
  - (10) 1879 Buchanans reports p. 240.
  - (11) 1917 A.D. 102 at 114.
  - (12) (1943) 2 A.E.R. 317.
  - (13) (1891) 8 S.C. 119.

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No. 13  
Decree of the Supreme Court  
S.C. 325/'57 (F)

ELIZABETH THE SECOND, QUEEN OF CEYLON AND OF HER OTHER REALMS  
AND TERRITORIES, HEAD OF THE COMMONWEALTH

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

N. W. DE COSTA OF NO. 24, CHURCH STREET,  
NUGEGODA..... *Plaintiff*

*Vs.*

- 1. THE TIMES OF CEYLON LIMITED, NO. 3 BRISTOL BUILDINGS, FORT, COLOMBO 10
- 2. D. B. DHANAPALA, NO. 3, DE FONSEKA PLACE, BAMBALAPITIYA, COLOMBO. *Defendants*

N. W. DE COSTA OF NO. 24, CHURCH STREET,  
NUGEGODA..... *Plaintiff-Appellant*

*Vs.*

- 1. THE TIMES OF CEYLON LIMITED, NO. 3, BRISTOL BUILDINGS, FORT, COLOMBO.
- 2. D. B. DHANAPALA, NO. 3, DE FONSEKA PLACE, BAMBALAPITIYA, COLOMBO. .... *Defendants-Respondents* 20

Action No. 38683/M

DISTRICT COURT OF COLOMBO

This cause coming on for hearing and determination on the 22nd, 23rd, 24th, 25th and 26th June, 1st, 2nd, 3rd, 15th, 16th, and 17th July and 23rd October 1959 and on this day, upon an appeal preferred by the Plaintiff-Appellant before the Hon. H. H. Basnayake, Q.C., Chief Justice, the Hon. M. F. S. Pulle, Q.C. and the Hon. N. Sinnemamby, Puisne Justices of this Court, in the presence of Counsel for the Defendants-Respondents.

Plaintiff-Appellant appears in person.

It is considered and adjudged that the Judgment of the District Judge be and the same is hereby affirmed and the appeal is dismissed. 30

And it is further decreed that the Plaintiff-Appellant do pay to the Defendants-Respondents the taxed costs of this appeal.

Witness the Hon. Hema Henry Basnayake, Q.C., Chief Justice at Colombo, the 7th day of November, in the year One thousand Nine hundred and Fifty-nine and of Our Reign the Eighth.

SGD: W. G. WOUTERSZ  
*Deputy Registrar, S.C.*

## No. 14

**Application for Conditional Leave to Appeal to the Privy Council**  
**IN THE SUPREME COURT OF THE ISLAND OF CEYLON**

No. 14  
 Application  
 for Condi-  
 tional Leave  
 to Appeal to  
 the Privy  
 Council—  
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IN THE MATTER OF  
 AN APPLICATION FOR CONDITIONAL LEAVE TO APPEAL  
 TO HER MAJESTY IN COUNCIL

S.C. No. 325/'57(F)

D.C. Colombo No. 38683/M

N. W. DE COSTA OF NO. 24, CHURCH STREET,  
 NUGEGODA..... *Plaintiff-Appellant*

10

*Vs.*

1. THE TIMES OF CEYLON LIMITED, 3, BRISTOL  
 BUILDING, FORT, COLOMBO.

*and*

2. D. B. DHANAPALA OF DE FONSEKA PLACE,  
 BAMBALAPITIYA *Defendants-Respondents*

On this 19th day of November, 1959.

TO THE HONOURABLE THE CHIEF JUSTICE AND THE  
 JUSTICES OF THE SUPREME COURT

The humble petition of N. W. de Costa, the Plaintiff-Appellant abovenamed appear-  
 20 ing in person sheweth as follows:—

1. That feeling aggrieved by the judgment and decree of this Honourable Court pronounced on the 23rd day of October, 1959, the Plaintiff-Appellant is desirous of appealing therefrom.

2. That the said judgment is a final judgment and the matter in dispute on the appeal is of the value of over Rupees Five Thousand.

3. That notice of intended application for leave to appeal was served on Defendants-Respondents in accordance with the Schedule Rule 2 of the Appeals (Privy Council) Ordinance as indicated in the affidavit filed along with this petition.

WHEREFORE the appellant prays for Conditional Leave to Appeal against the said  
 30 judgment of this Court dated the 23rd day of October, 1959, to Her Majesty in Council.

SGD: N. W. DE COSTA  
*Plaintiff-Appellant*

Decree Granting Conditional Leave to Appeal to the Privy Council

No. 15  
Decree Granting Conditional Leave to Appeal to the Privy Council  
18. 12. 59

S.C. Application No. 551

ELIZABETH THE SECOND, QUEEN OF CEYLON AND OF HER OTHER REALMS  
AND TERRITORIES, HEAD OF THE COMMONWEALTH

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of an application by the Plaintiff-Appellant dated 19th November, 1959 for Conditional Leave to Appeal to Her Majesty the Queen in Council against the judgment and decree of this Court dated 23rd October, 1959 in S.C. 325/57—D.C. Colombo No. 38683/M.

10

NARAHENPITAGE WALTER DE COSTA OF NO. 24, CHURCH STREET,  
NUGEGODA..... Plaintiff-Appellant  
*Petitioner*

*against*

1. THE TIMES OF CEYLON LIMITED, 3, BRISTOL  
BUILDING, FORT, COLOMBO.

*and*

2. D. B. DHANAPALA OF DE FONSEKA PLACE,  
BAMBALAPITIYA..... Defendants-Respondents

*Respondents* 20

This cause coming on for hearing and determination on the 18th day of December, 1959 before the Hon. Hema Henry Basnayake, Q.C., Chief Justice and the Hon. Kaludura Dhammikasiri de Silva, Puisne Justice of this Court, in the presence of Counsel for the Respondents and the Petitioner appears in person.

It is considered and adjudged that this application be and the same is hereby allowed upon the condition that the applicant do within one month from this date:—

1. Deposit with the Registrar of the Supreme Court a sum of Rs. 3,000/- and hypothecate the same by bond or such other security as the Court in terms of Section 7(1) of the Appellate Procedure (Privy Council) Order shall on application made after due notice to the other side approve.

30

2. Deposit in terms of provisions of Section 8(a) of the Appellate Procedure (Privy Council) Order with the Registrar a sum of Rs. 300/- in respect of fees mentioned in Section 4(b) and (c) of Ordinance No. 31 of 1909 (Chapter 85).

Provided that the applicant may apply in writing to the said Registrar stating whether he intends to print the record or any part thereof in Ceylon, for an estimate of such amounts and fees and thereafter deposit the estimated sum with the said Registrar.

Witness the Hon. Hema Henry Basnayake, Q.C., Chief Justice at Colombo, the twelfth day of April, in the year One thousand Nine hundred and sixty and of Our Reign the Ninth.

SGD: P. KATHIRAVELUPILLAI 40  
*Deputy Registrar, S.C.*



## No 16

**Application for Final Leave to Appeal to the Privy Council**  
**IN THE SUPREME COURT OF THE ISLAND OF CEYLON**

IN THE MATTER OF  
 AN APPLICATION FOR FINAL LEAVE TO APPEAL TO HER  
 MAJESTY IN COUNCIL

No. 16  
 Application  
 for Final  
 Leave to  
 Appeal to the  
 Privy  
 Council—  
 23. 3. 60

S.C. No. 325/'57(F)

D.C. Colombo No. 38683/M

N. W. DE COSTA OF NO. 24, CHURCH STREET,  
 NUGEGODA.....

*Plaintiff-Appellant*

10

*Vs.*

1. THE TIMES OF CEYLON LIMITED, 3, BRISTOL  
 BUILDING, FORT, COLOMBO.

*and*

2. D. B. DHANAPALA OF DE FONSEKA PLACE,  
 BAMBALAPITIYA..

*Defendants-Respondents*

On this 23rd day of March, 1960.

To the Honourable the Chief Justice and the other Justices of the Supreme Court.

The humble petition of N. W. de Costa, the Plaintiff-Appellant abovenamed, appearing in person sheweth as follows:—

20     1. That the appellant on the 18th day of December, 1959, obtained Conditional Leave from this Honourable Court to appeal to Her Majesty the Queen in Council against the judgment of this Court pronounced on the 23rd day of October, 1959.

2. That the appellant has in compliance with the conditions on which such leave was granted, deposited on the 16th day of January, 1960, a sum of Rs. 3000/- in the Government Treasury on account of the Supreme Court and hypothecated same by bond dated 16th January, 1960, to the Registrar of the Supreme Court and has also deposited on the 16th day of March, 1960, a sum of Rs. 300/- in accordance with the section 8 of the Subsidiary Legislations of the Appeals (Privy Council) Ordinance.

30     WHEREFORE the appellant prays that he be granted Final Leave to Appeal against the said judgment of this Court dated 23rd day of October, 1959, to Her Majesty the Queen in Council.

SGD: N. W. DE COSTA  
*Plaintiff-Appellant*

## No 17

## Decree Granting Final Leave to Appeal to the Privy Council

No. 17  
Decree Granting Final  
Leave to  
Appeal to the  
Privy  
Council—  
21. 6. 60

## S. C. Application No. 127

ELIZABETH THE SECOND, QUEEN OF CEYLON AND OF HER OTHER REALMS  
AND TERRITORIES, HEAD OF THE COMMONWEALTH

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of an Application dated 23rd March, 1960, for Final Leave to Appeal to Her Majesty the Queen in Council by the Plaintiff-Appellant against the decree dated 23rd October, 1959.

N. W. DE COSTA OF NO. 24, CHURCH STREET,  
NUGEGODA..... 10  
*Plaintiff-Appellant*  
*Appellant*

*against*

1. THE TIMES OF CEYLON LIMITED, 3, BRISTOL  
BUILDING, FORT, COLOMBO.

*and*

2. D. B. DHANAPALA OF DE FONSEKA PLACE,  
BAMBALAPITIYA... *Defendants-Respondents*  
*Respondents*

Action No. 38683/M S.C. 325/'57(F)

20

DISTRICT COURT OF COLOMBO

This cause coming on for hearing and determination on the 21st day of June, 1960 before the Hon. Hema Henry Basnayake, Q.C., Chief Justice, and the Hon. Miliani Claude Sansoni, Puisne Justice of this Court, in the presence of (Appellant appears in person).

It is considered and adjudged that the Application for Final Leave to Appeal to Her Majesty the Queen in Council be and the same is hereby allowed.

Witness the Hon. Hema Henry Basnayake, Q.C., Chief Justice at Colombo, the Thirtieth day of June, in the year One thousand Nine hundred and Sixty and of Our Reign the Ninth.

30

*Sgd. B. F. PERERA*  
*Deputy Registrar, S.C.*

No. 18

Motion of the Plaintiff-Appellant

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

No. 18  
Motion of the  
Plaintiff-  
Appellant  
8. 7. 60

1. N. W. DE COSTA OF 24, CHURCH STREET,  
NUGEGODA..... *Plaintiff-Appellant*

*Vs.*

1. TIMES OF CEYLON LTD., OF 3, BRISTOL  
BUILDING, FORT, COLOMBO.  
2. D. B. DHANAPALA OF DE FONSEKA PLACE,  
BAMBALAPITIYA... *Defendants-Respondents*

10

S.C. 325/57(F)

D.C. Colombo 38683/M

I move for order of Your Lordships' Court regarding the following suggestions for the preparation of the record for the Privy Council in the above case.

1. (a) That the trial proceedings of 16th November 1956 (pages 30 to 44 of Supreme Court record) be excluded; or  
(b) That the same be corrected before inclusion.
2. That the Defendants' document 'D6 in detail' (pages 749 to 903) be excluded.
3. That the word 'not' be inserted between the words 'is' and 'a' in the line 22 on page 495 of the record.

20

Received notice with copy.  
SGD: JULIUS & CREASY  
*Proctors for Defendants-Respondents*

SGD: N. W. DE COSTA  
*Plaintiff-Appellant*  
8th July 1960

---

No. 19

Order of the Supreme Court on Plaintiff-Appellant's Motion

dated 8.7.60

No. 297

No. 19  
Order of the  
Supreme  
Court on  
Plaintiff-  
Appellant's  
Motion dated  
8. 7. 60  
—22. 7. 60

SUPREME COURT MINUTE PAPER ON APPLICATIONS

30

*Subject:* Application for an order for the preparation of the record to the Privy Council in S.C. 325 D.C. Colombo 38683/M.

*Date:* 8.7.60

Papers filed in the Registry, Supreme Court.

**ORDER**

No. 19  
Order of the  
Supreme  
Court on  
Plaintiff-  
Appellant's  
Motion dated  
8. 7. 60  
—22. 7. 60  
—*continued.*

11-7-60 List on 15-7-60. Intld. W.G.W.  
20-7-60 List on 22-7-60 Intld. W.G.W.  
22-7-60 Before: Basnayake, C. J. and Sansoni, J.

The Appellant in person.

B. J. Fernando for 1 and 2 Respondents.

Paragraph 1 of the motion of the appellant is allowed. Paragraph 2 is allowed subject to the modification that page 791 to the end of the documents be excluded. Paragraph 3 of the motion is refused.

SGD: P. M. T. GUNASEKERA 10

**PART II****D 1****Circular No. C 3 of the Department of Education**

D 1  
Circular No.  
C. 3 of the  
Department  
of Education  
3. 9. 48

True copy  
Sgd. Illegibly  
*for Acting Director of Education*  
23-3-57

Circular No. C 3 of  
3rd September, 1948

To Principals and Head Masters of Assisted  
English Schools  
Sir,

20

I have the honour to draw your attention to Rule 6A of the School Teachers' pension Rules published in Gazette No. 9809 of December 12, 1947, whereby teachers with ten years recorded service who are unable to give instruction in either Sinhalese or Tamil may exercise the option to retire with compensation for loss of career, before 30th September, 1948.

2. This Rule applies to teachers in all English Schools whether in the free scheme or not. Please, therefore, instruct the teachers in your school who wish to exercise the option to do so before 30th September, 1948.

30

I am, Sir,  
Your Obedient Servant.  
SGD: W. A. DE SILVA  
*Acting Director of Education*

SGD: V. THURAI SWAMY  
*Accountant*  
Education Office, Colombo.  
3-9-1948.

**D 3**  
**Letter from the Plaintiff to the Permanent Secretary to  
the Ministry of Education**

True copy  
Sgd. Illegibly  
*for Permanent Secretary to the Ministry of Education*

The Permanent Secretary,  
Ministry of Education.

Ananda Sastralaya,  
Kotte, 13-12-48.

D 3  
Letter from  
the Plaintiff  
to the Per-  
manent  
Secretary to  
the Ministry  
of Education  
13. 12. 48

10 Sir,

Further to my interview with you on 9-12-48, I have the honour to submit the annexed letter from the Director of Education, in which he states that I am not entitled to pay leave under the clause 41d or 41g.

I personally feel that I could be given pay leave either under the clause 41d or on special conditions relating to clause 41g, and I beg to forward the following reasons. 41d. In case I be granted pay leave I will be sitting for the Degree Examination in London in June 1949 and studying for the Diploma in Education which is considered equivalent to the Trained Teachers' Certificate. I will be applying to the General Manager of Buddhist Schools for a further period on no pay from January, 1950, so that I may  
20 sit for the Diploma Examination.

May I point out that according to the clause No. 41d, a teacher with S.S.C. Certificate is allowed pay leave for a course of training approved by the Director. My work as a teacher has been found by the Department of Education as satisfactory for the last twelve years. The Director can consider me to be much more accomplished as a teacher when I get the degree this way with the experience I would receive. The Director, I feel, therefore should approve my scheme. 41g. According to the regulations issued on 27th June, 1947, Special Posts are given to teachers with certain merits above the normal graduate or trained teacher. While issuing the regulations the Government should have  
30 made the very necessary amendment to the clause 41g of the Code to include the case of the Special Post for study leave. *As it is I find that the Government denies me the privilege that it grants to persons with lesser claims.* And I think, therefore, that it is proper for the Director to use his discretion under clause No. 51 and grant me pay leave.

Thanking you,  
Yours obediently,  
SGD: N. W. DE COSTA.

**D 2**

**Circular Containing the Directions of the Minister of Education  
Regarding the Medium of Instruction in the Junior  
Classes of Secondary Schools**

40 True copy.  
Sgd. Illegibly  
*for Director of Education*  
23-3-57

MEDIUM OF INSTRUCTION IN THE JUNIOR CLASSES  
OF SECONDARY SCHOOLS

D 2  
Circular  
Containing  
the directions  
of the  
Minister of  
Education  
Regarding  
the Medium  
of Instruction  
in the Junior  
Classes of  
Secondary  
Schools—  
14. 12. 51

D 2  
Circular  
Containing  
the Direc-  
tions of the  
Minister of  
Education  
Regarding  
the Medium  
of Instruction  
in the Junior  
Classes of  
Secondary  
Schools—  
14. 12. 51

In pursuance of the powers vested in me by regulation 5(3) of the Education Regulations 1951, I Edward Alexander Nugawela, Minister of Education, being satisfied having regard to all the circumstances that the use of the Sinhalese or Tamil language as a medium of instruction is practicable in the Junior classes of a Government or Assisted Secondary School or College where instruction has hitherto been given through the medium of the English language, do hereby:—

(1) Direct that the medium of instruction in the Junior classes of any such school or college in the subjects enumerated in the Schedule given below shall be Sinhalese to all pupils whose primary education has been through the medium of Sinhalese, and shall be Tamil to all pupils whose primary education has been through the medium of Tamil, and further.

(2) Specify that this direction shall be operative:—

- (a) in Standard VI from and after January 1, 1953.  
(b) in Standard VII from and after January 1, 1954, and  
(c) in Standard VIII from and after January 1, 1955.

#### SCHEDULE

- |                                      |                                     |    |
|--------------------------------------|-------------------------------------|----|
| 1. Religion                          | 10. Civics                          |    |
| 2. Health and Physical Training      | 11. Art                             |    |
| 3. Sinhalese Language and Literature | 12. Singing                         |    |
| 4. Tamil Language and Literature     | 13. Music                           | 20 |
| 5. Arithmetic                        | 14. General Science                 |    |
| 6. Algebra                           | 15. Eastern Classical Languages     |    |
| 7. Geometry                          | 16. Home Science                    |    |
| 8. History                           | 17. Physiology and Hygiene          |    |
| 9. Geography                         | 18. Elements of Commercial Subjects |    |

Ministry of Education,  
Malay Street,  
Colombo 2, 14th December, 1951.

SGD: E. A. NUGAWELA  
*Minister of Education*

D 10  
Certificate  
given to the  
Plaintiff by  
E. W. Adi-  
karam—  
20. 10. 52

D 10  
Certificate Given to the Plaintiff by  
E. W. Adikaram

30

20, Pagoda Road,  
Kotte.  
20-10-52

Mr. N. W. de Costa was the best teacher I had in the collegiate section of the Sas-tralaya. He worked very hard to raise the standard of the school. The help I received from him in the various collection campaigns and in other ways was invaluable, and the rapid progress that the school made was largely due to the able assistance and support I received from him.

Now that the school is to be raised to Grade 1, I trust that Mr. de Costa's post too, 40 will be raised to Grade 1.

I can state with confidence that Mr. de Costa is fit to be entrusted with the adminis-tration of the college at any time.

E. W. ADIKARAM

## EXTRACT FROM THE FEE BOOK FOR 1952

| Name of Pupil        | Jan. | Feb. | Mar. | Apr. | May | June | July     | Aug. | Sept. | Oct. | Nov. | Dec. | Class                    |
|----------------------|------|------|------|------|-----|------|----------|------|-------|------|------|------|--------------------------|
| K. AMARATUNGA ..     | —    | —    | —    | —    | —   | —    | —        | —    | —     | —    | —    | —    | Form VA                  |
| E. W. PERERA ..      | —    | —    | —    | —    | —   | —    | —        | —    | —     | —    | —    | —    | Form IIIA                |
| S. K. DHARMAKIRTI .. | —    | —    | —    | —    | —   | —    | Rs. 30/- | —    | —     | —    | —    | —    | Rs. 30/- Form VB<br>4346 |
|                      |      |      |      |      |     |      | 293      |      |       |      |      |      | 8-12-52                  |
|                      |      |      |      |      |     |      | 11/7     |      |       |      |      |      |                          |

307

CERTIFIED AS EXTRACTS FROM FEE REGISTER OF ANANDA SASTRALAYA, KOTTE.

Sd. M. PALIHAWADANA,

*Acting Principal, Ananda Sastralaya, Kotte.*

P 23  
Register of Fees for 1952 (Extract)**REGISTER OF FEES OF ANANDA SASTRALAYA KOTTE  
FOR THE YEAR 1952.**

CLASS:—S.S.C. Final—A  
INDEX No:—619  
DATE OF BIRTH:—10-9-33  
NAME:—Kitsiri Amaratunge

| MONTH     | ARREARS<br>(Rs.) | FEES DUE<br>(Rs.) | TOTAL<br>(Rs.) |    |
|-----------|------------------|-------------------|----------------|----|
| January   | 42.00            | 5.00              |                | 10 |
| February  | 47.00            | 5.00              |                |    |
| March     | 52.00            | 5.00              |                |    |
| April     | 57.00            | 5.00              |                |    |
| May       | 62.00            | 5.00              |                |    |
| June      | 67.00            | 5.00              |                |    |
| July      | 72.00            | 5.00              |                |    |
| August    | 77.00            | 5.00              |                |    |
| September | 82.00            | 5.00              |                |    |
| October   | 87.00            | 5.00              |                | 20 |
| November  | 92.00            | 5.00              |                |    |
| December  | 97.00            | 5.00              | 102.00         |    |

**REGISTER OF FEES OF ANANDA SASTRALAYA KOTTE  
FOR THE YEAR 1952**

CLASS:—S.S.C. Final—B  
INDEX No:—  
DATE OF BIRTH:—  
NAME:—S. K. Dharmakirti

| MONTH     | ARREARS<br>(Rs.) | FEES DUE<br>(Rs.) | FEES PAID<br>(Rs.) | RCPT. No. | TOTAL<br>(Rs.) |    |
|-----------|------------------|-------------------|--------------------|-----------|----------------|----|
| January   | 25.00            | 5.00              | —                  | —         |                | 30 |
| February  | 30.00            | 5.00              | —                  | —         |                |    |
| March     | 35.00            | 5.00              | —                  | —         |                |    |
| April     | 40.00            | 5.00              | —                  | —         |                |    |
| May       | 45.00            | 5.00              | —                  | —         |                |    |
| June      | 50.00            | 5.00              | —                  | —         |                |    |
| July      | 55.00            | 5.00              | 30.00              | 293/11    |                |    |
| August    | 30.00            | 5.00              | —                  | —         |                |    |
| September | 35.00            | 5.00              | —                  | —         |                |    |
| October   | 40.00            | 5.00              | —                  | —         |                | 40 |
| November  | 45.00            | 5.00              | —                  | —         |                |    |
| December  | 50.00            | 5.00              | 30.00              | 4346/8    | 25.00          |    |



CLASS:—Form III—A  
 INDEX No:—634  
 DATE OF BIRTH:—18-3-39  
 NAME:—G. W. W. Perera

P 23  
 Register of  
 fees for 1952  
 ( Extract )  
 —continued.

|    | MONTH             | ARREARS<br>(Rs.) | FEEES DUE<br>(Rs.) | TOTAL<br>(Rs.) |
|----|-------------------|------------------|--------------------|----------------|
| 10 | July .. .. .      | 30.00            | 5.00               |                |
|    | August .. .. .    | 35.00            | 5.00               |                |
|    | September .. .. . | 40.00            | 5.00               |                |
|    | October .. .. .   | 45.00            | 5.00               |                |
|    | November .. .. .  | 50.00            |                    |                |
|    | December .. .. .  | 55.00            | 5.00               | 60.00          |

**REGISTER OF FEES OF ANANDA SASTRALAYA KOTTE  
 FOR THE YEAR 1952**

CLASS:—Form II—D  
 INDEX No:—4162  
 DATE OF BIRTH:—25-9-37  
 NAME:—D. SITHA HEENDENIYA

|    | MONTH            | ARREARS<br>(Rs.) | FEEES DUE<br>(Rs.) | FEEES PAID<br>(Rs.) | RCPT. No.<br>(Rs.) | TOTAL<br>(Rs.) |
|----|------------------|------------------|--------------------|---------------------|--------------------|----------------|
| 20 | January .. .. .  | 16.00            | —                  | —                   | —                  | —              |
|    | July .. .. .     | 34.00            | 3.00               | —                   | —                  | —              |
|    | October .. .. .  | —                | —                  | 12.00               | 4111/30            | —              |
|    | November .. .. . | 34.00            | 3.00               | 10.00               | 4113/27            | —              |
|    | December .. .. . | 27.00            | —                  | —                   | —                  | 30.00          |

P 16

Letter Sent By P. De S. Kularatne, General Manager  
 of Buddhist Schools

P 16  
 Letter Sent  
 by P. de S.  
 Kularatne,  
 General  
 Manager of  
 Buddhist  
 Schools—  
 16. 5. 53

Orient Club,  
 Race Course Avenue,  
 Colombo 7,  
 16-5-1953.

30

**ANANDA SASTRALAYA, KOTTE**

This is to inform the members of the staff of the above school that Mr. N. W. de Costa will act for the principal during the latter's absence owing to ill health.

SGD: P. DE S. KULARATNE  
 General Manager of Buddhist Schools.

D 4  
Letter from  
the General  
Manager of  
Buddhist  
Schools of the  
Colombo  
Buddhist  
Theosophical  
Society Ltd.  
to K. L. V.  
Alagiya-  
wanne—  
30. 6. 53

D 4

**Letter from the General Manager of Buddhist Schools of  
the Colombo Buddhist Theosophical Society Ltd.  
to K. L. V. Alagiyawanne**

THE COLOMBO BUDDHIST THEOSOPHICAL SOCIETY LTD.

*Telegrams:* "Buddhist"

*Telephone:* 3085

P.O. Box 347,  
Colombo.

Colombo, 30th June, 1953.

ANANDA SASSTRALAYA KOTTE — APPOINTMENT  
OF MR. K. L. V. ALAGIYAWANNE

10

Dear Sir,

I am appointing you as Vice Principal, Ananda Sastralaya Kotte, with effect from 1-7-53. Please assume duties at once.

The Principal of the school is on sick leave at present. Please act for him, until he is able to resume work.

Yours faithfully,

SGD: P. DE S. KULARATNE,  
*General Manager Buddhist Schools.*

K. L. V. Alagiyawanne Esqr.,

20

D 5  
Letter from  
the General  
Manager of  
Buddhist  
Schools of the  
Colombo  
Buddhist  
Theosophical  
Society Ltd.  
to K. L. V.  
Alagiya-  
wanne  
1. 7. 53

D 5

**Letter from the General Manager of Buddhist Schools of  
the Colombo Buddhist Theosophical Society Ltd.  
to K. L. V. Alagiyawanne**

THE COLOMBO BUDDHIST THEOSOPHICAL SOCIETY LTD.

*Telegrams:* "Buddhist"

*Telephone:* 3085

P.O. Box 347,  
Colombo.

1st July, 1953.

C/ANANDA SASSTRALAYA — KOTTE

30

Dear Sir,

With reference to your appointment as Vice Principal Ananda Sastralaya, Kotte, I regret very much that when I went today with you to put you in charge of the school in the absence of the Principal, I was unable to do so owing to the obstruction of the Acting Principal. I am now sending a letter to the Principal to inform him that you have been appointed Vice Principal of the College. Please assume duties when he is able to return to work.

Yours faithfully,

SGD: P. DE S. KULARATNE,  
*General Manager Buddhist Schools*

K. L. V. Alagiyawanna Esqr.,  
Piliyandala.

40

D 28

**Letter from the General Manager of Buddhist Schools of  
the Colombo Buddhist Theosophical Society Ltd.  
to the Plaintiff**

THE COLOMBO BUDDHIST THEOSOPHICAL SOCIETY LTD.

Telegrams: "Buddhist"

Telephone: 3085

P.O. Box 347  
Colombo

6th July, 1953

D 28  
Letter from  
the General  
Manager of  
Buddhist  
Schools of the  
Colombo  
Buddhist  
Theosophical  
Society Ltd.  
to the  
Plaintiff  
6. 7. 53

10

C/ANANDA SASTRALAYA — KOTTE  
MR. N. W. DE COSTA

Dear Sir,

I was amazed at your conduct on the morning of the 1st instant, when I came to introduce Mr. K. L. V. Alagiyawanna, the newly appointed Vice Principal of the College. This is to inform you that by refusing to allow Mr. K. L. V. Alagiyawanna to take over the control of the School, you have not only committed a serious offence, but also caused financial loss to the Society. A loss for which you will be held responsible.

As I do not wish in this case to be the plaintiff and the judge owing to its seriousness, I have reported the matter to the President of the Society. Please make any representations you wish to make to him.

Yours faithfully,

SGD: P. DE S. KULARATNE,  
*General Manager Buddhist Schools.*

MR. N. W. DE COSTA,  
Through the Principal,  
Ananda Sastralaya, Kotte.

D 30

**Letter from the General Manager of Buddhist Schools of  
the Colombo Buddhist Theosophical Society Ltd. to  
the Officer in Charge, Mirihana Police Station**

6th July, 1953.

30

Sir,

I have the honour to inform you that I anticipate some trouble at Ananda Sastralaya Kotte, as our appointment of Mr. K. L. V. Alagiyawanne M.A., as Vice Principal of the college, has not met with the approval of some interested parties.

I am sending Mr. Alagiyawanne to assume duties there to-morrow. I shall be glad if you will take necessary steps to give him protection and prevent any unfortunate incidents occurring in or near the premises.

I am sending this letter by my Administrative Secretary, who will give you any further information you need.

D 30  
Letter from  
the General  
Manager of  
Buddhist  
Schools of the  
Colombo  
Buddhist  
Theosophical  
Society Ltd.  
to the Officer  
in Charge,  
Mirihana  
Police Station  
6. 7. 53

40

I am sir,

Your obedient servant,

SGD: Illegibly,  
*General Manager Buddhist Schools.*

Officer in charge,  
Mihirihana Police Station.

D 29  
Letter from  
the General  
Manager of  
Buddhist  
Schools of the  
Colombo  
Buddhist  
Theosophical  
Society Ltd.  
to the  
Plaintiff  
15. 7. 53

D 29

**Letter from the General Manager of Buddhist Schools of  
the Colombo Buddhist Theosophical Society Ltd.  
to the Plaintiff**

15th July, 1953.

Sir,

The Appointments Board of this Society is meeting on 21-7-53 at 5-30 p.m. to inquire into the incident that took place on the 1st instant at the Sastralaya. The President wishes me to request you to present yourself at this meeting with any evidence you may wish to submit.

10

Yours faithfully,

SGD:.....

*for General Manager Buddhist Schools.*

N. W. de Costa Esqr.,  
Through the Principal,  
Ananda Sastralaya,  
Kotte.

D 41

**Hand bill published by the Students of Ananda Sastralaya  
(English Translation)**

20

D 41  
Hand bill  
published by  
the Students  
of Ananda  
Sastralaya  
(English  
Translation  
31. 7. 53

**NOTICE**

The (torn) through the back door to (torn) a grave injustice done to our (torn) have served our college since (torn)

We hereby (torn) Principal and others, that we done (torn) to boycott the function which is to (torn) held in the evening of the coming 2nd (torn) under the patronage of the Prime Minister (torn) opening the new building of the college (torn) expressing our displeasure and protest (torn) 31-7-53.

The students of Ananda Sastralaya

Translated by

SGD: G. D. GUNAWARDENE,

30

*S. T. Colombo.*

1-4-57

P 18

**Extract from Officers' Visiting Book, Mirihana  
Police Station**

EXTRACT FROM THE OFFICERS VISITING BOOK, MIRIHANA  
POLICE STATION

P 18  
Extract from  
Officers'  
Visiting  
Book,  
Mirihana  
Police  
Station—  
2. 8. 53

2-8-53 12-30 p.m. Visit. Was at station from 10 a.m. Met A.S.P. (S.B.) C.I.D. and A.S.P., W.P. (North) and Head Quarter Inspector and discussed matters re the Ananda Sastralaya Boycott. Visited school and met the Principal. At the station at 12 noon I met Mr. Costa, Master on Ananda Sastralaya Staff and he assured me that boys will not create any trouble at all, although he had information that they will boycott this function.

40

2. At 12-35 noon I received a telephone message from sub Inspector Kohuwela re a proposed procession or a deputation to see Mr. Jayasinghe M.P. I informed the Supdt. of Police of this and also reported that I had instructed Sub Inspector Kohuwela not to allow any procession; and that he was not to allow any deputation if Mr. Jayasinghe was not willing to receive them; but that if Mr. Jayasinghe would receive a deputation there was nothing for Police to do about it. In view of this development I also advised him to withhold the Kohuwela men for special duty at Ananda Sastralaya.

On Supdt's of Police instructions I am sending a message for Police Van for duty at Ananda Sastralaya.

P 18  
Extract from  
Officers'  
Visiting Book.  
Mirihana  
Police Station  
2. 8. 53  
—continued

10

SGD: J. A. A. PERERA.

2-8-53 Visit. 18-45 hrs. Visit after special duty at Ananda Sastralaya. The Hon'ble The Prime Minister left at about 18-15 hours. The meeting went off very quietly and in a very orderly manner. I informed Supdt. of Police re this and also that the Kohuwela matter—the supposed procession—was off.

All ranks on the special duty did well having been on duty from 1400 to 18-30 hrs.

SGD: J. A. A. PEREEA.  
*Asst. Supdt. Police, Nugegoda.*

I certify that this is a true copy and that I have set out herein in full the abbreviated Police terms used in the original.

20

SGD: J. A. A. PERERA  
*A.S.P.*  
1-9-57

## D 7

**Circular No. 39 of 1953, on the Media of Instruction in Standards 6, 7 & 8 issued by the Director of Education**

**Circular No. 39 of 1953**

D 7  
Circular No.  
39 of 1953 on  
The Media of  
Instruction  
in Standards  
6, 7 & 8  
issued by the  
Director of  
Education—  
18. 11. 53

True copy  
Sgd: Illegibly  
for Acting Director of Education.

30 23.3.57.

Education Office,  
Colombo 2, Nov. 18, 1953.

To:—Heads of all English Schools (Govt. Asstd. and unaided)

Copies to:—The Managers of Schools, Education Officers, All Inspectors of Schools.

Dear Sir,

**THE MEDIA OF INSTRUCTION IN STANDARDS 6, 7 & 8**

The Hon'ble the Minister of Education has made the following decisions in regard to the media of instruction in Standards 6, 7 & 8.

(a) The medium of instruction in Standard 6 shall continue to be Sinhalese for all pupils whose primary education has been through the medium of Sinhalese and Tamil for all pupils whose primary education has been through the medium of Tamil, as specified in Hon. M/E's directive of 14-12-51, (vide—Circular No. 54/51 of 21-12-51), subject to (g) and (h) below.

(b) The medium of instruction in Standard 7 from January 1954 and in Standard 8 from January 1955 shall be Sinhalese for all pupils whose primary education has been through the medium of Sinhalese and Tamil for all pupils whose primary education has

D 7  
Circular No.  
39 of 1953 on  
The Media of  
Instruction in  
Standards  
6, 7 & 8  
issued by the  
Director of  
Education—  
18. 11. 53  
—continued.

been through the medium of Tamil, as specified in Hon. M/E's directive of 14-12-51 referred to above, in all subjects other than General Science, Algebra and Geometry subject to (g) and (h) below.

(c) The medium of instruction shall be as in (b) above for the subjects of General Science, Algebra and Geometry in Schools whose staff is qualified in the opinion of the Director of Education to teach these subjects in the National Languages in Standard 7 in the year 1954 and in Standard 8 in the year 1955.

(d) In the case of any other schools, where the Director of Education is satisfied, on an examination of the staffing position, that it is not possible for the Heads of these Schools to make satisfactory arrangements to teach General Science, Algebra and Geo- 10  
metry in the National Languages, permission will be granted to teach these subjects in the English medium during the years 1954 and 1955 in Standards 7 and 8.

(e) All schools should teach all the subjects, including General Science, Algebra and Geometry, in the media of the National Languages in Standard 7 from January, 1956.

(f) All schools should teach all the subjects, including General Science, Algebra and Geometry, in the media of the National Languages in Standard 8 from January, 1957.

(g) Western music and Western singing are exempted from the operation of Hon. M/E's directive of 14-12-51 which requires that the subjects of Music and singing should be taught, in the media of the National Languages in Standards 6, 7 and 8 from the 20  
dates specified in the directive. This decision applies to the Primary school also.

(h) In games, physical exercises and drill, freedom is given to Heads of Schools to carry out these activities in any language medium they choose. This decision applies to the primary school also.

(i) No new teachers should be appointed for work in the Junior Secondary Schools unless the Director is satisfied that such teachers are qualified to teach their subjects in the medium of the appropriate National languages.

(j) the responsibility for equipping themselves with a sufficient knowledge of the appropriate National Language for teaching subjects for which they are academically competent should rest on the teachers concerned and on the Heads of Schools who employ them.

2. I shall be glad if necessary action is taken by you in terms of the decisions in 30  
para 1 above.

3. In regard to para 1(d), Heads of assisted and unaided schools are requested to be so good as to send an application to the Director (Branch AS) through the Manager of the School for permission to teach General Science, Algebra and Geometry in the English Medium during the year 1954 in Standard 7 and during the year 1955 in Standard 8. Full particulars regarding the teachers in these classes, their academic and professional qualifications and qualifications, if any, in the National Languages should be given. In the case of Govt. Schools, a similar application should be forwarded by the Heads of Schools to the Director (Branch GE). The applications should reach this office 40  
on or before 5-12-53.

4. Those Schools that are granted permission to teach General Science, Algebra and 40  
Geometry in the English medium during the year 1954 should send similar particulars on or before 1st November 1954 so that a decision may be made regarding the media of instruction in General Science, Algebra and Geometry in the Schools in Standard 7 in the year 1955 and in Standard 8 in the year 1956.

Sgd. Illegibly  
Deputy Director of Education

Yours faithfully,  
SGD: H. W. HOWES  
Director of Education

EXTRACT FROM THE FEE BOOK FOR 1953

| Name of Pupil        | Jan.             | Feb. | Mar. | Apr. | May | June | July | Aug. | Sept.            | Oct. | Nov.             | Dec. | Class    |
|----------------------|------------------|------|------|------|-----|------|------|------|------------------|------|------------------|------|----------|
| K. AMARATUNGA ..     | Rs. 25/-<br>4257 | --   | --   | --   | --  | --   | --   | --   | Rs. 50/-<br>4587 | --   | Rs. 50/-<br>7688 | --   | Form VIA |
|                      | 16-1-53          |      |      |      |     |      |      |      | 2-9-53           |      | 30-11-53         |      |          |
| E. W. PERERA ..      | --               | --   | --   | --   | --  | --   | --   | --   | --               | --   | --               | --   | Form IVA |
| S. K. DHARMAKIRTI .. | --               | --   | --   | --   | --  | --   | --   | --   | --               | --   | --               | --   | Form VIB |

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CERTIFIED AS EXTRACTS FROM FEE REGISTER OF ANANDA SASTRALAYA, KOTTE.

SGD. M. PALIHAWADANA,  
*Acting Principal, Ananda Sastralaya, Kotte.*

P 24  
Register of  
fees for 1953  
& 1954  
(Extract)

**P 24**  
**Register of Fees for 1953 & 1954 (Extract)**  
**REGISTER OF FEES OF ANANDA SASTRALAYA, KOTTE**  
**FOR THE YEAR 1953**

CLASS: H.S.C.—B  
INDEX No: 619  
DATE OF BIRTH: 10-9-33  
NAME: Kithsiri Amaratunge

| MONTH           | ARREARS | FEES DUE | FEES PAID | RCPT. No. | TOTAL |
|-----------------|---------|----------|-----------|-----------|-------|
| January .. ..   | 102.00  | 5.00     | 25.00     | 4257/16   | 10    |
| February .. ..  | 82.00   | 5.00     |           |           |       |
| March .. ..     | 87.00   | 5.00     |           |           |       |
| April .. ..     | 92.00   | 5.00     |           |           |       |
| May .. ..       | 97.00   | 5.00     |           |           |       |
| June .. ..      | 102.00  | 5.00     |           |           |       |
| July .. ..      | 107.00  | 5.00     |           |           |       |
| August .. ..    | 112.00  |          |           |           |       |
| September .. .. | 117.00  |          | 50.00     | 4587/2    |       |
| October .. ..   | 72.00   |          |           |           |       |
| November .. ..  | 77.00   | 5.00     | 50.00     | 7618/30   | 20    |
| December .. ..  | 32.00   | 5.00     |           |           | 37.00 |

**REGISTER OF FEES OF ANANDA SASTRALAYA, KOTTE**  
**FOR THE YEAR 1953**

CLASS: H.S.C. (B)  
INDEX No. 670  
DATE OF BIRTH: 20-2-33  
NAME: S. K. DHARMAKIRTI

| MONTH          | ARREARS | FEES DUE | FEES PAID | RCPT. No. | TOTAL |
|----------------|---------|----------|-----------|-----------|-------|
| January .. ..  | 25.00   | 5.00     | —         | —         | —     |
| February .. .. | 30.00   | 5.00     | —         | —         | —     |
| March .. ..    | 35.00   | 5.00     | —         | —         | —     |
| April .. ..    | 40.00   | 5.00     | —         | —         | —     |
| May .. ..      | 45.00   | 5.00     | —         | —         | —     |
| June .. ..     | 50.00   | 5.00     | —         | —         | —     |
| July .. ..     | 55.00   | 5.00     | —         | —         | —     |

NAME: K. Jayasekera

| MONTH          | ARREARS | FEES DUE | FEES PAID | RCPT. No. | TOTAL |
|----------------|---------|----------|-----------|-----------|-------|
| June .. ..     | —       | —        | 5.00      | 4560/30   |       |
| October .. ..  | 40.00   | 5.00     | —         | —         |       |
| November .. .. | 45.00   | 5.00     | 15.00     | 7607/30   | 40    |
| December .. .. | 35.00   | 5.00     | 10.00     | 7610/3    |       |



CLASS: Form IV (A)  
 INDEX No. 634  
 DATE OF BIRTH: 18-3-39  
 NAME: G. W. W. PERERA

P 24  
 Register of  
 fees for 1953  
 & 1954  
 (Extract)  
 —continued.

|    | MONTH           | ARREARS | FEE DUE | FEE PAID | RCPT. NO. | TOTAL  |
|----|-----------------|---------|---------|----------|-----------|--------|
|    | January .. ..   | 60.00   | 5.00    | —        | —         |        |
|    | February .. ..  | 65.00   | 5.00    | —        | —         |        |
|    | March .. ..     | 70.00   | 5.00    | —        | —         |        |
|    | April .. ..     | 75.00   | 5.00    | —        | —         |        |
| 10 | May .. ..       | 80.00   | 5.00    | —        | —         |        |
|    | June .. ..      | 85.00   | 5.00    | —        | —         |        |
|    | July .. ..      | 90.00   | 5.00    | —        | —         |        |
|    | August .. ..    | 95.00   | —       | —        | —         |        |
|    | September .. .. | —       | —       | —        | —         |        |
|    | October .. ..   | 105.00  | 5.00    | —        | —         |        |
|    | November .. ..  | 110.00  | 5.00    | —        | —         |        |
|    | December .. ..  | 115.00  | 5.00    | —        | —         | 120.00 |

**REGISTER OF FEES OF ANANDA SASTRALAYA, KOTTE  
 FOR THE YEAR 1953**

20 CLASS: FORM III (C)  
 INDEX No. 4162  
 NAME: Seetha Heendeniya  
 DATE OF BIRTH: 25-9-37

|    | MONTH           | ARREARS | FEE DUE | FEE PAID | RCPT. NO. | TOTAL |
|----|-----------------|---------|---------|----------|-----------|-------|
|    | January .. ..   | 30.00   | 5.00    | —        | —         |       |
|    | February .. ..  | 35.00   | 5.00    | —        | —         |       |
|    | March .. ..     | 40.00   | 5.00    | —        | —         |       |
|    | April .. ..     | 45.00   | 5.00    | —        | —         |       |
|    | May .. ..       | 50.00   | 5.00    | —        | —         |       |
| 30 | June .. ..      | 55.00   | 5.00    | —        | —         |       |
|    | July .. ..      | 60.00   | 5.00    | 10.00    | 855/29    |       |
|    | August .. ..    | 55.00   | —       | —        | —         |       |
|    | September .. .. | 60.00   | —       | —        | —         |       |
|    | October .. ..   | 65.00   | 5.00    | —        | —         |       |
|    | November .. ..  | 70.00   | 5.00    | 20.00    | 863/30    | 60.00 |

## YEAR 1954

P 24  
Register of  
Fees for 1953  
& 1954  
( Extract )  
—continued

CLASS: H.S.C. Final  
INDEX NO: 619  
DATE OF BIRTH: 10-9-33  
NAME: Kithsiri Amaratunge

| MONTH          | ARREARS | FEE DUE | FEE PAID | RCPT. NO. | TOTAL |
|----------------|---------|---------|----------|-----------|-------|
| January .. ..  | 37.00   | 5.00    | —        | —         |       |
| October .. ..  | 45.00   | —       | —        | —         |       |
| November .. .. | —       | —       | 50.00    | 761/29    |       |

INDEX NO. 670  
DATE OF BIRTH: 20-2-33  
NAME: S. K. Dharmakirti

10

| MONTH         | ARREARS | FEE DUE | FEE PAID | RCPT. NO. | TOTAL |
|---------------|---------|---------|----------|-----------|-------|
| January .. .. | 85.00   | 5.00    | —        | —         |       |
| October .. .. | 45.00   | —       | —        | —         | 55.00 |

**REGISTER OF FEES OF ANANDA SASTRALAYA, KOTTE  
FOR THE YEAR 1954**

CLASS: H.S.C. Final  
INDEX No. 943  
DATE OF BIRTH: 6-2-33  
NAME: K. Jayasekera

20

| MONTH         | ARREARS | FEE DUE | FEE PAID | RCPT. NO. | TOTAL |
|---------------|---------|---------|----------|-----------|-------|
| January .. .. | —       | 5.00    | —        | —         |       |
| October .. .. | 45.00   | —       | —        | —         | 60.00 |

FORM V (A)  
INDEX No. 634  
DATE OF BIRTH: 18-3-34  
NAME: G. W. W. Perera

| MONTH          | ARREARS | FEE DUE | FEE PAID | RCPT. NO. | TOTAL |
|----------------|---------|---------|----------|-----------|-------|
| November .. .. | 50.00   | —       | 60.00    | 7341/5    | 60.00 |

30

FORM IV (B)  
INDEX No. 4162  
DATE OF BIRTH: 25-9-37  
NAME: Seetha Heendeniya

| MONTH | ARREARS | FEE DUE | FEE PAID | RCPT. NO. | TOTAL |
|-------|---------|---------|----------|-----------|-------|
| —     | —       | —       | —        | —         | 60.00 |

EXTRACT FROM THE FEE BOOK FOR 1954

| Name of Pupil        | Jan. | Feb. | Mar. | Apr. | May | June | July | Aug. | Sept. | Oct. | Nov.            | Dec. | Class                               |
|----------------------|------|------|------|------|-----|------|------|------|-------|------|-----------------|------|-------------------------------------|
| K. AMARATUNGA ..     | —    | —    | —    | —    | —   | —    | —    | —    | —     | —    | Rs. 50/-<br>761 | —    | Form VIA<br>9-11-54                 |
| E. W. PERERA ..      | —    | —    | —    | —    | —   | —    | —    | —    | —     | —    | —               | —    | Rs. 60/- Form VA<br>7341<br>5-12-54 |
| S. K. DHARMAKIRTI .. | —    | —    | —    | —    | —   | —    | —    | —    | —     | —    | —               | —    | Form VIA                            |

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CERTIFIED AS EXTRACTS FROM FEE REGISTER OF ANANDA SASSTRALAYA, KOTTE.

SGD. M. PALIHAWADANA,

*Acting Principal, Ananda Sastralaya, Kotte.*

D 6  
Sessional Paper I — 1954

## CEYLON SESSIONAL PAPER I — 1954

Report of the Committee appointed to examine the working of the National Languages as media of instruction in Standard VI, and to make recommendations to facilitate the changing-over to the National Languages as media of instruction in Standard VII and in Standard VIII, with particular reference to the subjects of Science and Mathematics.

JANUARY, 1954

Printed on the Orders of Government.

Printed at the Government Press, Ceylon.

To be purchased at the Government Publications Bureau, Colombo. Price Rs. 1.15

Postage: 35 cents.

10

## THE COMMITTEE

1. T. D. Jayasuriya, Esq., Deputy Director of Education (Chairman).
2. The Very Rev. Fr. D. J. Anthony, O.M.I., General Manager of Roman Catholic Schools.
3. C. T. Lorage, Esq., Chief Inspector of Schools.
4. S. F. de Silva Esq., Principal, Government Training College, Maharagama.
5. C. Samarasinghe, Esq., Science Master, Royal College, Colombo.
6. M. W. Karunananda, Esq., Science Master, Ananda College, Colombo.
7. S. Chidambarapillai Esq., Science Master, Parameshvara College, Jaffna.
8. D. K. G. de Silva Esq., Education Officer, Education Department (Secretary).

20

“Copy” received: November, 23, 1953.

Proof sent: December 12, 1953.

Proof returned: December 18, 1953.

Published: January 6, 1954.

## I — INTRODUCTION

This Committee was appointed by the Honourable the Minister for Education towards the end of March, 1953, “to examine the working of the National languages as media of instruction in Standard 6, and to make recommendations to facilitate the changing-over to the National Languages as media of instruction in Standard 7 and Standard 8, with particular reference to the subjects of Science and Mathematics.”

2. Sufficient publicity was given in the month of April in the English, Sinhalese and Tamil press to the appointment of the Committee and its terms of reference, and memoranda from all persons interested, including heads of schools, teachers’ associations, individual teachers, and other associations or individuals interested in the furtherance of scientific and mathematical studies, were invited. Although the final date fixed in the official notice was May 22, 1953, many memoranda were received after that date, but they all received our careful consideration. A list of persons and bodies from whom memoranda were received, will be found in Appendix ‘A’ attached to this report.

40

3. The Committee also prepared a comprehensive questionnaire dealing with many aspects of the subject, and issued it to all the Heads of English Medium schools involved in the changing over to the National Languages as media of instruction in Standards 7 and 8. Copies of this questionnaire were sent out on May 18, 1953, to heads of schools, requesting them to fill in and return the completed questionnaire by Friday, June 19, 1953. Several heads of schools, who were unable for various reasons to return the questionnaire by the due date, were given extensions of time with the result that the actual work of analysing data could not be started till July 15, 1953. Copies of the questionnaire were addressed to 650 schools, consisting of 305 Assisted Schools, 15 unaided  
10 Schools and 330 Government Schools. A list of the questions contained in the questionnaire is given in Appendix 'B' and a list of schools to which the questionnaire was issued will be found in Appendix 'C'.

4. Heads of schools concerned were also specifically requested to favour the Committee with a statement of their views on the question of increasing the production of suitable text-books, teachers' hand-books and books for general reading in Science and Mathematics in the National Languages for pupils in Standards 6, 7 and 8. A list of persons who complied with the request of the Committee will be found in Appendix 'D'.

5. The Education Officers-in-charge of the nine provinces were requested to inspect at least 6 of the bigger English medium schools in each of the 9 provinces and examine  
20 carefully the working of the National Languages as media of instruction in Standard 6 and make a report with detailed reference to points like suitability and adequacy of staff, availability of suitable text-books, and the progress made by the pupils in Standard. 6. A list of schools so inspected is given in Appendix 'E'.

6. In addition to obtaining information through these methods of procedure, the Committee devoted a large portion of its time to discussing questions involved with heads of schools, associations of teachers, Parent-Teachers Associations, members of the staff of the Ceylon University, Sinhalese authors, representatives of publishing firms and members of the general public interested in this subject. A list of persons and bodies who were interviewed is given in Appendix 'F'.

## II — THE IMMEDIATE BACKGROUND

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7. On December 14, 1951, the Honourable the Minister for Education in pursuance of the powers vested in him by Regulation 5(iii) of the Education Regulations of 1951, directed that the medium of instruction in Junior Secondary Classes shall be Sinhalese for all pupils whose primary education has been through the medium of Sinhalese, and Tamil for all pupils whose primary education has been through the medium of Tamil and that the change over should operate as follows:—

- (a) In Standard 6, from and after January, 1953.
- (b) In Standard 7, from and after January 1, 1954, and
- (c) In Standard 8, from and after January 1, 1955.

40 The Honourable the Minister's directive applies to the following 18 subjects:—

- |                                      |             |
|--------------------------------------|-------------|
| 1. Religion                          | 10. Civics  |
| 2. Health and Physical Training      | 11. Art     |
| 3. Sinhalese Language and Literature | 12. Singing |
| 4. Tamil Language and Literature     | 13. Music   |

D 6  
 Sessional  
 Paper I  
 —1954  
 —continued.

- |               |                                     |
|---------------|-------------------------------------|
| 5. Arithmetic | 14. General Science                 |
| 6. Algebra    | 15. Eastern Classical Languages     |
| 7. Geometry   | 16. Home Science                    |
| 8. History    | 17. Physiology and Hygiene          |
| 9. Geography  | 18. Elements of Commercial subjects |

8. In accordance with this directive, from January 1, 1953 the medium of instruction in Standard 6 in all the English medium schools, 650 in number, has become either Sinhalese or Tamil to those pupils who have followed a course of primary education in the medium of Sinhalese or Tamil. The position today is that every subject in Standard 6 is taught in the medium of the pupils' mother-tongue, with English as a compulsory 10 Second Language.

### III — THE POSITION REGARDING STANDARD VI

9. In regard to our first assignment, viz, to report on the working of Standard 6 in the national media, we wish to state that from all the evidence available to us, the change over to the national languages in Standard 6 has been quite satisfactory. There is evidence that, as far as pupils in Standard 6 are concerned, they are today in a better position to understand what is taught them, because the medium of instruction is one with which they have been familiar, not only during the 6 year-period of their primary education, but also during the 5 years prior to their admission to school. Education Officers who inspected the work in Standard 6, and teachers actually engaged in teaching 20 that class, have found greater interest taken by the pupils in their subjects, a better emotional attitude and a higher sense of achievement. Psychologically these results are only what might be expected from the change over. It is easier for the pupil to advance from the known to the unknown rather than from one unknown to another unknown. That is to say, it is easier for the pupil who has had 6 years of training in the mother-tongue to progress in his knowledge of subjects like History, Geography and so on, which he has studied in the mother tongue, than for such a pupil to study these subjects afresh in the medium of English, which has been taught him from Standard 3 to 5 purely as a second language. If there is one matter on which all are agreed, it is that the standard of English has fallen as a result of its ceasing to be a medium of instruction in the primary 30 schools. In fact, it is well known that when pupils were passed on to standard 6 before the change over to the National Languages in January this year, the standard of English was so low that most schools had to adopt the device of forming divisions in Standard 6, for example, 6A, 6B, 6C and giving them an intensive course of English before they could satisfactorily follow the subjects taught in Standard 6. This practice entailed two or three years of stagnation in Standard 6 to a large majority of pupils. It may, however, be said that such a stagnation was not universal and that pupils of a certain type, viz., those who came from English-speaking homes and who had a certain amount of English in their environment were able to proceed in one year from Standard 6 to 7. We are aware of this exception, but looking at the problem from the point of view of the entire 40 school population, it is correct to say that the change over to the National Languages in Standard 6 has been a great relief to the pupils.

10. As far as pupils' text books, background literature and supplementary readers are concerned, there is no doubt that a great deal of improvement is necessary. But it will be remembered that a large majority of pupils have been in schools conducted in the National media, and text-books, etc., have been used in that large group of schools for

a long period of time. We do not deny the need for better books for Standard 6, but we cannot say that the books available are insufficient. In fact, both Sinhalese and Tamil are languages with such a high degree of vitality in them that they have the power to respond to a new need on a new demand. We consider the general question of increased production of books elsewhere, but we wish to say at this point that sufficient books are available for pupils in Standard 6 and that with this material a satisfactory standard of proficiency has been achieved.

D 6  
Sessional  
Paper I  
—1954  
—continued.

11. In regard to the question of staff for Standard 6, the arrangements made by the heads of schools for this class for this year can be considered to be sufficiently satisfactory, particularly in regard to general subjects of the curriculum. Certain teachers who had been in charge of Standard 6 in the previous years and who therefore had experience in teaching only in the English medium, felt a certain diffidence in teaching in the new media. This is only natural, and our information is that such teachers have during the last two terms gained an increasing degree of self-confidence. There is no doubt that with further experience, teachers who have had no occasion in the past to use the National Languages as media of instruction will gain all the facility that is needed for handling the elementary work done in Standard 6.

12. We have noticed that in a certain number of schools where General Science, Algebra and Geometry are found in the curriculum of Standard 6, there is a division of opinion with regard to the necessity or advisability of starting these three subjects as early as in Standard 6. There is also a division of opinion as to whether it is necessary to have graduate-specialists in charge of these subjects in Standard 6. We have discussed this matter at great length with the experts who appeared before us, and while we have no wish to interfere with the freedom of heads of schools, we are of opinion that the teacher-supply position, as far as Standards 7 and 8 are concerned, would be greatly eased if these subjects are started a year later, i.e., in Standard 7. We are familiar with the argument of specialist teachers who say that the foundation of these subjects should be well and truly laid in the elementary classes, and that for this purpose, teachers who have specialized in these subjects at the degree examination should be in charge. But the fact is that the production of specialist Graduates is so poor that the supply is insufficient to go round the Junior Secondary Classes in all the schools that teach General Science and Mathematics. It would be sound economy to reserve these specialists for the Senior Secondary Classes and employ non-Graduate Trained Teachers with a knowledge of these subjects to teach in Standards 6, 7 and 8. In regard to the whole question of supply and training of teachers for Mathematics and Science we make our suggestions elsewhere, but we would like to say that as far as Standard 6 is concerned, it is evident that even Science and Mathematics will be better appreciated by the pupils if the teaching is in a medium familiar to them.

#### IV — THE POSITION REGARDING STANDARDS VII AND VIII

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13. Whilst Standard 6 offered us few difficulties, the position in regard to Standards 7 and 8 is more complicated. The main difficulty is in regard to Mathematics and Science. Not that there are no difficulties in regard to the other subjects, but they are of a character that can be surmounted. An examination of the questions numbered 11 and 12 in the questionnaire sent out to schools will show that we were anxious to find out the highest examination in Sinhalese or Tamil passed by the teachers taking different subjects in

Standards 7 and 8. We have also in the questionnaire asked the Heads of Schools to state to what standard they would equate a teacher's present knowledge of the National Languages in case he has not passed any public examination (S.S.C. or higher) with Sinhalese or Tamil as a subject. Where a teacher now teaching Standards 7 and 8 has passed in Sinhalese or Tamil at the S.S.C. or higher examination, we have reckoned him as a teacher competent in the National Languages for the purpose of the questionnaire. Whatever might be said about the standard of the S.S.C. examination, a pass in Sinhalese or Tamil at this examination is an objective criterion. We admit that there is a high degree of subjectivity in regard to the other item of information supplied by the Heads of Schools, viz., the equating of a teacher's knowledge of Sinhalese or Tamil to some standard or other in case he has not passed any public examination. Using a pass at the S.S.C. Examination as a language criterion for judging a teacher's competence to teach his subjects in the media of the National Languages, we wish to summarize the statistical position in regard to General Science and Mathematics. This summary is at pages 7 and 8. A study of these figures shows that as many as 68 out of a total of 145 of the present teachers in Standard 7 are not qualified, according to our criterion, to teach General Science in the Sinhalese medium. Similarly in Standard 8, 68 out of a total of 107 are not qualified to teach General Science in Standard 8. in the Sinhalese medium. The number of Graduate teachers not qualified to teach in the Sinhalese medium in both Standards 7 and 8 is significantly large. A large proportion of the Graduate teachers of Science in standards 7 and 8 are Indians, while a fair section of them are Ceylonese unversed in Sinhalese. As a matter of fact, according to a recent survey by the Education Department, the number of non-Ceylonese teachers in service in our Schools on a temporary basis, now stands at 354, most of them teach Science subjects in our Schools.

14. The position in regard to the Tamil medium is not much better. Out of a total of 155 taking General Science in Standard 7, 58 are not qualified to teach in Tamil, and in Standard 8 out of a total of 144, 44 are not qualified. Here again, a large proportion of those not qualified to teach in Tamil are non-Ceylonese teachers whose mother-tongue is some language other than Tamil.

15. In regard to Mathematics, i.e., Geometry and Algebra — the position is much better. Out of a total of 427 taking Algebra, only 93 are not qualified according to our criterion, to teach in Sinhalese and out of a total of 423 taking Geometry only 86 are not qualified while in Standard 8 out of 341 teachers taking Algebra 99 are not qualified and out of a total of 350 taking Geometry, only 86 teachers are not qualified.

16. In regard to the Tamil medium in Standard 7, out of a total of 239 teachers taking Algebra, only 52 are not qualified and in the case of Geometry out of a total of 234 47 are not qualified.

In regard to Standard 8, there are 37 teachers not qualified to take Algebra in the Tamil medium out of a total of 95, and 44 are not qualified out of a total of 186. Even if we take into account the personal assessment of teachers of the National Languages made by Heads of Schools, although they do not satisfy the language ability criterion set by us and we allow as high a figure as 20 per cent of the teachers included in this group, as actually possessing adequate language ability in the new media, still it cannot be said that the position in regard to Science and Mathematics in Standards 7 and 8 is satisfactory.



17. The position becomes still more complicated in the case of schools having triple streams, that is to say, schools, having three language groups where Science for example, has to be taught in three media — Sinhalese, Tamil and English. In the past, as English was a medium of instruction in these 650 schools in the Junior and Senior secondary Classes, teachers were recruited for their competence in this subject and for their ability to teach it in English. A degree of proficiency in the National Languages was not insisted on. In Government schools, however, the policy had been for some years to insist on a minimum standard of proficiency in Sinhalese or Tamil, in addition to a knowledge of the ordinary school subjects. Consequently there is not much difficulty in regard to 10 Government schools.

18. We may consider the problem of Science and Mathematics in Standards 7 and 8 from two points of view. From the point of view of the pupil who has studied all his subjects up to Standard 6 in the Sinhalese or Tamil medium with English as a second language, there is no doubt that in the interest of the pupil, the subject taught in Standard 7 should be in the medium of the mother-tongue on which he has spent seven years of his school life. It cannot be denied that a heavier burden will be imposed on him if he is taught subjects in Standard 7 in the medium of the second language. All the difficulties experienced in Standard 6, owing to the change over of the medium of instruction from the mother-tongue to English in Standard 6, will be repeated at Standard 7 if English is 20 used as the medium of instruction in that Class. In fact, in a considerable number of schools, Science and Mathematics are taught from Standard 7. Pupils of these schools, in particular, are bound to experience great difficulty in beginning these subjects in a comparatively unfamiliar medium, viz., English, the Standard of which according to all the evidence available has steeply declined.

19. From the stand-point of the supply of teachers, we have to take note that as many as 136 teachers are not properly qualified to teach General Science in Standards 7 and 8 in Sinhalese, and 102 in Tamil. Schools which have more than one language stream are faced with the difficulty of making satisfactory adjustments. It is obvious that the number of teachers unqualified at this level is so large that that it is impossible for a 30 considerable number of schools to arrange to change over to the National Media in teaching Science in Standard 7 in 1954 and in Standard 8 in 1955.

20. We are thus confronted with a curious situation. Pupils have reached such a competence in the National Media that they are ready to study General Science in Standard 7 and in Standard 8 in their mother tongue. A large group of teachers on the other hand serving in schools which have specialized in teaching Science for the last 50 years or longer, find themselves unable to change over to the new media from January, 1954. One desperate solution would be to drop the subject till the supply position is improved, but we ourselves are not in favour of such a drastic step.

21. Our own sympathies are with the pupil rather than with the teacher. But at the 40 same time we wish to take a realistic view of the present unsatisfactory situation. The number of Ceylonese Science Graduates entering the teaching profession has been quite insufficient. In fact, the position is so bad that a large number of non-Ceylonese Science Graduates have been recruited to our schools on a temporary basis. Then again, not many Science qualified Trained Teachers have been produced at the Maharagama Training College for teaching Science even at the lower level, i.e., in the Junior Secondary Classes. Many Ceylonese Science qualified teachers have not had the foresight to equip themselves

with a knowledge of the appropriate national language in order to fit themselves into the new set-up. Lastly, even the facility of a glossary of scientific terms useful for teaching Science at least in the Junior Secondary school has not been made available by Government for the benefit of teachers teaching Science.

22. Although the figures for Mathematics are much better than those for General Science, yet, as these two subjects are connected, particularly in the higher stages, and, as in a large number of cases the same teacher teaches both Mathematics and Science, it is wise to take these two subjects together for our present purpose. Further, as far as the replaceability of teachers is concerned, it is possible to maintain that teachers of General subjects, like History and Geography, can be replaced, if necessary, by Sinhalese and Tamil trained teachers, because these general subjects have been studied by Swabasha teachers both in the S.S.C. Examination stage and later, in the course of their training in the training colleges. Teachers of Science and Mathematics on the other hand, cannot be replaced by Swabasha teachers because these subjects are not normally taught in the Swabasha schools and the number of candidates who offer these subjects at the S.S.C. Examination in the Swabasha media is negligible.

#### V — REMEDIAL MEASURES

23. In these distressing circumstances, while suggesting specific measures to facilitate the teaching of these subjects in the National Languages in Standards 7 and 8 in the shortest possible time, we think that the course most fair by teacher and pupil alike is that schools should be allowed for the next two years i.e., 1954 and 1955, to teach mathematics and General Science in Standards 7 and 8 in the medium proposed by the head of the schools and approved by the Director. This would mean that those schools which have a staff qualified to teach General Science and Mathematics in 1954-1955 in the National Languages would do so. It would be unwise and unfair to compel such schools, for the sake of mere uniformity, to teach these subjects in English, when as a matter of fact, pupils and teachers are both ready to do these subjects in the Swabasha media. A Head of a School, who wishes to be allowed to teach General Science and Mathematics in English in Standard 7 in the years 1954 and 1955 and Standard 8 in the years 1955 and 1956, should satisfy the Director that the staff of the school is not sufficiently qualified to teach these subjects in the National Media during each of the years concerned, and that he has made every effort to recruit suitable teachers. The Director will also no doubt take into account the standard of proficiency in English on the part of the pupils who will be taught Science and Mathematics through the English Medium. In making the application to use English as a medium of instruction in Standards 7 and 8 for the years specified, Heads of Schools are bound to take into careful consideration the fact that from January, 1956, all subjects in Standard 7, including Science and Mathematics, will be taught in the National Media and that from January, 1957, all subjects in Standard 8, including Science and Mathematics will also be taught in the National Media. In our view the decision to use English in these standards for the years in question for the limited purpose mentioned here should not be lightly taken. Even if a teacher has only a small degree of proficiency in the mother tongue of the pupils taught by him he should make a valiant effort to use the appropriate National Language as the medium of instruction and acquire by experience and practice a greater degree of proficiency in the language of his pupils.

24. We have suggested a freedom of choice of the medium of instruction for Science and Mathematics for only two years, because we consider that in two years' time the supply of teachers will be satisfactory. We have suggested a limit of only two years during which certain schools may be allowed with the Director's approval to use English as the medium of instruction in Science and Mathematics in Standard 7 and 8, because we are confident that within that space of time the position will be satisfactory. In the first place, it is a well known fact that teachers as a class are persons of more than average intelligence and ought to achieve within two years the requisite proficiency to teach Science and Mathematics in these elementary classes in the language of the pupils. 10 As for scientific and technical terms, we understand that a glossary of such terms is being prepared and will be available to the general public in a few weeks. A teacher who has a knowledge of his subjects and is anxious to teach in the language of the pupils, has now before him a sufficient terminology and sufficient text books in the language of the pupils. In the second place, we wish to state that Maharagama Training College has made a start in producing trained teachers with a knowledge of Science and Mathematics and competent to teach in the new media. The figures are not very large but they are all competent to teach these subjects at least in the Junior Secondary Classes. The figures are as follows:—

| YEAR<br>OF<br>PASSING OUT | QUALIFIED TO TEACH<br>GENERAL SCIENCE<br>IN NATIONAL LANGUAGES |       |       |       | QUALIFIED TO TEACH<br>MATHEMATICS<br>IN NATIONAL LANGUAGES |       |       |       |
|---------------------------|--|-------|-------|-------|--|-------|-------|-------|
|                           | MEN  |       | WOMEN |       | MEN  |       | WOMEN |       |
|                           | Sinh.  | Tamil | Sinh. | Tamil | Sinh.  | Tamil | Sinh. | Tamil |
| Dec. 1953 .. .. .         | 2  | 2     | 5+7*  | 1*    | 14   | 18    | 14    | 5     |
| „ 1954 .. .. .            | 10   | 1     | 3     | 6     | 8  | 1     | 6     | 2     |

\*Kundasale Trainees  
One year's Science (Chemistry and Biology)

Further we suggest that as many as 125 to 150 candidates be recruited to Maharagama Training College in January, 1955, with special qualifications in Science and Mathematics, so that they will be available for employment in schools as trained teachers in 30 January, 1957, which is the year we suggest for the complete conversion of Standard 8 into the media of the National Languages. Although by January 1957, the demand in regard to the English medium schools will be fully met, we suggest that these specialist teachers be recruited thereafter in somewhat reduced numbers for a further period, so that Mathematics and Science teachers may be available for staffing the Swabasha schools as well. This is the only way in which Science and Mathematics can be brought into the curriculum of the non-English medium schools, so that candidates entering training colleges other than Maharagama Training College will have a knowledge of Science and Mathematics in the mother tongue. After that stage is reached, all training colleges will produce 40 Sinhalese and Tamil trained teachers competent to handle these subjects in the Senior Secondary school.

25. A suggestion has been made to us that a grant of two additional increments or the privilege of Ceylon Citizenship be given as an inducement to certain teachers to qualify in the National Languages. In our view such a stimuli are wholly unnecessary. Again, it has

been suggested to us that the Department of Education should undertake the responsibility of providing courses of instruction in the National Languages to the teachers who are yet unqualified in these languages. We are of opinion that the responsibility for making themselves qualified to teach in the new media should rest on the teachers themselves and not on the state. After all the state has laid down a definite policy and it should be the privilege of all the teachers to co-operate with the State in making the policy a success.

26. There is a danger of minimising the difficulties of certain schools, particularly of those having triple language streams. The expression of their difficulties is often attributed to a reluctance on their part to co-operate with the National Policy. We wish to state quite emphatically that we have discovered no such opposition to the National Scheme. On the contrary, we have found at least one unaided school which caters for as many as three language groups, committing itself to much expenditure in a praiseworthy effort to make its teachers proficient in the National Languages. We think that in the interval of two years we have suggested, all the older schools which have made such a notable contribution to education in the English Medium will achieve an equally high standard if not higher, in the media of the National Languages. 10

#### VI — THE PRODUCTION OF BOOKS IN THE NATIONAL LANGUAGES

27. The question of the adequacy and suitability of books in the media of the National Languages engaged our special consideration. It was not a difficult matter for us to suggest ways and means for securing a supply of suitably qualified teachers required to implement the Minister's directive regarding the use of the National Languages as the media of instruction. But the problem of an increased production of suitable books in the new media is not so easy of solution. In the first place, it must be stated that it is impossible to produce in the National Languages, particularly in Sinhalese supplies comparable in quality and variety to what is available to the pupils in English-speaking countries. The vast market open to producers of English books is one factor which works for the variety and quality of material at the disposal of English medium pupils. Secondly, the cost of printing in Ceylon is considered by foreign publishers to be exceedingly high. We have had the advantage of listening to the views of some of our recognized authors in the Sinhalese language. It is amazing to know, but it is a fact, that the first edition of a best seller, scarcely exceeds 3,000 copies. The Sinhalese reading public is extremely limited. In the opinion of these authors, the reading habit is not wide spread even among the Sinhalese certificated and trained teachers. Their statement that the bulk of the readers are the English educated persons with a knowledge of Sinhalese, was a revelation to us. The vast majority of Sinhalese readers prefer to buy the cheap, sensational and demoralizing literature that is so plentifully available in small shops and boutiques. The tone and matter of these cheap publications are most injurious to the school boy and girl. We have to conclude that there is a great need for good Sinhalese literature produced attractively and at an economical price. The production of good books is not profitable to an author unless the books are approved as class texts or prescribed as a text for public examinations. There appear to be two problems. One is to educate the public taste and the other to promote the reading habit among the Sinhalese public. Poor sales appear to be at the basis of a general demand that State subsidies should be given to potential authors. In our view it is very necessary that the pupil who changes over to the National Language 40

ages should have access to a fair proportion in his own language, of the books available to him at present in the English Language. We are referring now not so much to class text-books but to general literature, periodicals, magazines, etc., which provide the English speaking pupils a wealth of reading matter on the modern world. Although the State can help to some extent, we think it is beyond the resources of the Education Department to undertake the sole organization and the supply of this kind of literature. On the other hand we feel this gap must be filled as in other countries almost entirely by private enterprise. The Education Department may however help authors by purchasing a certain number of copies according to the funds made available to it by the Government 10 from year to year.

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28. In regard to school text books, we wish to say that we have had the advantage of a note on this subject prepared by His Lordship the Bishop of Chilaw, the Rt. Rev. Dr. Edmund Peiris, O.M.I. Says His Lordship "According to the consolidated list of school text-books recommended by the Educational Publications Board, 13 were on Sinhalese Grammar and Composition, 10 on Mathematics (most of them up to the 7th Standard), 1 on Civics, 1 on Health, 2 on Rural Science, 3 on Elementary Science, 1 on Economics and 2 on Book-keeping. Since the publication of the list, a few more have been recommended on Elementary Science, including a work by Dr. Adikaram. Background literature on such subjects as History, Geography, Civics and Science is rather 20 poor. The position in respect of Tamil book is much better." The situation disclosed by His Lordship is not encouraging. We feel that while there is no doubt the new needs in Standards 6, 7 and 8 will stimulate competent authors to produce books to fill the gaps indicated in the consolidated list, the Department of Education should have a special fund to meet the expenditure in the production of some text books. There are several courses of action open to the Department. One is the course suggested by the Bishop of Chilaw himself. He recommends the following:—

- (1) Let the Education Department select one or two books written in English on subjects for which text books or background literature are desired;
- (2) Call for their translation into Sinhalese, by public notice in the Gazette.
- 30 (3) Get the manuscripts evaluated by a Revising Committee.
- (4) Print the work selected as the best by such a Committee. The C.W.E. Printing Works could undertake it and see to its sale.
- (5) Remunerate the Author by offering him a prize or a royalty."

We do not know whether the C.W.E. Printing charges are the cheapest, but we agree that the Education Department should go very carefully into the suggestion made by the Bishop of Chilaw.

29. Another course was suggested by the representative of a big foreign publishing firm who interviewed us. They said that they were willing to consider the publication in Sinhalese and Tamil of English books specified by the Department of Education, provided 40 certain editorial assistance was made available to them as the translation of books selected was in progress. For example, if the book selected is a standard work, say, on Geometry, they would arrange to have it translated but they would like to have an assurance that the translation as it progresses, meets with the approval of the Director of Education. The request for such an assurance is only reasonable, as otherwise the publishing firm is likely to incur a financial loss. A point was made by the head of a large

unaided school that the translation of a generally accepted standard work into Sinhalese and Tamil will ensure that pupils in all the three language groups—English, Sinhalese and Tamil, will have equality of opportunity in that the Sinhalese and Tamil groups will be studying the same subject matter as the pupils in the English medium classes. We agree with this suggestion.

30. The Department may also explore the possibility of securing some aid from the Committee for Free Asia, the representative of which is now in this country. This is “a private non-profit-making American organization established in 1951, working with Asians in developing free democratic institutions through citizenship-participation in non-governmental organizations.” We understand that this Committee is prepared to print and publish books in Sinhalese of the kind required by the schools in Ceylon, pay for copyrights and remunerate authors and translators. We understand that there are a considerable number of Sinhalese texts still awaiting editing by competent scholars. Once an approved text is published, authors will be in a position to use this approved text and publish books with critical commentaries. Provided authoritative advice is available to the Committee for Free Asia, we have no doubt that through this agency many of the Sinhalese Classics that have still to be edited as well as translations approved English text books can be produced rapidly, as the Committee is ready to shoulder the burden of finance. Equally worthy of consideration is the suggestion made by the representatives of the All-Ceylon Union of Teachers that the co-operation of the Union should be sought to produce either translations in the National Languages of selected English text books or original works. The offer of collaboration in the stepping up of production made by the All-Ceylon Union of Teachers should, in our opinion, readily be accepted. 10 20

#### VII — THE PLACE OF ENGLISH

31. Assuming that Government will take immediate steps to recruit suitable teachers qualified in Science and Mathematics in sufficient numbers to meet the need in the schools concerned and to promote the production of text books and other literature needed in the Junior Secondary Classes, there still remains another vexed problem crying for solution. And that is the place of English as a compulsory second language. The regulations set out in the Schedule and referred to in section 17 of the Education (Amendment) Act, No. 5 of 1951, provided for the teaching of English as a compulsory second language from Standard 3 upwards to pupils taught in the Sinhalese or Tamil media. In regard to secondary schools, these regulations provide for a “compulsory course in English complying with such minimum requirements as may be prescribed by the Director. English is now taught as a compulsory second language from Standard 3. Circular No. A/G. 146 of 16th October, 1946, issued by the Director of Education sets out the allocation of time for this purpose. The relevant paragraph is as follows:— 30

“The medium of instruction for these children (viz., children both of whose parents are Sinhalese or Tamil) should be Sinhalese or Tamil during every period of the curriculum except that— 40

(1) In Standard 5 one period a day must be devoted to the teaching of English and if the management so desires 2 periods but not more than 2 periods a day may be devoted for the purpose.

(2) In standards 3 and 4 one period a day must be devoted to the teaching of English.

(3) In the Upper Kindergarten and Standard 2 one period a day at the discretion of the management be devoted to oral instruction in English. No written work should be done during this period."

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32. Neither the Amending Act nor any instructions issued by the Director of Education give an indication of the exact objective of teaching English in our schools. In the absence of a precisely stated objective, the teaching of English in our schools lacked the purposiveness and definiteness which characterized the treatment of this subject in the past when it was the medium of instruction. In those days the aim was to attain a very high standard of proficiency—

- 10       (i) in speaking English;  
         (ii) in reading and understanding English;  
         (iii) in writing English; and  
         (iv) in appreciating English literature.

For achieving these multiple purposes, English was used as the medium of instruction in all subjects, and as the language outside the class-room, in the play-ground as well as in the home. But today, the position is that the medium of instruction has become one or the other of the National Languages with English taught as a Second Language, and so taking a very small fraction of the time devoted to it in the past. The techniques of teaching English in England were taken over and applied in Ceylon with great success in the past because the objectives of Ceylon and England were one and the same. But when English became a Second Language in Ceylon teachers in this country were confronted with a totally different problem for which they were unprepared. Although the conditions were changed, yet the teachers were trying to achieve the same ends as in the past, and were applying the same techniques of teaching. Further, what was most alarming was that the public was expecting the same measure of success. It is no wonder that we hear from all sides that the standard of English has fallen. It was not possible to achieve the same purposes under the changed conditions. If, however, an objective different from the old had been set out clearly and teachers had the assistance of techniques and literature, teaching aids, etc., for the more limited objective then teaching would have been more purposeful, and better results could have been achieved in relation to this limited objective. The point we are making is that under the changed circumstances it is foolish, with the dominant place now rightly occupied by the National Languages in our schools, to expect the same degree of proficiency in English as in the past. Those who with nostalgic regret recall the glorious days of the past when they experienced the magic of fine literature and spoke with a perfect accent, and wrote in English with the feeling of an Englishman himself and who now lament the shortcomings in grammar, idiom, accent, intonation and style and bemoan the loss of acquaintance with the "English Classics" and "English Culture" forget the vast changes that have taken place in the social and political life of our people. In the past, when English was the dominant language, the number of English schools was few and the pupils attending them were, for the most part, drawn from a select number of families possessing almost an English environment. All English schools used to charge fees and the privilege of an English education was confined to those who could afford to pay for it. Today, education is compulsory and free and the school population exceeds, 1,500,000 pupils. In these conditions schools are confronted with a formidable task in recruiting sufficiently qualified teachers to teach English even as a Second Language in all our schools. It has been suggested by some that English trained

teachers should be permitted to teach English as a Second Language in the primary school. Even if the country is in a position to afford the cost, it is not possible to train a sufficient number of teachers required to teach English as a Second Language in all our schools.

If, therefore, it is necessary to restate the objectives of teaching English in the changed context, it is clear that the objective cannot be the mastery of English through the second language to such a degree that pupils will be able to study their subjects in the school curriculum in English. Some other objective must be discovered for teaching English in keeping with the provision now made for it in the school curriculum. In our opinion, it would not be wise to expect the same degree of proficiency in oral and written expression as we expected in the past. Similarly, we think that the new circumstances 10 will not permit of the attainment of a high degree of proficiency in written expression. But even if our aims should be very modest in the acquisition of these two skills, there is, in our opinion, a third skill which can be acquired in a high degree and which fits in with the new set-up, viz., the skill in reading with ease and understanding. Of course success in this direction entirely depends on the emphasis laid on this aspect of language study and on making use of all techniques suitable for the development of this ability rather than for the development of the other two skills mentioned above. There is need for a conscious preference to be given to the acquisition of comprehension rather than to the acquisition of proficiency in oral and written expression. We cannot see how progress can be made 20 under the changed circumstances in all the four aspects of language learning which were the objectives in the past. There is bound to be loss in some directions. It is sufficient if in one direction at least pupils can attain a high degree of proficiency.

33. Indeed the objective of securing a high standard of comprehension becomes all the more important and urgent when it is remembered that there are gaps in the existing literature in the National Languages particularly in the Sinhalese language. If a pupil is able to read with ease and understanding books in the English language relating to subjects in which he is interested and in which literature in the national language is inadequate at present, he will be able to use his knowledge of English to supplement such deficiencies. We are inclined to think, therefore that even in the interest of the national languages themselves it is of paramount importance that steps should be taken to equip 30 our pupils and teachers alike with such a knowledge of English as will enable them to enrich their mental content and widen their intellectual horizon with the aid of the literature found in the English Language. Access to modern knowledge through the English language in this way is also likely to be of help to authors in producing books on modern knowledge in the National Languages.

34. In the light of these considerations, we should like to take a pupil's whole career in the Primary and Junior Secondary Schools into account and say that a reasonable objective for the teaching of English during this part of a pupil's school life is that the pupil should be able at the end of Standard 8 to achieve such a standard of comprehension in English as will enable him to read with understanding and ease books written in the 40 English Language suitable for the interests and needs of pupils at that age level. If this is regarded as a reasonable objective, the next question is whether it is possible of attainment within the period of six years, i.e., from Standard 3 to Standard 8. The regulations in the schedule referred to in Section 17 of Education (Amendment) Act, No. 5 of 1951, provide for the teaching of English as a compulsory language from Standard 3 to Standard 5. But Regulation 6 which refers to the Secondary School states as follows:—



“There should be provided in every Secondary School a compulsory course in English complying with such minimum requirements as may be prescribed by the Director unless the school is in exceptional circumstances exempted by the Director from the operation of this Regulation.”

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We think that if this Regulation is interpreted in a liberal way and a course in English is generously conceived for Standards 6, 7 and 8, it should be possible for pupils to attain the objective we have in view. Now that the National Languages are enthroned as the media of instruction and that there is no danger at all to the full development of the National Media, efforts should be made within the frame-work of the Law so to teach  
10 English in our schools, particularly in the Junior Secondary School, as to ensure its usefulness for the purposes we have indicated.

34. We do not propose to be dogmatic regarding the standard at which English should be introduced in the Primary School or regarding the teaching techniques that should be adopted. Our view is that while there is much that we can learn from the experiments in other countries, conditions here are so different and vary from area to area that there is need for research and experimentation to be carried out before a proper conclusion can be reached. We have a right to expect the University to take the lead in this matter. We also think that there is considerable scope in this direction not only in the training colleges but also in the schools. Every encouragement should be given to such  
20 efforts.

#### VIII — MUSIC, SINGING AND PHYSICAL TRAINING

35. Our attention has been drawn to a slight anomaly in the subjects enumerated in the Ministers' directive where no distinction has been made between Western Music and Singing on the one hand and Eastern Music and Singing on the other. Western Music and Singing should be exempted from the operation of the Minister's directive.

36. Our attention has also been drawn to the difficulties experienced by schools which have more than one language stream in carrying out the Minister's directive in regard to activities like games, physical exercises and drill. As the language element involved is of very subordinate importance and as the play-ground serves to promote and  
30 develop the sense of unity among the pupils of the school, we suggest that freedom should be given to heads of schools to carry out these activities in any language they choose. We are certain that the heads of schools who have dedicated their lives to the bringing up of the children of the nation will use this freedom wisely in the interest of the pupils.

#### IX — RECOMMENDATIONS

We recommend:—

(1) that as, the working of Standard 6 in the new media is satisfactory, no change in the Minister's directive is necessary;

(2) that, as the number of teachers qualified to teach all subjects other than Science and Mathematics in Standards 7 and 8 is adequate, and as suitable books are available in  
40 the National Languages, all subjects other than Science and Mathematics should be taught in accordance with the Minister's directive in the media of the National Languages in Standard 7 from January, 1954, and Standard 8 from January, 1955.

(3) that schools whose staffs are qualified in the opinion of the Director to teach Science and Mathematics in the National Languages in Standard 7 in the year 1954 and Standard 8 in the year 1955 should, in full compliance with the Minister's directive, teach these two subjects as well in the media of the National Languages.

(4) that, in the case of certain schools, as the number of teachers qualified to teach Science and Mathematics in Standards 7 and 8 in the media of the National Languages is temporarily inadequate, permission should be granted to such schools to teach these two subjects during the years 1954 and 1955 in Standards 7 and 8 in the English medium provided the Director is satisfied on an examination of the staffing position in such schools that it is not possible for Heads of these schools to make satisfactory arrangements to teach these subjects in the National Languages; 10

(5) that all schools should teach all the subjects including Science and Mathematics in the media of the National Languages in Standard 7 from January 1956;

(6) that all schools should teach all the subjects including Science and Mathematics in Standard 8 from January, 1957;

(7) that, as a distinction should be made in regard to the medium of instruction (i) between Western Music and Eastern Music; and (ii) between Western Singing and Eastern Singing, Western Music and Western Singing should be exempted from the operation of the Minister's directive;

(8) that, as the linguistic element is of subordinate importance in the following school activities:— 20

- (i) games,
- (ii) physical exercises, and
- (iii) drill.

freedom should be given to heads of schools to carry out these activities in any language medium they choose;

(9) that the course in English for Secondary schools provided for in Regulation No. 6 of the Schedule referred to in Section 17 of the Education (Amendment) Act, No. 5 of 1951, should be liberally conceived and adequate provision should be made in the school time-table for English studies in Standards 6, 7 and 8; 30

10. that an official statement of the objective of teaching English in our schools should be made early. We suggest that in the present context the objective should be that by the time a pupil leaves Standard 8 he should have acquired a standard of comprehension in English sufficient to enable him to read with ease and understanding English books suitable to meet his needs and interests at that age level viz., 14+

(11) that research should be promoted in the technical aspects of teaching English in the changed set-up with a view to discover:—

- (a) the stage at which English should be started:
- (b) the most efficient and economical techniques to achieve the objective stated in Recommendation (10); 40

(12) that, in order to facilitate the transition from the English Medium to the media of the National Languages, no new teachers should be appointed for work in the Junior Secondary Schools unless the Director is satisfied that such teachers are qualified to teach their subjects in the medium of the appropriate National Language;

(13) that provision should be made at the University for Graduate Teachers who undergo the Diploma Course of Training at the Ceylon University to make themselves competent to teach their specialist subjects in the appropriate National Language;

D 6  
Sessional  
Paper I  
—1954

—continued

(14) that an adequate number of specialist recruits be selected for a 2 year course of training at Maharagama Training College from January, 1955, so that an increased supply of Trained Teachers who have specialized in Mathematics and Science may be available for employment in our schools. The training given should be of an intensive character as far as these special subjects are concerned and arrangements should be made for such trainees to have sufficient teaching practice in the media of the National Languages. These specialist courses should continue even after 1955, so that teachers may be available in sufficient numbers to teach Science and Mathematics not only in the present English Medium schools but also in the schools which have not hitherto had the opportunity of teaching Mathematics and Science;

(15) that, as Elementary Mathematics and General Science are confined for the most part to schools conducted in the English Medium, these subjects should be introduced into schools conducted in the media of the National Languages. For this purpose Elementary Mathematics should be taught as a compulsory subject in all Training Colleges, Government and Assisted, so that a sufficient number of teachers may be available for a start to be made in teaching these subjects in schools which hitherto had no opportunity of teaching these subjects;

(16) that, whereas General Science is taught now as an optional subject only in a few Training Colleges, this subject should be taught as an optional subject in all Training Colleges. Provision must be made for adequate laboratory and practical work;

(17) that, the responsibility for equipping themselves with a sufficient knowledge of the appropriate National Language for teaching subjects for which they are academically competent, should rest on the teacher concerned and on the heads of schools who employ them;

(18) that, an official glossary of scientific and technical terms suitable for teaching Mathematics and Science in Standards 6, 7 and 8 should be made available early to teachers, pupils and prospective authors;

(19) that greater encouragement should be given by Government for production in the National Languages of text-books and back-ground literature.

The following methods are suggested:—

(a) call for translations into Sinhalese and Tamil of suitable English books, have them judged by a Committee and arrange to have them printed as economically as possible. Grant the authors of the manuscripts accepted by Government, a suitable cash prize or royalty;

(b) arrange with foreign publishing firms for translations in the National Languages of selected text-books used generally in Ceylon by offering the firms editorial assistance as the work of translation proceeds. This method involves hardly any expense to Government;

(c) accept the offer made by the Committee for Free Asia for publishing approved books for use in Ceylon schools;

D 6  
 Sessional  
 Paper I  
 —1954  
 —continued.

(d) accept the offer made by the All-Ceylon Union of Teachers to produce translations of standard English books or original books in the National Languages on a basis of remuneration to the writers selected by the All-Ceylon Union of Teachers;

(e) stimulate private enterprise by Government purchasing an adequate number of copies of new books in the Sinhalese Language suitable for use in Standards 6, 7 and 8.

#### X — CONCLUSION

We would like to conclude our report by expressing our warm appreciation of the assistance rendered to us by the very large number of Heads of Schools who took the trouble to furnish us with information and who readily gave us the benefit of their views at our meetings. We also thank all bodies interested in education who arranged for deputations to meet us at our conferences. Representatives of Parent-Teacher Associations and certain individual members of the general public interested in educational development have also placed us under a deep debt of gratitude by the fearless and frank exposition of their views. Although there were marked differences in the points of view expressed at our discussions, yet there was one common underlying factor which we observed in all the representations made to us, that is, a strong patriotic desire to see that the citizens of tomorrow received an education suited to the new needs of our country and worthy of our distinguished past.

We also like to acknowledge the services of our Secretary, Mr. Dudley de Silva, Education Officer, attached to the Head Office.

The secretarial work involved was immense but his untiring labour was responsible for the smooth despatch of business.

A word of thanks is also due to Miss T. Sanmugam, Statistical Officer, attached to the Education Department who had to study the answers to the questionnaire sent out to 650 schools and compile the statistical information for our consideration.

Special mention should also be made of the valuable services rendered by Mr. A. V. A. de Alwis who was in charge of the office section of our work.

T. D. JAYASURIYA (Chairman)

D. J. ANTHONY, O.M.I.

C. T. LORAGE

S. F. DE SILVA

C. SAMARASINGHE

M. W. KARUNANANDA

S. CHIDAMBARAPILLAI

D. K. G. DE SILVA (Secretary)

20

30

D 33  
 Letter from  
 E. W. Adikaram—  
 20. 6. 54

#### D 33

#### Letter from E. W. Adikaram (Translation of Letter D 33)

#### Not for Publication

E. W. Adikaram, M.A., P.H.D. (London)

20, Pagoda Road,  
 Kotte.  
 20-6-54

Dear Sir,

I have decided to come forward this time for the General Managership of the Buddhist Schools in the Buddhist Theosophical Society, Ltd., Colombo.

Therefore, I very kindly expect your assistance in that connection.

Your's Sincerely,

E. W. Adikaram.

Translated by me,

Sgd. D. W. Jayakody,

Interpreter, D. C. Colombo.

20-3-57

40

**D 11**  
**Letter Addressed to the President,**  
**Buddhist Theosophical Society, Colombo, by**  
**K. L. V. Alagiyanne**

D 11  
 Letter ad-  
 dressed to the  
 President,  
 Buddhist  
 Theosophical  
 Society,  
 Colombo, by  
 K. L. V.  
 Alagiya-  
 yanne  
 12. 7. 54

Ananda Sastralaya, Kotte.  
 12th July, 1954.

The President,  
 Buddhist Theosophical Society,  
 Colombo.  
 Sir,

10 I was informed by the Principal of my School last Thursday that the new General Manager had given verbal instructions that in future Mr. Costa should act for the Principal in his absence and that Mr. Palihawadana should take precedence after him. Yesterday a written order to this effect arrived and as requested by the General Manager was circulated to the Staff. I wish to make the strongest protest against this entirely unwarranted action of the General Manager. As you know I was appointed Vice-Principal of Ananda Sastralaya with effect from July 1st, 1953. The letter of appointment was signed by the then General Manager Mr. P. de S. Kularatne and a copy was sent to the Principal. Since then I have on all occasions acted for the Principal. I still hold the post of Vice-Principal and an attempt on the part of any one else to act for the Principal would  
 20 be a clear usurpation of authority.

The action of the present General Manager assumes an ugly complexion in the light of certain past events. In June, 1953 when I had resigned from Government Service at Mr. Kularatne's suggestion and accepted my present appointment Dr. E. W. Adikaram came to my home at Piliyandala at 6 a.m. one morning and endeavoured to persuade me to withdraw my resignation from Government Service. He said that Mr. Costa alone deserved to be made Principal of Ananda Sastralaya in succession to Mr. Wickramasinghe. I told him that such questions should be left to the management and that I had decided to accept the Vice-Principalship of Ananda Sastralaya because of my interest in Buddhist education. I was quite prepared to leave the question of the succession to be decided when the Principal eventually retired. Dr. Adikaram's last remark before leaving  
 30 my home was that if I came to Ananda Sastralaya there would be trouble, and that he himself would make trouble for me.

I shall be glad if you would bring this matter to the attention of the appointment's board for early decision as an important question of principle is involved. I have served the Buddhist Theosophical Society as principal of Kegalu Vidyalaya. I believe my work in Kegalle has brought credit to the Society. I have not deserved the treatment meted out to me by the present General Manager and I feel that when the full facts are placed before the Society it will be held that I have suffered a grave injustice.

I ask that the General Manager be ordered to withdraw his letter to the Principal  
 40 referred to above dated July 8th as it is both illegal and improper.

In the meantime to avoid any undignified and unseemly wrangle which would bring discredit on Buddhist educational work, I shall refrain from insisting on my right to act in the absence of the Principal.

Yours faithfully,

D 12

D 12  
Letter ad-  
dressed to the  
President,  
Buddhist  
Theosophical  
Society,  
Colombo, by  
K. L. V.  
Alagiya-  
wanna—  
16. 7. 54

**Letter Addressed to the President  
Buddhist Theosophical Society, Colombo, by  
K. L. V. Alagiyanne**

16th July, 1954.  
Ananda Sastralaya.

The President,  
Buddhist Theosophical Society,  
Colombo.

THRO' GENERAL MANAGER, B.T.S.

10

Sir,

I enclose a copy of a letter dated 8th July, 1954, addressed to the Principal of my school. The new General Manager has given instructions that Messrs. N. W. de Costa and Palihawadana should be given precedence over me in acting for the Principal during his absence.

As you are no doubt aware, I was appointed Vice-Principal of Ananda Sastralaya with effect from July 1st 1953 and have acted for the Principal on all occasions since then. I wish to make strongest possible protest against this action of the General Manager.

Such action could only be justified if I was guilty of conduct which called for punishment and punishment of this character should not be meted out without proper enquiry. 20

There has been no such enquiry.

An employee of the Buddhist Theosophical Society who is aggrieved by some action of the General Manager can only appeal to the President as one who is above faction.

I earnestly request you to hold an enquiry into the circumstances leading to the G.M.'s letter to the Principal of July 8th.

As I am above all anxious to avoid any unseemly or undignified wrangle, which would bring discredit on Buddhist educational work, I do not propose to insist for the present on my undoubted right as Vice-Principal to act for the Principal whenever he has occasion to be absent from school.

Yours faithfully,  
SGD. K. L. V. ALAGIYAWANNE 30

Forwarded to G.M., B.T.S., Colombo.

Sgd. Principal

Forwarded to the President, B.T.S.

Sgd. E. W. Adikaram, G.M.B.S.

19-7-54

**Plaintiff's Application for Retirement**

D 8  
Plaintiff's  
Application  
for Retirement—  
12. 9. 54

True copy  
Sgd. Illegibly  
*for Acting Director of Education.*  
18-3-57.

C/o, The General Manager,  
Buddhist Schools,  
Buddhist Hqrs.,  
Norris Road, Colombo,  
12-9-54

10

The Director of Education,  
Thro' The G.M., B.S.

APPLICATION FOR RETIREMENT

Dear Sir,

Please be so good as to grant me permission to retire under Rule 6b of the Teachers' Pension Regulations.

I do not consider myself competent to give instruction in Sinhalese.

I am annexing a letter from the Principal, Ananda Sastralaya, Kotte, indicating  
20 my teaching position in the College.

As I feel that the turn over to Swabasha is not in the interests of the country I cannot conscientiously do my best as a teacher. May I add that I would not have taken to the teaching profession if the present policy of the Government could have been envisaged at the time I entered the service.

It is very inconvenient for a College time table to be prepared allocating to one teacher work in the classes above the Senior Form only. Hence sooner or later the management is bound to be prejudiced with me and make things uncomfortable for me.

I am at present on pay leave for six months, studying in the U.S.A. I shall refund the money when my application for retirement is allowed.

30 Permit me to state that when I observe the position of the Negroes in America, and know how far ahead they are of their African bretheren because they have taken to English, I feel strongly of what I have stated above.

Thank you,

Yours obediently,  
SGD. N. W. DE COSTA

Forwarded  
Sgd. E. W. ADIKARAM,  
*General Manager, Buddhist Schools.*  
28-9-54.

D 9  
Letter from  
Director of  
Education to  
the Plaintiff—  
25. 11. 54

**D 9**  
**Letter from Director of Education to  
the Plaintiff**

True copy

Sgd. Illegibly  
*for Acting Director of Education.*

No. ASA. 834

Mr. N. W. de Costa,  
Ananda Sastralaya, Kotte.  
(Thro' the General Manager, B.T.S. Schools)

RETIREMENT UNDER RULE 6B

10

Reference your letter dated 12-9-54, you are informed that you cannot be permitted to retire under Rule 6B.

SGD. D. A. WIJEYESINGHE,  
*for Director of Education.*

Education Department,  
Malay Street,  
Colombo 2, 25th November, 1954.

D 36  
Certificate  
given by E.  
W. Adikaram  
to S. K.  
Dharma-  
keerthi  
27. 1. 55

**D 36**  
**Certificate given by E. W. Adikaram to  
S. K. Dharmakeerthi**

20

E. W. Adikaram,  
M.A., Ph. D. (Lond.)

Pagoda Road, Kotte,  
27-1-55.

I have known Mr. S. K. Dharmakeerthi for a long time. He is intelligent and bears a very good character.

I understand that he is applying for the post of Rural Development Officer. I am glad to recommend him.

SGD. E. W. Adikaram

D 13  
Letter from  
the Plaintiff  
to the Minis-  
ter of Finance  
(Mr. M. D.  
H. Jayawar-  
dene)  
14. 3. 55

**D 13**  
**Letter from the Plaintiff to the Minister of Finance  
(Mr. M. D. H. Jayawardene)**

30

Ananda Sastralaya,  
Kotte.  
14-3-55

The Hon. Mr. M. D. H. Jayawardena,  
The Minister of Finance.

Hon'ble Sir,

I applied to the Director of Education for permission to retire under rule 6b of the Teachers' Pension Regulations; but my application has been refused. As I was on leave 40 in America I was not in a position to appeal to you earlier. May I submit now, the following for your kind consideration.



I have had no background in Sinhalese as indicated by the fact that for my first public examination (E.S.L.C. 1930) I did not offer Sinhalese.

As a second language was compulsory I had to offer Sinhalese for the Senior Certificate, but was successful at the examination only in my second attempt.

My subjects for the Intermediate Examination were Mathematics, Botany and English. And I have not offered Sinhalese for any further examination.

May I humbly submit that as I strongly feel that the change over to Swabhasa is detrimental to the progress of the country I cannot do my best to be proficient enough to teach in Sinhalese.

10 I serve under the Buddhist Theosophical society, where the manager of schools is elected every year. I have grounds to state that the previous Manager was not well disposed towards me. I have reason to feel that I may be subject to victimisation on a future occasion due to my position with regard to Swabhasa.

May I submit that I joined the Educational Service on the understanding that I have to give instructions in English. I find it extremely difficult to continue under the present regulations which if I could envisage earlier I would have taken to a different profession.

20 I understand that the application of one Mr. Ponnadurai who has passed the Cambridge Senior with Tamil has been allowed. I appeal to you to consider my case too, with sympathy and permit me to retire. My case comes within the regulations for pension under rule 6b.

Thank you,

Yours faithfully,

SGD. N. W. DE COSTA.

I certify that the foregoing is a true copy of letter dated 14th March, 1955, from Mr. N. W. de Costa addressed to the former Minister of Finance, Mr. M. D. H. Jayawardena, and filed of record in office file No. 13/4(MF/PC)35 of the Ministry of Finance.

SGD. Illegibly.

*for Permanent Secretary to the Ministry of Finance.*

Colombo, 20th March, 1957.

**D 14**

**Letter from the Plaintiff to the Minister of Education**

(COPY)

Ananda Sastralaya, Kotte,  
21-4-55.

The Hon'ble Minister of Education,  
Thro' General Manager, Buddhist Schools,  
Colombo.

Hon'ble Sir,

**RETIREMENT UNDER RULE 6B. N. W. DE COSTA**

40 I have appealed to the Minister of Finance to permit me to retire under the rule 6B of the Teachers' Pension Regulations as my application to the Director was refused.

I had submitted to the Director a letter from the Principal which states that I had never taken a class in Sinhalese during my career as teacher.

D 13  
Letter from  
the Plaintiff  
to the Mini-  
ster of Fi-  
nance (Mr.  
M. D. H.  
Jayawar-  
dene)  
14. 3. 55

—continued

D 14  
Letter from  
the Plaintiff  
to the Minis-  
ter of Educa-  
tion  
21. 4. 55

D 14  
Letter from  
the Plaintiff  
to the Mini-  
ster of Edu-  
cation—  
21. 4. 55  
—continued.

I mentioned in my appeal to the Minister of Finance that I have had no background in Sinhalese as indicated by the fact that for my first public examination (E.S.L.C. 1930), I did not offer Sinhalese. I understand that Mr. Ponnudurai who has been allowed to retire has offered Tamil even for his Cambridge Junior.

For my degree in Indo-Aryan I studied under a German Professor in London reading and writing the languages in the Roman Script. My degree in Indo-Aryan does not in any way make me competent in Sinhalese.

May I humbly appeal to you to consider my case with sympathy and recommend my appeal to the Minister of Finance when forwarded to you for report.

Thanking you, 10  
I remain, Sir,  
Yours obediently,  
SGD. N. W. DE COSTA

True copy  
Sgd. Illegibly  
for Permanent Secretary to the Ministry of Education.  
16-3-57

I certify that the statements made by Mr. N. W. de Costa are correct and I recommend that his application to retire under clause 6B be granted.

SGD. E. W. ADIKARAM 20  
General Manager, B.T.S.  
21-4-55

D 15  
Letter from  
the Director  
of Education  
to the  
Plaintiff  
17. 6. 55

**D 15**  
**Letter from the Director of Education to the Plaintiff**

True copy  
Sgd. Illegibly  
for Acting Director of Education  
18-3-57

Mr. N. W. de Costa,  
C/o, The General Manager,  
B.T.S. Schools, Colombo.

No. ASA. 834  
30

RETIREMENT UNDER RULE 6B

Reference your letter dated 14-3-55 you are informed that the Hon'ble the Minister of Finance has refused your application.

SGD. D. A. WIJEYESINGHE  
for Director of Education.

Education Department,  
Malay Street,  
Colombo 2, 17th June, 1955.

40

## D 16

**Letter from the Permanent Secretary to the Ministry of  
Education to the Plaintiff**

D 16  
Letter  
from the  
Permanent  
Secretary to  
the Ministry  
of Education  
to the Plaintiff  
20. 6. 55

True copy  
SGD. Illegibly  
*for Permanent Secretary to the Ministry of Education.*

(COPY)

Copy to: D.E. — His No. ASA. 834  
refers.

10

Sir,

B/PFP/86  
20th June, 1955.

RETIREMENT UNDER RULE 6B OF THE  
SCHOOL TEACHERS' PENSION RULES

With reference to your appeal addressed to the Hon'ble the Minister of Finance, I am directed to inform you that the Hon'ble Minister of Finance has refused your application.

I am, Sir,  
Your Obedient Servant,  
SGD. C. W. RATNAYAKE

*for Permanent Secretary to the Ministry of Education*

20

N. W. de Costa, Esq.,  
Ananda Sastralaya,  
Kotte.

## D 17

**Letter from the Plaintiff to the  
Director of Education**

D 17  
Letter from  
the Plaintiff  
to the Direct-  
or of Edu-  
cation  
28. 9. 55

True Copy  
Sgd. Illegibly  
*for Acting Director of Education*

30 18-3-51

Ananda Sastralaya,  
Kotte.  
28-9-55

The Director of Education,  
Thro' General Manager,  
Buddhist Schools.

RETIREMENT UNDER RULE 6C, S.T.P.R.

Dear Sir,

Please be so good as to grant me permission to retire under Rule 6c of the Teachers' Pension Regulations.

Regarding my application may I submit the following.

40 I have had no good background in Sinhalese as indicated by the fact that for my first public examination, E.S.L.C. 1930, I did not offer Sinhalese.

As a second language was compulsory I had to offer Sinhalese for the S.S.C., but I got through the examination only in my second attempt.

D 17  
Letter from  
the Plaintiff  
to the Director  
of Education  
28. 9. 55  
—continued.

Subjects for my Intermediate Examination were Mathematics, Botany and English. I studied for my degree in Indo Aryan in the University of London reading and writing the subjects in the Roman Script.

I find it extremely difficult to continue in the profession under the Government's Swabhasa Policy.

Thank you,  
Yours faithfully,  
SGD. N. W. DE COSTA.

The Director of Education,

I certify that the facts mentioned in this application are correct and I recommend his retirement.

SGD. E. W. ADIKARAM,  
General Manager B.T.S. Schools.  
29-9-55

10

D 45  
Certificate  
given by M.  
Palihawadana to S.  
K. Dharmakeerthi  
28. 9. 55

**D 45**  
**Certificate given by M. Palihawadana to**  
**S. K. Dharmakeerthi**

Ananda Sastralaya,  
Kotte,  
28-9-55

I have known Mr. S. K. Dharmakeerthi for a very long time. He has studied under me at Ananda Sastralaya, Kotte. I am happy to state that as a student he created a very fine impression on me. He was not only an intelligent and enthusiastic student, but was also a person with a wide variety of interests. He played a prominent part in nearly all the social, religious and literary activities of Ananda Sastralaya during the past few years. As a result he commands a wide circle of friends among the past and present pupils of this school. He is a person of reliability, solidness and unostentatious energy—a loyal and trustworthy *worker* on whom responsibility could be placed without hesitation.

SGD. M. PALIHAWADANA.

30

P 13a  
Circular  
Letter issued  
by Principal  
Ananda Sas-  
tralaya  
(Plaintiff)—  
(English  
Translation  
of P 13)—  
21. 11. 55

**P 13a**  
**Circular Letter issued by Principal Ananda Sastralaya**  
**(Plaintiff)—(English Translation of P 13)**

1955-11-21  
Kotte,  
Ananda Sastralaya.

Dear Sir/Madam,

You have been informed that the Facilities Fees of your child have to be paid before the 1st of December. The child can be exempted from payment only in case you prove the inability to pay. For this purpose you should produce a certificate from a D.R.O. or a J.P.

Yours faithfully,

*Principal* 40

Name and Class.....

Signature of Guardian.....-

Translated by me.

Sgd. W. P. E. B. Croos,  
*Interpreter, D.C., Colombo.*  
5th March, 1957.

**D 18**  
**Letter from the Director of Education to the**  
**Plaintiff**

D 18  
 Letter from  
 the Director  
 of Education  
 to the  
 Plaintiff—  
 29. 11. 55

True copy  
 Sgd. Illegibly  
*for Acting Director of Education*  
 18-3-57

No. ASC. 3294

Mr. N. W. de Costa,  
 Ananda Sastralaya, Kotte.  
 10 (Thro' The General Manager)

RETIREMENT UNDER RULE 6C OF THE S.T.P.R.

With reference to your letter dated 28-9-55, I have to inform you that it is regretted that you cannot be permitted to retire under the provisions of Rule 6C of the School Teachers' Pension Rules.

SGD. OLIVER ABEYESEKERA,  
*for Director of Education.*

Education Department,  
 Malay Street,  
 Colombo 2, 29th November, 1955.

**D 21a**

**English Translation of (the relevant extract of) the**  
**Newspaper "Dinamina"**

(D 21)

Dinamina (29-11-55)

**MORE PRESSURE ON THE EVE OF EXAMINATIONS**

BY A DINAMINA REPORTER

D 21a  
 English  
 Translation  
 of (the re-  
 levant extract  
 of) the News-  
 paper  
 "Dinamina"  
 (D 21)  
 29. 11. 55

It is learnt that Principals and Teachers of some colleges and high schools are threatening and forcing the students to pay up the facilities fees and arrears as the promotion tests and public examinations which are to be held at the end of this year are drawing nearer.

It is also learnt that certain principals have threatened to withhold the admission  
 30 cards to the students who are to take up the General Certificate Examination and other  
 Examinations if they fail to pay up their arrears in time.

It is evident from the grievances of the parents and guardians that certain principals have threatened the students and frightened them that they would not be allowed to sit for the annual tests if they failed to pay up the facilities fees and arrears. It is also revealed that certain teachers use abusive language to those students who have not paid up the arrears and cause pain of mind to them as well as their parents.

Col. R. J. F. Mendis, Deputy Director of Education told me yesterday that the  
 Education Department would consider seriously any case of victimising students either  
 by not allowing to take up an examination or any other punishment for failing to pay up  
 40 facilities fees.

He further said that such incidents should be reported immediately by the parties concerned to the Director of Education so that the Department of Education may take disciplinary actions.

Translated by me  
 Sgd. S. W. Jayakodi  
*Interpreter, D.C., Colombo.*

D23a  
English  
Translation  
of (the re-  
levant extract  
of) the News-  
paper  
"Dinamina"  
(D 23)  
30. 11. 55

**D 23a**  
**English Translation of (the relevant extract of) the**  
**Newspaper "Dinamina" (D 23)**

Dinamina 30-11-55

**WADA-KAHA**

Facilities fees are levied from school children to provide the children with games equipment and books for the library. This levying was started after the Free Education Scheme started.

**FACILITIES FEES**

It must be stated that as a result of methods adopted by many school principals 10 levying of these fees has been of great inconvenience. It is a very unpleasant thing to note that some school Principals close upon the end of a term and at the end of a year levy the facilities fees with a threat. It is very sorrowful.

**NO EXAMINATIONS**

We learn that some school heads are writing to the parents threatening them that their children would not be admitted to school and allowed to sit for the Examinations. Is it necessary to reiterate that it is an ugly affair? There is nothing more painful to the mind of a pupil than to hear that he would not be able to sit for the Exam. It is possible or the parents to enable their children to sit for the Exam. if the parents or the guardian 20 of the children appeal to the head of the school. But it is not necessary to mention that the child's mind is worried from the time he sits for the Exam. till he finishes answering his question Papers. Therefore this campaign of threatening children should stop at once.

**D.R.O.**

If your child is unable to pay the facilities fees, some school Principals have sent letters through the children to their parents to get a letter from the D.R.O. or J.P. That too is not befitting of a principal. This letter is given to the children either in the class room or some other place in the school. Then the other children who did not get letters come to know about those who were given those letters. This will bring disastrous results.

**SHAME AND REPENTANCE**

We can just imagine what a pain of mind and a shame a child will have when the 30 handing over of those letters is known to another child. The thought that "I can't pay this" and every one knows that "I can't pay it" would be sufficient to up set the mind of the children and make them suffer mentally.

**A TRANSACTION**

The payment of facilities fees and its acceptance is a transaction between the parents and teachers. It is wrong to drag children into this. It is a shameful thing to send letters through children. Most of the school Principals do this as if they are doing a big thing. It is a special feature that some of these Principals are those who at an earlier time incited children not to pay facilities fees to other principals. It is said that this is 40 done even in the big colleges of the B.T.S. Apparently Dr. E. W. Adikaram General Manager of the B.T.S. is not aware of this.

Translated by me.  
Sgd. D. W. Jayakodi,  
Interpreter, D. C., Colombo.

**D 22a**  
**English Translation of (the relevant extract of) the**  
**Newspaper "Dinamina" (D22)**

Dinamina (2-12-1955)

D 22a  
 English  
 Translation  
 of ( the re-  
 levant extract  
 of) the News-  
 paper  
 "Dinamina"  
 ( D 22 )  
 2. 12. 55

**NO PRINCIPAL HAS THE AUTHORITY TO PREVENT SITTING  
 FOR AN EXAMINATION**

Those who do such will be lawfully dealt with.

By a Dinamina Reporter.

No principal has the authority to prevent a student from sitting for an examination  
 10 for either not paying facilities fees or failing to pay in time.

This is told by Col. R. J. F. Mendis Deputy Director of Education and Mr. D. G. Kulatunge Education Officer Western Province.

Whoever obstructs a candidate in sitting for an examination will be lawfully dealt with.

This was cleared after submission of complaints received by us to the Education Department regarding certain principals who refused to give admission cards to the students to take up the Senior School Certificate Examination.

In this connection our paper revealed last week the injustice in the news as well as in the Vadakaha Coloumns.

20 When we pointed out the case of a certain College Mr. D. G. Kulatunge the Education Officer yesterday told that he would personally see these students enter the Examination centres and he would take strong action against anybody who prevents any student in taking the examination for failing to pay facilities fees.

A young principal of a certain school has told the students that he would not give the admission cards even if the Newspapers publish special supplements on the subject. "There are accepted rules and regulations in this connection. I will take action if any principal violates them" said Mr. Kulatunge, Education Officer.

Translated by me.

Sgd. D. W. Jayakodi,  
*Interpreter, D.C., Colombo.*

30

**P27**

**Cheque issued by M. Palihawadana for Rs. 315**

No. z 385162

Colombo, 31-12-1955

**BANK OF CEYLON, COLOMBO**

Pay The Principal, Ananda Sastralaya Kotte or Order Rupees Three Hundred and fifteen only. Rs. 315/-

P 27  
 Cheque  
 issued by M.  
 Palihawadana  
 for Rs. 315  
 31. 12. 55

SGD. M. PALIHAWADANA

(on the reverse)

Ananda Sastralaya, Kotte

Credit to Ananda Sastralaya Hostel A/c

*Principal*

40

P 27a  
Counterfoil  
of the  
Cheque  
marked  
P 27—  
3. 12. 55

**P27a****Counterfoil of cheque marked P27.**

No. z 385162  
(H.S.C. Students)  
BANK OF CEYLON  
Colombo, 31-12-1955  
Pr. A.S.K.  
Rs. 315/-

P 1a  
English  
Translation  
of (the re-  
levant extract  
of ) the News-  
paper  
"Lankadipa"  
( P 1 )  
5. 12. 55

**P 1 a**

**English Translation of (the relevant extract of) the  
Newspaper "Lankadipa" (P 1)  
LANKADIPA, 5th December, 1955**

10

Kasu Kusu — Rumours (press statement)

The people of Kotte question as to why an assistant teacher who carried on a powerful campaign requesting the children of a certain Buddhist School in Kotte not to pay the facilities fees is enforcing the payment (of facilities fees) on becoming the Principal.

Translated by me.

Sgd. W. P. E. B. Croos,  
*Interpreter, D. C. Colombo.*

This 5th day of June 1956 at Colombo.

20

P 7  
Extract from  
the "Times of  
Ceylon"  
5. 12. 55

**P 7**

**Extract from the "Times of Ceylon"  
HE IS A JOKE WHICH HAS GONE TOO FAR  
*Running Commentary*  
BY JANUS**

The most hated man in the schools run by the Buddhist Theosophical Society is Edward Weerasena Adikaram. He has banned cadeting in all the B.T.S. institutions and the future Commanders of the Ceylon Army, now mugging up for the G.C.E. Examination, are just furious with him. The most popular weapon of the school-boy when he is roused is the invention of a nickname. They have made a special effort to forge a new nickname for their General Manager. 30

But tears come to their eyes as they see their much-polished boots, their much-cleaned rifles and their well tailored uniforms being removed from the guard room. They wistfully think of the time when the name of Ananda resounded throughout the land as the best nursery for military officers, when they won coveted trophies and became the first, bar none, in the world of smart uniforms, clicking boots and crack shots.

However much the boys of Ananda and Dharmarajah might hate Adikaram at this moment I cannot help admiring the man for his courage in bravely facing the school-boy squad armed with nicknames.



Adikaram has always been a man of great courage. He has been the butt of more laughter than all the mothers-in-law combined, in this island. He just loves being laughed at. If you do not laugh at him he feels he is being forgotten and that nobody is taking any notice of him. Laughter that makes others squirm merely makes him scoff.

P 7  
Extract from  
the "Times of  
Ceylon"—  
5. 12. 55  
—continued

Adikaram has been described by somebody as no bigger than a one-cent "beedi". My familiarity with Adikaram being greater than with "beedis" I must admit that his littleness, like Mark Twain's premature death, has been a little exaggerated. I should not like to exaggerate nor lose my sense of proportion. To me he has always appeared to be the size of a respectable Jaffna cigar.

10

### Mighty Ideas

But it is the mightiness of the ideas whirling in this atom of a man's head that has amazed me. I have no idea whether little men grow big ideas inside them to make up for their insignificance of stature by the significance attached to mental might. But this much seems to be true: the smaller the man, the more arrogant, challenging and ready to shock he seems to be.

You will very rarely find an average sized man drawing attention to himself by mentally standing on his head. That is why all fanatics are invariably little men.

But the strange thing about Adikaram is that he is no fanatic. He is absolutely fanatical about not being a fanatic.

20 He is merely an intellectual giant whose might he is unable to contain. When such a man tries his strength with school-boys we shudder to think of what will happen.

Adikaram is determined that Buddhist schools shall bring up saints and not soldiers. Young men must go out of school with haloes round their heads and not rifles on their shoulders.

Prince Siddharta learnt all the arts of defence before he became the Buddha and had to give a public performance of his skill, in a tournament of his peers, before he won his bride.

But Adikaram's "ahimsa" is of quite a different mould.

30 Adikaram is a harmless man. There is a helplessness in his harmlessness, so that one cannot help feeling sorry for the happiness he finds in this state of the mind.

Buddhist "ahimsa" is the harmlessness of the strong who are wise and not the cowardice of the weak who have not the courage to fight. To protect the weak one must be strong enough to defend them.

Buddhists have never been cowards to defend themselves from bullies from the time of Asoka.

### Vegetables

When Adikaram was principal of a Kotte school he thought it his mission in life to protect the children from carnivorous habits. The hostel children were given nothing but vegetables to eat.

P 7  
 Extract from  
 the "Times of  
 Ceylon"  
 5. 12. 55  
 —continued

When he organised a fancy fair, to his horror, he received a large quantity of tinned fish as gifts. As it was against his principles even to deal in fish, one dark night he dug a large hole in the garden and buried all the canned fish. Having eased his conscience thus, went off to sleep. But not so the boys in the hostel who had got wind of the buried treasure. They dug up the tins and kept on eating the salmon and sardines between meals for quite a long time, unknown to the inveterate vegetarian.

On another occasion, when he opened the bonnet of his car to fill it with water he found that a she rat had mistaken it for a free maternity home and brought forth a brood of little pink mice. Rather than disturb the mother rat in her maternal instincts, he decided not to use his car and to allow her to make a nursery of his car for quite a fortnight, until the little mice became robust little rats and too much like rats to be good gentlemen enough to appreciate to the fullest the kindness so generously bestowed on them by this mild little man. 10

He has always been a little man who upsets the plans of men to make way for mice.

I agree with Adikaram that cadeting is not Buddhist training. Nor is football, cricket, scouting, high jump, long jump, volley ball, hockey physical drill or pole jump. As a matter of fact, I don't see very much Buddhism in geography or history or mathematics or botany either.

Perhaps one out of a thousand cadets will become a professional soldier exactly as one out of a thousand might become a professional athlete or cricketer, or a teacher of 20 geography or history. But Adikaram's principles are not concerned with numbers. If he saves that one boy from his doom he is satisfied and will have sleep of the just, irrespective of what merriment the boys have at his expense.

He does not mind being funny—on principle. It little matters how many people may laugh at him.

### No Buddhism

As for other un-Buddhist methods of training like cricket or football, they will have their turn. One cannot clean up things in one sweep.

When one comes to think of it, there is nothing Buddhistic about keeping one's money in the bank or driving a motor car or pleading before a judge or buying or selling. 30

But to keep boys out of these things a long term plan of closing down schools has to be worked out. To an intellectual giant this is not difficult if sufficient time is allowed.

Ananda College is already assuming the aspect of the ruined cities in reverse. These modern walls built on the foundations of un-Buddhistic carnivals are crumbling before completion because you cannot make bricks out of idealistic principles.

But the queer thing about Adikaram is that he is not a Buddhist. He shuns the Five Precepts and does not believe in any kind of worship or rebirth or Karma or organised religion.

Adikaram only believes in Adikaram. And although he seems to know what he does not believe in, he cannot make up his mind what he believes in. 40

He seems to be a cheap edition of Krishnamurti, the Messiah without a mission, the hermit with a home.

Adikaram is the modern version of the legendary pundit who could not walk across the "edanda" because he was far too wise.

If he is a joke, as all seem to be agreed he is, he is a joke which has gone too far, just this side of the "edanda."

But the laugh is really on those who mounted this little joke on a pedestal and made themselves the laughing stock of the people.

P 7  
Extract from  
the "Times of  
Ceylon"—  
5. 12. 55  
—continued

**D 19**  
**Parliamentary Debates (Hansard) (Speech made by**  
**Mr. D. B. R. Gunawardena)**

D 19  
Parliamentary  
Debates  
( Hansard )  
( Speech  
made by Mr.  
D. B. R.  
Guna-  
wardena )  
6. 12. 55

10

**TRANSLATION OF THE SPEECH BY MR. D. B. R.**  
**GUNAWARDENA IN THE PARLIAMENT ON**  
**6-12-55 (HANSARD PAGE 860)**

**Mr. D. B. R. Gunawardena**

If it is so I shall speak on future time.

Today I have to mention another matter. That matter I submit specially to the Minister of Education, you, sir, is aware that thousands of pupils sit for the S.S.C. Examination. But some pupils of certain schools have difficulties to obtain admission cards from the principals. I am mentioning specially the Kotte Ananda Sastralaya. About 30 pupils of this school were unable to get their admission cards till about 3.30 p.m. from the Principal. Last Friday I requested the Minister and the Permanent Secretary to obtain these Admission cards. But till about 3.30 p.m. the pupils could not get their admission cards. Yesterday even at 3.30 p.m. these cards could not be obtained and after having sent a telegram to the Permanent Secretary who sent some special officers to this school. As these officers insisted that the Admission cards should be issued, then only these admission cards were issued at 3.30 p.m.

What was the cause for the Principal not to have these admission cards issued? Schools collect a certain fees for providing Educational facilities. As these pupils could not pay these facilities fees they were not issued these admission cards. Although a telegram was sent by the Education Department not to act like this, this Principal without any regard has acted arbitrarily and I requested that a special inquiry be held.

The seriousness of this action is not only this. Any pupil review their studies about two or three days before the examination.

As a result of not issuing their admission cards these pupils did not have to review their lessons. Therefore the Principal have committed a grave crime.

Principals of schools try various method to collect money. Some schools by holding carnivals and when losses are sustained on this account which cannot be endured they try and levy fees from pupils which is a grave offence.

Therefore I make a request from the Minister to set a machinery to deal with principals who act arbitrarily in this manner according to regulations.

D 19  
Parliamentary  
Debates  
( Hansard )  
( Speech  
made by Mr.  
D. B. R.  
Gunawardena )  
6. 12. 55  
—continued.

I would request you to consider whether it is proper to keep a person as Principal in a school who has acted in this fashion when for a whole year pupils who have got their parents to spend moneys on their education and exhaustively study their books and at the end of the year when they have to appear for the examination on the following day to place such obstacles. This school belong to the Parama Vingnanartha Buddhist Society.

I request that special regulation be framed to prevent these kinds of societies from levying facilities fees in future.

I do not propose to speak any further on this question. Thousands of children appear today to sit for the S.S.C. Examination. 10

I am only aware of one place where such difficulties have been experienced. But if investigations are made there may be many places where such obstacle are placed, having exhaustively prepared for a whole year to sit for the examination. Therefore I request a proper investigation be made and the culprits suitably dealt with.

Translated by—  
Sgd. M. M. R. de Silva,  
*Interpreter Mudaliyar, "C" Court, District Court, Colombo.*

D 20  
Parliamentary  
Debates  
( Hansard )  
( Speech  
made by Mr.  
D. B. R.  
Gunawardena )  
8. 12. 55

**D 20**  
**Parliamentary Debates (Hansard) (Speech made by**  
**Mr. D. B. R. Gunawardena)**

20

**TRANSLATION OF THE SPEECH BY MR. D. B. R.**  
**GUNAWARDENA IN THE PARLIAMENT ON**  
**8-12-1955 (HANSARD PAGE 1107)**

**Mr. D. B. R. Gunawardena**

The Hon'ble Mr. Deputy Speaker.

I now speak in Sinhalese Language, as on a previous day in submitting this matter I described the causes in Sinhalese.

Kotte Ananda Sastralaya put forward some students for the Examination.

These students required an admission card according to an order from the Examination Department to enter the place where the examination is held last Tuesday. 30

Orders were issued to the Principal long before the date of the Examination to issue the Admission Cards to these children.

Mr. Iriyagolle: They were issued.

Mr. D. B. R. Gunawardena: They were not issued.

Mr. Iriyagolle: They were issued.

Mr. D. B. R. Gunawardena: Speak after I have spoken.

Mr. Iriyagolle: I can speak even before.

Mr. D. B. R. Gunawardena: The Principal of Ananda Sastralaya gave these admission cards to students at 3.30 p.m. on the day previous to the date of the Examination.

Mr. Iriyagolle: They were given.

Mr. D. B. R. Gunawardena: I will tell you how they were given. 40

Last Friday these students sent a special message informing that this Principal was doing a nefarious act of this sort. On that day I went with the students and met the Hon'ble the Minister of Education and his permanent Secretary and explained the situation. The permanent Secretary promised to send an Order to the Principal to issue admission cards to these children. A telegram was sent by the Department to issue the admission cards to Mr. Costa the Principal. Yet this gentleman till 3-30 p.m. Monday did not consider this telegram. Once again these children met me and informed that the admission cards were not given them on the day before the examination, i.e. Monday 11 a.m. I met the permanent Secretary and once again I complained. That morning till 10 11 a.m. admission cards were not issued. This time The Permanent Secretary promised to send officers of the Department to office of the Principal and that the Admission cards would be issued for this purpose the children should assemble at about 3 p.m. at the school. Till the admission cards were issued to children by force; with the knowledge of the Gentleman of the Parama Vingnanartha Society here is the Secretary of the Parama Vingnanartha Society the threat was carried by the Principal to get the money—Here the General Secretary.

Mr. Iriyagolle: Why Shiver?

Mr. D. B. R. Gunawardena: I do it this way because I am unable give a blow to the jaw.

20 Translated by—  
Sgd. M. M. R. de Silva,  
*Interpreter Mudaliyar, "C" Court, District Court, Colombo.*

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P 26

Extract from the "Ceylon Daily News"

DAILY NEWS OF 9th DECEMBER, 1955  
FACILITIES FEES

I welcome the request of Mr. Robert Gunawardena M.P. for a full inquiry into the "admission card facilities fees issue" at Ananda Sastralaya. I welcome the inquiry especially as it may give us the opportunity to learn from those qualified and interested 30 in public administration, whether the action of the Education Department to have undertaken to present the candidates for the G.C.E. Examination if I did not give the cards, is administratively good.

On certain grounds pertaining to fees, (but on non-payment) I had to take disciplinary action on a few students. Some one had informed the Department that I was withholding the cards for non-payment of fees.

Every student has the chance to claim damages if I wrongfully withheld the cards. The department could punish me if I had wrongly acted. But ignoring the points the department had stated that it would see that the candidates would sit for the examination even if I did not issue the cards.

D 20  
Parliamentary  
Debates  
( Hansard )  
(Speech  
made by Mr.  
D. B. R.  
Gunawardena)  
8. 12. 55  
—continued

P 26  
Extract from  
the " Ceylon  
Daily News "  
9. 12. 55

P 26  
Extract from  
the "Ceylon  
Daily News"  
9. 12. 55

This made the students who were normally obedient, to resist the orders of the school. Mr. Robert Gunawardena became an opportunist hero, I wish the parents in the area correctly understand what he did.

—continued

My intention in writing this letter is . . . those qualified in public administration whether the action of the department was good. I think it is very necessary to look upon public administration as a total process unswayed by sentiments and politics.

N. W. DE COSTA  
(Principal, Ananda Sastralaya)

P 2a  
English  
Translation  
of (the re-  
levant extract  
of) the News-  
paper  
"Lankadipa"  
(P 2)  
23. 12. 55

Lankadipa

P 2 a  
English Translation of (the relevant extract of) the  
Newspaper "Lankadipa" (P 2)

10

23rd December, 1955

LETTERS TO THE EDITOR  
ANANDA SASTRALAYA

Seeing the letter published in the Lankadipa by a gentleman called W. Dharmasiri for the purpose of protecting the good name of the principal, Ananda Sastralaya, Kotte, I thought of writing this. Even though it may be possible by that endeavour to deceive the outsiders and appear innocent, it may not be possible to avoid by such means the opposition of the public of the area in which the school is situated.

When the students who were to appear for the University Entrance Examination, 20 held recently, came for their admission cards they were refused as they did not pay the facilities fees with arrears. As the final appeal of the students was also refused a teacher of the school paid the money by cheque on their behalf on the promise of getting the money later. The question regarding the Senior Form arose subsequently. As the Principal refused to give the cards to these students as well a few of their parents went to the Education Department. The Department officials spoke to the school on the telephone and asked the cards to be given. They told the parents that the cards would now be issued if they were to come back and ask them again from the school. They returned to the school and asked for the cards, but were told in a threatening manner that because they went to the Department they would not be given the cards at all.

30

Then a group of students sent a telegram to Mr. Robert Gunawardene, went with their parents and met him. Mr. Gunawardene came to the school with the students and tried to get the cards for them. But the Principal informed the M.P. that if he could he should pay the money and obtain the cards and that he was not prepared to listen to any other request. As the arrears of each child had accumulated up to over Rs. 200/- and as it was not possible to pay this amount Mr. Gunawardena met the Minister of Education and discussed the matter. The Minister said that he would get the cards issued before the exam. and that if they were not issued he would get the students permission to sit for the exam. Hence Mr. Gunawardena removed the doubts of the students and the parents and sent them away. Other than this till the matter rose up in the Par-  
liament Mr. Gunawardena did not have any connections regarding the matter.

40

The day before the examination three officials from the Education Department came and took back the cards and later gave them to the students. If the cards were not received there would have been the possibility of getting special permission from the Department. It was a defeat that the Principal received on account of this. It was when the present Principal was an assistant teacher in the same school that the children were encouraged not to pay and led astray. Money that was not wanted then is asked for today. The opposition of the parents is regarding this.

P 2a  
English  
Translation  
of (the re-  
levant extract  
of) the News-  
paper  
"Lankadipa"  
( P 2 )  
23. 12. 55

—continued

I too am a past student of Ananda Sastralaya, Kotte. The fact that black stains are sprinkled on the glory that was of the school can be seen from the talks that go on at the 10 (road) junctions here. The Staff is opposed to the Principal. Excepting one third all the rest of the students are opposed to him. C. Mahindapala Botejue, Mirihana Road, Kotte.

Translated by me.

Sgd. W. P. E. B. Croos,  
*Interpreter, D.C., Colombo.*

This 5th day of June, 1956 at Colombo.

P 22 a

Senior School Certificate—Students List for 1955 (Copy)

EXTRACT FROM THE S.S.C. ENTRY LIST FOR THE YEAR 1955

P 22a  
Senior School  
Certificate—  
Students List  
for 1955  
(Copy)

| 20 | Name of Pupil               | Arrears due | Fees due up<br>to Nov. | Amt. paid<br>during the<br>year up to Dec. | Arrears due<br>up to Dec.<br>1955 |
|----|-----------------------------|-------------|------------------------|--|-----------------------------------|
|    | Abeyawardena M.G.N.         | 60.00       | 55.00                  | 5.00                                       | 110.00                            |
|    | Abeyratna A.K.              | —           | 55.00                  | —  | 55.00                             |
|    | Alwis A.N. de               | 60.00       | 55.00                  | —  | 115.00                            |
|    | Alwis W.J.                  | —           | 55.00                  | 30.00                                      | 15.00                             |
|    | Amaratunga P.               | 60.00       | 55.00                  | 25.00                                      | 95.00                             |
|    | Boteju W.C.                 | 60.00       | 55.00                  | —  | 115.00                            |
|    | Caldera H.U.D.              | —           | 55.00                  | 30.00                                      | 15.00                             |
|    | Edirisingha C.              | 60.00       | 55.00                  | 50.00                                      | 65.00                             |
| 30 | Embuldeniya E.G.            | 60.00       | 55.00                  | —  | 115.00                            |
|    | Diyagama D.M.D.             | —           | 55.00                  | 60.00                                      | —                                 |
|    | Diyagama D.M.C.A.           | —           | 55.00                  | 60.00                                      | —                                 |
|    | Gunatilake A.P.             | —           | 55.00                  | —  | 55.00                             |
|    | Gunawardena D.B.            | 60.00       | 55.00                  | —  | 115.00                            |
|    | Jacob L.D.                  | 60.00       | 55.00                  | —  | 115.00                            |
|    | Jayatunga W.                | 60.00       | 55.00                  | 10.00                                      | 105.00                            |
|    | Jayasekera D.A.             | —           | 55.00                  | 55.00                                      | —                                 |
|    | Jayasundera F.D.E.<br>de S. | —           | 55.00                  | 50.00                                      | 5.00                              |

P 22a  
Senior School  
Certificate—  
Students List  
for 1955  
(Copy)

| <i>Name of Pupil</i>                     | <i>Arrears due</i> | <i>Fees due up to Nov.</i> | <i>Amt. paid during the year up to Dec.</i> | <i>Arrears due up to Dec. 1955</i> |    |
|--|--------------------|----------------------------|---|------------------------------------|----|
| Karawita D.B.N.A.                        | 60.00              | 55.00                      | —   | 115.00                             |    |
| Karunanayake S.A.<br>(Admission in Feb.) | —                  | 55.00                      | 40.00                                       | —                                  |    |
| Nagananda K.A.D.                         | —                  | —                          | —   | —                                  |    |
| Nissanka K.S.                            | 60.00              | 55.00                      | —   | 115.00                             |    |
| Pieris H.P.W.                            | —                  | 55.00                      | 15.00                                       | 40.00                              |    |
| Pieris H.H.                              | 60.00              | 55.00                      | —   | 115.00                             | 10 |
| Perera M.S.                              | —                  | 55.00                      | 15.00                                       | 40.00                              |    |
| Perera R.A.C.                            | 45.00              | 55.00                      | 5.00  | 90.00                              |    |
| Perera G.W.W.                            | —                  | 55.00                      | —   | 55.00                              |    |
| Perera P.B.                              | 60.00              | 55.00                      | —   | 115.00                             |    |
| Perera N.D.                              | 60.00              | 55.00                      | 50.00                                       | 65.00                              |    |
| Perera H.S.R. (Free)                     | —                  | —                          | —   | —                                  |    |
| Perera L.W.                              | 60.00              | 55.00                      | —   | 115.00                             |    |
| Perera K.A.J.                            | —                  | 55.00                      | —   | 55.00                              |    |
| Rajapakse D.G.R.                         | —                  | 55.00                      | 20.00                                       | 35.00                              |    |
| Ranatunga P.D.R.P.                       | 60.00              | 55.00                      | 5.00  | 110.00                             | 20 |
| Ranatunga R.A.R.                         | —                  | 55.00                      | 40.00                                       | 15.00                              |    |
| Ranasinghe H.M.                          | —                  | 55.00                      | 55.00                                       | —                                  |    |
| Samarasinghe<br>H.R.M.A.                 | 60.00              | 55.00                      | —   | 115.00                             |    |
| Samarasiri G.D.B.                        | 60.00              | 55.00                      | —   | 115.00                             |    |
| Samarakoon A.M.A.                        | —                  | 55.00                      | —   | 55.00                              |    |
| Silva G.D.                               | 60.00              | 55.00                      | —   | 115.00                             |    |
| Siripala K.D.                            | —                  | 55.00                      | —   | 55.00                              |    |
| Siriwardene H.M.B.                       | 60.00              | 55.00                      | —   | 115.00                             |    |
| Somatilake K.M.                          | 60.00              | 55.00                      | 20.00                                       | 95.00                              | 30 |
| Weerasinghe D.M.                         | —                  | 55.00                      | 50.00                                       | 5.00                               |    |
| Weerasinghe I.S.                         | 60.00              | 55.00                      | —   | 115.00                             |    |
| Weerasekera D.S.C.                       | —                  | 55.00                      | 60.00                                       | —                                  |    |
| Wijesinghe D.E.V.                        | —                  | 55.00                      | 15.00                                       | 40.00                              |    |
| Wimalanaga P.G.N.                        | 60.00              | 55.00                      | 60.00                                       | 55.00                              |    |
| Wickramasinghe<br>W.M.J.                 | 60.00              | 55.00                      | —   | 115.00                             |    |
| Wijayatilake S.P.W.                      | 50.00              | 55.00                      | —   | 105.00                             |    |
| <b>GIRLS</b>                             |                    |                            |   |                                    |    |
| Abeykoon A.D.M.M.S.                      | —                  | 55.00                      | 5.00  | 50.00                              | 40 |
| Amarasingha V.S.                         | 60.00              | 55.00                      | —   | 115.00                             |    |
| Ariyawathie D.M.D.                       | 20.00              | 55.00                      | 60.00                                       | 15.00                              |    |
| Atiah D.B.                               | 60.00              | 55.00                      | —   | 115.00                             |    |



| <i>Name of Pupil</i>   | <i>Arrears due</i> | <i>Fees due up to Nov.</i> | <i>Amt. paid during the year up to Dec.</i> | <i>Arrears due up to Dec. 1955</i> |
|------------------------|--------------------|----------------------------|---|------------------------------------|
| Gunatilake D.S.W.      | —                  | 55.00                      | —   | 55.00                              |
| Heendeniya S.D.        | 60.00              | 55.00                      | —   | 115.00                             |
| Karunawathie K.M.      | 60.00              | 55.00                      | —   | 115.00                             |
| Morawaka S.            | —                  | 55.00                      | 55.00                                       | —                                  |
| Nandawathie B.         | —                  | 55.00                      | 55.00                                       | —                                  |
| Okandapala O.S.N.P.    | 40.00              | 55.00                      | 50.00                                       | 45.00                              |
| 10 Okandapala O.S.R.P. | 60.00              | 55.00                      | 50.00                                       | 65.00                              |
| Perera M.C.            | —                  | 55.00                      | 20.00                                       | 35.00                              |
| Perera I.V.            | 60.00              | 55.00                      | 5.00  | 110.00                             |
| Perera J.M.D.          | 60.00              | 55.00                      | —   | 115.00                             |
| Perera R.W.M.          | —                  | —                          | —   | —                                  |
| Perera K.G.K.          | —                  | —                          | —   | —                                  |
| Perera O.S.S.B.        | —                  | —                          | —   | —                                  |
| Perera L.N.B.          | 45.00              | 55.00                      | —   | 100.00                             |
| Seelawathi P.D.        | 60.00              | 55.00                      | —   | 115.00                             |

P 22a  
Senior School  
Certificate—  
Students List  
for 1955  
(Copy)

—continued

20 Certified as correct—  
Sgd. M. Palihawadana,  
*Acting Principal, Ananda Sastralaya, Kotte.*

### P 3 a

#### English Translation of (the relevant extract of) the Newspaper "Lankadipa" (P3)

Lankadipa 3rd, January, 1956.

#### Letters to the Editor

P 3a  
English  
Translation  
of (the re-  
levant extract  
of) the News-  
paper  
"Lankadipa"  
(P 3)  
3. 1. 56

It occurred to me to write this letter as I saw the letters under the caption 'Ananda Sastralaya' written by Mr. Mahindapala Boteju, Mr. W. Dharmasiri and Mr. W. B. Gunawardena who is a teacher of the Junior School, Ananda Sastralaya.

30 It was mentioned in Mr. Dharmasiri's letter that it was Mr. Robert Gunawardene who induced the students of Ananda Sastralaya, Kotte not to pay facilities fees and made them revolutionary. Mr. (Walter) Gunawardena agrees with this (view). But the truth is not so. As a past student of the school I know that it was the present principal who made the students disobedient and act as rebels.

Everyone who was at the Sastralaya during the time of the Principalship of Mr. B. Wickremesinghe knows that it was the present Principal who set the children against the then vice Principal Mr. Alagiyawanna who is now the Principal of Sri Sumangala Vidyalaya, Panadura.

P 3a  
English  
Translation  
of (the re-  
levant extract  
of) the News-  
paper  
"Lankadipa"  
(P 3)  
3. 1. 56  
—continued

To obstruct the work of the school, the present Principal, who was then an assistant teacher induced not only the students but also their parents not to pay the facilities fees. It is not a secret as to who got the students to write the anti-Alagiyawanna slogans on the school buildings.

It is the present Principal who should bear the responsibility for inducing the students to boycott, and for the distribution of the leaflets urging the boycott of the ceremony held under the patronage of the then P.M. Hon'ble Mr. Dudley Senanayake on the occasion of the opening of the new kindergarten block put up by Mr. B. Wickremasinghe, the former Principal. Everybody knows that he himself boycotted the ceremony.

Mr. Gunawardena, who is a teacher of the Junior School of Ananda Sastralaya tries 10 to protect his Principal. But the truth regarding the non payment of facilities fees is already completely understood by the Department of Education, the people of Kotte, the present and the past pupils and the Staff. The story regarding the facilities at Ananda Sastralaya is a trifling one. But that it was the post of Principal Ananda Sastralaya that became the root cause of the extremely baneful view of all Buddhist regarding the present Buddhist Education is known to those who know.

Kitsiri Ameratunga, Arakawila, Handapangoda.

Translated by me.

Sgd. W. P. E. B. Croos,  
*Interpreter, D.C., Colombo.*

This 5th day of June 1956, at Colombo.

20

P 25  
Medical  
Certificate—  
19. 1. 56

**P 25**  
**Medical Certificate**

W. E. A. FONSEKA  
L.M.S. (Ceylon)  
*Medical Registrar*  
Kotte, Town Division

THE NUGEGODA SURGERY  
Peiris Building,  
Station Road, Nugegoda.  
*Phone: Nugegoda 339*

THE PAMANKADA SURGERY  
549, Havelock Road,  
Colombo 6. 30  
*Phone: 8035*

19-1-56

**Medical Certificate**

Name of Patient:—Mr. N. W. de Costa.

Address:—Principal, Ananda Sastralaya, Kotte.

Nature of Illness:—Neurasthenia

Date of Commencement of treatment by us:—19-1-56.

Patient will be unfit to resume work for one month from 19-1-56. I recommend a change up-country.

Sgd. W. E. A. Fonseka

**Letter from the Plaintiff to the Minister of Finance  
(Mr. M. D. H. Jayawardena)**

(COPY)

D 25  
Letter from  
the Plaintiff to  
the Minister  
of Finance  
( Mr. M. D.  
H. Jaya-  
wardena )  
10. 2. 56

Ananda Sastralaya,  
Kotte, 10-2-56.

The Hon'ble Mr. M. D. H. Jayawardena,  
The Minister of Finance.

RETIREMENT UNDER RULE 6C

10 Hon'ble Sir,

I applied to the Director of Education for permission to retire under rule 6c of the Teachers' Pension Regulations, but my application was refused.

May I submit the following for your kind consideration and appeal to you to allow me to retire under rule 6c.

In the whole of my career as a teacher I have never been taking a class in Sinhalese.

I have no good background in the subject as indicated by the fact that for my first public examination (E.S.L.C. 1930) I have not offered Sinhalese.

My subjects for the Intermediate were English, Mathematics and Botany and for my degree in Indo Aryan I studied in the University of London—under a German Professor who had no knowledge in Sinhalese-reading and writing the languages in the Roman script.

May I submit that I am convinced that the turn over to Swabasha is detrimental to the progress of the country and as such I am unable to do my best in my profession.

My present position requires a very sound knowledge in Sinhalese. Other than teaching much public speaking and correspondence has to be done by a Principal of an Assisted School to collect funds to put up buildings etc.

Thanking you,

I remain,

Yours faithfully,

Sgd. N. W. de Costa.

30

I certify that the foregoing is a true copy of letter dated 10th February, 1956, from Mr. N. W. de Costa addressed to the former Minister of Finance, Mr. M. D. H. Jayawardena, and filed of record in office file No. 13/4(MF/PC)35 of the Ministry of Finance.

Sgd.....

*for Permanent Secretary to the Ministry of Finance.*

Colombo, 20th March, 1957.

P 9  
Letter from  
the Director  
of Education  
to the Per-  
manent  
Secretary to  
the Ministry  
of Education  
7. 3. 56

P 9

**Letter from the Director of Education to the Permanent  
Secretary to the Ministry of Education**

No. ASC. 3294.  
Education Department,  
Colombo 2, 7th March, 1956.

S/E

RETIREMENT UNDER RULE 6C

Attached is an appeal addressed by Mr. N. W. de Costa, Principal, Ananda Sastralaya, to the Hon. the Minister of Finance against my refusal to permit him to retire under Rule 6c. 10

2. Mr. Costa admits that he passed the S.S.C. Examination with Sinhalese as a subject. He also passed the B.A. Hons. Indo Aryan Examination offering Pali and Sanskrit. He is also the author of a Text Book in Botany produced in Sinhalese. It is for this reason that he was not allowed to retire under Rule 6c.

3. In fairness to Mr. Costa, it must also be stated that although he had passed in Sinhalese at the S.S.C. Examination he has not, in his career, taken a class of students in Sinhalese. It is correct to state that when he studied for the Indo Aryan Hons. Examination in London his Professor was a German who used the Roman Script in teaching him Pali and Sanskrit. He also maintains that the text book in Botany was prepared by him over a period of years in English but that he had obtained the assistance of Messrs. K. C. Weerasinghe and Sunil Wijewickrema to do the book in Sinhalese. This point is made by him in the final paragraph of the introductory note to his book which is sent herewith for reference and return. 20

4. I should like to state that Mr. Costa has interviewed me on several occasions and has pointed out to me his utter inability to cope with the responsibilities, which devolve on him as the Principal of a Secondary School as a result of his imperfect knowledge of the Sinhalese Language.

5. I shall be glad, if the attached papers are forwarded to the Hon. The Minister of Finance with any observations that the Hon. the Minister of Education might like to make. 30

Sgd. T. D. Jayasuriya, *D.E.*

I hereby certify that the foregoing is a true copy of a copy of letter No. ASC. 3294 of 7th March 1956 from the Director of Education to the Permanent Secretary to the Minister for Education.

Sgd. Illegibly.  
*Deputy Controller of Establishments.*

D 39

**Letter from the Permanent Secretary to the Ministry of Education to the Controller of Establishments**

My No. B/P (torn)  
The Ministry (torn)  
Colombo. March (torn)

D 39  
Letter from the Permanent Secretary to the Ministry of Education to the Controller of Establishments  
12. 3. 56

C/E

RETIREMENT UNDER RULE 6C..TORN..

Please see the annexed report (torn) Education on Mr. N. W. de Costa's appeal. The Honourable the Minister of (torn) directed me to report that, in his opinion (torn) should be allowed to retire for the reasons (torn) in his letter of appeal.

Sgd. H. Jinadasa  
S/E

Certified True Copy, of letter No. B/PFP/86 of March 12, 1956 from S/E/ to C/E/.

Sgd. Illegibly  
for Deputy Controller of Establishments.

D 27

**Letter from the Deputy Controller of Establishments to the Director of Education**

P 27  
Letter from the Deputy Controller of Establishments to the Director of Education  
19. 4. 56

20 Copy to: S/E. ref. No. B/PFP/86 of 12-3-56.

PN. 513/TM  
Yr. No. ASC 3284 of 7-3-56  
Colombo. 12/19 April 1956.

D.E.

RETIREMENT UNDER RULE 6C—MR. N. W. DE COSTA

The Hon. M/F has allowed the appeal of Mr. N. W. de Costa to retire under Rule 6c of the S.T.P.R.R.

Sgd. C. Sivanathan,  
for Deputy C.E.

30 Certified True copy of letter No. PN. 513/TM of 12/19 April, 1956 from Deputy Controller of Establishments to the Director of Education.

Sgd.....  
for Controller of Establishments.

P 4a  
English  
Translation  
of (the re-  
levant extract  
of) the News-  
paper  
"Lankadipa"  
( P 4 )  
8. 5. 56

P 4a

**English Translation of (the relevant extract of) the  
Newspaper "Lankadipa" (P 4)**

Lankadipa, 8th May, 1956.

**RESIGNS AS HE IS UNABLE TO DO (DOES NOT  
UNDERSTAND) SINHALESE**

Mr. N. W. de Costa, Principal, Ananda Sastralaya, Kotte has retired from the post of Principal.

He who has a degree in Indo-Aryan has retired on full pension under the regulation for retirement due to his inability to teach in Sinhalese. The Sinhalese book titled 10 Udbhida Vidyawa is a book written by him. In a very short time he will be leaving for America to teach English.

Translated by me.

Sgd. W. P. E. B. Croos,

*Interpreter, D.C., Colombo.*

This 5th day of June, 1956 at Colombo.

P 5 a

**English Translation of (the relevant extract of) the  
Newspaper "Lankadipa" (P 5)**

Lankadipa 20

11th May, 1956.

P 5a  
English  
Translation  
of ( the re-  
levant extract  
of) the News-  
paper  
"Lankadipa"  
( P 5 )  
11. 5. 56

**Letters to the Editor**

The Principal, Ananda Sastralaya, Kotte.

It was published in the Lankadipa that Mr. N. W. de Costa, Principal, Ananda Sastralaya Kotte retired on the ground of inability to teach in Sinhalese. He has an external degree in Indo Aryan of the University of London. The Science book titled 'Udbhida Vidyawa' which is accepted by the Educational Publications Board is written by him. But it is a wonder to the people of Kotte and Horana as to how he retired with full-pay. Though he did not go to school for the whole of last term he worked hard at Kotte and at Horana for a certain political party. Further he issued leaflets under his name. It is not difficult for the Education Minister and Finance Minister of the new Government to 30 know how he could retire during the time of the election though his previous endeavours to retire were unsuccessful.

There is not doubt that though the defeated Government allowed a person like this who has written a book in Sinhalese and who is well learned in Sinhalese if the new Government, were to do such a thing, all the teachers learned in Sinhalese and serving under the Education Department will retire with full pay.

What should receive stricter attention is the fact that Dr. E. W. Adikaram the present General Manager of B.T.S. Schools, who is the very teacher of this person sanctioned his documents which state that he is unable to teach in Sinhalese. I mention here that it should be the duty of the New Ministers of Education and Finance to investigate 40 into this.

K. Jayasekera, Colombo.

Translated by me.

Sgd. W. P. E. B. Croos,

*Interpreter, D.C., Colombo.*

This 5th day of June 1956 at Colombo.

**Letter sent to the Minister of Education by  
K. Jayasekera and Others**

D 37  
Letter sent to  
the Minister  
of Education  
by K. Jaya-  
sekera &  
Others—  
14. 5. 56

True copy  
Sgd. Illegibly  
for Permanent Secretary to the Ministry of Education.  
16-3-57

Sriyananda Hotel  
Bridge Street,  
Colombo 2.  
14th May, 1956.

10

The Hon'ble The Minister of Education,  
Colombo.

THE RETIREMENT OF MR. N. W. DE COSTA, PRINCIPAL,  
ANANDA SASTRALAYA, KOTTE

Dear Sir,

With reference to your letter No. B/PFP/86 of 11-5-56, I wish to state the following facts.

1. Mr. N. W. de Costa applied for retirement under the language clause several times during the last ten months and his applications were rejected by the Hon'ble the Minister of Finance (Mr. M. D. H. Jayawardana).

2. Mr. de Costa has passed the External Degree of London University in 1950, obtaining Honours in Indo-Aryan Languages (Pali and Sanskrit). He is also a holder of the Teachers' Drawing Certificate.

3. He is the author of a Science book (Botany) in Sinhalese which has been approved by the Educational Publications Board. (A copy of the book is enclosed herewith).

4. During the last General Elections, Mr. de Costa worked for the U.N.P. candidates at the Kotte and Horana Electorates. The latter was contested by Mr. M. D. H. Jayawardana, the then Minister of Finance who had previously rejected Mr. de Costa's application for retirement under the language clause, perhaps due to the fact that he (Mr. Jayawardane) was convinced of his (Mr. de Costa's) ability to teach in Sinhalese.

The pamphlets annexed herewith testify to the fact that he worked actively for the U.N.P. candidate at Kotte. As for his campaign for the U.N.P. candidate at Horana, we will endeavour to produce evidence if necessary. Mr. de Costa was absent from school for the whole of last term (Roughly from 7-12-55 to 4-4-56). This shows that he was actively working for the U.N.P. candidate at Kotte while being on leave, infringing another regulation of the Department.

5. From the above facts it is clear beyond all reasonable doubts that Mr. de Costa is qualified and competent to teach in Sinhalese. Besides, his mastery of the Sinhalese Language is amply proved by his book on Botany in Sinhalese, which is the first book on that subject in Sinhalese. It is needless to state that to write a book on a scientific subject in Sinhalese requires extra-ordinary language ability.

40

D 37  
Letter sent to  
the Minister  
of Education  
by K. Jaya-  
sekera &  
Others-  
14. 5. 56  
—continued

6. The 'Lankadipa' of 8-5-56 reports that Mr. de Costa intends going to America to teach English in the American Schools. If a Sinhalese, qualified in Oriental Languages can teach English to American students, Sir, it is difficult to understand why he cannot teach in his own mother-tongue.

7. Further, if Mr. de Costa cannot teach in Sinhalese, provision can be made in the school Time Table for him to teach Drawing in which he is qualified (vide para 2) and which involve less language difficulty.

If Mr. de Costa is given the special privilege to retire on the language Clause under the above circumstances, we fear that many other Sinhalese qualified Teachers would follow suit resulting in a dearth for qualified teachers in our schools. 10

Therefore, Sir, we request that an immediate inquiry be held regarding Mr. de Costa's retirement by you or no less an official in your Ministry than the Permanent Secretary to take necessary steps to prevent similar occurrences in future.

Thanking you, Sir,  
Yours faithfully,  
Sgd. K. Jayasekera  
for Jayasekera & others.

**Enclosures:—**

1. The Botany book written by Mr. de Costa.
2. Election Pamphlets issued by Mr. de Costa. 20
3. The Lankadipa news report of 8-5-56.

P 12  
Minute made  
by the Minis-  
ter of Edu-  
cation—  
4. 6. 56

P 12  
**Minute made by the Minister of Education**  
(COPY)

(1) Reply to Mr. K. Jayasekera that the order of retirement already made cannot be revoked.

(2) Let me know on what date M/F allowed the appeal.

Intld. W.D.  
4-6-56.

I certify that the above is a true copy of a minute made by the Hon'ble Minister of Education in pension file of Mr. N. W. de Costa. 30

Sgd.....  
for Permanent Secretary, Ministry of Education.

Colombo 2.  
11th April, 1957.



**Letter from Plaintiff's Proctor to the 2nd Defendant**

P 10  
Letter from  
Plaintiff's  
Proctor to the  
2nd Defen-  
dant  
19. 6. 56

G. A. NISSANKA,  
*Proctor S.C. & Notary Public.*

247, Hultsdorf Street,  
Colombo 12.

19th June, 1956.

D. B. Dhanapala, Esqr.,  
No. 3, De Fonseka Place,  
10 Bambalapitiya.  
Colombo.

Dear Sir,

I have been consulted by Mr. N. W. de Costa of 27, Church Street, Nugegoda, in reference to the photograph, paragraphs and letters to the Editor appearing in the Lankadipa of the following dates:—

5th Dec. 1955 — Kasu Kusu  
19th Dec. 1955 — Vaga Tuga  
23rd Dec. 1955 — Letter to the Editor—Ananda Sastralaya.  
3rd Jan. 1956 — Letter to the Editor.  
20 8th May 1956 — Resigns as he is unable to do Sinhalese.  
11th May 1956 — Letter to the Editor—The Principal, Ananda Sastralaya, Kotte.

The personal references contained therein are obviously directed to him and are a gross and malicious libel.

I have to request you to submit immediately to me, for publication in at least six forthcoming issues of your paper, draft of an ample and unqualified apology and retraction.

Since the photograph published by you along with the paragraph appearing in the issue of the Lankadipa for 8th May 1956 was not authorised by my client and is calculated to bring him to further contempt and ridicule, I have to ask you to cause a photograph  
30 of my client supplied by me to be published along with one of these insertions.

Furthermore, having regard to my client's position the character of the statement, their wanton publication and the wide circulation claimed by your paper, my client does not consider an apology alone will meet the case. In addition to the draft apology, I must also ask you to submit a substantial sum for compensation. Failing a satisfactory reply by the 27th June 1956, my instructions are to file action.

Yours faithfully,  
Sgd. G. A. Nissanka.

P 11  
Letter from  
Plaintiff's  
Proctor to the  
1st Defendant  
19. 6. 56

P 11

**Letter from Plaintiff's Proctor to the 1st Defendant**

G. A. NISSANKA,  
*Proctor S.C. & Notary Public.*  
247, Hultsdorf Street,  
Colombo 12  
19th June, 1956.

The Proprietors  
The Times of Ceylon, Ltd.,  
3, Bristol Street,  
Colombo.

10

Dear Sir,

I have been consulted by Mr. N. W. de Costa of 27, Church Street, Nugegoda, in reference to the photograph, paragraphs and letters to the Editor appearing in the Lankadipa of the following dates:—

- 5th Dec. 1955 — Kasu Kusu
- 19th Dec. 1955 — Vaga Tuga
- 23rd Dec. 1955 — Letter to the Editor—Ananda Sastralaya.
- 3rd Jan. 1956 — Letter to the Editor.
- 8th May 1956 — Resigns as he is unable to do Sinhalese. 20
- 11th May 1956 — Letter to the Editor—The Principal, Ananda Sastralaya, Kotte.

The personal references contained therein are obviously directed to him and are a gross and malicious libel.

I have to request you to submit immediately to me, for publication in at least six forthcoming issues of your paper, draft of an ample and unqualified apology and retraction.

Since the photograph published by you along with the paragraph appearing in the issue of the Lankadipa for 8th May 1956 was not authorised by my client and is calculated to bring him to further contempt and ridicule, I have to ask you to cause a photograph of my client supplied by me to be published along with one of these insertions. 30

Furthermore, having regard to my client's position the character of the statement, their wanton publication and the wide circulation claimed by your paper, my client does not consider an apology alone will meet the case. In addition to the draft apology, I must also ask you to submit a substantial sum for compensation. Failing a satisfactory reply by the 27th June 1956, my instructions are to file action.

Yours faithfully,

Sgd. G. A. Nissanka.

## D 38

**Minute of the Minister of Education appearing in the  
Pension File relating to the Plaintiff**

D 38  
Minute of the  
Minister of  
Education  
appearing in  
the Pension  
File relating  
to the  
Plaintiff  
21. 6. 56

I can do nothing in this matter except to make my observations on it.

In my opinion there was no valid reason why Mr. De Costa should have been allowed to retire. There seems to have been private and personal pressure that was exercised by him.

The M/F sanctioned the retirement on 7th April, 1956, i.e. two days after the rout of the government in power. This M/F seems to have been unusually busy when he knew that he would go out.

The whole episode leaves a bad taste in the mouth.

I am sorry that any departmental officer should have lent his services to secure for Mr. de Costa an advantage that is not available to other teachers. File.

Intld. W.D.

21-6-56

I certify that the above is a true copy of the minute of the Hon'ble Minister of Education appearing in the pension file relating to the retirement of Mr. N. W. de Costa.

Sgd. Illegibly.

*for Permanent Secretary, Ministry of Education*

20 23-3-1957.

## D 31

**Parliamentary Debates (Hansard)  
(Relevant Extract)**

Volume 26  
No. 3.

Monday,  
13th August, 1956.

D 31  
Parliamentary  
Debates  
(Hansard)  
(Relevant  
Extract)  
13. 8. 56

**PARLIAMENTARY DEBATES  
(Hansard)**

HOUSE OF REPRESENTATIVES  
Official Report  
(uncorrected)

30

Principal contents

Oral Answers to Questions.  
Appropriation Bill, 1956-57 (Tenth Allotted Day)  
Considered in Committee: Heads 19 to 38, and 43.

ADJOURNMENT MOTION

PRINTED AT THE GOVERNMENT PRESS, CEYLON.

RETIREMENT OF MR. N. W. DE COSTA OF  
ANANDA SASTRALAYA, KOTTE

1. **Mr. Palansuriya** asked the Minister of Education, (a) Under what conditions has Mr. N. W. de Costa of Ananda Sastralaya, Kotte retired? (b) Was he the Principal of Ananda Sastralaya and, if so, for what period? (c) How many times did he apply for retirement? (d) What were the orders made in respect of these applications? (e) When did he finally retire?

**The Hon. Dahanayake (Minister of Education):** (a) Mr. Costa retired under Rule 6c of the School Teachers' Pension Regulations which permits a teacher who is unable to teach in the pre-S.S.C. class or S.S.C. class in the swabasha to retire. (b) Yes, from 1-4-55 to 6-1-56. (c) Three times. (d) The first application made to the Director of Education on 12th September 1954 was not recommended. On the second occasion he appealed to the Hon. Minister of Finance on 14th March 1955, but it was not allowed by the Hon. Minister of Finance. Again he appealed to the Hon. Minister of Finance on 10th February 1956 and it was allowed. (e) 7th January 1956 was the effective date but sanction was given by the Hon. Minister of Finance on 7th April 1956, that is, about a week before the present Cabinet was formed.

**Mr. D. B. R. Gunawardena:** How did the sanction come on the 7th April 1956? Was there special influence brought to bear on the then Minister of Finance in this 20 matter?

**The Hon. Dahanayake:** The papers reveal that the application was made by Mr. Costa on the 10th February, 1956, and that the Minister of Finance sanctioned the application on the 7th April, 1956.

**Mr. D. B. R. Gunawardena:** He had said that he could not teach in the swabasha—swabasha in this case means Sinhalese—in the Kotte Sastralaya School. But, as he had published books in the swabasha, was it not evident to the Department that he was efficient enough to teach in the swabasha in that school and under such circumstances was it not the duty of the Department to make a recommendation against his retirement?

**The Hon. Dahanayake:** The first application was in September 1954. Mr. Costa, 30 dissatisfied with the decision, appealed to the Hon. Minister of Finance in March 1955. That application was also not allowed. He made a third application and a second appeal to the Hon. Minister of Finance in February, 1956. I may add that I am satisfied in my own mind that Mr. Costa should not have been permitted to retire because the evidence in the Departmental files is that Mr. Costa was capable of teaching in Sinhalese.

**Mr. D. B. R. Gunawardena:** Is not the Procedure entirely wrong? What right had this particular teacher to make an application to go and see the Hon. Minister of Finance over the question of his retirement?

Was it not the concern of the Hon. Minister of Education or the Director of Education?

**The Hon. Dahanayake:** It was the concern of one and all.

**P 8 a**  
**English Translation of (the relevant extract of) the**  
**Newspaper "Lankadipa" (P 8)**

Lankadipa, 29th August, 1956.

P 8a  
 English  
 Translation  
 (of the re-  
 levant extract  
 of) the News-  
 paper  
 "Lankadipa"  
 (P 8)  
 29. 8. 56

**VAGATUGA**

**THE MISTAKE**

The news has been received the Rev. Pundit Mirisse Chandajoti who spoke making a criticism of the conduct and activities of Dr. E. W. Adikaram has compared Dr. Adikaram to a monkey without a tail. If a speech is erroneous, even though it be the speech of a monk the error in it should be pointed out.

**QUALITIES OF ANIMALS**

A strong irregularity that has been existing from a long time in society is the comparison of poor animals to human beings. It is natural in animals to express their innate qualities without repression. The leopard is a fierce animal. The cobra is a creature with poison. The falcon is a bird of prey. The eel is a slippery animal.

**HUMAN BEINGS**

In any animal there is no concealment of the quality it bears or the showing of a quality in a different facial expression. Generally the nature of man is not that. Who can come to the conclusion that man is an animal of such and such a nature? Saying one, showing another and doing something else are not qualities pertaining to animal world as in human society.

**THE DOG**

People unanimously accept that among the grateful animals there is no animal that can be compared to the dog. Yet it is seen that on certain occasions when anger is roused men are scolded with the term 'dog'. If dogs were to hear that a man who never had an iota of gratefulness, who does not treat his mother, who does not care for his teacher, who bites the hand that fed and who is full of similar wickednesses is called a dog, what pain of mind would they receive?

**NO LITIGATION**

Just as there is no custom with dogs as with men to take to litigation there is no custom with the Courts of Law to accept their lawsuits. If by any chance there is a custom like that then, no doubt, it will be possible to see dogs going to Court everyday, saying that they have been defamed—that speaking by his common name to a low fellow who never has any gratefulness is a great defamation on him. Looking at it this way it can be considered that the comparison of certain animals to men is a defamation on animals.

**THE VIPER**

The viper stays in thick bushes. But his stay is only for the purpose of securing its food and not to bite men. Yet it is its nature to bite through fear when some one passes by. Men who stay in hiding and put others in trouble or show a good face and attack when one comes near, people are accustomed to call 'viper'. But this is wrong. *Consi-*

P 8a  
English  
Translation  
of (the re-  
levant extract  
of) the News-  
paper  
"Lankadipa"  
( P 8 )  
29. 8. 56  
—continued

*deration of the motive is a Principal in Law.* When a viper who without any motive for attack, attacks only for the sake of self preservation, when one comes near, is compared to man who with a motive thinks, considers, disguises, and does a rascally act it amounts to defamation on the viper. Yet to whom do vipers take lawsuits? Against whom do they litigate?

Translated by  
Sgd. W. P. E. B. Croos,  
*Interpreter, D.C., Colombo.*  
16th November, 1956, at Colombo.

P 6a  
English  
Translation  
of (the re-  
levant extract  
of) the News-  
paper  
"Lankadipa"  
( P 6 )  
20. 3. 57

**P 6 a**  
**English Translation of (the relevant extract of) the**  
**Newspaper "Lankadipa" ( P 6 )**

10

Extract of Lankadipa of  
20-3-57.

**"WORKING IN SWABASHA IS NOT CONDUCTIVE TO**  
**THE WELFARE OF THE COUNTRY"**

**It was therefore not possible for him as a Teacher to render sincere service...  
So wrote Mr. Costa.**

Answering further questions Dr. E. W. Adikaram, General Manager of Buddhist Schools, replied that in the 4th paragraph of a letter addressed to him by Mr. Costa, the latter had stated that working in Swabasha would not be in the interests of the country, and therefore, he was unable to render sincere service.

It is possible that he mentioned to Dr. Attygalle that it was not proper to appoint an outsider like Alagiyawanna as Principal, said Dr. Adikaram.

Answering further questions Dr. Adikaram denied having threatened to cause a strike, but admitted that even if he knew of Mr. Alagiyawann's appointment he would yet have asked Mr. Costa to act for the principal, and by so doing he did not destory discipline, but he saved the school.

Dr. Adikaram who was summoned as the first witness for the palintiff when the case was taken up for hearing the day before yesterday, continued to give the evidence the whole of yesterday.

**THE STATEMENT MADE TO THE EFFECT THAT**  
**HE WAS NOT A BUDDHIST**

.....  
.....  
Answering further questions in cross-examination Dr. Adikaram said that it may be that he said he was not a Buddhist at the Y.M.B.A. Hall.

It is his endeavour to observe the five precepts to the best of his ability, but regarding the words "Taking Pansil" he did not agree, said Dr. Adikaram. Dr. Adikaram further said that he was not a follower of Krishnamurti.

Translated by me  
Sgd. W. P. E. B. Croos,  
*Interpreter, D.C., Colombo.*  
5-4-1957.

40

## P 14 a

English Translation of Pamphlet issued by  
Plaintiff (P14)

P 14a  
English  
Translation  
of Pamphlet  
issued by  
Plaintiff  
( P 14 )

**KINDLY READ CAREFULLY THIS MESSAGE WHICH  
IS RESPECTFULLY SUBMITTED TO YOU**

Mr. Robert Gunawardena is not yet fit for politics. His service to the country is very little. The loss to the constituency due to him is heavy. The misdeeds of the U.N.P. men can be easily be understood. But the harm brought about by people like Mr. Robert Gunawardena occurs in a subtle way. Its gravity is due to that very reason.

10 Putting him forward for the cause of Socialism is like throwing stones in the dark.

One of the primary needs to form a good society suitable to Ceylon is Free Education, whatever be its influence to form a society based on Marxism. I would like to show you at least to a little extent, how Free Education even in its present condition got established in Ceylon.

During the early part of 1947, when the Minister Mr. Kannangara put forward the Free Education Bill, considerable opposition was the result. Mr. D. S. Senanayake the then Leader of the State Council, even though he liked Free Education at heart he opposed it due to the pressure brought about by various religious leaders.

I think the displeasure of Mr. D. S. Senanayaka was one reason for the defeat of the  
20 Minister Mr. Kannangara during the first parliamentary elections. Is the fact not clear from Mr. Collette's cartoon shown below, as published in the Times on 8th May 1947?

(CARTOON)

(not reproduced)

**PUBLIC MEETING**

A public meeting to support the Free Education Scheme, which is the best cause that can be helped in our day, will be held at ANANDA SASTRALAYA, KOTTE, at 4 p.m. on Sunday the 23rd inst.

Dr. G. P. Malalasekera, M.A.Ph.D. D.Litt. (Lond.) will preside. Speeches by Dr. E. W. Adikaram and other speakers.

Resolutions to the following effect will be moved at the meeting.

1. To request the member for the constituency and other members of the state Council to support the Bill.

2. To request the members who spoke against the Bill to reconsider their attitude towards Free Education and support the Bill.

3. To give the Minister for Education all possible help to get necessary legislation enacted to implement successfully the Free Education Scheme.

The presence at the meeting of all who are in favour is kindly solicited.

N. W. de Costa,  
Convener.

Ananda Sastralaya,  
Kotte. 19-3-47.

P 14a  
English  
Translation  
of Pamphlet  
issued by  
Plaintiff  
(P 14)

—continued

The majority of the State Council opposed the Free Education Bill. Therefore there was the possibility of its rejection. At first even the public did not show much concern over this. As I was disturbed in mind due to this I intended to place before the public, the value of Free Education. Shown on this page is an extract from the Daily News of 20th March, 1947, and also a pamphlet issued by me during the same month. As evident in the pamphlet, I wish to mention that the *first* public meeting convened in Ceylon for the purpose of establishing Free Education was held at Ananda Sastralaya, and that I was the convener of the meeting.

Dr. E. W. Adikaram at that time had resigned from Ananda Sastralaya, and as he was having a quiet time, he was reluctant to take part in the Free Education Scheme. 10 However we were able to win him over, through the persuasion of a number of respectable persons.

Mr. Ananda Mivanapalana of Mt. Lavinia, Mr. Fernando the Head of the Primary Section the Nalanda Vidyalaya, Mr. Jinadasa Perera, the Principal of the Dharmodaya Vidyalaya, Godagama, were among the recognized gathering who participated in the meeting. Mrs. Karannagoda of Ethul Kotte too made a very useful speech. Those who participated in this meeting decided to hold similar meetings in other parts of Ceylon. When several such meetings were held, the public of Ceylon held several other separate meetings and started making a hue and cry regarding this. Dr. N. M. Perera's book "Case for Free Education" too was published. But if you wish to know how the red 20 leftists came forward for this and at what stage, I inform you that I am able to give you all the details.

On account of the hue and cry mentioned and the memorial signed Island wide, the State Council had to accept the Free Education Bill. Even though it was accepted like this, there were submissions detrimental to it even in the first Parliament. A period was given to schools, during which to join the Free Education Scheme. On this, Ananda Sastralaya was one of the schools, which joined first. At that time, while Ananda College, Colombo, did not join the scheme I can prove with facts that Ananda Sastralaya joined it due to efforts 60% of which were mine.

Thus myself having laboured so much for the cause of Free Education, is it possible 30 for you to believe the allegation against me that I did not issue the examination admission cards, to the students of Ananda Sastralaya, due to nonpayment of facilities fees?

The majority of voters in Kotte had not even heard of the name "Robert" other than the name "Phillip".

I have even visited the Bogambara Prison, during the war to see whether Mr. Phillip Gunawardena was comfortable.

**But Mr. Robert Gunawardena insulted me in the Parliament, stating that I did not issue admission cards, due to nonpayment of facilities fees.**

The truth of this is as follows:—

I would be glad if the levying of facilities fees is stopped even in assisted schools, 40 with the provision of all facilities by the Government. But at present there is an order for the levying of facilities fees embodied in the rules. On account of this, large Colleges in Colombo, like the "St. Joseph's", collect about a lakh a year. The Christian College, Kotte collects about Rs. 30,000/-. "St. Thomas College, Kotte collects about Rs. 20,000/-. Ananda Sastralaya does not get even 1/4 of that amount.



The students receiving an education in the Kotte Rajamaha Vihara Sinhalese School, are also the children of the local residents. For them there are no facilities whatever, like a library and games equipment, as for the students at Ananda Sastralaya, *What is the fairness in this?* While in a class some poor children willingly pay the facilities fees, *what is the fairness* in the nonpayment of facilities fees by children of rich persons like owners of rubber lands. We should not be unfair in consideration of our gain. I forwarded the undermentioned letter to the parents as some do not pay the facilities fees due to misunderstanding the rule regarding facilities fees and as some were detected obtaining the fees from home and not giving it to the school.

P 14a  
English  
Translation  
of Pamphlet  
issued by  
Plaintiff  
( P 14 )  
—continued

10

1955-11-21.

Kotte,  
Ananda Sastralaya.

Dear Sir/Madam,

You have already been informed that the facilities fees for your child should be paid in full before 1st. December. The child can be exempted from the payment of fees, only in case inability to pay is shown. For this purpose, you should forward a certificate from the D.R.O. or a J.P.

Principal of the College.

Name and Class.....

20

Guardian's Signature.....

It is a deception to impress the public that it is a difficult task to find a J.P. Mr. Walter Gunawardena, the Vice Chairman of the U.C. is a J.P. You are aware that he is a member of the staff. I had requested him to endorse the letters given to him by the children. The majority of pupils obtained only this letter and received the admission cards, without paying the facilities fees. But Mr. Robert Gunawardene without even informing me, got down about 7 pupils and discussed the matter at a house close to the school. *Is that a justifiable action? Is it a justifiable action in which a politician should indulge in?* When the news reached him what he had to do was to discuss it with me. About 12 days before this Mr. Robert Gunawardana discussed the language issue with Mr. H. P. Siriwardena (*Volley Ball Star*) of Kotte and myself, while at tea at the Parliament canteen. Mr. Robert Gunawardana is one who knew Dr. Adikaram, the General Manager of the School, quite well for about 20 years. It should have been his duty to have spoken about this, at least to Dr. Adikaram. *But he, disregarding any such virtues, separated 7 or 8 children and conducted discussion.* It was only to a few students who became insubordinate due to Mr. Robert Gunawardena, that the admission cards were not issued until the arrival of the officers of the Education Department.

30

Anything can be said through pamphlets or from meetings, but if before a commission of responsible persons appointed by the residents of Kotte or before a Court of Law it is proved that the above mentioned facts are incorrect or that I have committed an injustice not mentioned above, I am prepared to submit to any punishment imposed by you.

40

*I think what Mr. Robert Gunawardena did was not service but winning popularity with the voters. He saw an opportunity to show, "How good is Mr. Robert Gunawardena? If not for him would it not have been impossible for the poor children to appear even for the exam?"*

P 14a  
English  
Translation  
of Pamphlet  
issued by  
Plaintiff  
( P 14 )

—continued

*Therefore he did not care for the virtues of friendship. He did not consider how gravely wrong it was to interfere with the administration of the school. How can an opportunist gentleman like this be suitable for political administration?*

During the time when Mr. D. S. Senanayake was the Prime Minister when the students of the College were asked for a U.N.P. procession I objected to it. I did so as it was not proper to involve the school in politics. Why I thought of sending this message was because I could not stand neutral as Mr. Robert Gunawardena interfered with the administration of the school. The parents of the present pupils of the school, should consider kindly that this statement of mine is not in my capacity as the Principal, but a statement made as a country-man of the area. Among my old pupils numbering not 10 less than a thousand for whom I have served for 16 years even if there may be a few, who are displeased with me, from the rest with affection, I request, to consider the trouble inflicted on me and the school by Mr. Robert Gunawardena.

### Dear Voter

Whatever the language issue may be the Indian problem is a grave one. The impression of a large number in India is as follows: Ceylon is a part of India. As India is overpopulated the Indians should be allowed to come to Ceylon. While in India, I have heard some Indians uttering this with biting teeth. For the Reds who profess world communism, it is not possible to stop (if they are sincere) the people who flow into Ceylon from India which is likely to give trouble after Nehru. 20

What we want is not the Reds but an Opposition Party beneficial to the country. It is a wrong impression that the poor are looked after by the Red leftists. Think, that if the Reds are not there, a constructive opposition party will come into being without a doubt.

The Diyawannawa which was an honour to the area is today a pool of mud. The fields etc. are covered with salvinia. During the past 8 years there appeared not even a road worthy of note. For the next 4 years too, difficulties of transport, unemployment etc. are things that somehow or other can be put up with. But there is a very important issue which cannot be overlooked.

There are about 3000 children over 5 years of age, within the Kotte Constituency 30 who cannot obtain any education. For their education a Central school which does not charge facilities fees is definitely essential. So far a school has not appeared definitely due to Mr. Robert Gunawardena.

It is not entirely true that the Government would not allow the Leftists to get work done. Mr. N. M. Perera has established a Central School at Ruwanwella. Mr. Iriyagolle has established a Central School at Kuliypitiya. Mr. Dahanayaka has got a number of lakhs allocated for improvement of the constituency. *Mr. Robert Gunawardena could not do anything like this. How can those who have no proper education or cleverness, but indulge only in scolding, get any help.*

Whatever party may win this time, I feel that there will not be such drastic changes, 40 if no trouble comes from India. It is enough that for 8 years Mr. Robert Gunawardena has been helped to a large salary and comforts to the detriment of the constituency.

Therefore let us stop him this time and put forward the Candidate who is clever at work.  
If no benefit is derived thereby, let us think of him later.

N. W. de Costa,  
B.A. (Hons.), Lond.

CERTIFICATE (WASHINGTON) IN SCHOOL ADMINISTRATION AND SUPERVISION.

P 14a  
English  
Translation  
of Pamphlet  
issued by  
Plaintiff  
( P 14 )

—continued

It is because of the rebukes and the misrepresentations of facts made at a recent election meeting of Mr. Robert Gunawardena that I finally decided to write this. However much I be attacked at meetings or by pamphlets, if anything is published to discredit the facts mentioned here, please expect replies even at the last moment, with evidence from  
10 those whom you respect.

Printed and published at the Subhadra Press, Wellampitiya, Weenawatta, by me:  
P. G. Niyathapala, Padmagiri, No. 541, Maharagama.

Translated by me.

Sgd. W. P. E. B. Croos,  
Interpreter, D.C., Colombo.  
2-2-57

P 15 a

English Translation of Pamphlet issued by  
"Kotte Sinhala Bhasha Peramuna"

(P 15)

HERE!

**TWO TRAITORS TO THE SINHALESE LANGUAGE**

Mr. N. W. de Costa who was the Principal of Ananda Sastralaya Kotte, has retired with full pension saying that he is *unable to teach in Sinhalese*.

He has a London University degree in Indo-Aryan.

The Author of the book "Udbhida Vidyawa" written in Sinhalese, is Mr. de Costa. When he has all these qualifications why cannot he teach in Sinhalese?

It is Dr. E. W. Adikaram, the General Manager of Buddhist Schools, who has approved his papers stating he is unable to teach in Sinhalese. Dr. Adikaram his very  
30 teacher who made him the Principal.

At this stage when a life and death struggle is carried on against those who are opposed to making Swabhasha the state language, isn't this Anti Sinhalese action of Messrs. Costa and Adikaram who are born of Sinhalese parents, bred among Sinhalese and well learned in Sinhalese a treacherous act against the whole Sinhalese nation. Let us ask for a full inquiry about the retirement of Mr. de Costa, from the peoples' Government.

LET US EXPEL THE TRAITORS TO THE SINHALESE LANGUAGE. LET US MAKE SINHALESE THE ONLY STATE LANGUAGE IN CEYLON.

Kotte, Sinhalese Language Front

40 (Tilaka Printers, Colombo)

Translated by me

Sgd. W. P. E. B. Croos,  
Interpreter, D.C., Colombo.  
20th March, 1957.

P 15a  
English  
Translation  
of Pamphlet  
issued by  
"Kotte Sin-  
hala Bhasha  
Peramuna "

P 28  
Circular No.  
F 3 issued by  
Principal,  
Ananda  
Sastralaya

**P 28**  
**Circular No. F 3 issued by Principal, Ananda Sastralaya**

Ananda Sastralaya, Kotte.  
.....1953

Dear Sir/Madam,

I wish to bring to your notice that there is a sum of Rs....due from.....of Form/Std....as facilities and services fees. I shall be thankful if you will kindly settle this account without delay.

Further I wish to remind you again that it will be convenient if you make arrangements to pay this fee monthly before the 10th of every month. 10

Kindly acknowledge receipt of this letter.

**FACILITIES FEES PER MONTH**

|                           |       |          |
|---------------------------|-------|----------|
| J.S.C., S.S.C. and H.S.C. | .. .. | Rs. 5.00 |
| Std. 6, Form 1 and Form 2 | .. .. | „ 3.00   |
| Std. 5 and below          | .. .. | „ 2.00   |

Yours faithfully,

.....  
*Form Teacher*

.....  
*Principal*

**TO BE RETURNED TO THE COLLEGE**

Date.....1953 20

The Principal,  
Ananda Sastralaya,  
Kotte.

Dear Sir,

I wish to acknowledge the receipt of your Circular No. F 3 of.....1953.

Yours faithfully,

Parent or Guardian

Name of Pupil: .....

Class: .....

P 29a  
English  
Translation  
of Circular  
issued by  
Principal,  
Ananda  
Sastralaya  
P 29

**P 29 a**  
**English Translation of Circular issued by**  
**Principal, Ananda Sastralaya**  
**(P29)**

Ananda Sastralaya, Kotte  
.....195.....

Dear Sir/Madam,

I wish to inform you that the arrears of facilities fees due from your child who is attending the Sastralaya are Rs.....I request you to settle these arrears gradually in a way that will not be inconvenient to you and to pay the monthly fees regularly hereafter.

Please arrange to remit Rs. . . . . the fees for this month before . . . . .  
 If for any reason you find it very difficult to pay these fees, you may please meet me  
 and discuss it with me.

Yours faithfully,

Pupil's Name: . . . . .  
 Class: . . . . .

*Principal.*

I am in receipt of the letter sent me regarding the facilities fees of my child.

Translated by me. . . . .

Sgd. W. P. E. B. Croos,  
*Interpreter, D.C., Colombo.*  
 2-2-57

Parent/Guardian.  
 Date: . . . . .

P 29a  
 English  
 Translation  
 of Circular  
 issued by  
 Principal,  
 Ananda  
 Sastralaya  
 P29  
 —continued.

**D 24**

**Election Pamphlet regarding Kotte Electroate published by  
 N. W. de Costa  
 (TRANSLATION)**

Leslie Goonewardhana (Brother-in-law)  
 Kusuma Goonewardhana (Sister-in-law)  
 Vivian Goonewardhana (Sister)  
 Philip Goonewardhana (Elder brother)  
 Robert Goonewardhana (Younger brother, Elder brother, Brother-in-law)

Is the constituency of Kotte a dowry?  
 Now is the time.  
 Value of the conscience of the people of Kotte.  
 Let us be true democrats.  
 Although we were to vote for the key up to now.  
 Let us see that the elephant wins.

*Printed and Published by N. W. de Costa of Nugegoda at the Subhadra Press, Wenna-  
 watte, Wellampitiya.*

Translated by me.  
 Sgd. W. R. Siriwardene,  
*Sworn Translator, D.C., Colombo.*  
 18-3-57

D 24  
 Election  
 Pamphlet  
 re Kotte  
 Electroate  
 published by  
 N. W. de  
 Costa

**D 26**

**Letter from the Plaintiff to Mr. Wijetunga**

True Copy  
 Sgd. . . . .  
*for Permanent Secretary to the Ministry of Education.*  
 16-3-57.

D 26  
 Letter from  
 the Plaintiff  
 to Mr.  
 Wijetunga

MINISTRY OF EDUCATION  
 Colombo 2.

Dear Mr. Wijetunga,  
 Please be so good as to remind the Minister regarding my case. He said he would  
 ring up the S.E. Perhaps he may forget. Please remind and help me.

Thanks, Yours faithfully,  
 Sgd. N. W. de Costa.

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D 44  
The School  
Teachers'  
Pension  
Regulations

**D 44**  
**The School Teachers' Pension Regulations**

REGULATIONS made by the Minister of Finance by virtue of the powers vested in him by section 9 of the School Teachers' Pension Act No. 44 of 1953.

Short title  
Inter-  
pretation

1. These regulations may be cited as the School Teachers' Pension Regulations.

2. In these regulations, unless the context otherwise requires:—

\*(i) "School" means (i) a school maintained wholly or partly from the public funds of the Island, and (ii) an Unaided School as defined in the Education Ordinance, No. 31 of 1939, and in relation to which the provisions of section 42A of that Ordinance have been complied with;

(ii) "Assisted School" means a school the staff of which is appointed by the Manager of such school or a school administered under the Code of Regulations for Assisted Schools;

(iii) "Recognized School" means a school recognized by the Department as providing adequate and suitable education but not in receipt of any aid from the public funds of the Island;

(iv) "Government Teacher" means a teacher appointed by the Education Department to a school administered under the Code of Regulations for Government Schools;

(v) "Department" means the Department of Education as created under the provision of the Education Ordinance, No. 1 of 1920.

(vi) "Director" means the Director of Education;

†(vii) "Permanent Secretary" means the Permanent Secretary to the Ministry of Finance or his authorized agent; and "Minister" means the Minister of Finance;

(viii) "Salary" means:—

(1) the salary approved by the Director for the purpose of calculating grants, provided that such salary is actually received by the teacher or

(2) the salary paid to the teacher under the Code of Regulations for Assisted Schools; or

(3) the salary paid to a Government teacher; or

\*(4) the salary paid to a teacher in an unaided school.

(ix) "Recorded Service" means full-time service, recorded by the Education Department, in the capacity (within the meaning of the Education Code) of principal or assistant teacher in a school, provided that the following shall not be counted as recorded service:—

(a) Service by a teacher under 18 years of age;

(b) Service exceeding 35 years;

(c) Service in Night schools;

(d) Service in Estate schools;

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\**Vide* Gazette No. 10, 256 of June 8, 1951.

†*Vide* Gazette No. 9, 938 of January 13, 1949.

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\*(e) Service not approved by the Director in accordance with the Education Code.

†(f) Service prior to April, 1, 1951, in any school which was not for the time being a Government school or an Assisted school;

†(g) Service in an Unaided School for any period in respect of which contributions had not been made under regulation 5.

D 44  
The School  
Teachers'  
Pension  
Regulations  
—continued

Provided, however, that the following shall be counted as recorded service:—

(a) ¶A period or periods not exceeding three years in the aggregate during which any teacher who has been in full time service in a school for at least twelve months attends, with the approval of the Director, a course of study or training at any university, training college, or other institution, for the purpose of the teacher's advancement in the teaching profession † and for which that teacher has in respect of such period or periods of attendance made contributions towards a pension on the salary last received by him.  
10 Every contribution shall be 4 per centum of such salary. The payment of the contributions referred to in this paragraph shall be completed within 24 months of the termination of such period or periods of attendance or interest at the rate of 6 per centum per annum shall be charged on contributions made after the termination of the said 24 months:

\*(b) A period or periods of service not exceeding 2 years in all for which any teacher is employed in a Recognized (but not assisted) School; provided (1) that such teacher has previously been employed in a school, and (2) that § such teacher makes contributions in respect of such period or periods of service in such recognized school towards a pension in accordance with regulation 5 on his salary according to the scales approved for schools;

\*(c) A period or periods of unemployment not exceeding 12 months in all for which  
20 any teacher, who has been discontinued by the management of a school, makes contributions towards a pension in accordance with regulation 5 on the salary last received by him;

\*(d) A period or periods of leave not exceeding 12 months in all, which are spent outside the Island, and for which any teacher // makes contributions towards a pension in accordance with regulation 5 on the salary last received by him:

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\*Vide Gazette No. 8, 383 of July 22, 1938.

†Vide Gazette No. 10, 256 of June 8, 1951.

‡Vide Gazette No. 8, 950 of June 19, 1942.

§Vide Gazette No. 10, 659 of April 2, 1954. This amendment has retrospective effect  
30 from March 1, 1928.

//Vide Gazette No. 10, 569 of April 2, 1954. This amendment has retrospective effect from July 22, 1938.

¶ Vide Gazette No. 10778 of March 25, 1955. This amendment has retrospective effect from March 1, 1928.

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(e) During any war in which His Majesty the King may be engaged, a period or periods of leave which are spent by any teacher in the service of the Imperial Forces of the Crown or of the defence Forces of the Island, or in such emergency civil employment, directly concerned with the prosecution of the war as may be approved by the Director, and in respect of which the teacher † makes contributions towards a pension in accordance  
40 with regulation 5 on the salary last received by him:

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‡(f) A period or periods of service during which any teacher has been, with the approval of the Director, employed on probation or trial § or in an acting or temporary capacity or in a non-pensionable post in a case where such non-pensionable appointment is for a specified period, in a post in any Department under the control of the Minister of Education, if such teacher:—

(i) has, prior to such service, been employed in a Government School after June 15, 1934, or in an Assisted or Unaided School at any time; and

§(ii) makes contributions towards a pension in accordance with regulation 5 on his salary calculated for the purpose according to the scales approved for Government or Assisted schools. 10

//2a. Notwithstanding that the salary actually paid to a teacher in an Unaided School is different from the amount determined in accordance with the Code of Regulations for Assisted Schools as the salary of a teacher on the approved staff of an Assisted School having the same qualifications and length of service, the amount so determined shall be deemed for the purpose of deductions to be made under regulation 5, and of the calculation of pensions under regulation 6, to be the salary of that teacher.

Register of  
Pensionable  
Teachers.

3. The Director shall keep or cause to be kept a Register of Pensionable Teachers, and each teacher whose name is entered on the said register shall be allotted a separate number.

4. (1) A teacher whose name appears on the Education Department Register of Teachers before March 1, 1928, either (i) as a certificated teacher or (ii) as an uncertificated teacher over 30 years of age shall have his name entered on the Register of Pensionable Teachers. 20

(2) A teacher whose name is entered on the Education Department Register of Teachers on or after March 1, 1928, shall have his name entered on the Register of Pensionable Teachers, provided:—

(a) He is a certificated teacher:

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\*Vide Gazette No. 8, 741 of May 2, 1941.

†Vide Gazette No. 10, 659 of April 2, 1954. This amendment has retrospective effect from May 2, 1941. 30

‡Vide Gazette No. 10, 434 of August 15, 1952.

§Vide Gazette No. 10, 659 of April 2, 1954.

//Vide Gazette No. 10, 256 of June 8, 1951.

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(b) He is below the age of 35 years and has produced a certificate of birth or other evidence of age which the Director deems sufficient. Provided that in the case of a teacher over 35 years of age the Director may grant special sanction for registration as a pensionable teacher.



(c) He has satisfied the Director of his physical fitness on the certificate of a Medical officer chosen for the purpose by the Director.

5. From and after March 1928, a deduction of 4 per cent of the salary of every teacher whose name appear on the Register of Pensionable Teachers shall be made \*in respect of each month by the person liable to pay him his salary, and the amount so deducted shall be paid through the Director into the general revenue. Provided that no deduction shall be made in the case of teachers who have contributed under this regulation for 420 months.

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Contri-  
butions.

†Provided further that no deduction shall be made in the case of any teacher in respect of any service other than recorded service, ‡and no deduction shall be made under the provisions of paragraph (a) of the second proviso to regulation 2 (ix) otherwise than in accordance with the provisions of the said paragraph.

§5a (1) For the purposes of pensions payable under these regulations to teachers in an unaided school, the Director shall determine the number of teachers in such school from whose salaries deductions shall be made in accordance with regulation 5.

(2) The provisions of the Code of Regulations for Assisted Schools relating to the determination of the maximum number of teachers for the purposes of grants shall apply for the purpose of determining in relation to an Unaided School, the number of teachers referred to in paragraph (1).

(3) Where the number of teachers in an Unaided School exceeds the number determined under paragraph (2), the Manager of such school shall nominate the teachers from whose salaries deductions shall be made and shall notify the Director the names of the teachers so nominated; and notwithstanding anything in these regulations, no deduction shall be made from the salaries of teachers not so nominated.

(4) Notwithstanding anything in these regulations, where no deduction is made from the salary of a teacher in an Unaided School in respect of any period of service in such school, the service during such period shall not be counted as recorded service.

6. Subject to the exceptions and provisions hereinafter set out, every person whose name has been entered on the Register of Pensionable Teachers, who, being a man, has attained the age of 55 years, or who, being a woman,

Calculation  
of  
Pension.

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\**Vide* Gazette No. 10, 659 of April 2, 1954. This amendment has retrospective effect from March 1, 1928.

†*Vide* Gazette No. 8, 383 of July 22, 1938.

‡*Vide* Gazette No. 8950 of June 19, 1949.

§ *Vide* Gazette No. 10, 256 of June 8, 1951.

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has attained the age of 50 years or has completed 20 years of service may be granted a pension calculated in the following manner:—

(i) A teacher who shall have served and contributed as provided by regulation 5 of these regulations for not less than 120 months and not more than 121 months may receive an annuity equal to 180/720ths of the salary as defined below of the permanent post or posts held by him at the time of his retirement.

A teacher who shall have served and contributed under regulation 5 for not less than 121 months and not more than 122 months may receive an annuity equal to  $181/720$ ths of such salary.

In like manner an addition may be granted of  $1/720$ th for each additional month of service until the completion of 420 months of service when the maximum pension of  $480/720$ ths of such salary may be granted.

(ii) A teacher who is in service at the time these regulations come into force and whose recorded service on retirement is not less than 120 months, but who has contributed for less than 120 months, may receive for each month of contributory service an annuity of  $1/720$ th of the salary as defined below of the permanent post or posts held by him at the time of his retirement.

(iii) A teacher or a retired teacher who was alive on October 1, 1926, and who at the time of retirement has or had recorded service of not less than 120 months, may receive for each month of service before these regulations came into force an annuity of  $1/960$ th of the salary as defined below of the permanent post or posts held by him at the time of his retirement.

(iv) The annuity received by the teacher shall be computed upon the salary drawn by him at the time of his retirement in respect of the permanent post or posts then held by him, provided that he shall have held such post or posts, or a post or posts to which the same fixed salary or incremental scale of salary is attached, for at least three years, otherwise the pension shall be calculated upon the average of the salaries attached to the permanent posts held by him during the three years next preceding the commencement of such pension. Provided that where a teacher retires within three years of his promotion to a higher class or grade, he shall have the option of claiming either a pension calculated in manner aforesaid or a pension calculated on the salary he would have been receiving had he not been promoted to the higher class or grade.

Provided that:—

(a) The years of recorded service in each case are not less than ten;

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*\*Vide Gazette No. 9, 980 of June 3, 1949.*

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(b) The years of recorded service in each case are not less than one half the number of years that have elapsed since the date of the teacher's first registration: 30

(c) At least ten years of recorded service fall within the fifteen years preceding the date on which the teacher attains the pensionable age or the date of retirement whichever is later.

This proviso shall not apply to teachers who on retirement have at least twenty years of non-contributory service.

(d) The Director has reported that the teacher's professional record is satisfactory;

(e) Contributions have been \*made in accordance with regulation 5;

(f) No teacher who is in receipt of a pension shall be employed on the eligible staff of a school (within the meaning of the Education Code) save in exceptional circumstances and with the approval of the Director, and in such event the provisions of section 16 of the Government Pension Minute, in so far as they are applicable under these regulations, shall apply to his case. 40

Provided further that in the case of teachers who prior to March 1, 1928, attained the age of 55 (being a man) or 50 (being a woman) the annuity shall not be less than Rs. 7/50 per mensem.

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†6a (1) A teacher who at the time the school in which he is employed complies with the school Grants (Revised Conditions) Regulations, 1945, finds himself unable to give instruction in either Sinhalese or Tamil, may, at his option, be permitted to retire on pension if, but only if, he has completed one hundred and twenty months of recorded service in a school or schools, and if he exercises such option to retire not later than the thirtieth day of September, 1948.

10 (2) A teacher employed in a Training School (a) who does not possess the qualifications prescribed for such teachers in regulation 59a (inserted by regulation published in Gazette No. 9, 679 of March 14, 1947) of the Code for Assisted Vernacular and Bilingual Schools published in the Supplement to Gazette No. 7,722 of July 12, 1929, or (b) whose services terminate as a result of the closing of the Training School in which he is employed or by the reduction of staff in such Training School, may, at his option, be permitted to retire on pension if, but only if, he has completed one hundred and twenty months of recorded service in a school or schools, and if he exercises such option to retire not later than the thirty-first day of March, 1948.

20 (3) For the purpose of computing the pension payable to a teacher under paragraph 1) or paragraph (2), the recorded service of that teacher, whether that service is contributory or non-contributory, shall be increased by

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\*Vide Gazette No. 10, 659 of April 2, 1954. This amendment has retrospective effect from March 1, 1928.

†Vide Gazette No. 9, 809 of December 12, 1947.

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a compensatory addition at the rate of one month for each complete period of two months comprised in such recorded service:

Provided that the addition so made shall not in any case exceed the smaller of the two following limits, namely:—

- (i) a limit of one hundred and twenty months, or
- 30 (ii) a limit of such number of months as may be sufficient, when reduced to years and added to the actual age of the teacher at the time of retirement, to make the aggregate sixty years in the case of a male or fifty-five years in the case of a female.

(4) In respect of the recorded service increased in the manner set out in paragraph (3), the pension payable shall, subject to the condition that no period of recorded service in excess of four hundred and eighty months shall be taken into account, be computed according to the following rates namely:—

- (a) 1/720th of the salary in the case of each month of contributory service, and  
(b) 1/960th of the salary in the case of each month of non-contributory service.

40 For the purposes of this regulation "salary" means the monthly salary drawn by the teacher at the time of his retirement.

\*6b (1) A teacher who is unable to give instruction in Standard VI, Standard VII or standard VIII, as the case may be, of—

(a) any Government or Assisted secondary school or College in which instruction is required to be given through the medium of Sinhalese or Tamil in accordance with the direction of the Minister of Education specified in the notification published in Gazette No. 10,332 of December 21, 1951; or

(b) any Unaided Secondary School or college in which instruction is required to be given through the medium of Sinhalese or Tamil in accordance with the general educational policy of the Government, may, at his option, be permitted to retire on pension if, but only if:—

(i) he has completed one hundred and twenty months of recorded service in a school or schools:

(ii) the Director is satisfied that:—

(a) he is unable to give instruction in accordance with such direction or policy, and

(b) the employer is unable to provide for him other suitable employment as a teacher according to his qualifications either in the same school or in any other school under the same management; and

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\*Vide Gazette No. 10, 449 of September 19, 1952.

(iii) he exercises such option not later than:—

(a) October 31, 1952, where in accordance with such direction or policy, he may be 20 required to teach in Standard VI of a school or college from and after January 1, 1953; or

(b) September 30, 1953, where in accordance with such direction or policy, he may be required to teach in Standard VII of a school or college from and after January 1, 1953; or

(c) September 30, 1954, where in accordance with such direction or policy, he may be required to teach in Standard VIII of a school or college from and after January 1, 1955.

(2) For the purpose of computing the pension payable to a teacher under paragraph (1), the recorded service of that teacher, whether that service is contributory or non-contributory, shall be increased by a compensatory addition at the rate of one month for 30 each complete period of two months comprised in such recorded service:

Provided that the addition so made shall not in any case exceed the smaller of the two following limits, namely:—

(i) a limit of one hundred and twenty months or

(ii) a limit of such number of months as may be sufficient, when reduced to years and added to the actual age of the teacher at the time of retirement, to make the aggregate sixty years in the case of a male or fifty-five years in the case of a female.

\*6c (i) A teacher who is unable to give instructions in the pre-Senior school certificate class, or the Senior school certificate class, as the case may be,

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\*Vide Gazette No. 10,837 of September 9, 1955.

(a) of any Government or Assisted Secondary school or College in which instruction is required to be given through the medium of Sinhalese or Tamil in accordance with the direction of the Minister of Education specified in the notification published in Gazette No. 10, 752 of January 6, 1955; or

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(b) of any Unaided Secondary School or college in which instruction is required to be given through the medium of Sinhalese or Tamil in accordance with the general educational policy of the Government, may, at his option, be permitted to retire on pension if, but only if:—

(i) he had completed one hundred and twenty months of recorded service in a school or schools:

(ii) the Director is satisfied that:—

(a) he is unable to give instruction in accordance with such direction or policy; and

(b) the employer is unable to provide for him other suitable employment as a teacher according to his qualifications either in the same school or in any other school under the same management; and

(iii) he exercises such option not later than:—

(a) September 30, 1955, where in accordance with such direction or policy, he may be required to teach in the pre-senior school certificate class of a school or college on and after January 7, 1956; or

20 (b) September 30, 1956, where in accordance with such direction or policy, he may be required to teach in the Senior School certificate Class of a School or College on and after January 1, 1957.

(2) For the purpose of computing the pension payable to a teacher under paragraph (1) the recorded service of that teacher, whether that service is contributory or non-contributory, shall be increased by a compensatory addition at the rate of one month for each complete period of two months comprised in such recorded service:

Provided that the addition so made shall not in any case exceed the smaller of the two following limits, namely:—

(i) a limit of one hundred and twenty months; or

30 (ii) a limit of such number of months as may be sufficient, when reduced to years and added to the actual age of the teacher at the time of retirement, to make the aggregate sixty years in the case of a male or fifty-five years in the case of a female.

(3) In respect of the recorded service increased in the manner set out in paragraph (2) the pension payable shall, subject to the condition that no period of recorded service in excess of four hundred and eighty months shall be taken into account, be computed according to the following rates, namely:—

(a) 1/720th of the salary in the case of each month of contributory service, and

(b) 1/960th of the salary in the case of each month of non-contributory service.

For the purposes of this regulation "Salary" means the monthly salary drawn by the teacher at the time of his retirement.

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\*6*d*. Notwithstanding anything to the contrary in the preceding regulations, if any teacher who is in receipt of a pension under regulation 6*a* or regulation 6*b* or regulation 6*c* is re-employed as a teacher on the staff of any school, he shall not be entitled to receive such pension from the date of his re-employment.

Provided, however, that in any such case, the provisions of section 16 of the Government Pension Minute, in so far as they are applicable under these regulations, shall apply to that case.

Compulsory  
retirement.

†7. (1) Retirement shall be compulsory for every male teacher in any Assisted School or Government School on his attaining the age of sixty years, and for every female teacher in any Assisted School or Government school on her attaining the age 10 of fifty-five years.

(2) The service in an Unaided School by any male teacher who has attained the age of sixty years or by any female teacher who has attained the age of fifty-five years, shall not be counted as recorded service.

‡Refund  
of Pension  
Contri-  
butions.

8. (i) A teacher who ceases to be employed before he has completed 60 months of recorded service on account of infirmity of body or mind may, if the cause of his retirement is certified by a duly constituted Medical Board, receive a sum equal to the total contributions, paid by him during the months of recorded service.

(ii) A teacher who ceases to be employed in a school from any cause whatsoever except as provided under regulation 9 after completing 60 months of record service but is not eligible for a pension under regulation 6 may receive a sum equal to the total contribution paid during the months of recorded service in terms of regulation 5. Provided that where such a teacher returns to service, the previous service for which he has drawn his contributions shall not count for purpose of pension. 20

Annuity on  
retirement  
before  
pensionable  
age.

9. A teacher who has continued to be in service after March 1, 1928, but retires before the pensionable age, shall be eligible for an annuity calculated in the manner described in regulation 6, and for commutation of pension under regulation 12 if each of the following conditions is satisfied, namely:—

(1) if his recorded service is not less than 120 months or one half the number of years that have elapsed since the date of his first registration, whichever is the longer; 30

(2) if at least 10 years of recorded service all within the 15 years preceding the date of his retirement.

(3) if the Director has reported that the teacher's professional record is satisfactory;

\**Vide* Gazette No. 10,449 of September 19, 1952.

†*Vide* Gazette No. 10,256 of June 8, 1951.

‡*Vide* Gazette No. 10,491 of January 30, 1953.

(4) if contributions have been \*made in accordance with regulation 5; and

(5) if his retirement has been declared to be necessary on the ground of infirmity of body or mind by a duly constituted Medical Board.

*Note:* When a teacher is responsible, or mainly responsible, for the illness which leads to his retirement, some reduction (e.g., about 12 per cent.) will, as a general rule, be made in the Pension or gratuity which would otherwise be awarded.

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9a. A teacher employed in an Assisted School who had retired before March 1, 1928, may at the †Minister's discretion be awarded, in respect of a period after August 1, 1927, an allowance at a rate not exceeding Rs. 7/50 per mensem.

10. ‡Where a teacher dies without having drawn any pension, a sum equal to the total contributions paid by such teacher during the months of recorded service may be paid to a person previously nominated in writing by such teacher to the Director or, in the absence of such a nominee, or in the event of the death of such a nominee before the death of the teacher, to his legal representative.

‡ Refund of  
Pension  
Contrib-  
utions on  
death of  
teacher.

11.//i) Where a teacher's recorded service in a school or schools is continuous with service under ¶Government or in the University of Ceylon in any post or posts specified in the schedule to these regulations (irrespective of the order in time of either description of service); his service in such post or posts shall be counted as service in schools for purposes of determining whether he is qualified for a pension or gratuity under these regulations by age, length of service, and the circumstances of his retirement.

Teachers  
transferred  
from an  
Assisted to a  
Government  
School.

(ii) The pension of such a teacher for contributory service in a school or schools shall be 1/720th of his salary for each month of such service plus an addition as climate bonus which shall bear the same proportion to 60/720ths of such salary, as his contributory service in a school or schools bears to the total of such contributory service and his service in a post or posts specified in the schedule to these regulations, provided that no teacher shall be eligible to receive the climate bonus unless the total of his contributory service in a school or schools and his service in a post or posts specified in the schedule to these regulations amount to at least ¶120 months; provided further that:—

(a) a teacher, whose service in any post or posts specified in paragraph (1) or paragraph (2) of the Schedule to this regulation is 120 months or more shall be entitled to add in respect of such service a period of sixty months as climate bonus, and where the total service of such teacher consists of service in a school or schools and service

30 \*Vide Gazette No. 10,659 of April 2, 1954. This amendment has retrospective effect from January 8, 1932.

†Vide Gazette No. 9,938 of January 13, 1949.

‡Vide Gazette No. 8,383 of July 22, 1938.

§Vide Gazette No. 10,491 of January 30, 1953.

//Vide Gazette No. 9,312 of September 22, 1944.

¶Vide Gazette No. 10,762 of February 3, 1955.

in any post or posts under Government specified in paragraph (1) or paragraph (2) of the Schedule to this regulation, such teacher shall not be entitled to any addition as climate bonus in respect of his service in such school or schools; and

40 (b) a teacher, whose contributory service in a school or schools is continuous with service in any post specified in paragraph (3) of the Schedule to this regulation, shall be entitled to add a period of sixty months as climate bonus, if such contributory service is at least 120 months.

The pension for non-contributory service shall be 1/960th of his salary for each month of non-contributory service without any addition as climate bonus.

(iii) The total amount which a person referred to in paragraph (1) may receive as climate bonus under these regulations and under the provisions of the Minute on Pensions dated February 5, 1934 (as amended by any subsequent Minute) shall not in the aggregate exceed 5/60ths of his salary.

(iv) The total combined pensions for service in schools and Government service shall not exceed the maximum pension allowed by the regulations regulating pensions granted to public servants. In any case falling under the limitation laid down in this sub-section the amount of pensions to be drawn under these regulations shall be determined by the \*Minister with due regard to the amount of any pension or pensions to be drawn in respect of any service under Government.

(v) In applying the provisions of this section to any person who held the post of a teacher in a Government School prior to June 15, 1934, the word "School" shall be read as not including a Government School.

†(vi) A teacher whose service under Government † or in the University of Ceylon in any post or posts specified in the schedule to these regulations is continuous with service in † any school may if retired on abolition of office, be granted for service in † such school the pension or gratuity for which such teacher may have qualified under these regulations by length of service and circumstances of retirement, §simultaneously 20 with a pension or gratuity where such teacher is the holder of a pensionable post, or with the amount standing to the credit of such teacher in the Public Service †. Provident Fund or in the University Provident Fund where such teacher is a contributor to such Fund, in respect of service under Government or in the University of Ceylon notwithstanding that he or she has not at the date of retirement attained as required by regulation 6, the age of 55 or 50, as the case may be.

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\*Vide Gazette No. 9,938 of January 13, 1949.

†Vide Gazette No. 8,266 of January 8, 1937.

‡Vide Gazette No. 10,762 of February 3, 1955.

§Vide Gazette No. 9,809 of December 12, 1947.

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(vii) For the purposes of this regulation a period of recorded service in a school or schools and a period of service under †Government or in the University of Ceylon in any post or posts specified in the schedule to this regulation shall, notwithstanding any break between such periods, be deemed to be a single period of continuous service, if the break between such periods is due to causes †beyond the teacher's control, and if:—

(a) in the case of a break between any period of recorded service in a school or schools and a period of service under Government, the duration of such break does not exceed two years, or

(b) in the case of a break between a period of recorded service in a school or schools and a period of service in the University of Ceylon, the duration of such break does not 40 exceed two months,



‡(viii) For the purposes of this regulation the pension shall:—

(a) in the case of a person referred to in paragraph (i), who held, during the period of three years immediately preceding the date of his retirement, a permanent office or offices to which the same fixed salary or the same incremental scale of salary was attached, be computed on the salary he was drawing on that date;

(b) in the case of a person referred to in paragraph (i), who held, during the period of three years immediately preceding the date of his retirement, a permanent office or offices to which the same fixed salary or the same incremental scale of salary was not attached, be computed on the monthly average of the salaries received by him in respect  
10 of such office or offices during that period:

Provided that where a person to whom sub-paragraph (b) applies has retired within three years of his promotion to a higher class or grade, he may elect to have his pension and climate bonus computed on the salary which he received immediately before his promotion to such class or grade, in lieu of having such pension computed on the monthly average referred to in that sub-paragraph.

†And provided further that in the case of a teacher whose recorded service in a school or schools is continuous with his service in the University of Ceylon in any post specified in paragraph (3) of the schedule to this regulation the provisions of sub-paragraphs (a) and (b) shall not apply, but his pension shall be computed on the salary he  
20 last received in a school.

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\*Vide Gazette No. 9,094 of March 5, 1943.

†Vide Gazette No. 10,762 of February 3, 1955.

‡Vide Gazette No. 9, 812 of September 22, 1944.

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### \*SCHEDULE

(1) Officers holding pensionable appointments as:—

(i) Teachers in Government Schools and Colleges under the Department of Education, appointed prior to June 15, 1934.

(ii) Inspecting Officers of the Department of Education.

(iii) Staff officers of the Department of Education included in the Civil List.

30 (iv) Officers of the Teaching Staff of the University College.

(v) Officers of the Teaching Staff of the Ceylon Technical College.

(vi) Translators of Text-books in the Department of Education.

(vii) Chief Examiner and Research Worker in the Department of Education.

(viii) Officer-in-charge and Assistant Officer-in-charge, Adult Education, during the period commencing on August 1, 1949, and ending September 30, 1949.

(ix) Officers in any Department under the control of the Minister of Education other than officers in a transferable service of Officers whose posts are specified in the preceding items of this paragraph.

(2) Any of the following posts which are specified in the Schedule to the Public  
40 Service Provident Fund Ordinance, No. 18 of 1942.

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- (a) Inspectress of Schools.
- (b) Inspectress of Housecraft.
- (c) Assistant Inspectress of Housecraft.
- (d) Inspector of Schools.
- (e) Superintendent of Hostels, Government Training College, Mirigama (while such post is held by Miss H. M. de Zoysa).

(3) Officers who hold appointments in the teaching and administrative staffs of the University of Ceylon and who are contributors to the Ceylon University Provident Fund, if such officers had terminated their service in schools with the approval of the Director.

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Com-  
mutation  
of pension.

12. A teacher entitled to a pension may on retirement have the option of commuting half the amounts payable to him as pension computed in the manner provided in regulation 6 hereof for a sum equal to the whole of the contributions paid by him in pursuance of the provisions of regulation 5.

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\*Vide Gazette No. 10,762 of February 3, 1955.

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\*12a. On the death of a teacher who has retired without commuting his pension under regulation 12, the aggregate amount of the contributions made by such teacher after deducting therefrom all sums drawn by such teacher as pensions shall:—

(a) if such amount does not exceed two thousand five hundred rupees, be paid to the person or persons nominated for the purpose of such teacher, or if no such nomination has been made, to the credit of the estate of the deceased teacher, or at the discretion of the Director, to the person appearing to the Director to be entitled in law to receive such amount; 20

(b) if such amount exceeds two thousand five hundred rupees, be paid to the credit of the estate of the deceased teacher.

Expenses of  
medical ex-  
amination to  
be borne by  
teacher.

13. The fee for medical examination and all other expenses incurred by a teacher offering himself for the medical examination required by regulation 4(2) (c) and any fee for medical examination that may be required under regulations 8 (i) and 9 hereof shall be paid by him.

Reduction of  
pension for  
unsatisfactory  
service.

14 (i) The rates of pension above set forth may be granted only in case of faithful and meritorious service. Where the teacher's professional record has not been satisfactory a deduction may be made from the pension. 30

Forfeiture of  
claims for  
misconduct.

(ii) If the name of any teacher is removed by the Director from the Register of Teachers kept by the Education Department for any misconduct of a serious nature on his part the teacher shall not be entitled to any benefit under these regulations except that provided for under regulation 8 (ii) unless his name has been reinstated by the Director in the Register of Pensionable Teachers.

Teachers  
convicted of  
an offence.

15. If any teacher who is in receipt of a pension shall be convicted of any offence for which he shall be sentenced to death or to any term of rigorous imprisonment or analogous punishment exceeding twelve months, the payment of the pension shall be forth- 40  
with discontinued unless the Minister otherwise directs,

16 (i) Every pension granted under these regulations shall, unless otherwise provided in these regulations, be payable from the date of retirement of the teacher concerned, and shall be payable by equal monthly payments on the last day of each month. Such evidence as may be required of the identity of a teacher and of the fact that he is alive shall be produced to the †Permanent Secretary before any payment is made to or on account of a teacher.

D 44  
The School  
Teachers'  
Pension  
Regulations  
—continued.  
Mode of  
payment of  
Pensions.

(ii) Provided, however, that no pension shall be payable from any earlier date than October 1, 1926.

17. Where on the death of a teacher, any sum is due to his estate under these regulations, the †Permanent Secretary may, if probate of other proof or the title of the legal representative of the teacher is not produced to him within

Payment on  
death of  
teacher.

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\*Vide Gazette No. 9,952 of March 4, 1949.

†Vide Gazette No. 9,938 of January 13, 1949.

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three months of the death, pay the sum due to or distribute it amongst, the persons appearing to him to be beneficially entitled to the estate of the teacher, and such payment shall operate as an effectual and complete discharge of the estate of the teacher, and such payment shall operate as an effectual and complete discharge of the liability to pay the said sum to any person whomsoever.

18. Where the \*Permanent Secretary is satisfied by the certificate of (a) a Justice of the Peace or Minister of Religion, and of (b) a Registered Medical Practitioner, that a teacher in receipt of a pension is of unsound mind or otherwise incapable of giving a receipt, he may pay any sum due on account of any pensions wholly or partly to the institution or persons having the care of the teacher, or wholly or partly for the benefit of the wife, husband, or relatives of the teacher, in such proportion and in such manner as seems to him best. Provided that where any such teacher is maintained in an asylum or other institution supported out of public funds, any sum due on account of pension shall be applied to the maintenance of the teacher before it is applied for the benefit of the wife, husband, or relatives of the teacher. Any application with regard to the payment of a pension under this regulation shall be made to the \*Permanent Secretary.

Procedure  
where pen-  
sioner is  
incapable of  
giving a  
receipt.

19. Any question which arises as to the interpretation of these regulations or the application of any regulation of any person, or as to the amount of any pension under these regulations, or as to the grant, refusals, suspension, or cessation of any such pension, shall be decided by the Director whose decision shall be final.

Decision of  
Director to be  
final subject  
to appeal to  
the Ministe .

Provided however, that any person affected by any such decision may, within one month of the communication of such decision to him by the Director, appeal therefrom to the \*Minister.

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\*Vide Gazette No. 9,938 of January 13, 1949.

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(Extract from the "Ceylon Government Gazette  
No. 11,019 of December 7, 1956)

L D — B 175A/29

**The School Teachers Pension Act  
No. 44 of 1953**

REGULATIONS made by the Minister of Finance by virtue of the powers vested in him by Section 9 of the School Teachers Pension Act No. 44 of 1953.

STANLEY DE ZOYSA,  
*Minister of Finance.*

Colombo, November 27, 1956.

10

**Regulations**

1. The School Teachers Pension Regulations published in Gazette No. 7,631 of February 24, 1928, (therein referred to as rules) as amended from time to time, are hereby further amended in regulation 2, in the second proviso to paragraph (ix) as follows:—

(1) in sub-paragraph (a) thereof—

(a) by the substitution, for the words "a period or periods" of the words "a period or periods, whether before or after the first day of March, 1928," and

(b) by the substitution, for the words "in respect of such period or periods of attendance", of the following:— 20

"in respect of any such period or part thereof, which is subsequent to the first day of March, 1928," and

(2) in sub-paragraph (b) thereof—

(a) by the substitution, for the words "a period or periods of service", of the words and figures "a period or periods of service, whether before or after the first day March 1928," and

(b) by the substitution, for the words "makes contributions in respect of such period or periods of service in such recognized school", of the following:—  
"has, in respect of any such period or part thereof, which is subsequent to the first day of March, 1928, made, or makes contributions", 30

(2) The amendment made in regulation I shall have effect and be deemed to have had effect from March 1, 1928.

J.N.B. 61533-500 (12/56) Govt. Press, Ceylon.

(Price: 10 cents, Postage: 10 cents)

No. 45 1962

Supreme Court of Ceylon,  
No. 325 (Final) of 1957.

District Court of Colombo,  
Case No. 38683/M.

*In her Majesty's Privy Council  
on an Appeal from the Supreme Court of Ceylon*

BETWEEN

NARAHENPITAGE WALTER DE COSTA  
No. 24, Church Street, Nugegoda.....*Plaintiff-Appellant.*

AND

1. THE TIMES OF CEYLON LIMITED.  
3, Bristol Building, Fort, Colombo.
2. D. B. DHANAPALA  
De Fonseka Place, Bambalapitiya.....*Defendants-Respondents.*

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RECORD  
OF PROCEEDINGS

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