

34, 1969

34

No. **38** OF 1968

SUPREME COURT OF CEYLON,  
No. 408 (FINAL) OF 1964.

DISTRICT COURT OF COLOMBO,  
CASE No. 1026/Z.

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

*Between*

**Chelliah Kodeeswaran** of No. 321, Main Street, Kegalla, presently of the  
Department of Social Services, Colombo 3.

*(Plaintiff-Respondent)*  
*Appellant*

*And*

**The Attorney-General of Ceylon, Colombo.**

*(Defendant-Appellant)*  
*Respondent*

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RECORD OF PROCEEDINGS

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UNIVERSITY OF LONDON  
INSTITUTE OF ADVANCED  
LEGAL STUDIES  
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LONDON, W.C.1.

# 38 OF 1968

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No. 408 (FINAL) OF 1964.

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*(Plaintiff-Respondent)*  
*Appellant*

*And*

**The Attorney-General of Ceylon, Colombo.**

*(Defendant-Appellant)*  
*Respondent*

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RECORD OF PROCEEDINGS

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**No. 1**  
**Journal Entries**  
IN THE DISTRICT COURT OF COLOMBO.

No. 1  
Journal Entries  
10. 10. 62  
to  
1. 2. 68

C. Kodeeswaran.....*Plaintiff.*

*Vs.*

The Attorney General of Ceylon.....*Defendant.*

No. 1026/Z

Class: IV:

Amount: Rs. 10,000/-

10 Nature: Money.

Procedure: Regular.

JOURNAL

(1) The 10th day of October 1962,

Mr. L. V. Perera, Proctor, files appointment and Plaintiff together with document marked A. Plaintiff accepted and Summons ordered for 9. 11. 62.

*Intld*.....

(2) 22. 10 62.

Summons issued with Precept returnable the 7th day.....

(torn.....)

20 (3) 9. 11. 62.

Summons served on (.....torn.....) The Attorney General (.....torn)

(4) 25. 1. 63.

Mr. A. H. M. Sulaiman for Defendant. Answer due-filed.

Trial 17 6. 63.

*Sgd.*.....

*District Judge.*

(5) 27. 5. 63.

Proctor for defendant files list of witnesses and moves for summons.

30 Proctor for plaintiff received notice.

Summons allowed.

*Sgd.* V Siva Supramaniam

*District Judge.*

(6) 31. 5. 63.

Proctor for plaintiff files list of witnesses and moves for summons.

Proctor for defendant received notice.

Summons allowed.

*Sgd.* V Siva Supramaniam

*District Judge.*

40

(.....torn.....)

No. 1  
Journal Entries  
10. 10. 62  
to  
1. 2. 68  
—Continued

(8) 10. 6. 63.  
Proctor for plaintiff files additional list of witnesses and documents and moves for summons.  
Proctor for defendant received notice.  
Mention on 17. 6. 63.

*Intld*.....

(9) 13. 6. 63.  
Summons tendered. Not issued.

*Intld*.....

(10) 17. 6. 63.

10

TRIAL (1) VIDE (4)

Mr. L. V. Perera for plaintiff  
Mr. A. H. M. Sulaiman for defendant  
Plaintiff's and defendant's additional list of witnesses and documents filed.

Mr. V. Tennekoon Deputy Solicitor-General for the defendant.

Mr. M. Tiruchelvam Q. C. with  
Mr. C. Ranganathan, S. Sharvanandan,  
A. Mahendra Rajah instructed for plaintiff.

20

This case is an A Court Case and in view of the heavy work in this Court, will not be reached.

Call case on 12. 7. 63.

*Intld*.....

(11) 21. 6. 63.

Proctor for plaintiff files 3rd additional list of witnesses and moves for summons.

Proctor for defendant received notice.

No trial date has yet been fixed mention on 12. 7. 63.

*Intld*.....

30

*District Judge.*

(12) 12. 7. 63

Mr. L. V. Perera for plaintiff  
Mr. A. H. M. Sulaiman for defendant  
Case called. Vide Journal Entry (11)  
Trial fixed for 25. 9. 63.

*Intld*.....

*District Judge.*



(13) 19th August 1963.

Summons tendered. Not issued. No Order to issue Summons on 2nd witness.

No. 1  
Journal Entries  
10. 10. 62  
to  
1. 2. 68  
—Continued

*Intld* .....

(14) 28-8-63

Proctor for defendant moves for summons on witnesses in the list referred to in Journal entry (8) as the trial is fixed for 25. 9. 63.

The list filed at Journal Entry (8) is by Proctor for plaintiff.

*Intld*.....

*District Judge*  
29.8.63.

10

3. 9. 63.

Unserved summons to witness removed by me for endorsement and reissue.

*Sgd.* Lucian V. Perera  
*Proctor for Plaintiff.*

(15) 3.9.63.

Proctor for defendant files additional list of witnesses and moves for summons.

20 Proof of posting copy to Proctor for plaintiff filed.  
Summons allowed.

*Intld*.....

*District Judge*  
5.9.63.

(16) 12th Sept. 1963.

- 1 Subpoena reissued by plaintiff - Jaffna.
- 6 Subpoenas reissued by plaintiff - Western Province.
- 1 Subpoena reissued by plaintiff - Vavuniya.

(17) 14.9.63.

*Intld*.....

30 Proctor for defendant files additional list of witnesses and moves for summons.

Proof of posting copy to Proctor for plaintiff filed.  
Issue summons.

*Intld*.....

*District Judge*

(17A) 14.9.63.

Proctor for plaintiff moves for summons on all the witnesses in the lists filed.

Issue the Summons.

40

*Intld*.....

*District Judge*

(18) 14.9.63.

Proctor for defendant files further additional list of witnesses and moves for summons.

Proctor for plaintiff received notice.  
Issue the Summons.

*Intld*.....

No. 1  
Journal Entries  
10. 10. 62  
to  
1. 2. 68  
—Continued

- (19) 14. 9. 63.  
Proctor for defendant moves for Summons on the witnesses in the list referred to at Journal Entry (10) as the trial is fixed for 25. 9. 63.  
Issue the Summons  
*Intld*....
- (20) 17th September, 1963.  
3 Subpoenas issued by defendant W.P.  
1 do Negombo. *Intld*.....
- (21) 18. 9. 63. 10  
Proctor for plaintiff files additional list of witnesses and additional list of documents.  
Proctor for defendant received notice.  
File.  
*Intld*.....  
*District Judge.*  
19.9.63.
- (22) 18. 9. 63. 20  
Proctor for plaintiff files additional list of witnesses.  
Proctor for defendant received notice.  
File.  
*Intld*.....  
*District judge.*  
19.9.63.
- (23) 23. 9. 63. 30  
Proctor for plaintiff files additional list of witnesses and documents.  
Proctor for defendant received notice.  
File.  
*Intld*.....  
*District Judge.*  
23.9.63.
- (24) 23. 9. 63. 40  
As Mr. V. Tennakoon Deputy Solicitor General who is leading for the Crown in this case is ill, Proctor for defendant moves to postpone the trial fixed for 25. 9. 63 to some other date convenient to Court.  
Proctor for plaintiff received notice for 25. 9. 63.  
Mention on 25. 9. 63.  
*Intld*.....  
*District Judge.*

(25) 25. 9. 63.

TRIAL VIDE JOURNAL ENTRY (12)

Mr. L. V. Perera for plaintiff  
Mr. A. H. M. Sulaiman for defendant  
Vide application at Journal Entry (24) for a postponement.  
Vide proceedings.  
And Journal Entry 25 in 984.  
Trial fixed specially on 21. 10. 63 to go on from day to day.

No. 1  
Journal Entries  
10. 10. 62  
to  
1. 2. 68  
—Continued

10

*Intld.....  
District Judge.*

(26) 30. 9. 63.  
1. 10. 63.

Proctor for plaintiff files additional list of witnesses and documents.  
Proctor for defendant received notice.  
File.

*Intld.....  
District Judge.  
1. 10. 63.*

20

(27) 7. x. 63.  
8. 10. 63.

Proctor for defendant files additional list of witnesses and moves for summons.  
Proctor for plaintiff received notice.  
Summons allowed.

*Sgd. Percy N. Senaratne  
Additional District Judge.  
8. 10. 63.*

(28) 4. x. 63.

30

Proctor for plaintiff moves for summons on the witnesses in the list referred to at Journal Entries (21) (22) (23) and (26).  
Issue Summons.

*Sgd. Percy N. Senaratne  
Additional District Judge.  
11. 10. 63.*

(29) 7 x. 63.

Proctor for plaintiff files additional list of witnesses and documents and moves for summons.  
Proctor for defendant received notice.  
Issue Summons.

40

*Sgd. Percy N. Senaratne  
Additional District Judge.  
11. 10. 63.*

No. 1  
Journal Entries  
10. 10. 62  
to  
1. 2. 68  
—Continued

- (30) 14. 10. 63  
3 Subpoenas issued by defendant – Western Province  
1 Subpoena issued by defendant Negombo.  
1 Subpoena issued by defendant – Western Province  
*Intld*.....
- (31) 16. 10. 63  
4 Subpoenas issued by plaintiff – Western Province  
*Intld*.....
- (32) 21. 10. 63  
TRIAL VIDE JOURNAL ENTRY (25) 10  
Mr. L. V. Perera for plaintiff  
Mr. A. H. M. Sulaiman for defendant  
Vide proceedings. Further hearing  
22. 10. 63 *Intld*.....  
*District Judge*
- (33) 22. 10. 63 Further hearing  
Vide proceedings  
Further hearing 23. 10.  
*Intld*.....  
*District Judge*
- (34) 23. 10. 63 20  
Further Hearing.  
Mr. Sharvandan brings to my notice that Mr. Tennakoon who is leading for the defence has suddenly fallen ill and applies for a date. Deputy Solicitor General consents to the date asked for. This case cannot be finished today and the Deputy Solicitor General himself has to leave for England on duty.  
It is agreed that the trial could be refixed for 14th November 1963. to go on on 25th Nov. 1963 and thereafter 3rd & 5th December 1963 after the witness now in the box is disposed of today.  
Vide proceedings. 30  
*Intld*.....  
*District Judge.*
- (35) 17. 10. 63  
24. 10. 63  
Proctor for plaintiff files additional list of witnesses and documents.  
Proctor for defendant received notice.  
File.  
*Intld*.....  
*District Judge.* 40  
24. 10. 63
- (36) 18. 10. 63  
24. 10. 63  
Proctor for plaintiff files additional list of witnesses and documents and moves for summons.

Proctor for defendant received notice. Summons allowed.

*Intld*.....  
*District Judge.*  
 24. 10. 63

No. 1  
 Journal Entries  
 10. 10. 62  
 to  
 1. 2. 68  
 —Continued

Mr. L. V. Perera for plaintiff  
 Mr. A. H. M. Sulaiman for defendant

(37) 14. 11. 63

TRIAL (4)

10 Appearances as before.  
 Vide proceedings.  
 Further hearing 25. 11. 63

*Intld*.....  
*District Judge*

(38)

Documents P1-P18 filed with list in separate volume.

*Intld.*  
 19/11.

(39) 25. 11. 63

TRIAL-VIDE JOURNAL ENTRY (37)

20 Mr. L. V. Perera for plaintiff  
 Mr. A. H. M. Sulaiman for defendant  
 Appearances as on last date.  
 Vide proceedings.  
 Trial is refixed for 3. 12. 63

*Intld*.....  
*District Judge.*

(40) 3 12. 63.

TRIAL (CONTINUED) VIDE JOURNAL ENTRY (39)

30 Mr. L. V. Perera for Plaintiff.  
 Mr. A. H. M. Sulaiman for Defendant  
 Appearances as before.  
 Call on 5. 12. 63. to fix further date of trial.

*Intld*.....  
*District Judge.*

(41) 5. 12. 63

CASE CALLED VIDE JOURNAL ENTRY (40)

40 Mr. L. V. Perera for Plaintiff.  
 Mr. A. H. M. Sulaiman for Defendant.  
 Appearances as before.  
 Further hearing on 13. 1. 64.

*Intld*.....  
*District Judge.*

(42) 11 Dec. 1963

4 subpoenas issued by Defendant-Western Provice.  
 1 Subpoena issued Negombo. *Intld*.....

No. 1  
Journal Entries  
10. 10. 62  
to  
1. 2. 68  
—Continued

- (43) 13. 1 64.  
 TRIAL (CONTD) VIDE JOURNAL ENTRY (41)  
 Mr. L. V. Perera for plaintiff.  
 Mr. A. H. M. Sulaiman for defendant.  
 Appearances as before.  
 Mr. Tiruchelvam closes his case leading in evidence P1-P20.  
 Mr. Tennekoon does not call evidence.  
 He closes his case marking in evidence D1-D8.  
 Addresses for 6. 7 10. 11 February 1964.  
*Intld..... 10*  
*District Judge.*
- (44) 6. 2. 64.  
 Appearances as before.  
 In view of illness of Mr. Tiruchelvam Q. C. it is agreed that  
 addresses should be on 10/2.  
*Intld.....*  
*District Judge.*
- (45) 10. 2. 64.  
 ADDRESSES-VIDE JOURNAL ENTRIES (43) & (44)  
 Mr. L. V. Perera for Plaintiff. 20  
 Mr. A. H. M. Sulaiman for Defendant.  
 Appearances for the Crown as before.  
 For the defence  
 Mr. Ranganathan leads with Mr. G. R. Gulasekeram and his  
 other Counsel who have already appeared earlier  
 Further hearing on 11. 2. 64.  
*Intld.....*  
*District Judge.*
- (46) 11. 2. 64. 30  
 Appearances as before.  
 Addresses continued-*vide* proceedings.  
 Further hearing on 12. 3. 64.  
*Intld.....*  
*District Judge.*
- (47)  
 Documents D1-D8 D9A-D9F tendered.  
 Documents in Volume II  
*Intld.....*  
 13/2
- (48) 22. 1. 64. 40  
 13. 2. 64.  
 Proctor for defendant tenders authorities relied on by the defendant  
 and moves to file same.  
 File.  
*Intld.....*  
*District Judge.*  
 13. 2. 64.

(49) 12. 3. 64.  
ADDRESSES (CONTD) VIDE JOURNAL ENTRY (46)

Mr. L. V Perera for Plaintiff.  
Mr. A. H. M. Sulaiman for defendant.  
Appearances as before except that  
Mr. Tiruchelvam is away in England.  
Vide notes.  
Further hearing 13/3.

*Intld.....*  
*District Judge.*

10

(50) 13. 3. 64.  
Addresses continued.  
Appearances as before.  
Vide notes  
Further hearing on 18. 3. 64.

*Intld.....*  
*District Judge.*

(51) 16. 3. 64.  
ADDRESSES (CONTD) VIDE JOURNAL ENTRY (50)

Mr. L. V. Perera for Plaintiff  
Mr. A. H. M. Sulaiman for Defendant  
Appearances as before.  
Vide notes.  
Further hearing 17/3.

*Intld.....*  
*District Judge.*

20

(52) 17 3. 64.  
Appearances as before.  
Vide notes.  
Judgment on 20. 4. 64.  
Documents with list to the office by 26. 3. 64.

*Intld.....*  
*District Judge.*

30

(53) 20. 4. 64.  
Judgment not ready  
Now for 24. 4. 64.  
Parties so informed.

(54) 24. 4. 64.

Mr. L. V Perera for Plaintiff  
Mr. A. H. M. Sulaiman for Defendant  
Judgment delivered in the presence of the plaintiff and Counsel  
and Proctor for plaintiff and defendant respectively.

*Intld.....*  
*District Judge.*

40

No. 1  
Journal Entries  
10. 10. 62  
to  
1. 2. 68  
—Continued

(55) 4. 5. 64

Mr. A. H. M. Sulaiman, Crown Proctor for Defendant Appellant tenders the Petition of Appeal of the Defendant-Appellant against the Order of the Learned District Judge made on 24. 4. 64 in above case and moves that same be accepted.

He also moves for a Deposit Note for Rs. 80/- to cover the cost of 4 typewritten copies of the brief in above case to enable him to have the same deposited in Colombo Kachcheri.

He further moves that Court be pleased to allow Notice of Appeal on the Plaintiff-Respondent to be issued for service on the Proctor for Plaintiff-Respondent. 10

1. Accept Petition of Appeal.
2. Issue Deposit Note
3. Issue Notice of Appeal for 10. 7. 64

*Sgd.* S. R. Wijayatilake  
*District Judge.*  
5. 5. 64

Paying in voucher for Rs. 80/ issued.

Notice of appeal issued returnable 2. 7. 64.

(56) 6. 5. 64

*Intld.*..... 20

Mr. A. H. M. Sulaiman Proctor for Defendant-Appellant tenders Kachcheri Receipt No. E/16 639841 of 4. 5. 64 for Rs. 80/- for typewritten briefs.

File.

*Sgd.* S. R. Wijayatilake  
*District Judge*  
7. 5. 64

(57) 30. 5. 64

2. 6. 64

Mr. L. V. Perera Proctor for Plaintiff-Respondent tenders Kachcheri Receipt No. E/16 644067 dated 29. 5. 64 for Rs. 25/- for typewritten briefs. 30

File.

*Intld.* S. R. W  
*District Judge.*  
2. 6. 64

(58) 10. 7. 64

Mr. Sulaiman Crown Proctor for Defendant-Appellant.

Mr. L. V. Perera for Plaintiff-Respondent.

Notice of appeal served on Proctor for plaintiff-respondent.

Mr. L. V Perera-absent.

Plaintiff-absent.

Forward record to the Supreme Court

*Sgd.* S. R. Wijayatilake  
10. 7. 64.



(59) 28. 7. 64

The case record in three volumes forwarded to the Supreme Court.

*Intld*.....  
*Assistant Secretary*  
District Court, Colombo

No. 1  
Journal Entries  
10. 10. 62  
to  
1. 2. 68  
—Continued

(60) 12/13. 9. 67

The Registrar of the Supreme Court returns record with the Supreme Court Decree and states Judgment and Decree of the District Court are set aside and it is ordered and decreed that the Plaintiff -Respondent do pay to the Defendant - Appellant the taxed costs of this appeal.

10

Proctor for Plaintiff and Defendant to note.

*Intld*.....  
*District Judge*

(61) 30/31. 1. 68

The Registrar of the Supreme Court calls for the record as application for leave to appeal has been made by the Privy Council Forward Record.

*Intld*.....  
*District Judge*

20

(62) 1. 2. 68

The case record in three volumes forwarded to the Supreme Court—vide Journal Entry (61)

*Sgd*.....  
*Assistant Secretary.*

**No. 2**

**Plaint of the Plaintiff  
(with annex marked "A")**

No. 2  
Plaint of the  
Plaintiff  
10. 10. 62.

IN THE DISTRICT COURT OF COLOMBO.

30

Chelliah Kodeeswaran of 321, Main Street, Kegalle.  
.....*Plaintiff.*

No. 1026/Z

*Vs.*

The Honourable the Attorney General of Ceylon,  
Colombo.....*Defendant.*

On this 10th day of October, 1962.

The plaint of the plaintiff abovenamed appearing by Lucian Valentine Perera, his Proctor states as follows:-

1. The defendant resides in Colombo within the local limits of the Jurisdiction of this Court.

40

2. The plaintiff was appointed to a clerkship in the General Clerical Class of the General Clerical Service of Ceylon on 1st November, 1952 and at all dates material to this action has been holding permanent employment under the Government of Ceylon.

No. 2  
Plaint of the  
Plaintiff  
10. 10. 62.  
—Continued

3. The plaintiff was on 1st October 1959 promoted to be a clerk in the Executive Clerical Class Grade II of the General Clerical Service of Ceylon and placed on the salary scale of Rs. 1620-Rs. 120 - Rs. 3780 per annum.

4. In accordance with the terms of the plaintiff's employment under the Government of Ceylon the plaintiff had earned and was entitled to the payment of an increment of Rs. 10/- per month with effect from 1st April 1962.

5 The Government Agent, Kegalle acting for and on behalf of the Government of Ceylon however, by his letter dated 28. 4. 62, a copy of which marked "A" is pleaded as part of this plaint informed the plaintiff that the said annual increment which fell due on 1. 4. 1962 has been suspended as the plaintiff has not passed any of the proficiency tests prescribed in paras 2(a) and (b) of Treasury Circular No. 560 of 4th December, 1961, and did not pay the said increment to the plaintiff. 10

6. The plaintiff states that the said Treasury. Circular No. 560 of 4th December 1961 is invalid and not binding on the plaintiff as the requirements contained in the said Treasury Circular are:-

- (a) unreasonable, in that it is not possible for the plaintiff who is a member of the Tamil Speaking Community not conversant with the Sinhala Language to attain the degree of proficiency postulated in the Circular within the time prescribed. 20
- (b) illegal in that they are made in the implementation of the Official Language Act No. 33 of 1956 the provisions of which are null and void in as much as in contravention of Article 29 of the Ceylon Constitution Order in Council they impose on members of the Tamil Speaking Community whose mother tongue is Tamil disabilities which members of Sinhala Speaking Community are not made liable to and/or confer on persons of the Sinhala Speaking Community an advantage which is not conferred on persons of the Tamil Speaking Community. 30

7. The Attorney General is sued in this case as representing the Crown.

8. A cause of action has in the premises arisen for the plaintiff to sue the defendant, for a declaration-

- (a) that Treasury Circular No. 560 of 4th December, 1961 is unreasonable and/or illegal and is therefore invalid and not binding on the plaintiff. 40
- (b) that in determining whether the plaintiff should be granted his annual increment the said Circular should be disregarded.
- (c) that the plaintiff is entitled to the payment of the increment of Rs. 10/- per month which fell due on 1. 4. 62.

9. The plaintiff has given due notice of this action to the defendant as required by law.

10. The plaintiff states that the action is of the value of Rs. 10,000/-.

No. 2  
Plaint of the  
Plaintiff  
10. 10. 62.  
—Continued

WHEREFORE THE PLAINTIFF PRAYS:-

- (a) for a declaration
  - (i) that the Treasury Circular No. 560 of 4th December, 1961 is unreasonable and/or illegal and therefore invalid and not binding on the plaintiff.
  - (ii) that in determining whether the plaintiff should be granted his annual increments the said Circular should be disregarded.
  - (iii) that the plaintiff is entitled to the payment of the increment of Rs. 10/- per month as from 1. 4. 62.
- (b) for costs, and
- (c) for such other and further relief as to this court shall seem meet.

10

Sgd. LUCIAN V PERERA,  
*Proctor for Plaintiff.*

Document Marked "A" Annexed to the Plaint

COPY

No. P. F - 157.

No. 2  
Plaint of the  
Plaintiff  
10. 10. 62.  
Annex marked  
"A"

20 Mr. C. Kodeeswaran,  
Clerk. E. C. C. Gr. II

INCREMENT.

Reference your letter dated April 26, 1962.

The annual increment that fell due to you on April 1st, 1962 was not paid as you have not passed any of the Proficiency Tests prescribed at paragraph 2 (a) and (b) of Treasury Circular No. 560 of December 4, 1961. The suspension has been ordered under paragraph 4 (b) of that circular.

*Sgd. ....  
for G. A. Kegalla.*

30

The Kachcheri.  
Kegalla,  
April 28, 1962.

No. 3

Answer of the Defendant

IN THE DISTRICT COURT OF COLOMBO.

Chelliah Kodeeswaran of 321, Main Street,  
 Kegalle..... *Plaintiff.*

*Vs.*

No. 1026/Z. The Honourable the Attorney-General of Ceylon,  
 Colombo..... *Defendant.*

On this 25th day of January, 1963.

The answer of the defendant abovenamed appearing by Abdul Hameed Mohamed Sulaiman and his Assistants Solomon Christoffel Obeysekera de Livera, Leo Srilal Perera, Abaya Tissa Dimbulane and John Vernantius Tillekeratne, his Proctors, states as follows:- 10

1. The defendant is Her Majesty's Attorney-General for Ceylon and files this answer on behalf of the Crown.

2. This defendant denies all and singular the averments in the plaint except to such extent as is hereinafter admitted.

3. This defendant admits the averments in paragraph 1, 2, 3, 5, 7. and 9 of the plaint.

4. Answering paragraph 4 of the plaint this defendant denies that in accordance with the terms of employment of the plaintiff under the Government the plaintiff is entitled as of right to the payment of Rs. 10/- per month or any other sum whatsoever by way of increment with effect from 1st April, 1962. This defendant further states that the payment of an increment to a public officer is dependent on a certificate that the officer concerned has discharged his duties with efficiency, diligence and fidelity and has earned his increment. 20

5. Answering paragraph 6 of the plaint this defendant states that Treasury Circular letter No. 560 of 4th December 1961 is not invalid and that it is binding on the plaintiff. This defendant further denies that the requirements of the said Circular letter are unreasonable or are illegal. Further answering this defendant states- 30

(a) that the said Circular letter was not issued by the Acting Secretary to the Treasury under any power, authority, duty or function vested in or imposed upon him by or under the Official Language Act. No. 33 of 1956, but in his capacity of Permanent Secretary to the Ministry in charge of the administration and conditions of service in the Public Service; and 40

(b) that in any event the provisions of the Official Language Act, No. 33 of 1956, are not null and void and do not impose on members of the "Tamil Speaking Community"

disabilities to which the "Sinhala Speaking Community" are not liable and/or confer on the "Sinhala Speaking Community" an advantage which is not conferred on persons of the "Tamil Speaking Community".

No. 3  
Answer of the  
Defendant  
25. 1. 63.  
—Continued

6. By way of still further answer to paragraph 6 of the plaint, this defendant pleads as a matter of law that "the Tamil Speaking Community" is not a Community within the meaning of Section 29 of the Ceylon (Constitution) Order in Council, and denies that the Official Language Act, No. 33 of 1956, is in contravention of the said Section 29 of the said Order in Council or that the provisions of the said Circular letter are illegal

7. Answering paragraph 8 of the plaint this defendant denies that a cause of action has arisen to the plaintiff for a declaration as described therein.

This defendant is unaware of the value of the action as set out in paragraph 10 of the plaint and puts the plaintiff to the proof thereof.

WHEREFORE THE DEFENDANT PRAYS:-

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

*Sgd. A. H. M. Sulaiman,  
Proctor for Defendant.*

Settled by:

*Sgd. ....  
Crown Counsel.*

No. 4  
Issues Framed

No. 4  
Issues Framed

25th September, 1963.

Mr. Advocate Tiruchelvam Q. C. with Mr. Advocate C. Renganthan Advocate S. Sharvananthan, Mr. S. C. Crosetie Thambiah, Mr. P. Nagendra and Mr. M. Underwood instructed for plaintiff.

Mr. Dheragoda, Crown Counsel, instructed for Attorney General.

The trial in case No. 1026/Z is specially fixed for 21st October, 1963, to go on from day to day.

The other two cases will be called on 21st October, 1963.

*Sgd. O. L. de Krester  
Acting District Judge.  
25. 9. 63*

21st October, 1963.

No. 4  
Issues Framed  
—Continued

Mr. Advocate M. Tiruchelvam Q. C. with Messrs C. Renganathan, S. Sharvanandan, R. R. Nalliah, C. Crosette Thambiah, P. Nagendra and M. Underwood instructed by L. V. Perera for plaintiff.

Mr. V. Tennekoon Deputy Solicitor General with Mr. L. B. T. Premaratne and H. Deheragoda, Senior Crown Counsel and Mr. H. L. de Silva Crown Counsel instructed by Mr. A. H. M. Sulaiman, Crown Proctor for the Crown.

Mr. Tiruchelvam opens his case.

Mr. Tennekoon states that he wishes to have paragraph 4 of 10  
plaint expanded before the issues are framed. He submits that he is handicapped in framing his defence without knowing the plaintiff's terms of employment referred to in paragraph 4.

Mr. Tiruchelvam submits that the employer of the plaintiff whom 20  
the Deputy Solicitor General represents knows what the terms and conditions of the plaintiff's employment are and secondly he submits that no interrogatories were served on the plaintiff. The first witness he is going to call is the Deputy Secretary to the Treasury who is the head of the Clerical Service and he will give evidence on the terms and conditions of the plaintiff's service. The terms and condi-  
tions of employment of the plaintiff are given in the letter of 20  
appointment, the contract of employment and in the Public Service regulations.

Mr. Tiruchelvam suggests the following issues:-

- (1) Was Treasury Circular No. 560 of 4th December, 1961 issued by the Government in implementation of the Official Language Act No. 33 of 1956?
- (2) Are the provisions of the Official Language Act No. 33 of 1956 void as enacted in contravention of Section 29 of the Ceylon 30  
Constitution Order in Council ?
- (3) If so is the said Treasury Circular invalid ?
- (4) Was the plaintiff's increment which fell due on 1st April 1962 withheld in accordance with the provisions of the aforesaid circular?
- (5) If any one or more of the above issues are answered in favour of the plaintiff is the plaintiff entitled to any or more of the declarations in paragraph 8 of the plaint?

Mr. Tennekoon submits that the Crown has denied the right of the plaintiff to an increment. The Crown has not acted under the Official Language Act. The plaintiff is a Public Servant and as a 40  
public servant the employer is entitled to give directions to its servant. In this case the defendant does not fall back upon the Official Language Act and it is not necessary. Crown is not relying on the Official Language Act to defend this action. Mr. Tennekoon

moves that all issues suggested by Mr. Tiruchelvam be ruled out because they are irrelevant. He submits that it is not necessary for the purpose of this action to give a declaration that this law is invalid as it does not arise here. Our Constitution does not give any power to a Court to give any advisory opinion to the Governor General or to anybody. The Court will decide what is the law only if it is necessary for the cause of action before it.

No. 4  
Issues Framed  
—Continued

10 Mr. Tennekoon objects to the issues as being irrelevant. He submits that it is totally unnecessary to go into the provisions of the Official Language Act for the determination of this action as the defendant is not relying on them to justify his act in stopping the plaintiff's increment.

I hear Mr. Tiruchelvam and I suggest that the issues be re-framed as follows:-

- (1) Is the plaintiff entitled in terms of his employment under the Government of Ceylon to an increment of Rs. 10/- a month which fell due on 1st April 1962?
- 20 (2) Was the said increment withheld by the Crown or its agents in terms of Treasury Circular No. 560 of 4th December 1962?
- (3) If so is the said Treasury Circular invalid?
- (4) If any one or more of these issues are answered in favour of the plaintiff is the plaintiff entitled to the declarations asked for in the plaint?

Mr. Tennekoon informs me that he does not seek to show that the Treasury Circular is valid in terms of the Official Language Act but relies on it for other reasons. These issues are acceptable to Mr. Tiruchelvam and to the Solicitor General.

Mr. Tennekoon suggests the following issue.

- 30 (5) Does the plaint disclose a cause of action against the Crown?
- I accept issues 1 to 5 as re-framed.

Mr. Tennekoon moves that issue 5 be taken up in limine. Mr. Tiruchelvam objects and submits that the cause of action and the terms of employment depend on the evidence he would lead.

#### ORDER

I decide to take the action up for trial on all the issues 1 to 5 as re-framed as it appears to me the quickest way of disposing of the action.

Sgd. O. L. de KRETZER,  
*Acting District Judge.*  
21. 10. 63.

No. 5  
Plaintiff's  
Evidence  
—  
Evidence of  
C. Balasingham  
Examination

No. 5  
Plaintiff's Evidence

Mr. Tiruchelvam calls-

C. BALASINGHAM Affirmed, 46, Deputy Secretary to the Treasury, Colombo.

I am the Acting Deputy Secretary to the Treasury. As such I am the head of the Clerical Service. The Clerical Service is under my control. I am the final authority in regard to promotions, transfers etc. of clerical servants. There is a Clerical Service Minute. That is found in the Gazette. I produce marked P1 Gazette No. 10844 of 1st October 1955. 10

Q. According to clause 3 of this minute the structure and salary scales are given?

A. Yes. There is a Special Grade with a salary of Rs.5580/- to Rs. 6540/- with four annual increments of Rs. 240/-. There is a Grade I with a salary scale of Rs. 3900/- to Rs. 5340/- with 8 annual increments of Rs. 180/- and Grade II with a salary scale of Rs. 1620/- to Rs. 3780/- with annual increments of Rs. 120/-. Clause 7 of this minute states that increments on the salary scale applicable will be given annually subject to satisfactory work and conduct 20

Q. Under the Clerical Service Minute is there provision for officers in the clerical service to pass an examination in the national language?

A. Yes. That is appendix C.

I know the plaintiff in this case is an officer in the Executive Clerical Class.

Q. According to this minute what was the examination that he was called upon to pass for the purpose of his service.

A. He had to pass an examination in accounts and an examination in Tamil. 30

TO COURT:

Because he is a Tamil he had to pass in Tamil.

Examination (Continued)

Before the Official Language Act was enacted all public officers in Class II of the Clerical Service had to pass an examination in their national language.

TO COURT:

Tamil Officers had to pass an examination in Tamil and Sinhalese officers had to pass an examination in Sinhalese. 40

Examination (Continued)

Increments are given annually to public officers if they have discharged their duties with efficiency, diligence and fidelity



and the proof of that is the certificate of the head of the department. An officer is warned before his increment is disallowed. He would be told that his increment is not paid because of an adverse report.

No. 5  
Plaintiff's  
Evidence  
—  
Evidence of  
C. Balasingham  
Examination  
—Continued

10 (Shown P2) This is a letter dated 28th April 1962 from the Government Agent, Kegalle to the plaintiff. (Original of the letter is marked). By this letter the Government Agent Kegalle informs the plaintiff that the annual increment which fell due on 1st April 1962 was not paid to him as he had not passed any of the proficiency tests in Sinhala prescribed by the Treasury circular. Similar letters have been written to hundreds of public servants who had not passed the proficiency tests in Sinhala. This letter was not peculiar to this officer. It was sent to every officer who did not pass the proficiency tests in Sinhala. As a result their increments were stopped. All the officers whose increments were stopped for other reasons would be so informed. According to this letter the only reason given as to why the plaintiff's increment was stopped was because he failed to pass the proficiency test.

20 Q. When the Official Languages Act was passed by Parliament the Government was concerned with the implementation of the Official Language throughout the Island?

A. Yes.

Q. For that purpose the Government has been issuing from time to time circulars to public servants?

A. Yes.

Some of these circulars have been issued by the Treasury, some by the Cabinet office and some by the Commissioner of Official Languages.

30 Q. Would it be correct to say that it is now the policy of the Government that the Official Language should be made the the Language of administration throughout the Island?

A. Yes.

TO COURT:

Q. Please explain about these three types of circulars you spoke of. The clerical servants must obey the Treasury circulars?

A. Yes.

Q. With regard to other circulars?

40 A. There were only two Cabinet conclusions which they issued as circulars to the heads of departments. The Commissioner of Official Languages from time to time issues instructions as to how work should be done in the official language.

Examination (Continued)

Q. As far as the plaintiff is concerned it would be the Treasury circulars that bind him?

A. Yes.

No. 5  
Plaintiff's  
Evidence  
—  
Evidence of  
C. Balasingham  
Examination  
—Continued

The others were orders given by the heads of departments who in turn had received orders from the Cabinet or from the Official Languages Department.

I produce Treasury Circular No. 336 of 29th November, 1956 marked P3.

Q. Would it be correct to say that this was the first circular issued by the Government on this?

A. As far as I remember this is the first circular issued by the Treasury.

Q. Clause 4 of P3, provided that a reply to any communication should be sent in the same language in which the communication is? 10

A. Yes, that was the practice of the Government at the time this circular was issued.

Q. It also provided that an officer who was not able to satisfy the new language policy will be allowed to apply for retirement?

A. Yes, that is clause 5(I).

Q. It was further provided that officers who are unable to fulfil the requirement of the new language policy will be found such employment in the public service as would enable them to carry out their functions as they had hitherto done? 20

A. Yes.

Earlier recruitments to the service was entirely through the English medium. The above provisions would apply to those who were recruited through the English medium.

I produce Treasury Circular No. 425 marked P4. Clause 2(2) here deals with the obligations of the old entrants in the public service. This circular also emphasises what had been said earlier that officers recruited through the medium of English are entitled to transact business in English. I produce Treasury Circular No. 428 marked P5. This deals with recruitment of new entrants. According to this recruitment will be through the medium of the language in which a person passed the qualifying test. This also laid down that persons who were recruited through the media of a language other than Sinhala would have to pass a proficiency test in Sinhala before confirmation. 30

(Shown Cabinet conclusion dated 20th December 1960. P6)

This is not a published conclusion.

(Mr. Tennekoon objects to the marking of this document as this is not a published conclusion in terms of section 123 of the Evidence Ordinance. Mr. Tiruchelvam wishes to question the witness before he replies. He is allowed to do so). 40

This Cabinet conclusion was

issued by the Secretary to the Cabinet. It was issued to all Government departments and Permanent Secretaries. It was circulated to all departments and public servants had access to this document.

(In view of this evidence the Solicitor General withdraws his objection.)

No. 5  
Plaintiff's  
Evidence  
—  
Evidence of  
C. Balasingham  
Examination  
—Continued

This document was sent to all Permanent Secretaries and heads of departments not under Ministries. Every public officer was acquainted with the contents of this circular. This bears  
10 No. CPA/278/60 of 20th December 1960. It is headed Implementation of the Official Language Act from 1st January 1961.

(Paragraph 6 of P6 put to the witness)

According to decision No. 10 Officers who do not pass a proficiency test in Sinhala would have their increments suspended. This was a Cabinet decision. According to directive No. 6 of P6 the public officers were directed to reply to a Tamil person in Sinhala with a translation in Tamil. There is also a directive that Commercial establishments may be asked to fall in line with the Government policy in this matter without delay.

20 (Shown directive No. 15 in P6) That directive has been implemented now. I am not aware whether Sinhalese officers have been posted to the District Revenue Officers' offices in the Northern and Eastern provinces.

(Adjourned for lunch)

Sgd. O .L. de KRETSEK,  
*Acting District Judge.*  
21. 10. 63.

#### TRIAL RESUMED AFTER LUNCH.

C. BALASINGHAM RECALLED, AFFIRMED.

30 Examination (Continued)

I produce Treasury Circular No. 536 of 24th may 1961 marked P7. By this circular the Government gave the right to all officers to retire on or before 31st December 1963 if they were unable to conduct their duties in Sinhala. The Minute on pensions was amended to permit this retirement.

I produce Treasury Circular No. 555 dated 31st October, 1961 marked P8.

40 According to clause 3 of this circular it provides that the extension of service should be granted only to those officers who were able to carry out their day to day duties in the Sinhala language. Extension of service is granted to an officer after he reaches 55 years of age.

I produce Treasury Circular No. 560 marked P9. This circular was issued on 4th December 1961. The heading is Public Servants and the Official Language-The Implementation of the Official Language

No. 5  
Plaintiff's  
Evidence  
—  
Evidence of  
C. Balasingham  
Examination  
—Continued

Act from 1st January 1961. Clause 2(b) of the circular prescribes the proficiency tests that public servants below the age of 55 years should pass

*Q.* P9 reproduces the Cabinet conclusion in the document P6?

*A.* Yes.

In paragraph 4 (b) it is stated the period of time allowed to an officer to pass each of the proficiency tests commencing from 1st January 1961.

(Shown P2)

This letter refers to paragraph 4b of the circular P9. It says that the plaintiff's increment is suspended as he has not passed the proficiency tests in Sinhala. No other reason has been given for the suspension of the increment. I am not aware of any other reason for the suspension of the plaintiff's increment. If there was any other reason it would have been within my knowledge. 10

*Q.* Would it be correct that prior to this circular there was no requirement for officers of the Executive Clerical Class to pass a proficiency test in Sinhala?

*A.* They were not required. The first time this requirement was introduced was by circular P9. 20

I produce Treasury Circular No. 581 of 20th July 1962 marked P10. Heading of this circular is Official Language—Recruitment and conditions of service of new entrants to the public service. According to this the medium of examination for recruitment will be the medium in which the candidate studied in school. Secondly new entrants who are not recruited through the medium of the official Language would be on probation. They have to pass within two years a proficiency examination in Sinhala before they are confirmed.

*Q.* Is there anything in this circular with regard to efficiency bars? 30

*A.* According to this circular all new entrants should pass an efficiency bar in Sinhala language of the Senior School Certificate standard within two years of the date of confirmation.

According to page 17 of P10 the confirmation tests of officers will have to be held in Sinhala.

(Shown marked P11 an extract from the Government Gazette No. 13761 of 20th September 1963) This makes provision for holding of an examination for promotion of officers in class III of the Clerical Service to Grade II of the Executive Clerical Class in January 1964.

*Q.* In what media will this examination be held? 40

*A.* In English and Sinhala.

According to this circular old entrants would be allowed to answer papers in Sinhala or English and new entrants will be allowed to answer the papers in Sinhala only whether they be Tamils or any other community. There has been a recent Cabinet conclusion

on the Official Language Act. That Cabinet conclusion has been issued as a circular and distributed to all Government departments. I produce that marked P12. It was issued by Mr. D. W de Alwis for Secretary to the Cabinet. It says implementation of Official Language Act No. 33. Clause 19 therein deals with old entrants and the required standard is the standard stipulated in paragraph 22 of the new circular. The standard of proficiency is the same as before but the dates have been changed. Paragraph 12 has been slightly altered.

No. 5  
Plaintiff's  
Evidence  
—  
Evidence of  
C. Balasingham  
Examination  
—Continued

10 Q. The position now is under the new circular the increments of those officers who sat for the examination and failed have been restored their increments?

A. Yes.

The officers like the plaintiff can also get their increments if they can satisfactorily explain why they failed to pass the tests. If they explain to the satisfaction of the heads of their Departments they can get their increments. There is a new circular No. 620 of 23rd September 1963 which I produce marked P13 and also there is another circular No. 621 which I produce marked P14.

20 (Shown letter dated 13th July, 1960 (P15). This is the letter of appointment issued in favour of the plaintiff informing him that he has been appointed to Class II of the Executive Clerical Class. Public servants in the clerical service are issued with letters of appointment.

I produce the plaintiff's letter of appointment dated 16th October, 1952 marked P16. At that time he was asked to enter into a contract. I produce that contract he entered into when he was first appointed marked P17.

30 When the plaintiff was appointed in the first instance to the Clerical service on 16th October 1952 he was issued with the letter of appointment P16 and he also entered into an agreement with the Government that in consideration of his appointment he would not demand his discharge without the permission of the Government and if he leaves the service without giving one month's notice he will pay the Treasury a sum equivalent to one month's salary.

40 Q. Today in consequence of the implementation of the Official Language is there a Treasury Circular which says that any old entrant officer can be promoted only if he has passed the proficiency test in the official language?

A. Yes, it is in that Cabinet conclusion P12. The circular says that preference will be given to those with a knowledge of the official language in promotions in the clerical service.

TO COURT:

The plaintiff is an old entrant. Officers who were appointed before 24th September, 1956 are old entrants.

No. 5  
Plaintiff's  
Evidence  
—  
Evidence of  
C. Balasingham  
Examination  
—Continued

### Examination (Continued)

In the General Clerical Service there must be about 9000 officers in all. Of these 9000 roughly about 2500 will be new entrants. There would be about 6500 old entrants. Of these 6500 about 3000 may be non Sinhalese officers. Out of the 2500 new entrants about 2000 would be Sinhalese officers. Of the 6500 old entrants there are about 2700 Tamil officers. There are 150 or 200 Muslims and about 100 Burghers and Malays. In the Clerical service there was no requirement for any non Sinhalese officer to acquire proficiency in Sinhala prior to 1956.

10

Evidence of  
C. Balasingham  
Cross-  
Examination

### CROSS-EXAMINED

*Q.* So far as appointments disciplinary control and so on are concerned of the clerical servants that power is in the Public Service Commission unless delegated?

*A.* Yes,

Appointments to General Clerical Service Grade I and Executive Clerical Class Grade II have been delegated to me. Special Grade Appointments are made by the Public Service Commission.

*Q.* Conditions of service in these grades you have referred to are decided by the Treasury?

20

*A.* Yes.

I have been in the Treasury for nearly 12 years. The Treasury is under the Minister of Finance.

*Q.* The subject of public service is a subject under the Minister of Finance?

*A.* Yes. That is an allocation under Section 46 of the Constitution.

The General Control of the Public Service is under the Treasury with the ultimate control of the Minister of Finance.

*Q.* Conditions of service of clerical servants are decided by the Treasury or by the Ministry of Finance?

30

*A.* Yes.

The plaintiff joined the General Clerical Service in 1952. P1 is the Clerical Service Minute.

*Q.* Was there a similar minute prevailing in 1952?

*A.* There must have been. P1 was published in the Gazette and it applied to all those who were in service and to those who wanted to come into the service thereafter.

I was a member of the Civil Service until the Civil Service was abolished. Accountants' Service is also a large service under the Treasury. All terms and conditions of those services are decided by the Treasury.

40

Even in the Civil Service there were efficiency bar examinations.

Q. What do you understand by efficiency bar?

A. The test of efficiency.

If an officer does not get through the efficiency bar his increment is refused and will not be promoted over the bar. That kind of conditions prevailed long before 1956 and even before 1952. It prevailed prior to independence and continued after independence.

Q. Can you tell us what kind of Efficiency Bar examinations there were for the Civil Service?

10 A. We had three efficiency bars. The first one consisted of an examination in law, in accounts, in history or Geography and a paper in a second language. Tamils had to pass a paper in Sinhala and Sinhalese officers had to pass a paper in Tamil. That is the officers had to pass an examination in the language in which they were not familiar. If we did not get through those efficiency bar examinations we would not get our increments.

TO COURT :

By the language with which we are not familiar I mean Sinhalese for Tamil officers and Tamil for Sinhalese officers.

CROSS EXAMINATION (Continued)

20 Q. In respect of the plaintiff the terms of his engagement are governed by P1?

A. Those terms apply since 1955.

(Shown P1) (Para 7 read to the witness) P16 is the letter of appointment given to the plaintiff. (Shown para 6 of P16) What is stated here is correct.

(Shown P15) (Paragraph 2 read to the witness) P1 which I produced has lot of amendments. Those amendments are made from time to time. They apply to all officers in the public service. P1 is amended from time to time.

30 Sometimes it is amended by a circular issued to departments.

Q. The conditions of service in the General Clerical Service are amended very often by means of a circular addressed to the heads of departments and Permanent Secretaries?

A. Yes.

Q. You tell me whether to your knowledge Treasury circulars are issued by any authority granted by any statute?

A. They are administrative directions not under any statute.

40 I have read some statutes in law. I am aware of sections which say "the Minister may make regulations", or "the Minister may publish a scheme..." etc. Any circular issued in respect of the services was not issued in respect of any law of that nature. Those circulars continued to be issued prior to 1956, and came to be issued after 1956. That is because the Treasury is in charge of the public service and it fixes the terms and conditions of each service.

No. 5  
Plaintiff's  
Evidence  
—  
Evidence of  
C. Balasingham  
Cross-  
Examination  
—Continued

No. 5  
Plaintiff's  
Evidence  
—  
Evidence of  
C Balasingham  
Cross-  
Examination  
—Continued

(Shown P2) Normally if any officer wants to know why his increment has been suspended he is written a letter like P2. This is in reference to a letter addressed to G. A. Kegalle by the plaintiff. I do not know the plaintiff's signature and handwriting. When I entered the Civil Service I sat for an examination in English. I sat for a Sinhalese paper for the efficiency bar. I am a Jaffna Tamil. I can speak Sinhalese I was educated in Jaffna up to Cambridge Senior. Thereafter I entered the University College and sat for the Civil Service.

TO COURT:-

10

I can read and write Sinhalese and Tamil.

CROSS-EXAMINATION (Continued)

I studied my Sinhalese in Matara when I was a Cadet. Sinhalese was not a subject in my school at that time. Subsequently they were teaching Sinhalese in schools for sometime. In some schools in Jaffna they were teaching Sinhalese. After 1956 it was discontinued. When I studied Sinhalese in Matara I did so for my efficiency bar. It is not impossible for a Tamil to pass those efficiency bars. I do not know the plaintiff personally.

*Q.* You said the plaintiff is a person who did not sit for the proficiency tests at all? 20

*A.* I do not know.

*Q.* You are aware that all those prescribed tests in language circulars for the proficiency tests were in fact held?

*A.* Yes They were held for the first time in February 1962. We were exempted from two tests because we have passed two examinations already in the Civil Service. We have to sit for a third. I have not yet sat for it. I have studied but I did not sit. I am now expected to pass Grade III the J. S. C. standard.

*Q.* Are you aware of any Tamil officers who have passed those tests? 30

*A.* Yes.

I am aware of non Sinhalese officers who have failed those proficiency tests. I have heard that some Sinhalese officers have failed those proficiency tests.

I know there is provision for retirement in those circulars.

*Q.* Do you know that there are a number of officers who have retired on the ground that they are unable to pass those proficiency tests?

*A.* Yes.

40

There are Tamils, Burghers and Sinhalese who have retired under those provisions. There are Muslims also who have retired under those provisions. Proficiency tests are held twice a year from February 1962.



Q. In P9 the period allowed for Sinhalese officers to pass the first proficiency test is 6 months and for Tamil officers one year?

A. Yes.

In each of the grades six months more have been given for the passing of those proficiency tests to non Sinhalese officers.

Q. Who decided on the difference of time?

A. The Cabinet.

10 The plaintiff is in the public service. He got into the public service after independence. The public servants are recruited from the whole community. There are in the public service Sinhalese, Tamils, Burghers, Muslims and Foreigners.

Q. Prior to the independence when it was a Colony although there was no law English was the language used for official purposes?

A. Yes, in private and public service. There was no law which declared an official language.

Q. Were there any public servants who did not know English?

A. Yes, in the lower grades. There were Korales, Ratemahatmayas and others who did not know English. When Kachcheries communicated with them they were sent correspondence in English with a translation.

20 When they communicated with the Kachcheries they wrote in Sinhalese and for the benefit of the Englishmen they were translated into English.

TO COURT:

They were not required to learn English.

Q. Even as a condition for promotion those people were not required to learn English?

A. No.

CROSS-EXAMINATION (Continued)

(Shown P17)

30 This agreement contains two undertakings by the plaintiff. He says that he will at no time demand his discharge without the permission from the Deputy Secretary to the Treasury and secondly he will not leave the service on his own without giving a month's notice. There are no covenants undertaken by the Government.

RE-EXAMINED.

I am myself an Advocate. I took my oaths as an Advocate.

Q. Do you know the distinction between statutory rules and orders and ordinary Treasury circulars?

A. Yes.

40 Q. By Treasury circulars you give effect to the request of Government?

A. Yes.

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*Q.* The Minister of Finance is in charge of the administration and he is the head of the public service?

*A.* Yes.

I am the head of the clerical service. We never speak an untruth in a Treasury Circular.

*Q.* You were asked about the Civil Service. In the Civil Service Minute when the Civil Service Examination is advertised they set out the requirement that a Civil Servant will have to pass in two languages?

*A.* Yes. At the time of the recruitment it was a condition of my service. 10

I myself studied Sinhalese and my first efficiency bar I passed when I was 23 years of age. When I entered the Civil Service I knew that I had to study Sinhalese. I studied Sinhalese again for the second efficiency bar examination when I was 26 years of age.

My studying of Sinhalese was to pass the two examinations prescribed by the Civil Service Minute.

*Sgd.* O. L. de KRETSEK,  
*Acting District Judge*  
21. 10. 63 20

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Kodeeswaran  
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CHELLIAH KODEESWARAN, Affirmed. 29 Clerk. 65 2/1, Van Royan Street, Colombo 13.

I am the plaintiff in this case. I joined the Clerical Service on 1st November, 1952. (Shown P16) This was the letter of appointment issued to me. When I entered the service I signed the agreement P17 on 1st November, 1952. I was promoted to Class II of the Clerical Service on 1st October, 1959. I was issued P15 informing me that I was promoted. Before I sat for the examination I referred to the Gazette setting out the minute of the Clerical Service. According to that minute I was called upon to pass an examination in Tamil for the efficiency bar. I have not reached the efficiency bar yet. In 1962 I was working in the Kegalle Kachcheri. I was in the Food Control Branch. My increment was due on 1st April 1962. On 31st March 1962 my salary was Rs. 145/ per month and my increment was Rs. 10/-. 30

*Q.* Did you have any adverse reports against you?

*A.* No adverse report was communicated to me. No warning was given to me. I was not fined for anything.

According to the Public Service regulations if there was an adverse report it had to be communicated to me. The head of my department was the Government Agent. I did not receive the increment which fell due on 1st April 1962. I wrote to the Government Agent and inquired as to why I was not paid the increment. I produce marked P18 a copy of the letter I wrote to the Government Agent, Kegalle and I got his reply P2 in which I was informed that the annual 40

increment that fell due to me on 1st April 1962 was not paid as I had not passed any of the proficiency tests in Sinhala.

*Q.* Did you sit for any proficiency test in Sinhala?

*A.* No.

I have brought this action for a declaration that this circular P9 is invalid. I also ask for a declaration that I am entitled to the payment of my increment.

*Q.* As far as you are aware is there any other reason besides this for the non payment of your increment?

10 *A.* No.

I asked in P18 for the reasons for the non payment of my increment and in the reply the only reason given is that I have not passed the proficiency tests. I have not been paid the increment because I did not pass the proficiency tests in Sinhala.

(Further hearing tomorrow.)

*Sgd.* O. L. de KRETSEK,  
*Acting District Judge.*  
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22nd October 1963.

20 TRIAL RESUMED

Same appearances for the parties as on last date.

CHELLIAH KODEESWARAN. Recalled. Affirmed

CROSS-EXAMINED.

I am 29 years old. I got into the General Clerical Service in 1952. My mother was alive at the time and my father was dead. My mother is still alive. I support her. My only source of income is my salary from my employment. I did my work efficiently, diligently and loyally.

30 *Q.* For the purpose of granting your increment what counts is the opinion of those above you and not your opinion of yourself?

*A.* Yes. I know that.

*Q.* Are you aware that even health considerations are taken into account?

*A.* Yes.

40 I am physically fit. I am not subject to Malaria. When I was a small child I had jaundice. I did not have dysentery. I had rheumatism when I was a small child. At the time I joined the General Clerical Service I had passed the S.S.C. examination. For my S.S.C. I did English Language, Tamil Language, Arithmetic,

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English Literature, History, Tamil Literature, Sanskrit and Hinduism. I did not do Sinhala. At the time I left School. I knew a little Sinhala. I could write and read Sinhala. I was born in Wattedgama in the Kandy District. That is the Central portion of the Island close to Kandy. I started my education in Trincomalee. I was educated at Matale and later at Jaffna. At Matale I was in the lower forms. If I remember correctly it must have been in the third or the 4th standard. Matale is very close to Wattedgama. I was educated at St. Thomas' College Matale. Majority of pupils in my class were Sinhalese. I passed the B.A. examination in 1962. I was ready to sit for it in 1958 but owing to troubles in Colombo area I could not sit and I went to Jaffna. I sat in 1959 in Jaffna. That examination was held in June 1959. I had some trouble in sitting for that examination. I sat for the examination between the 10th and the 26th of June, and there was a disciplinary inquiry against me under the Public Service Commission rules and I was punished.

10

Q. In order to sit for that examination you had to get leave?

A. Yes.

I cannot distinctly remember whether I had applied for leave at the time. I may have taken leave. I was stationed at that time in Trincomalee. I had to take leave. I was also on medical leave at that time. I cannot remember whether I was suffering from dysentery at that time, at the time I applied for leave.

20

Q. You were put on charges for falsely obtaining leave?

A. The charges were that I left station without permission and that I sat for an examination while on medical leave. I was found guilty of those.

My subjects for the B.A. examination were History, Tamil and Law.

TO COURT:

30

B.A. General examination can be passed in three subjects.

Cross-Examination (Continued)

P1 gives the terms of service in the General Clerical Service. I have seen the document P1. It is called the Minute of the General Clerical Service. That is dated October 1955. (Para 2 of P1 read to the witness) I have read those conditions of my service.

(Para 7 of P1 read to the witness).

Q. You note there that before you can draw the salary point of Rs. 3180/- you are required to pass an examination in the national language?

40

A. Yes I see that. The national language was of our choice.

Q. Prescribed in appendix "C"?

A. Yes.

Q. Turn to appendix C at page 1418 (witness reads) So that it was a condition of your service even in 1955 that before you

could pass the salary limit of Rs. 3180/- you had to study both Sinhalese and Tamil?

A. No. I do not accept that. No. 3. of appendix C according to that we had to pass in one language and in accounts.

Document P1 contains a number of amendments. Those various amendments are brought in by means of circulars and orders of Government and so on.

Q. Some of them never get into the gazette.

A. I cannot say that. Treasury circulars are not gazetted.  
10 Sometime after the whole thing is republished with the amendments. Until then the Treasury circulars operate.

Q. Before your conditions of service are altered there has never been the practice of asking the consent of the officers concerned?

A. Not to my knowledge.

Q. Nor have they been consulted generally in a body?

A. I am not aware of any such consultation.

(Para 7 of P1 read to the witness)

Q. You know the Manual of Procedure?

A. Yes.  
20

(Shown Section 143 of the Manual Procedure D1).

Q. Before the increment is granted you have to obtain a certificate?

A. A certificate is issued by the head of the Department.

Q. In this case you are not in possession of such a certificate?

A. No officer is given access to that certificate. It is written out by the head of the department and attached to the pay sheet.

Q. Are you aware whether such a certificate has been issued  
30 in respect of you before your increment was due on 1st April 1962?

A. Every year we get our increment. A Clerk in the General Clerical Service would not get his increment unless such a certificate is issued. If a certificate had been issued I would have got my increment.

Q. In your case there has not been any such certificate?

A. I cannot say that. I do not know how it had been done. As far as I know my increment has been disallowed only on the ground that I have not passed the Sinhala proficiency tests. The certificate normally issued for the granting of the  
40 increment contain various particulars such as leave taken etc. A certificate may have been issued in regard to those questions.

Q. Before you instituted this action you took no trouble to ascertain whether such a certificate has been issued?

A. I wrote a letter to G.A. Kegalle asking why my increment was not granted.

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Q. You have not ascertained whether a certificate was made in respect of you even?

A. It was not necessary.

It was not necessary for me to ascertain that.

Q. In your plaint you say that the Circular is not binding on you for the reason that the circular is unreasonable in that it is impossible for you

A. Yes. Those were instructions I gave my lawyers.

Q. That is it is not possible for you to attain the proficiency stipulated in the circular?

A. Yes.

P9 was issued in December 1961.

Q. Para 2b of P9 provides that old entrants are required to pass certain proficiency tests. i. e. the 3rd std. proficiency test in your case in one year?

A. Yes.

(Shown Circular No. 554 of 31st October 1961 D2)

This sets out the syllabus for the proficiency tests. There are three proficiency tests Grade I Grade II and Grade IV. The Syllabus for Grade I appears at page 30 of D2. I know a little Sinhala. With regard to my reading ability of Sinhala I cannot say I am quite good because in the course of years I have forgotten to some extent. I do not say that I do not know a single word of Sinhala. Today I cannot say I know all the letters in the Sinhala alphabet. At one time I knew practically the whole of the Sinhala alphabet. I was able to carry on a simple conversation in Sinhala. I knew the names of the days of the week. I knew simple adjectives like "Bohoma" "Kettu" and so on. I knew simple words like "Tikak" "hemin" I knew the words "Atha" "Heta" etc. I knew the simple pronouns like "Mama" "Ohu" I knew simple words "Yanawa" "Kanawa" "Enawa".

Q. All those words are set out in the Syllabus in D2. That is the kind of examination you will have to face if you sat for the Grade I proficiency test?

A. Yes.

Q. I put it to you that you would have had no difficulty in passing that Grade I proficiency test?

A. I cannot say straight away but I have to explain the position. I am a member of the Tamil community speaking Tamil. These proficiency tests were held in order that non Sinhala officers may become proficient in the Sinhala language and work in Sinhala. As a member of the Tamil speaking community I feel I cannot study the Sinhala language and become proficient in that language in order that I may be able to keep pace with the rest of my Sinhalese colleagues, therefore I did not sit for those proficiency tests.

Q. You say in your plaint that it is impossible for you personally to pass that first proficiency test?

A. I have to pass not only the first proficiency test but three proficiency tests.

Q. You would have got that increment with which we are concerned with in this case if you passed the first proficiency test?

A. Yes.

Q. And you could have passed that if you sat?

A. I cannot say.

10 Q. You cannot say it is impossible?

A. I say it is impossible.

Q. When you sat for your B. A. in 1959 and 1960 you were in the public service?

A. Yes.

I was doing full day's work as a public servant at that time.

Q. There is no difficulty about finding time to study Sinhala?

A. I cannot say that because I am not only working in office, I have also got my other work. I have certain interests in other things. I was very keen to study and pass my B. A. examination. I  
20 passed my B. A. examination in 1962.

Q. Is that why you say it is impossible for you to have studied for the first proficiency test?

A. I do not say it was the lack of time that prevented me from studying for the first proficiency Sinhala test.

Q. You are a kind of conscientious obstructor to this and you refused to try even to pass the proficiency test?

A. I do not want to study Sinhala.

Q. There are Sinhala classes provided at various Government Offices?

30 A. Yes. I did not attend those classes. Those were held free during office hours.

Q. Government was also providing simple postal lessons by correspondence courses in Sinhala?

A. I do not know whether it was provided for all the officers but my recollection is that certain departments did that. I have heard of that. I did not try to obtain those correspondence courses.

Q. You are very competent in Tamil. How would you describe your knowledge of Tamil. Would you say excellent?

40 A. I think I may say good. I passed my B. A. in Tamil. I have done Sanskrit.

(Shown a form of a document D3)

I have seen this form. I have filled in forms of that kind. It is headed Confidential Report. The first page of this form is filled up by the officer himself. The report is actually on pages 3 and 4. The supervising officer would fill in pages 3 and 4. I myself make certain statements about my salary particulars and educational qualifications at page 1.

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Q. That is no part of the supervising officers duty to fill in those in page 1?

A. Yes. Those are my statements.

There is a cage 3H degree of proficiency in languages.

Q. You are required to give the degree of proficiency in Sinhala, Tamil and other languages?

A. Yes.

Q. It requires you to state what is the capacity of speaking, reading and writing?

A. Yes.

Q. Can you recollect what you have stated in your Annual Confidential Reports in those matters?

A. Yes.

(Shown certified copy of Confidential Report for 1956 dated 23rd March 1956 D4)

Q. You say your knowledge of Sinhala is fair and then you have cut it off and put below average?

A. Yes.

That is Sinhalese speaking.

Q. You have first said Sinhala reading fair and then cut it off and said below average?

A. Yes.

Q. With regard to Sinhala writing also you have said fair and then cut it off and said below average?

A. Yes.

I have said knowledge of Tamil is excellent. I have said I know to read and write Sanskrit.

(Shown Confidential Report (certified copy) dated 30th Oct. 1953. D5) I had just joined the department in 1953. There is a cage here dealing with languages.

Q. At that time in 1953 that cage was not filled up by you but by your superior officer?

A. Yes.

Q. That cage is filled "Speaking, reading, writing, interpretation, translating good"?

A. Yes.

TO COURT:

Q. Were you tested in your Sinhalese before those remarks were made?

A. No.

CROSS-EXAMINATION (Continued)

Q. Before the officer filled in these did he not ask you what your knowledge of Sinhala was?

A. I am not sure. I think he must have asked.

10

20

30

40



I was not working in Sinhala in 1953. He must have asked me about my knowledge of Sinhala. The officer who filled up that cage in that year was Mr. S. M. Kanagaratnam the Chief Accountant. I am not sure whether he is in service now. I have not done any interpretation in Sinhalese. In regard to Tamil he has put down very good. I think that is correct. In 1959 I said that my knowledge of Tamil was excellent.

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Q After 1956 in the Confidential Report you left that column under Sinhalese blank?

10 A. Yes. I did not enter anything against it.

Q. Why is that even your below average knowledge of Sinhala disappeared immediately in the following year?

A. In consequence of the Official Language Act if I had committed myself to any knowledge of Sinhala I may well have been later asked to work in Sinhala. Therefore I did not want to put it down,

Q. You were afraid that it might create evidence of your knowledge of Sinhala?

20 A. I did not create any evidence of the elementary knowledge of the Sinhala that I had.

Q. In your plaint you state that the condition introduced by P9 does not apply to you for two reasons, one that it is impossible for you to pass the test and secondly that it is void because the Official Language Act is void?

A. Yes.

Q. Apart from those two considerations it is not your position that it is void or illegal otherwise?

A. No I do not challenge it on any other ground.

30 Q. In fact you accept if the Official Language is valid it is a perfectly legitimate way of altering the condition of service?

A. If the Official Language Act is valid the conditions of service may be altered by a Treasury Circular without due consideration to the difficulties that will arise as regards Tamil speaking people. I have been 11 years in service. Conditions of service are varied by Treasury Circulars

Q. In this case too this condition of service about proficiency tests has been altered in the similar way in which it had been done in the past?

A. Yes.

40 TO COURT :

Q. Supposing there was no Official Language Act-even before the Official Language Act you were required to have a knowledge of a national language and that was in your case Tamil, would it have been in order for a circular to have been issued saying that now officers are also required to have a knowledge of Sinhala assuming that there was no Official Language Act. Could not the conditions of your service have been altered in that manner?

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A. It could have been altered but the language of administration that is the language in which I normally work should have been English.

CROSS-EXAMINATION (Continued)

Q. A condition prescribing the knowledge of a particular language is not unknown in Government Service?

A. Yes.

In the Civil Service officers have to pass in Sinhalese and Tamil.

Q. In your Clerical Service the Sinhalese have to pass in Sinhala and the Tamils in Tamil? 10

A. Yes.

Q. So that a Treasury Circular requiring an officer to pass a test in any language is not unknown?

A. I do not know whether it was so earlier. Certain officers were called upon to know both national languages.

Q. Although this Treasury Circular was issued in December, 1961 (P9) you were first affected by it in April 1962?

A. Yes.

Q. Did you take any legal advice prior to that as to whether this circular is valid. 20

A. We were exploring the possibility whether we could take any legal action.

Q. Is it that you did not try to sit for the proficiency tests because you had obtained legal advice that there is some legal invalidity in law?

A. No.

We had gone to our lawyers even before my increment was refused. When I say we myself and some of my friends. I am a member of a trade union known as the Arasanka Eluthuvinaigar Sankam. That means the Government Clerical Service Union. 30

TO COURT:

Q. Can you translate it to Sinhalese?

A. I cannot translate but there is another union.

CROSS EXAMINATION (Continued)

The Constitution of that Union does not provide that only Tamil Officers can be its members. It is open to all.

TO COURT:

It has no Sinhalese name.

CROSS-EXAMINATION (Continued)

This present action was instituted on 10th October, 1962. I am the President of the Arasanka Eluthuvinaigar Sankam. I was elected President last June. I think it was in June, 1963, that I was elected President. I became President only a few months ago. Before that 40

I was a member of the working committee of that Sankam. I was not its Secretary. I cannot remember whether I held office in the Union in June, 1962. Previously I did not hold any office in the Union apart from being a member of the working committee.

*Q.* Are you aware that the Union which you referred to has also filed actions in this court i.e. actions Nos. 978/Z and 984/Z ?

*A.* Yes. Both those actions are filed by the Union.

*Q.* Are you aware whether any resolution was passed by the Union to institute action ?

10 *A.* I cannot remember. I cannot remember whether even the committee decided to file action.

*Q.* Was it you who gave instructions to lawyers in connection with those actions ?

*A.* No. The Union gave instructions. One or two members went to see the lawyers. I did not always go to see the lawyers in connection with those cases.

*Q.* Action No. 978/Z was filed on 14th May, 1962. (Shown certified copy of plaint in case No. 978/Z marked D6)

*A.* Yes.

20 I got my letter P2 from the Government Agent Kegalle on 28th April 1962.

(Shown P18) This is dated 26th April 1962. I did not write this letter on the instructions of my lawyers. We have had consultations with the lawyers before that. But this letter I wrote on my own. The Union wanted me to write this letter. The Union had gone to the lawyers earlier.

*Q.* In plaint D6 the action is against the Secretary to the Treasury, Mr. Shirley Amarasinghe ?

*A.* Yes.

30 (Shown a certified copy of plaint in case No. 984/Z marked D7). This was filed in June, 1962. This action is by the Union against the Attorney General.

*Q.* The two actions 984/Z and the present action are concerned with the circular P9 ?

*A.* Yes.

*Q.* In both actions the contention is that it is void because it is issued under the provisions of the Official Language Act ?

*A.* Yes.

40 *Q.* It is not suggested in either action that the Treasury cannot by circular alter ordinary conditions of service ?

*A.* Yes. Here we seek to have those circulars declared as invalid because of the Official Language Act.

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TO COURT:-

Q. You do not say that the Government cannot change conditions of service by Treasury Circulars?

A. I say that the circular is bad because it is in implementation of the Official Language Act, which I say is bad. I say in the present case that this Treasury Circular is unreasonable.

CROSS EXAMINATION (Continued)

Q. The two actions by the Union are financed by the Union?

A. Yes.

I am not financing this action myself. This action is also being financed by the Union. 10

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RE-EXAMINED

I was punished after inquiry and my increment was deferred for six months because I went for the examination while on medical leave. At the time I sat for the examination I was ill. That deferment of the increment took place in 1959. Subsequent to that I got my increment.

(Shown D1)

Q. According to clause 143 it says when such certificate for the grant of an increment cannot be granted and the increment is disallowed such disallowance may take one of the following forms—deferment of increment; stoppage of increment; reduction of salary and suspension of increment? 20

A. Yes.

Q. At page 24 of D1 they say suspension of increment is appropriate when the officer responsible for the issue of ..... (the passage is read to the witness)

A. Yes.

Q. When you asked in your letter the reason why your increment was stopped were you given those reasons? 30

A. No.

Q. Was a certificate ever issued to you?

A. No.

Q. It is your position that your certificate in this case has not been issued for the reasons set out in P2?

A. Yes. P2 gives the reason why I was not granted the increment. The certificate is not given to our hands.

I was recruited to the service in the English medium. At the time I was recruited in English I expected to carry out my work in English. As a result of the Treasury Circular I will be called upon to carry on my work from 1st January 1964 in Sinhala. 40

Q. Those Tamil officers who have passed the proficiency tests in Sinhala in what language are they now called upon to work?

A. In Sinhala.

When I left school I had studied some Sinhalese at Hindu College Charvakachcheri. At that time some of the schools in Jaffna were teaching Sinhalese. I left school in 1951. I passed lower Sinhalese in the J. S. C. It can be equated with the third standard proficiency test. I did not keep in touch with Sinhalese after that.

10 Q. Have you ever in the course of your duties done any work in Sinhala?

A. No.

Q. In your plaint you state that this Treasury Circular is unreasonable in that it is not possible for you who is a member of the Tamil speaking community to attain the degree of proficiency stipulated in the circular within the prescribed time?

A. Yes.

20 Q. Do you think that the average Tamil Public Officer who does not know any Sinhala would be placed in any position of disadvantage?

A. (Question objected to  
Question disallowed.)

Sgd. O. L. de Kretser,  
*Acting District Judge.*  
22. 10. 63.

SIR KANTHIAH VAITHIYANATHAN

(Witness comes from the well of the Court. He states he just came to Court.) Affirmed. 67, Pensioner. Colombo.

30 I joined the Ceylon Civil Service in 1923. Prior to joining the Civil Service I obtained a degree in Anthropology from the University of London. After joining the Civil Service I served the Government of Ceylon as a public servant for nearly 30 years. In the course of my service in the public service I have held administrative, judicial posts and also done work in the foreign service. At one time I was a Magistrate and a District Judge. In the Administrative section of the service I have been a Government Agent and Assistant Government Agent. During the course of my service I have become quite familiar with the administrative machinery of Ceylon. I retired from Government service when I held the post  
40 of Permanent Secretary to the Ministry of Defence and External Affairs. I held that post for five years. As a member of the Civil Service I had to pass certain proficiency examinations in the national languages. For the first proficiency examination I passed both Tamil and Sinhalese. For the second proficiency examination I passed Sinhalese and various other subjects. In the Civil Service the requirement was that a non European member of the Civil Service would be called upon at the first examination to pass his national language,

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—Continued

that is a Tamil officer Tamil and a Sinhalese officer Sinhalese. For the second examination a Sinhalese officer would be called upon to pass in Tamil and a Tamil officer to pass in Sinhalese. The same regulations were applicable to European members except that they had the choice of either Tamil or Sinhalese. They had to do one language. I am a Ceylon Tamil. Tamils of Ceylon have been a settled community in this country for a long time.

(The question is objected to on the ground that it is irrelevant.

Mr. Tiruchelvam submits that those questions are relevant for the purpose of attacking the circular as invalid.

10

COURT TO COUNSEL.

*Q.* Are you trying to prove that Tamils are a community in Ceylon?

*A.* Yes.

Mr. Tennekoon says that he does not contest the fact that Tamils are a distinct community in Ceylon but he does not concede that every Tamil in Ceylon belongs to that community.)

Tamil speaking people in this country are divided into two sections as a race. Muslims are also a settled community in Ceylon.

(The Deputy Solicitor General objects to the question on the footing that it is irrelevant.

20

Mr. Tiruchelvam submits that it is relevant on issue No. 3. I allow the question to be put)

The language of the Tamil community in Ceylon is Tamil. The language of the Muslim community in Ceylon is Tamil language. Tamil community is divided into two sections. They are Ceylon Tamils and Indian Tamils.

*Q.* As a student of anthropology you have a concept of all communities?

*A.* A concept of what a community is, a derivation of the word, common interest of some sort which binds people together.

30

(The Deputy Solicitor General states that he objects to all these questions)

A community can be racial, linguistic or a social group. I produce marked P19 the report of the Soulbury Commission (Page 249 of P19 read to witness).

(Mr. Tiruchelvam moves to mark the Census Report of Ceylon.

The Deputy Solicitor General states that although the question here is whether the Treasury Circular in question is valid it is a distinct question whether evidence can be led for the purpose of showing the meaning of a term in the Order in Council. The Constitution is in plain English and in trying to understand the constitution Mr. Tiruchelvam must say that some section is not clear and must explain it. He must say what is the expression of word he is doubtful of and he wants evidence to assist the Court in understanding it.

40

Mr. Tiruchelvam says that it is necessary for him to prove that the Official Language Act is ultra vires of the Constitution in that it subjects the Tamil community to certain disadvantages and it also confers on people of the Sinhalese community certain advantages.

10 Those are matters of evidence. The quantum of advantage or disadvantage is a relevant factor. He is only seeking to show by census figures through this witness the numerical strength of the Tamils and of the people who speak the Tamil language other than the Tamils and that is relevant for this case.

The Deputy Solicitor General says that the Court can take judicial notice of the Census Report.

The Deputy Solicitor General states that he would admit the figures of population given in the Census Report).

I produce marked P20A Volume I Part II of the Census Report of 1946 page 105.

(Mr. Tiruchelvam points out that according to this report the population of Ceylon of all races was 6057339. Of these Ceylon Tamils amounted to 730731.

20 Ceylon Moors 373559. Indian Tamils 780589 and Indian Moors 35624).

At page 151 (P20B) there appears the population classified according to mother tongue. (Mr. Tiruchelvam states that according to P20B the literacy figures were as follows:- Persons who were educated in Tamil language 815436).

I produce the Census Report for 1953 (P21)

I mark page 17 of P21 as P21A.

(Mr. Tiruchelvam points out that according to this Ceylon Tamils consisted of 884703.)

30 Page 23 of P21 is marked P21B (Mr. Tiruchelvam points out that according to this Indian Tamils numbered 974098. (Counsel marks page 26 of P21 as P21C. He points out that according to this Ceylon Moors amounted to 463963. He marks page 31 of P21 as P21D- he points out that according to this Indian Moors consisted of 47462 persons. He marks page 604 of P21 as P21E. Counsel points out that according to this out of a total literate population of 7,280,987 persons who could speak Tamil only consisted of 1,570,084 persons, and persons who could speak English only consisted of 14066 persons) I am aware that the Official  
40 Language Act was passed in 1956. Prior to that the official language of Ceylon was English.

Q. Was there legal provision for the conduct of the administration in English?

A. Not in the same manner. I believe there was some legal provision for use of English in the Courts only.

No. 5  
Plaintiff's  
Evidence  
—  
Evidence of  
Sir Kanthiah  
Vaithyanathan  
Examination  
—Continued

*Q.* The language in which the administration was conducted in the Central Government say in Colombo in the Central Secretariat?

*A.* Almost entirely in English.

I myself as a Permanent Secretary conducted the administration in English. I was a Government Agent. The administration is conducted in the Kachcheries for the districts and the provinces. In the Kachcheries the language of administration was generally English. The records were kept in English. The minutes were made in the records in English. I made minutes in English. I was never called upon to make minutes in Sinhalese. There was the administration carried on at district levels by Ratemahatmayas and Mudaliyars before the District Revenue Officers were appointed.

10

*Q.* In the days of the Ratemahatmayas and Mudaliyars in what language was the administration of the divisions conducted?

*A.* Partly in English and partly in the language of the area.

*Q.* I believe in the case of particularly the Kandyan areas the Ratemahatmayas who did not know the English language kept their records in Sinhalese?

*A.* I would say those who did not know sufficient English.

*Q.* In the Northern and Eastern Provinces in what language did the Maniyargars who did not know English keep their records?

20

*A.* I never served in the Northern and Eastern provinces.

After the Chief Headman system was abolished they introduced the District Revenue Officers' service. I was the Permanent Secretary of the Home Ministry at the time the District Revenue Officers' service was introduced. The District Revenue Officers' service was divided into three sections; the Low Country Sinhalese Kandyan Sinhalese and Tamils.

*Q.* Recruitment to the District Revenue Officers' service for the Tamil areas was only Tamil speaking officers?

30

*A.* Yes. There was a general rule that they would have to serve anywhere in the Island but it was understood that they would have to serve in Tamil areas. Recruitment was in three groups. One was Tamil speaking District Revenue Officers, Kandyan area and District Revenue Officers for the Low Country areas. District Revenue Officers for the Tamil speaking areas were Tamils. They were posted generally to the Tamil speaking areas.

Tamil speaking areas were Northern and Eastern provinces, and also some divisions in the Puttalam district. As far as the administration is concerned the impact of the administration is felt through the village headman. During my period the village headman conducted their duties almost entirely in the language of the area.

40

A village headman in the Tamil speaking areas would communicate to the public in Tamil. He would issue notifications in Tamil and he would issue notices in Tamil.



TO COURT:

*Q.* How do you know this?

*A.* As a citizen myself I have seen them do that.

EXAMINATION (Continued)

10 My father himself was an Udayar. I have a personal knowledge how my father conducted his duties. As a boy I was in Jaffna. I have interested myself in the Mannar district from 1950 onwards. I have experience of the manner in which the area is administered at the village level. As Government Agent I served in Kandy and Colombo. The reports made in Kandy by Village Headmen to District Revenue Officers were generally made in Sinhalese but there may have been exceptions.

I have visited in the course of my duties as Government Agent, District Revenue officers' I have been present at inquiries.

*Q.* Could you tell us the inquiries in District Revenue Officers' offices were held in what language?

*A.* Nearly always in the language of the area.

*Q.* The statements made by persons who were present at the inquiry in what language were they recorded?

20 *A.* That would depend on the personal ability of the District Revenue Officer himself. Sometimes the records were made in the language in which it was given and I believe often he would translate and write it in English because it is easy for him to send it to the head office.

*Q.* If an inquiry is held in Sinhalese and after it is over is it sent to the head office in the language in which it was recorded?

*A.* If he sends the original he would do so.

30 *Q.* Would it be correct to say that as far as the administration was concerned as it affected the ordinary citizen the administration was conducted in the language in which the ordinary citizen understood?

*A.* Yes, at the village level.

In the Northern and Eastern provinces a large majority of the people are Tamil speaking.

TO COURT:

*Q.* How do you know that?

*A.* From records and Census Reports and I have also travelled in the Northern and Eastern provinces.

EXAMINATION (Continued.)

40 *Q.* By and large are those people in a position to understand the administration in the Sinhala language?

*A.* I know the Northern province intimately. In the North certainly not.

No. 5  
Plaintiff's  
Evidence

—  
Evidence of  
Sir Kanthiah  
Vaithyanathan  
Examination  
—Continued

No. 5  
Plaintiff's  
Evidence  
—  
Evidence of  
Sir Kanthiah  
Vaithyanathan  
Examination  
—Continued

*Q.* An administration conducted in the Northern Province in the Sinhala language would it place the Tamil speaking persons in a position of disadvantage?

*A.* It would.

If the administration of the country is conducted in the Sinhala language would it place the people speaking the Sinhalese language in a position of advantage over the Tamil speaking people?

*A.* Certainly yes.

There is a large dispensation of Tamil speaking people throughout the Island. In the Western Province there is a large concentration of Tamil speaking people. 10

*Q.* Would these persons be placed in a position of disadvantage if the administration is conducted in Sinhala?

*A.* At the village level it has always been in Sinhalese.

*Q.* At a level other than the village level?

*A.* Yes.

*Q.* As a citizen would you consider a Tamil speaking person would be in a position of disadvantage if the administration throughout the Island was in Sinhala language?

*A.* Yes. 20

*Q.* Did you receive any communication from the Government in Sinhalese?

*A.* A part of the time I was in the Government. As a citizen now I have received myself communications in Sinhala in Colombo.

*Q.* Can you tell the Court the instances of communications which you have received in the Sinhalese Language?

*A.* The income tax return and some correspondence on it came to me in the Sinhala language. Notice of a meeting of a committee of the UNESCO recently came to me in the Sinhala language. Those are the two that I can think of at present. 30

TO COURT:

*Q.* You knew sufficient Sinhalese to understand those two notices?

*A.* Not quite The language is a little high flown now.

EXAMINATION (Continued.)

As I have passed Sinhala examinations I knew from whom they came and what they were about but I was not able to understand them as I am entitled to. Above the minor grades there are several thousands of Tamil public servants.

*Q.* Prior to 24th September 1956 these Tamil officers in the public service were recruited to serve in the English language? 40

*A.* Yes.

*Q.* Similarly the Sinhalese speaking officers were recruited also to work in the English language?

*A.* Yes.

## CROSS-EXAMINED

During the time in which I served as a public servant English was the official language and a greater part of the public servants were required to know English. During that period letters to public went out in English.

Q. Sometimes a person who did not know English receiving such a letter would get it read?

A. Yes.

10 Q. That would create some inconvenience in the sense of having to go to someone who knew English to get it explained?

A. Yes.

Q. That is a matter of inconvenience?

A. If a villager has to go to town travelling several miles I will call it a real disadvantage.

Q. Are you just selecting that word because it appears in Section 29 of the Constitution?

A. I was not thinking of it at all.

20 Q. Do you think if the letter was sent to him in his language a benefit would have been conferred on him, a legal benefit or just some greater convenience for him?

A. I do not see the difference. It is a benefit.

Q. When you speak of disadvantage and advantage benefit and so on, are you thinking in terms of this kind of proposition, that a person has a right to be communicated with in his own language or are you thinking with that as the basis for your thinking?

30 A. I do not think I was thinking of that as a matter of right. I was merely saying what would be to his advantage or disadvantage. I thought that was how the question was put. If I am asked whether he has a right to expect it that would need a different answer.

I am myself a Ceylon Tamil.

Q. On your own theory would you be at a disadvantage if you are addressed in English?

A. No because I know English.

Q. Just because you belong to the Tamil community it does not mean that if you get a letter in Sinhala or English the fact that you belong to that community cause a disadvantage.

A. The fact that that should be uppermost in my mind is whether I can understand it by looking at it.

40 TO COURT:

Q. The fact that you a Tamil getting a letter in English causes no disadvantage or inconvenience to you?

A. No.

No. 5  
Plaintiff's  
Evidence  
—  
Evidence of  
Sir Kanthiah  
Vaithyanathan  
Cross-  
Examination  
—Continued

CROSS-EXAMINATION(Continued)

I have been in Colombo for a long time. I know that there is a fair concentration of Tamils in Colombo.

*Q.* But you find some Tamils who know very little Tamil as poor as your knowledge of Sinhalese?

*A.* I would not be able to give an opinion on that. It would depend on whether written Tamil or spoken Tamil. If he is a Tamil he would know his Tamil not as poorly as my Sinhalese. He may not know to read and write Tamil. In Colombo there are Tamils who do not know written Tamil.

10

*Q.* If that kind of person got a letter in Tamil he would be subject to that same inconvenience?

*A.* It would be the same if he got a letter in a South African language, because he is an ignorant person.

*Q.* If a Tamil gets a letter in English and he is unable to understand it the disadvantage arises from the fact of his not knowing English and not from the fact that he is a Tamil?

*A.* In those particular circumstances yes.

*Q.* Similarly if a Sinhalese gets a letter in English the disadvantage arises from the fact of his not knowing English and not by the fact that he is a Sinhalese?

20

*A.* Yes.

In Colombo there are a lot of Sinhalese who know very little Sinhalese in the same way as Tamil illiterate people. Some of those persons are very literate in English.

*A.* Yes.

In the Civil Service during my time there were Sinhalese officers who knew very little Sinhalese. That was due to the education system at the time.

*Q.* Those officers if they got a high sounding letter like the notice you got of a meeting they would themselves be of the same disadvantage as you are?

30

*A.* Yes.

I believe Tamil District Revenue Officers are sent to just one district in Puttalam. It was at that time regarded as a Tamil speaking area. There are lot of people belonging to the Sinhalese community speaking Tamil in that area, who call themselves Sinhalese at present speaking Tamil in that district.

*Q.* Your position is that this law creates a disadvantage for the Tamil community and it will also create disability for the Tamil speaking Sinhalese?

40

*A.* To Tamil speaking people whether they be Sinhalese or Tamils it is a disadvantage.

TO COURT:

The people who know only Tamil will be at a disadvantage. People who do not know Sinhalese but who speak Tamil would be at a disadvantage irrespective of any community.

CROSS - EXAMINATION (Continued)

No. 5  
Plaintiff's  
Evidence  
—  
Evidence of  
Sir Kanthiah  
Vaithiyanathan  
Cross-  
Examination  
—Continued

10 I have not seen the syllabus prescribed for the Sinhala proficiency tests. After I entered the Civil Service I studied and passed three efficiency tests in Sinhala. One was lower, one was higher and one before I got into Class I. We have to pass an oral test. Before I got into the Civil Service I knew a few words of Sinhalese.

I did not know to write. While in the Civil Service I studied and passed those examinations. I did not find it difficult to pass those examinations in that level which is very poor. There were three tests in Sinhalese. At the first bar, second bar, and before getting into Class I. Each step of the efficiency bar examinations required a little more of Sinhalese at each level. To pass those examinations we were not expected to pass in grammar. I knew simple verbs in Sinhalese and I also knew to make small sentences in Sinhala and I also knew the names of the days of the week.

20 Q. Do you say that that kind of simple test forming of small sentences, giving names of the days of the week, giving some pronouns is impossible for the generality of Tamils?  
(Question objected to. Question withdrawn).  
(Adjourned for lunch)

Signed O. L. de Kretser  
Acting District Judge  
22.10.63

RESUMED AFTER LUNCH.

SIR KANTHIAH VAITHIYANATHAN Recalled

30 CROSS-EXAMINATION (Continued)

I said that some people are literate in certain languages and others are not. I do consider myself literate in English. Being literate means one can read and write the language.

Q. The fact that a certain language is the mother tongue of a person does not by that fact alone make him literate in that language?

A. No.

Q. Similarly a person whose mother tongue is Sinhalese is not literate in Sinhala?

40 A. Yes.

Even a person who can talk Tamil is not literate in Tamil.

Q. How does one attain this state of literacy?

A. By education. Sometimes without attending school one can become literate.

No. 5  
Plaintiff's  
Evidence

Evidence of  
Sir Kanthiah  
Vaithyanathan  
Cross-  
Examination  
—Continued

*Q.* Do I understand you to say that all persons who are literate in a certain language belong to the same community?

*A.* No. I do not belong to the English community.

TO COURT:

*Q.* Are you one of the English speaking community?

*A.* Yes.

CROSS-EXAMINATION (Continued)

*Q.* That class of persons who are literate in English do not necessarily belong to one race?

*A.* They do not. 10

*Q.* The fact that English is the mother tongue of a certain person would automatically make him competent to be in the public service according to you?

*A.* No.

*Q.* He must gain literacy?

*A.* Under the old dispensation he would probably be welcome in the public service if he knows English.

*Q.* Even without being literate in that language?

*A.* No.

Merely English being the mother tongue does not make him competent to be in the public service. The mother tongue of a person similarly does not make him competent to be in the public service. 20

*Q.* Whether one belongs to the Tamil community, Sinhalese or Muslim community what one needs in literacy in the official language?

*A.* Yes not that it be his mother tongue.

RE-EXAMINED

Evidence of  
Sir Kanthiah  
Vaithyanathan  
Re-examination

Mother tongue of the Tamil community is Tamil. Mother tongue of the Sinhalese community is Sinhalese. Today education is through the mother tongue. There are Tamils who cannot read Tamil. There was a stage when education was not in the mother tongue. Despite the fact there is free education in Ceylon a large section of the people is still illiterate. Today the Tamil speaking child would be educated in his mother tongue Tamil. A Sinhalese speaking child would be educated in his mother tongue Sinhalese. Before the passing of the Sinhalese only Act when English was the language of the administration a Sinhalese who received a letter in English was in a position of disadvantage. Similarly a Tamil who received a letter in English was in a position of disadvantage. When the administration was conducted in English both Sinhalese and Tamil suffered disadvantages. The effect of passing the Official Language Act is the disadvantage to the Sinhalese will be almost entirely removed and the disadvantage to the Tamils would be almost doubled. 30 40

TO COURT:

*Q.* Why do you say it will be doubled?

*A.* Because in the Tamil areas there is nobody who knows Sinhalese and a Tamil man who receives a letter in Sinhalese will have to travel miles to get it explained but there was always someone in the neighbourhood who knew English.

No. 5  
Plaintiff's  
Evidence  
—  
Evidence of  
Sir Kanthiah  
Vaithyanathan  
Re-examination  
—Continued

RE-EXAMINATION (Continued)

*Q.* You were asked whether a person was English speaking would automatically qualify him for admission to the public service?

*A.* Yes.

10 *Q.* As a citizen of Ceylon do you think that the doors of the public service should be open to all?

Your position is under the old dispensation public service was open to those who were literate in English?

*A.* Yes, except the minor posts. Under the new dispensation the position will be changed.

*Sgd.* O. L. de Kretser,  
*Acting District Judge*  
22. 10. 63

20 JEGANATHAN TIYAGARAJA. Affirmed, 68, Advocate, 18, Ward Place, Colombo.

Evidence of  
J. Tiyagaraja-  
Examination

30 I am a member of the Monetary Board of Ceylon. I am a Master of Arts of the University of Cambridge and a Bachelor of Laws of the University of Cambridge. I have been taking part in public affairs during my career. At one stage I was a member of the Municipal Council of Colombo from 1937 to 1940. I was also a Member of the State Council of Ceylon. I represented the Mannar Mulativu Constituency in the State Council. I was a member of the State Council in 1944 till the dissolution of the State Council at the end of 1947. During the period I was a Member of the State Council Mr. D. S. Senanayake was the Leader of the Council and he was also the Minister for Agriculture & Lands. During my period as a Member of the State Council a resolution was passed by the State Council on the National Languages. That was passed in May 1944. The resolution was to the effect that

(Mr. Tennekoon objects to this evidence on the ground that it is irrelevant.

Mr. Tiruchelvam states that it is necessary to place before Court the legislative history of this measure to show that this particular legislation is discriminatory.

40 Mr. Tennekoon submits that with regard to the interpretation and understanding of local legislation one cannot look to the political history.

No. 5  
Plaintiff's  
Evidence  
—  
Evidence of  
J. Tiyyaraja-  
Examination  
—Continued

## ORDER

I uphold the objection of the Deputy Solicitor General that the evidence of the resolution passed by State Council is irrelevant for the purposes of this case.

*Sgd. O. L. de Kretser,  
Acting District Judge*

Mr. Tiruchelvam, says in the circumstances he has no further questions to ask this witness.

CROSS EXAMINED - NIL

*Sgd. O. L. de Kretser, 10  
Acting District Judge  
22. 10. 63*

Evidence of  
K. Nesiah-  
Examination

KUNASEKERAM NESIAH, Sworn. 61, Pensioner, Badulla.

I am a Master of Arts in History of the Madras University and I have done Education as a subject. I was a Lecturer in Education in the University of Ceylon till last year. I have made a special study of the impact of language on education. I have written a book known as Mother Tongue in Education. It was published in 1945. I have also been called upon to contribute an article to the Year Book of Education 1964, which is published by the University of London and Teachers College in Colombia. That is a recognised publication in the educational field. I have been acquainted myself with the history of this subject. 20

*Q.* What is the mother tongue of the Tamils of this country?

*A.* Tamil.

*Q.* What is the mother tongue of the Sinhalese people?

*A.* Sinhalese.

*Q.* As an educationist can you tell us when a child is educated in the mother tongue what are the advantages that accrue to him?

*A.* The language serves two fold purposes: it serves at the lowest level as the medium of communication. 30

(Deputy Solicitor General objects to these questions. I allow them).

At the deeper level it is a creative medium because the language is the means by which a person develops his personality at the deeper level. That is the creative medium. The mother tongue is able to serve both purposes whereas a second language or a third language can in the case of most people serve only the first purpose, that is just as a medium of communication.

*Q.* I am only at the stage of a child who goes to school and has his education in mother tongue does it have advantages? 40

*A.* Yes.



*Q.* Let us take the case of a monolingual person a Sinhalese or Tamil taught in the mother tongue he is able to reach proficiency upto a certain level?

*A.* According to his ability he is able to attain a fair degree of education. When we estimate a persons proficiency usually it applies to a second language.

10 *Q.* Take the case of a Tamil person who is called upon to acquire by law proficiency in another language for the purpose of carrying on his profession or his employment in the service of the Crown will you tell the court the stages of proficiency which can be reached if a person is called upon to carry on his work in a different language from his own?

20 *A.* Here I can do no better than to cite a classical study made on this subject by the Vice Chancellor of a South African University, Professor Malherbe whom incidentally I had the privilege of meeting and discussing this question. He distinguishes six degrees of proficiency in the second language. The lesser or the first stage he states is when a person is able to follow intelligently something that is written or ordinary speech or something written in ordinary simple language when he is able to just follow it.

*Q.* That degree of proficiency is lower than the degree of proficiency required to carry on work in the public administration?

*A.* Yes.

If I speak to my servant who is a Sinhalese in Tamil he is able to follow me, it is that degree of proficiency.

30 The second stage is when a person is able to converse intelligibly. That is to be able to listen with some understanding and he is able also to express himself in simple language. That stage is also lower than the stage required to carry on work in the public administration. This is the stage at which waiters, sales assistants, hospital attendants, are able to speak such languages but it may be that the brighter of these people are able to read simple books, also.

*Q.* Would that stage be lower than the standard required for conduct of administration in that language?

*A.* Yes.

*Q.* What would be the third stage?

40 *A.* The third stage is the stage at which one is able to write the second language correctly. Professor Malherbe speaks of proficiency in paper language. That is a kind of proficiency that would serve a civil servant or a clerical servant.

*Q.* That is for a public servant to be able to follow a minute in that language?

*A.* Yes, and to write a minute. He may not be able to write a report on a complicated thing at that stage.

The fourth stage is the stage when a person who is able to write correctly with convincing power of expression. You can write a minute but you can also write forcibly in order to carry conviction to the reader. At the fourth stage you can be a teacher of the second language.

The fifth stage is attained according to Professor Malherbe by people who are able to carry on that ability to a higher degree. He says General Smuts is one of those who in his second language of English was able to express himself as well as the best of Englishmen in the English language. The sixth stage is reached by nobody. There is nobody in the world who has command of a second language in the same way as he has the command of the first language.

TO COURT:

10

Q. When you say mother tongue you do not mean actually the language of the mother?

A. No one is born with a language but the fact is we are born in particular homes and in particular countries in particular environments. I would read to you the definition of mother tongue given by Professor Malherbe.

“By the first language or mother tongue we mean the language of the home, the fire side, the language in which he thinks most often, in which he expresses the dear and intimate things and in which he has probably reached a greater all round proficiency than in any other language”

20

By the second language he means “the language in which a person is less generally proficient and which comes less naturally to him.”

EXAMINATION (Continued)

I accept Professor Malherbe's definition of the mother tongue.

Q. What would be the mother tongue of the Sinhalese people?

30

A. The people who call themselves Sinhalese their mother tongue is Sinhalese.

Q. Having regard to the meaning that you have already given to the expression mother tongue to Court what is the mother tongue of the Tamils?

A. Tamil having regard to that definition.

Q. You have said that for the purpose of effectively participating at higher levels of the administration, that is for making of original contributions by way of minutes, reports etc., one must attain the fifth degree of proficiency?

40

A. No the fourth degree. The third degree would do for the average clerical servant but if he wants to make a substantial contribution the fourth degree is necessary

The fifth degree is for people like General Smuts and we do not have too many of them.

Q. Between the Tamil language and the Sinhalese language there are certain basic differences in the script and so on?

A. Yes.

Q. The acquisition of proficiency of a language would depend on a man's environment and so on?

A. Yes, the environmental factor. For example a child of 7 years without much study gets a vocabulary of several hundred words.

10 In this country with Sinhala as the Official language the child whose mother tongue is Sinhalese starts with an advantage in that language. This advantage would continue throughout life. In regard to the Tamil speaking child whose mother tongue is Tamil that child will suffer a disadvantage if he has to use Sinhalese. If such a child is called upon to work in Sinhala such child suffers a disadvantage visa vis a Sinhalese child would if he was called upon to work in Tamil.

Q. At all stages would it not be easier for a Sinhalese person to carry on work in the Sinhalese language than for a Tamil person?

20 A. Yes except for a very very gifted person who has studied Sinhalese.

Q. From the beginning?

A. Some people can catch up quickly even after childhood.

Q. The average Tamil public servant who is educated through the Tamil medium would be in a position of disadvantage?

A. Yes.

Q. And the acquisition of a proficiency in a second language would depend sometimes on ones capacity to linguistic ability?

A. Yes.

30 (Shown P6 Clause 17)

Q. According to this direction Tamil speaking public officers who are recruited to the public service after 24th September 1956 have to acquire a proficiency in Sinhala up to the Junior School Certificate standard at the end of 2½ years and they have to acquire for the purpose of passing the first efficiency bar a knowledge of Sinhala at the Senior School Certificate level within two years after confirmation?

A. Yes.

40 Q. Would you consider this and tell the Court whether such a requirement would place the Tamil speaking officer i. e. those to whom Sinhala is a second language in a position of disadvantage as compared to the Sinhalese officers who carry on the administration in their mother tongue?

A. Obviously.

TO COURT:

Q. Why?

A. Surely a person whose mother tongue is Sinhalese would be in a better position. I have seen some question papers therefore I am able to speak.

EXAMINATION (Continued)

He has to sit for the first efficiency bar test. It is a competitive test. Question of time when you are asked to write an essay in 40 minutes, supposing I was writing an essay in English which is the principal language I have used I have to marshal out my ideas. Here there is the educational handicap to a person who has picked up a limited vocabulary in another language instead of marshalling his ideas in his language he has to go in search of his vocabulary whereas in the case of the Sinhalese Officer he has probably 10000 to 15000 words at his disposal. This Tamil person has only a few thousand words at his disposal and he has to struggle to find words just to write. It is a competitive test and the time counts.

10

TO COURT:

Q. Why cannot he think in Tamil and write in Sinhalese?

A. If I have to speak in English I will require about one fourth the time to prepare and half the time to express myself than if I have to do it in Tamil the language I have known for so long. If I have to do it in Sinhalese which is a third language to me I would not be able to do it successfully at all.

20

EXAMINATION (Continued)

Q. The position today in the educational system is a Tamil speaking child learns Tamil which is his mother tongue?

A. Yes.

His second language is English.

Q. In the case of the Sinhalese speaking child the first language is Sinhalese and the second language is English?

30

A. Yes.

Q. As a result of the passing of the Official Language Act an additional burden is placed on the Tamil child which is not imposed on the Sinhalese child?

A. Yes.

A Tamil child has to acquire proficiency in a third language and therefore is in a position of disadvantage.

These proficiency tests that are required for Tamil Officers to pass are in a third language.

40

Q. Would you say that it would be a very difficult hurdle?

A. It is for most of them. It may be a few of them are specially gifted and it will not be much of a hurdle but they will find themselves in competition with the officers of the same linguistic ability of the Sinhalese community at a disadvantage.

Q. This requirement of reaching the Senior School Certificate standard for confirmation - take the case of a Doctor who is educated in the Sinhala medium and a Doctor educated in the Tamil medium, would that requirement place him in a position of disadvantage?

A. Yes.

To reach the highest stage of administration by writing and making original contributions one must reach a high degree of proficiency in that particular language.

10 Q. Is it possible for the average Tamil Public servant to reach that degree of proficiency having regard to the fact that he is educated in a different medium?

A. I think he would find it very difficult. A great many of them will be handicapped.

Q. Can a person think in one language and write in another language effectively?

A. Not very effectively. I cited my own example.

#### CROSS-EXAMINED

20 My mother tongue is Tamil. Owing to what we call popularly the Colonial System we had an unnatural system in which I began my education from the lower level in the English language and for some purpose the English language became my first language. Being the subject in which I specialised I must say English is my first language.

Q. According to Professor Malherbe's definition what is your mother tongue?

30 A. He says in practice there are some people who have to change places. The mother tongue would change places with other tongues specially in the case of a Scientist having to use another language in his second language which is the world language it will become his first language.

Q. There are many people in this country who know English better than Sinhalese or Tamil?

A. Yes, a microscopic minority.

Q. Although the home language has been either Sinhalese or Tamil?

A. Yes

40 The administration of this country has been in the hands of that type of person for sometime. That is by people who have studied another language and become proficient in it.

Q. Do you say that a person cannot enter the Administration or the Public Service if his mother tongue is not the Official Language?

A. Yes, he will find it very difficult. But if everybody in the country entered the Public Service through a foreign language other than the language spoken in the country all will have an equal handicap.

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I know there is a Burgher community in Ceylon. They speak English at home.

*Q.* But Sinhalese and Tamils have entered the Public Service?

*A.* I think it took centuries for the other communities to beat the Burghers in the Public Service.

*Q.* When the Sinhalese, Tamils and Burghers were competing on equal basis do you say that the Sinhalese and Tamils were at a disadvantage?

*A.* Those of us who beat the Burghers had cultivated English at homes for generations

I was a lecturer in English at the University of Ceylon. I did not go to the United Nations. I have been to International Conferences where I spoke in English. It is not merely the language that counts. I had the topic in which I had specialised in which I took part.

*Q.* If you study a language sufficiently you can compete with the men whose mother tongue is that language?

*A.* If I study it for a period at the end of it I would be able.  
(Further hearing tomorrow.)

*Sgd.* O. L. de Kretser, 20  
*Acting District Judge.*  
22. 10. 63

23rd OCTOBER 1963.

TRIAL RESUMED.

Same appearances for the parties except that Mr. Tiruchelvam Q. C. is absent.

Mr. Sharvanandan brings to my notice that the last answer of the witness has been recorded incorrectly. It is agreed that the question should be put again to the witness and he should be given the opportunity of giving the answer.

KUNASEKERAM NESIAH, Recalled. Sworn.

CROSS EXAMINATION (Continued)

The last question put to me yesterday has reference to my participating in International Conferences.

It was in that context that I answered that question.

*Q.* If you study a language sufficiently can you compete with men whose mother tongue is that language?

*A.* There are lots of ifs. It depends on my linguistic ability; it depends on the length of period I study and it depends on my being able to use that language in every day life for a sufficiently long period.

10

20

30

40

TO COURT:

*Q.* The question to you was if you study it for sufficiently a long period?

*A.* My own linguistic ability is limited.

CROSS EXAMINATION (Continued)

*Q.* If one studies a language sufficiently can such person compete with people whose mother tongue is that language?

*A.* Yes, having some special linguistic ability is an important ingredient in the business. If anyone could study that language sufficiently wide he could do that.

*Q.* Let us take a case of an examination: let us say the Civil Service Examination which is not directed merely to your competence in the language but to your knowledge in various subjects; in that kind of field do you say that if a person has studied that language sufficiently can he compete with a person whose mother tongue is the language in which the examination is held?

*A.* The other things being equal and the linguistic ability to study a foreign language in the case of the person studying, if those conditions are satisfied a man be able to do sufficiently well but he may still not be able to compete with the other man.

*Q.* You know that in the old days some Ceylonese used to sit for an examination held in England for the Colonial Service; Ceylonese and English people sat for that examination and Ceylonese gained higher marks?

*A.* Yes.

In the example you gave the people who competed with the English people were people who had technically made English their first language practically their lifetime. They were people who had acquired a knowledge of English. Although not their mother tongue it was very much their home language.

TO COURT:

*Q.* What you mean is if tomorrow you decide to compete for that examination and you did not know English it would not be possible for you to gather that amount of English in two years time to sit for that examination?

*A.* If I had to compete with other people whose mother tongue was not English and if the other people also had to study that foreign language on a two year basis I would be able to compete on a very fair basis.

CROSS-EXAMINATION (Continued)

I retired at the end of the last academic year from the University of Ceylon. That was in May last. I was in the Arts faculty in the Department of Education of the University. My own field was comparative education. The department of Education of

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the University is headed by Professor J. E. Jayasooriya. I was the the Senior Lecturer in that Department I was next to him and whenever he went abroad I was the head of that department. There were about 10 people some Assistant Lecturers, some Grade II lecturers there. Still Professor Jayasooriya is the head of that department. My own Professor for most of the time was Professor T. L. Green. He has left the Island. Mr. Jayasooriya was the Chairman of the Education Commission. I am a Ceylon Tamil.

*Q.* Are you personally opposed to the use of Sinhala as the official language? 10

*A.* I am not opposed to use of Sinhala as one official language. That was the plea I put forward in my book. I am not opposed to the use of Sinhala as the first official language. I would welcome it.

*Q.* Are you opposed to the use of Sinhala as the only official language?

*A.* Yes.

*Q.* Quite irrespective of whether the official language is valid in law or not, irrespective of the legality of the Official Language Act, you are opposed to the use of Sinhala only as the official language? 20

*A.* Yes.

I have written a book on this subject.

*Q.* You say the adoption of Sinhala with other languages what do you mean by that?

*A.* I say the adoption of Sinhala and Tamil as the first and second official languages of this country.

TO COURT:

*Q.* Do you not think that English speaking people would then be under a disability? 30

*A.* I have dealt with that question in my article. I have pleaded for limited recognition for English and I have said in the field of higher education we must still keep English as the first language for many years to come. Whatever we think of it we cannot escape from that.

CROSS-EXAMINATION (Continued)

*Q.* In your view if there is any substantial group of people speaking that language, that language also must be adopted as the official language?

*A.* I should say there are recognized conventions, on all those matters and they are adopted in other countries. When I say recognition it is not every language that is so given status. 40

For the Burgher people English is the the mother tongue. Even in their case it is their adopted mother tongue.



Q. You do not by that mean that each family goes on adopting each time it was adopted historically?

A. Yes.

Q. On your own theory if you adopt Sinhalese and Tamil as official languages then Burghers would be affected?

A. I have put in a further proviso with English for limited purposes.

Q. Without being an official language?

A. Yes. In India there is a phrase called "Associate Languages"

10 Q. In fact the needs of a community can be met by adoption of one language as the official language and making accommodation to meet the needs of other languages?

A. No. I advocate probably the same thing you desire for different purposes.

TO COURT:

Q. The simple question of disability you speak of is, in the case of Tamil speaking community which is sufficiently large you think the official language should be their language also, because otherwise you say they would be under a disability?

20 A. Yes.

Q. If there is sufficiently large English speaking community whose sole language is English your argument for an official language for them would be the same?

30 A. No. I would make the transition from English very slow for the sake of not merely the Burgher community but for the sake of everybody and for efficient administration. India has decided to make the transition very very slow but I would not grant the official language because a community is a fraction of one per cent. There are conventions which have been adopted in this regard in various countries. The size of the population is taken into consideration in order to give recognition. I think there is reason behind those conventions.

CROSS-EXAMINATION (Continued)

Q. In fact you would wipe off the Burgher community because they are one per cent?

A. No. I would not say that.

Q. If it is a community of say one per cent?

A. I would make such provision for very small minorities without making it an official language.

40 Q. You are not suggesting that competence in language is hereditary?

A. Social hereditary is permitted.

Q. By hereditary what I mean is a similarity between a human being and any kind of organism and its ancestors due to causes which are environmental?

A. I do not think there is any connection with biological aptitude for any particular language.

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Q. There are certain things which can be called hereditary characteristics and others which can be called acquired characteristics?

A. Yes.

Q. You would put competence in language as an acquired characteristic?

A. I would say in this context we use the word social hereditary for things which are part of the environmental factors.

I have read a little literature and it is very unsafe ground for me to speak about acquired characteristics.

I beg that I be excused from answering the question in that form because it is a very dangerous ground for me. 10

Q. Would you say that Tamils are congenitally incapable of learning Sinhalese?

A. No.

Q. You would not say of any human being congenitally incapable of learning any language?

A. There are many people in this world who are allergic to learning a second language. It is an established fact. I can cite authority if you like. I came to know the plaintiff only after this case for the first time. I heard he has sat for the lower Sinhalese paper at the Junior School Certificate. 20

Q. If he passed the Junior School Certificate lower level in 1950 would you say it is impossible for him to pass the 3rd standard level in Sinhala?

A. Probably it is possible for him. I would not say it is impossible.

RE EXAMINED.

Evidence of  
K. Nesiiah—  
Re-examination

Q. You said when you are competing with Englishmen for the Civil Service Examination in England if you are given two years to study English you will be at a disadvantage? 30

A. Yes.

Q. But you will not be at a disadvantage with a fellow Ceylonese who was given that same period of time?

A. Yes.

I say that Tamil should be an official language with sufficient provisions for smaller minorities and English in any case to be continued for great many fields. Tamil should be made an official language because Tamils form a considerable proportion of the population of this country. Countries faced with similiar problems are India; to take a federal country Canada or unitary countries like Finland or Belgium those are the countries I had in mind or another federal country U.S.S.R. 40

Q. What are those conventions?

A. Take a unitary country like Finland where the population consists of two groups, 91 per cent Finnish speaking and 9 per cent Swedish. Both those languages are official languages on equal basis

subject to the restriction that in any district the language of 90 per cent of the people of that district will be the official language of that administrative district subject to the further provision that individual citizen may however transact business with the state even in that district in his own language. I think the telephone directory and the name boards are in both languages required by the Languages Act passed by the Constitution. The Constitution provides for the equality of both languages. In India they have made similarity about State languages and district languages according to the population of the provinces.

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*Sgd. O. L. de Kretser,  
Acting District Judge  
23.10.63.*

Further hearing on 14th November, 1963 to be continued on 25th November, and 3rd and 5th December, 1963.

*Sgd. O. L. de Kretser,  
Acting District Judge  
23.10.63*

14th NOVEMBER 1963.

20 TRIAL RESUMED.

SAME APPEARANCES FOR THE PARTIES AS BEFORE

Mr. Tiruchelvam submits that the answer at page 32 to one but the last question was "with due consideration to the difficulties that will arise as regards Tamil speaking public"

Mr. Premaratne states that he has no independent recollection of what the witness said but he submits that the record makes sense as it stands. In these circumstances the record must stand as it is.

30 In reply to a query by me Mr. Premaratne states that the Crown admits that Mr. Kodeeswaran the plaintiff is a Tamil Officer.

MURUGESU SIVASITHAMPARAM. Affirmed, 39, Advocate, 100 Norris Canal Road, Colombo.

40 I am a Member of the House of Representatives. I do not belong to the Federal Party. I was elected to Parliament in March 1960 and was re-elected in July 1960. I am the Member for Uduppiddy in the Northern Province. I was born in Jaffna and had my education after Matriculation in Jaffna. I am a Jaffna Tamil. My father was a Udayar. My grandfather was a Maniyagar. I am personally familiar with the Administrative set up in the Tamil areas during my school days and thereafter upto date to the extent that I was staying with my father and I was familiar with what was happening there. Subsequent to my being elected a

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param  
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M. Vasitham-  
param  
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Member of Parliament I have interested myself in the Official Language of this Country. Being a Member of Parliament representing a hundred per cent Tamil speaking constituency I interested myself in the Official Language of this country having studied its history, its present effect on the people and administration, and I have also made as far as possible a comparative study with the official language policy of the other countries particularly in Asia.

*Q.* For the purpose of acquainting yourself with the repercussions of the official Language Act have you travelled in Ceylon and made personal observations? 10

*A.* Yes, largely in the Northern and Eastern Provinces and to a smaller extent in the upcountry.

*Q.* You know the first ever constitutional advance that took place in Ceylon was the institution of the Donoughmore Constitution?

*A.* Yes.

(Mr. Premaratne objects to these questions on the ground that these questions are irrelevant for the purpose of this case.

Mr. Tiruchelvam states that he is seeking to attack the constitutionality of the Official Language Act. (witness is asked to stand down) 20

Mr. Tiruchelvam submits that the Court will have to consider the circumstances in which the law was made. The Court has to take into account the background and the circumstances in which the Official Language Act was enacted. And the historical background in which it was enacted. The Government in power previously took a decision to make Tamil and Sinhalese the Official Languages. In the implementation of that the Government appointed a Royal Commission to investigate and report and that commission made its report, and that is a matter relevant for the purpose of knowing the circumstances in which this Act was passed. Counsel also states that he would be leading evidence by referring to the Hansard to show that this legislative measure did not receive the two thirds majority which was required by the Constitution. 30

Mr. Premaratne states that the Crown is not relying on the Official Language Act to support the issue of the circular in question. The issue of this circular was purely an administrative act by the Government in respect of its servants whose conditions of service could be altered at any time by the Government. To find out whether the Official Language Act is in contravention of the Constitution, the plaintiff will have to place before Court the position of Tamils with facts and figures, but to show whether some Politicians or some Government thought it was the correct thing to have both Sinhalese and Tamil as Official Languages is not relevant. Legislative history cannot be taken into consideration in the interpretation of a statute of this type. 40

Mr. Tiruchelvam submits that the Court has to consider whether there is discrimination on a section of the people and that discrimination becomes manifest if the facts immediately before the legislation was passed are considered.

Counsel cites 54. N. L. R. 433 at 438  
21. N. L. R. 294 at 298

10 Counsel submits that he is asking the Court to take judicial notice of the report of the Select Committee and the report of the Commission on Official Languages. He submits that he will also lead evidence of the effect of the legislation.

He cites 61 commonwealth law reports 735.

This legislation is not only an Act which brought in the Official Language but it reversed the decision of the Government that two languages should be Official Languages. Counsel cites *Laskin on the Canadian Constitutional Law (2nd Edition) Page 166.*

Counsel states that he wants to produce through this witness the report of the Select Committee and also the Report of the Commission on Official Languages.

*Counsel Cites 1958 All Indian Reports Supreme Court Page 538.*

20 In a constitutional case where the constitutionality of a statute is attacked the background has to be considered in order to see whether that legislation infringes the constitution or not.

*Cites 27 Ist Volume of United States Reports Page 500 at 514.*

Counsel submits that apart from these authorities the Evidence Ordinance also permits to place before court the necessary Sessional Papers.

30 Mr. Premaratne refers to the Official Language Act and Ceylon Order-in-Council Section 29. So far as the Official Language is concerned the main provision is contained in one line "that Sinhalese language shall be the Official Language of Ceylon." There can be no doubt at all in regard to its interpretation. Similar in regard to particular sub-section B and C of Section 29. One question here is whether any person has been made liable to a disability and whether any person or any community has been conferred any privilege. In regard to finding whether this Act of 1956 does so evidence can only be led of facts which will enable Court to consider whether this Official Language Act is in violation of Section 29 of the Constitution. The previous history of what legislators have decided is utterly irrelevant for determining this question. Public general knowledge of circumstances can be led in  
40 evidence to indicate whether this Act is a violation of Section 29 but not evidence in regard to opinion of others whether that matter

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is right or wrong. The Court has to decide that independent of opinion of any person how highly he may be placed.

Mr. Premaratne cites *Maxwell on Interpretation 10th Edition Page 27. 60 N. L. R. 538.*

Mr. Tiruchelvam in reply submits that when the Government makes a decision that is a fact and not an opinion. He states that he is only asking the Court to take notice of that fact that the Government decided to make both Sinhalese and Tamil Official Languages and in pursuance of that decision certain Commission was appointed and it is on the background of those decisions that this legislation was passed. It is a historical fact and not an opinion. It is a public matter and not a private matter.

10

(Adjourned for lunch)

Sgd. O. L. de Kretser,  
*Acting District Judge*  
14. 11. 63.

Resumed after lunch.

#### ORDER

I rule that evidence of the legislative history of Act No. 33 of 1956 or of the circumstances in which it came to be passed are irrelevant for the purposes of this case, for Act No. 33 of 1956 is quite unambiguous in its terms and whether it offends Section 29 of the Constitution is a question of fact turning on the evidence led of its impact on the communities in Ceylon and not on what the wise men of Ceylon said or passed in Parliament before it was enacted and which have now passed into history.

20

Sgd. O. L. de Kretser,  
*Acting District Judge.*  
14. 11. 63

M. SIVASITHAMPARAM Recalled affirmed

30

#### EXAMINATION (Continued)

I am generally familiar with the conditions prevailing in the rest of the country also.

*Q.* Generally speaking the inhabitants of the Northern and Eastern Provinces are Tamil speaking people?

*A.* A very large majority are only Tamil speaking. There is a percentage of English speaking also and a very minute percentage of Sinhalese speaking people.

TO COURT:

That is in regard to speaking only.

40

Q. In regard to writing?

A. A large majority Tamil, a small percentage English and not even one per cent can write Sinhalese.

Q. The percentage of those able to read and write is much smaller than who can speak whether it is English or Sinhalese?

A. Yes.

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M. Iva-  
Sithamparam-  
Examination  
—Continued

#### EXAMINATION (Continued)

10 The mother tongue of large majority of people in the Northern and Eastern provinces is Tamil and majority of them can read Tamil. Those speaking English would be relatively a small percentage. Most of the people who are educated in English generally read and write English. There might be a small percentage who have learnt English by conversation. One per cent of those who have been traders in the rest of the country may be able to speak Sinhalese but they would not be able to read and write Sinhalese.

Q. In the Eastern Province?

A. I do not know it as intimately as the Northern Province. I think there also it is almost the same.

20 In the Eastern Province there are more inhabitants of the Sinhalese race as such. In the Northern Province between Vavuniya and Medawachchiya there is a percentage of Sinhalese.

Q. In the rest of the Island also I believe there are Tamil speaking people specially in the Central Province?

A. There is a bigger concentration of Tamil speaking people in the Central Province but they are concentrated in the other provinces also.

Q. At or about the time of the passing of the Official Language Act what was the educational structure in Tamil speaking areas?

30 A. There used to be what is known as purely Tamil schools which used to educate pupils up to Senior School Certificate in Tamil language only. There were English schools which started from the 1st year, that is after finishing the 3rd standard in the Tamil schools children go to the 1st form in the English school and go up to the Senior School Certificate or higher. These were the two types of schools that were functioning in the Northern Province.

Some of the Tamil schools used to have one period of English from the 3rd or the 4th Standard.

#### TO COURT:

Q. No Tamil school taught Sinhalese as a subject?

40 A. No. Some of the English schools prior to 1956 had certain teachers who were teaching Sinhalese as an extra subject. That was a very small minority.

Q. And that was only two or three years prior to 1956?

A. To the best of my knowledge it was so.

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M. Siva-  
sithamparam-  
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EXAMINATION (Continued)

There were about 25 schools which taught Sinhalese as a subject at the outside.

*Q.* Do you know under the Education Code the medium of instructions for a Tamil speaking child was Tamil?

*A.* Yes.

*Q.* You just told the court that there were Tamil schools where the medium of instructions was Tamil?

*A.* Yes.

*Q.* In English schools also after the new Education Code the medium of instructions is Tamil? 10

*A.* Yes.

In Jaffna there are about 900 schools in all.

*Q.* Would it be correct to say that generally speaking in the school which you described as English school to the Tamil student who studied Tamil as medium of instruction English would be a second language?

*A.* Yes, Tamil would be the medium of instructions and English the second language

*Q.* The Sinhala that was taught in the 25 schools you mentioned was taught as a third optional language? 20

*A.* Yes.

*Q.* In the so called Tamil schools proper the second language taught was English?

*A.* Yes, in some schools and in others no second language was taught.

*Q.* You are aware of the kind of administration that took place in the Northern and Eastern Provinces prior to the passing of the Official Language Act?

*A.* Yes, generally. 30

*Q.* Tell the court as far as your knowledge goes the administration at the village level in the Northern and Eastern Provinces in what language was it carried on?

*A.* In Tamil. Village Headman used to keep their diaries in Tamil and they used to correspond with their immediate superiors Maniyagars in Tamil and the Udayars generally used to keep their diaries in Tamil but of course if he knew English he would keep the diary in English. Maniyagars in their correspondence with the Kachcheri used English but their correspondence with the minor officials like the Village Headman they carried on in Tamil. The work in connection with Land Kachcheries and poor relief work in the Northern and Eastern Provinces were done in Tamil. When the Maniyagars were abolished the District Revenue Officers came in. Maniyagars and the District Revenue Officers carried on their cor- 40



respondence with the villagers in Tamil. Inquiries were conducted in Tamil and records were carried on in Tamil That is why separate District Revenue Officers were appointed to the Kandyan area, Low Country area and the Tamil area.

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Sithamparam-  
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From the point of view of the Tamil villager in the Northern and Eastern Provinces in the general run of his life he could have conducted his business in Tamil and it may be in exceptional cases he used English to correspond with the Government Agent to expedite matters. But generally he could have carried on his work in Tamil.

10 The work in the Kachcheri was conducted in English.

Q. Prior to the passing of the Official Language Act there was no statutory Official Language Act?

A. No. The Administrative Language was English except for certain specific purposes.

In the Village Committees also Tamil language was used.

Q. There was a corresponding position in the Sinhalese areas?

A. Yes. At the Village level the administration was conducted in Sinhala language.

20 Q. Tell the Court the factual effect of the passing of the Sinhala Only Act from the point of view of the villager in the Northern Province?

A. Today in the lowest rung of the public service, that is, the Village Headman's successors, the Grama Sevakas, are expected to have a knowledge of the Official Language and the Government is insisting that they should know the Official language which I believe was never insisted on when English was the administrative language of the country. I know the District Revenue Officers' offices

Q. In your electorate who are the clerks in the District Revenue Officers' offices.

30 A. When I became a Member of Parliament they were exclusively Tamil speaking public servants but over the last 2 years I believe Sinhalese clerks have been sent to those offices. That was long after the passing of the Official Language Act.

TO COURT:

Q. These headmen you said were required now to know Sinhala: are they also expected to conduct their inquiries in Sinhala?

A. There is no such requirement.

Q. As before they can carry on their inquiries in Tamil?

A. Yes.

40 Q. What about the records?

A. I do not think they have given specific instructions to maintain the records in Sinhala but certainly they are required to have a knowledge of Sinhala.

EXAMINATION (Continued)

In the District Revenue Officers' offices in my electorate there are Sinhalese clerks in order to facilitate the carrying out of the District Revenue Officers' office work in Sinhala.

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M. Siva-  
sithamparam-  
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*Q.* The Government Agent in Jaffna is the Chairman of the District Agricultural Committee?

*A.* Yes, there are two committees: the District Co-ordinative Committee and the District Agricultural Committee the former being a statutory body. It consists of all the Members of Parliament of the Province, the Government Agent, the Assistant Government Agents, all heads of Departments and certain Chairmen of Village Committees. Village Committees conduct business in Tamil language.

*Q.* Were you present yourself at a meeting of the Co-ordinating Committee in Jaffna recently? 10

*A.* Yes on the 28th of October I was present at a meeting.

The present Government Agent Mr. Jayaweera presided.

*Q.* Was there present at that meeting persons who were not familiar with any other language other than Tamil?

*A.* There were two Chairmen of Village Committees who were present and who were not familiar with any other language other than Tamil.

*Q.* What happened at that meeting?

*A.* Two Members of Parliament addressed the Chairman in Tamil. He ignored the remarks made by the Members of Parliament and continued with the rest of the agenda. 20

When the Members of Parliament insisted that replies should be given to the remarks made the Government Agent took up the position that under the law he had to carry on the business of the District Co-ordinating Committee in Sinhala but as a compromise he was doing it in English and he had not provided for translation from Tamil into any other language and therefore as he himself did not understand Tamil he was not in a position to reply to the remarks made by Members of Parliament.

*Q.* Were the members of the Co-ordinating Committee who spoke only in the Tamil language able to follow the proceedings? 30

*A.* No.

TO COURT:

*Q.* What would have happened in a case where there was no Sinhala Act?

*A.* Actually over the last 10 years or so when there was a Tamil Government Agent in Jaffna there was no difficulty. Proceedings were able to be carried on in Tamil and English as he was able to carry on in both languages. This was the first time it happened. The Government Agent said that under the law he had to carry on proceedings in Sinhala but he was carrying on in English as a matter of courtesy and compromise. 40

*Q.* In the Northern Province in the Kachcheri today are steps being taken to implement the Official Language Act?

*A.* Yes, since last year I believe there are about 21 Sinhalese clerks who have been transferred to the Jaffna Kachcheri. As far as the other transfers are concerned the Treasury insists that even Tamil officers who are transferred to Jaffna should have passed the proficiency tests. The only proficiency tests we have are in Sinhalese.

*Q.* Can you tell whether any part of the work of the Jaffna Kachcheri is being done in Sinhala?

10 *A.* Yes, letters coming in and going out of the Jaffna Kachcheri come and go in Sinhalese.

TO COURT:

*Q.* Have you written letters in Tamil and got replies in Sinhalese.

*A.* No.

*Q.* If you wrote in Tamil in what language did you get a reply?

*A.* A reply will be sent in Sinhalese with a translation in Tamil.

20 EXAMINATION (Continued)

If it is anything initiated by the Kachcheri it is in Sinhalese.

TO COURT:

*Q.* Probably you are presumed to know Sinhalese until you indicate it otherwise?

*A.* I do not know how their minds work but factually it happens.

*Q.* All the work in the Jaffna Kachcheri is now done by 21 Sinhalese clerks?

30 *A.* No. It is done by a process of translation- When a minute is made it is translated and so on.

*Q.* What do you do with your Sinhalese letters when you get them?

*A.* I generally throw them into the waste paper basket but if I find that it is an important document I send it back asking them to send me a translation.

*Q.* What will the villager who gets a letter in Sinhalese do?

*A.* He would take it to the nearest bakery to get it translated by somebody. Bakeries are generally run there by Sinhalese. These bakeries are very few and far between.

40 *A.* Villager would be at a serious disadvantage when he gets a communication in Sinhalese.

*Q.* Would he be at a greater disadvantage when he gets a letter in Sinhalese than when he gets a letter in English?

*A.* Yes the number of people who could read and write English is far more than those who could read and write Sinhalese.

No. 5  
Plaintiff's  
Evidence  
—  
Evidence of  
M. Siva-  
sithamparam-  
Examination  
—Continued

EXAMINATION (Continued)

Education in English is fairly wide spread in Jaffna.

At least the younger generation of students could read and write English in Jaffna.

*Q.* From your point of view during the period English was the language of administration the villager was at a disadvantage?

*A.* Yes.

That disadvantage has not been removed as far as Tamil speaking people are concerned. It has been made worse.

*Q.* From the point of view of the Sinhalese villager was he at a disadvantage when English was used? 10

*A.* Yes, in the same way as the Tamils. But now that disadvantage has been removed by the passing of the Official Language Act.

TO COURT:

Today he is able to correspond with the departments in his own language. I am speaking of the Sinhalese villager who is literate. In our case even the literates are made illiterate. Even the educated persons have been made illiterate by the passing of the Official Language Act. 20

EXAMINATION (Continued)

*Q.* You know today candidates who sit for Government Examinations have to possess an identity card?

*A.* Yes.

*Q.* Identity Cards are issued in what language?

In the Sinhalese language. Particulars in the identity cards are filled up in the Sinhalese language.

I have seen identity cards issued to persons in the Northern and Eastern Provinces. I have received numerous complaints from students who sit for examinations that their identity cards are filled in a language which they do not understand, and in a language different from the language in which they have sent particulars asking for an identity card. 30

(Shown an identity card marked P22). This card is issued by the Postmaster General in a particular form. All the columns of this are printed in all three languages. Particulars against each column are given in Sinhalese language. That is the case in respect of all the identity cards issued to persons in the Northern and Eastern Provinces.

TO COURT :

*Q.* That is in regard to persons wherever in the Island?

*A.* Yes. 40

## EXAMINATION (Continued)

Q. With the result the Tamil speaking persons and English speaking persons will not know whether he gets the correct identity cards ?

A. Yes.

Q. He knows that it is his card when he sees the photograph only ?

A. Yes.

10 For instance the name Thiyagarajah was written as Thambi-  
rajah in the identity card.

TO COURT :

Q. Can you speak in regard to the results of examinations published ?

A. As far as I remember they are published in the Government Gazette in all three languages.

## EXAMINATION (Continued)

I can say that the identity card P22 is that of a Tamil speaking person because he has signed against his photograph in Tamil.

20 In Jaffna villagers have to go to Police Stations to make complaints.

Q. In what language are the complaints now recorded ?

A. They are recorded in Sinhalese.

Q. Have you as a Member of Parliament received complaints about it ?

30 A. I have received complaints and I have raised the matter in Parliament too. That practice has not been discontinued. Recently the Supreme Court had occasion to refer to this fact and His Lordship stated that it is a denial of justice to record a complaint in a language other than in the language in which it is made. As a practising lawyer in Jaffna I refused a certified copy of a first complaint given to me in Sinhalese.

Q. In what language are communications now addressed to the local bodies in the Northern and Eastern provinces ?

A. In Sinhalese.

TO COURT :

Q. With regard to the police you said that complaints and so on are being recorded in Sinhalese. Prior to this Act in what language were they recorded ?

40 A. In English.

Q. Not in Tamil ?

A. Very rarely.

Q. If you applied for a certified copy you got it in English ?

A. Yes.

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Evidence  
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Evidence of  
M. Siva-  
sithamparam-  
Examination  
—Continued

### EXAMINATION (Continued)

Language of the Courts was only English and the practitioner knew English which is the language in which the certified copies were issued. The villager makes his statement in Tamil and it has to be read out and explained to him. The ideal situation would be for the complaint to be recorded in the language in which it is made. As far as the Sinhalese people are concerned it has been allowed but not as far as the Tamil speaking people are concerned.

*Q.* As a Member of Parliament you are allowed to use your official frank in sending your official correspondence? 10

*A.* Yes. When I am sending official letters I am entitled to use my frank and send my letters free of charge. My letters have been refused registration because they did not bear my frank in Sinhalese. I had franked them in Tamil.

I have with me the letters I received from the Cinnamon Gardens Postmaster in regard to this matter. I have not stopped sending registered letters.

*Q.* You as a Tamil Member of Parliament are unable to discharge your duties by sending registered letters because you do not have a frank in the Sinhalese language? 20

*A.* Yes, my understanding of a frank is my signature. Therefore it means I have to sign in Sinhalese to use the frank.

*Q.* Your official correspondence are partially with your constituents who are Tamils?

*A.* Yes.

*Q.* Tell the Court whether you have considered the effect of the Official Language Act on the Tamils who are in the Public Service?

*A.* Yes I have. I have examined its impact on the Public Servants. 30

*Q.* Because you have made a special study of it?

*A.* That is almost the only political concern I have at the moment.

*Q.* You are particularly concerned with the fact that the Official Language Act has affected the Tamil public servants and the Tamil Public?

*A.* Yes.

*Q.* I want you to concern yourself at the moment with the position of the Tamil public servants. You know from the point of view of the Official Language Act there are two categories of public servants? 40

*A.* Yes those recruited before 1956 who are known as old entrants and those recruited after 1956 known as new entrants.

Those officers recruited before 1956 were recruited in the English language.

*Q.* Would it be correct to say that a certain percentage of English educated persons in the Northern and Eastern Provinces found occupation in the public service?

*A.* Yes it was our chief industry before 1956.

*Q.* They were concerned with the public service?

*A.* Yes.

*Q.* Do you know the number of Tamil Speaking Public servants in Ceylon above the minor grades?

*A.* Roughly about 13000 in the various grades in the clerical technical, supervisory, administrative and professional grades.

*Q.* Of this number most of them are educated either in English or Tamil?

*A.* Yes.

I do not think even a very small minority of them knew to read, write and talk Sinhalese. Certainly not write except those who had to study Sinhalese because of their jobs to get through certain proficiency bars. Rest of the public servants did not know to read and write Sinhalese.

*Q.* What is the position of these public servants as a result of the passing of the Official Language Act?

*A.* In the first place their increments were cut if they did not sit for the various proficiency tests, in the second place their promotions were denied and in the third place they face the danger of dismissal for inefficiency or retirement for inefficiency.

*Q.* That is they would be dismissed or retired if within a certain period they do not acquire a certain degree of proficiency in the Sinhala language?

*A.* Yes.

*Q.* Which language is not their mother tongue?

*A.* Yes.

*Q.* Nor was it the media in which they were educated?

*A.* Yes.

I know the Government offers scholarships to its employees.

*Q.* Is it a requirement now that a knowledge of the Official Language is essential?

*A.* Yes, upto the Senior School Certificate Standard before a person is given a scholarship.

*Q.* In regard to persons employed before and after 1956?

*A.* Irrespective of whether they are old entrants or not.

40 TO COURT:

*Q.* Does that affect scholarships given to Ceylon by other countries?

*A.* Today all scholarships given by whichever country are channelled through the Government. Therefore it would apply to all scholarships

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EXAMINATION (Continued)

*Q.* You know for the purpose of professional training abroad for instance to be trained as a Surgeon or Physician is that requirement laid down?

*A.* Yes, no distinction is made.

*Q.* With the result even a Tamil person of a high degree of competence today if he wishes to be trained abroad on a scholarship as a Surgeon he must pass the examination in Sinhala?

*A.* Yes, that is what the requirement is.

*Q.* Do you know of a Tamil lady who was a brilliant Doctor who at the primary F. R. C. S examination won a scholarship? 10

*A.* There are cases I do not know to whom you refer.

*Q.* In regard to future entrants to the Public Service what is the position of the Tamils.

*A.* Legally they are entitled to sit in the medium in which they are educated but I find most applications calling for jobs today ask for the certificate of the highest examination passed in the Official Language.

Financial Regulations of government which are used by the Public Servants are now published in Sinhala. I have not seen them published in any other language. 20

(Shown Supplement to the Ceylon Civil List 1960-1961 marked P23)  
The Civil List of the Government of Ceylon is now published only in the Sinhalese language. I have not seen a similar publication in English or Tamil. As a member of Parliament I get all publications of Government but I have not seen any publication of the Civil List in English or Tamil.

There are Accountants in Government Service. The Government has decided that recruitment to the Accountants' Service should be only in Sinhalese. Tamil people would definitely be in a position of disadvantage. I know the Government Gazette published weekly. It contains notifications issued by the Government. It also contains certain notices regarding vacancies in the public service and notices calling for tenders. I have examined the Government Gazette recently. The Government Gazette is published in all three languages. But all that appears in Sinhalese and English is not reproduced in Tamil. Particular notices calling for applications for various posts and notices calling for tenders for various works do not appear in Tamil. 30

*Q.* Those parts of the Gazette which effect the public at large, and those interested in Government appointments and Government contracts are not published in the Tamil language? 40

*A.* These pages of the Gazette are serially numbered over a year, the English section separately the Sinhalese section separately and the Tamil section separately. While the number of the Sinhalese and the number of the English section have reached 1000 odd the



Tamil number reached only 300 thus showing that only one third that appears in English and Sinhalese appeared in Tamil.

TO COURT:

It takes as much space to say something in Tamil as in English or Sinhalese.

EXAMINATION (Continued)

(Shown Government Gazette dated 20th Sept. 1963 marked P24)

10 In this Gazette there are no notifications in Tamil calling for applications for public appointments. In regard to applications for tenders those that appear in Tamil are confined purely to the Northern and Eastern Provinces. But applications calling for tenders for work outside the Northern and Eastern Provinces do not appear in Tamil. Tenders for work in the Northern Province appear in all three languages.

There are a number of Tamils all over the Island doing contract work, business and trades. I have been to the public offices in Colombo. As a member of Parliament I have to see various Heads of Departments on behalf of my constituents.

20 Q. Can you tell the court whether you have found and what your experience was when you visited public offices after 1956?

A. In most offices the name boards depicting the various offices are generally in Sinhalese. Sometimes in Sinhalese and English but I have not yet seen one in all three languages. I have never been to the Income Tax Department. My constituents are poor. I have been to the Health Department where name boards are only in Sinhalese. After the passing of the Official Language Act the Telephone Directory was revised. Now the Telephone Directory is in Sinhalese and English, and even the names in Jaffna are not in Tamil.

30 Q. As a result of these various changes that have taken place by the making of Sinhalese the Official Language can Tamil person effectively take part in the administration of the country?

A. No not even an English speaking Tamil person can effectively take part in the administration of the country.

Q. Is the Sinhalese speaking person placed in a position of advantage in regard to the participation in the administration of the country is concerned?

(Question objected to. Question withdrawn)

Q. Having regard to the Official Language Act when a Sinhalese person goes to a public place what would be his position?

40 A. He would be able to transact his business in his own language.

When he goes to the Secretariat he would be able to find his way about if he is literate.

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Plaintiff's  
Evidence

Evidence of  
M. Sivasitham-  
param  
Examination  
—Continued

Q. If he is in the public service would he be able to get a scholarship to go abroad?

A. Yes, provided he has the other qualifications.

Q. A Surgeon of the Sinhalese race would be able to go on a scholarship if he reaches the Senior School Certificate standard in Sinhalese?

A. Yes.

Q. If an examination is held for Accountants in the Sinhala Language would it be easier for a Sinhalese to take up the examination than for a Tamil?

10

A. Yes.

Q. Having regard to the present educational system would it be possible for a Tamil to sit for an examination at all?

A. It would be extremely difficult.

Evidence of  
M. Sivasitham-  
param  
Cross-  
Examination

#### CROSS-EXAMINATION

Q. Do you know any Sinhalese?

A. I can talk Sinhalese.

Q. Have you made any study of Sinhalese?

A. No.

Q. You would not say that it is not possible for a person who tries to learn Sinhalese?

20

A. I cannot speak of something I have not tried.

To become an Advocate I have qualifield in Latin. I got through a fairly high standard in Latin.

Q. With that as the background would a person who makes an effort to study a language not be able to study that language?

A. One can study a language.

Q. Do you undertake to say that a Tamil person cannot study Sinhalese if he wants to?

A. It is easier for a person whose mother tongue is Sinhalese to study Sinhalese than for a person whose mother tongue is not Sinhalese.

30

Q. You would not say that a Tamil person cannot study Sinhalese?

A. I would not say that.

Q. You have already spoken of a number of disabilities?

A. Yes.

Q. All those have come about by virtue of the fact that most of the Tamil people whom you have referred to do not know Sinhalese?

A. Yes.

40

Q. There was a time sometime prior to 1956 when Sinhalese was being taught in a number of schools in Jaffna?

A. Yes.

Q. At various times you gave various figures regarding the percentages and numbers?

A. Those are rough guesses and I have given them approximately.

Q. What you say one per cent what did you mean?

A. A very low percentage.

When I said that 25 schools taught Sinhalese the number may be five this side or that side.

Q. Sinhalese was being taught in a number of schools at a particular time and according to you in about 25 schools?

10 A. Yes

Q. When classes were held in those schools I take it Tamil children in those schools were learning Sinhalese?

A. Yes.

Q. Later the classes were stopped?

A. Yes.

Q. Not by the Government. By whom?

A. By various heads of schools, students themselves refused to learn Sinhalese and the teachers refused to teach Sinhalese.

Q. They thought they should not teach Sinhalese?

20 A. Yes, for the reason they taught Sinhalese on the basis of mutuality and equality where Tamil children learnt Sinhalese, Sinhalese children should learn Tamil. Both by action as well as by legislation prior to 1956 the Tamil children were to learn Tamil and Sinhalese and the Sinhalese children should learn Sinhalese and Tamil but once again by Government action when the basis of mutuality and equality stopped the Tamil child stopped learning Sinhalese.

Q. That was stopped because of the feeling that the Tamils had in respect of the Sinhalese language?

A. Yes.

30 Q. Similarly the teachers were reluctant to teach Sinhalese?

A. Yes.

TO COURT:

Q. Then your evidence is that when the Government had at one stage decided that there should be two official Languages the Tamils started teaching Sinhalese?

A. Yes.

When Government decided that there should be only one Official language they stopped teaching Sinhalese.

CROSS-EXAMINATION (Continued)

40 Q. In the case of the children who refused to study Sinhalese they must have been told by their parents not to study Sinhalese?

A. I do not know. It may be the children themselves did not want to learn Sinhalese.

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param  
Cross-  
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—Continued

Q. Then steps were being taken in the Northern Province particularly and in the Eastern Province to avoid deliberately the study of Sinhalese?

A. Yes, on the basis that mutuality had ceased.

Q. Deliberately people avoided studying Sinhalese?

A. Yes, for a reason.

Q. About how many schools there were did you say in the Northern Province?

A. Roughly about 900 schools in the whole of the Jaffna Peninsula.

Q. The Clerks you referred to as having been transferred to District Revenue Officers' offices where are they? 10

A. In Pt. Pedro in my adjoining electorate There is one District Revenue Officer's office in that electorate. Three clerks were transferred to Pt. Pedro District Revenue officer's office who were distributed to the Post Office and the Excise Office one each.

Q. When Sinhalese was taught upto what class was it taught?

A. There used to be one or two teachers attached to each school and they taught upto the 8th standard.

To my knowledge Sinhalese was taught for two or three years there. It may have been for more than two or three years. 20

As soon as the language bill was passed in Parliament that was stopped. That was in the early part of 1956. I believe the Act itself was presented in Parliament in April and it received assent in July.

Q. You said you have been to various offices in the Secretariat and you have not found the name Board of any office in Tamil?

A. Yes.

Q. Have you ever gone to the Attorney General's Department?

A. No. As member of Parliament I am debarred from interviewing public officers.

Q. You do not know whether the names of the offices in the Attorney General's Department appear in Tamil outside the doors? 30

A. I do not know.

Q. You spoke of an instance of a person asking for a certified copy of a complaint made to the police?

A. Yes.

Q. Do you know that during the time of the English administration statements made whether in Sinhalese or Tamil were recorded in English at the police stations?

A. Yes.

Q. You will appreciate that when a certified copy is to be given it would be given only in the language in which it is recorded? 40

A. Yes. I only wanted a translation in that instance.

Q. In this particular case do you know personally in what language the complaint was taken down?

A. In Sinhalese.

Q. And you asked for a certified copy and the certified copy was issued in Sinhalese.

A. Yes

Q. The case you are referring to is the one in respect of which we read a recent judgment of the Supreme Court published in the papers?

A. No My complaint was that I did not get a translation.

My Original complaint was that it was recorded in Sinhalese. When I asked for a certified copy they gave me a certified copy.

10 Q. You know anybody can write to any Government department in any language in which he wants and get a reply in the language in which he writes?

A. No. he gets a reply in Sinhalese with a translation in the language in which he wrote.

Q. You are complaining against that also?

A. Yes.

Q. You want the answer to be in Tamil without a translation.

A. Yes.

20 Q. Most of the Village Headmen and Maniyagars in the Tamil areas are Tamils?

A. Now there are District Revenue Officers and Grama Sevakas. They are Tamils and they would conduct their inquiries as before in Tamil.

Q. Village administration as it is still in Tamil?

A. Yes.

Q. As it was sometime ago?

30 A. Under the British colonial administration the village headmen were not required to know English and his correspondence with his immediate superior was in Tamil. Now the Grama Sevakas are required to have a knowledge of Sinhala.

Q. They have not studied Sinhalese upto now?

A. I do not know whether they are studying or not.

Q. You are not in a position to say whether the Grama Sevakas know Sinhalese or not?

A. Yes.

In my electorate there is one District Revenue Officer. I do not think he can carry on his work in Sinhalese. He is required to pass a proficiency test in Sinhala. Upto six months ago he did not try to study Sinhalese.

40 Q. You referred to a figure of 13000 Tamils in what sections of the public service?

A. Above the minor grades like peons and labourers.

Q. Does that figure of 13000 include those in the clerical services and those in the higher rungs in the public service?

A. Yes.

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param  
Cross-  
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13000 excludes the Peons, Labourers, Cement factory employees and so on.

*Q.* The 13000 is composed of mostly of the clerical servants?

*A.* Largely. There are professional and technical men etc.

*Q.* Mr. Balasingham told the Court that day that there were about 6000 Tamils in the Clerical service?

*A.* I do not know.

*Q.* Therefore it cannot be as high as 13000. You would not try to dispute Mr. Balasingham with regard to figures?

*A.* He should know better with regard to Clerical Servants. 10

*Q.* 13000 is a high estimate?

*A.* These are figures sent by Public Servants trying to collect those figures and I got those from them. I have no personal knowledge.

*Q.* You referred to certain conditions for the grant of scholarships. Are you aware that certain professional people are exempted from those?

*A.* Not in the latest Cabinet conclusion.

TO COURT:

*Q.* You as a Member of Parliament got Cabinet conclusions?

*A.* No, we get only circulars issued by the Treasury on Cabinet conclusions. 20

*Q.* Are Members of Parliament issued Treasury circulars?

*A.* Yes, that is how we get to know Cabinet conclusions unless a statement is made in the house.

All Government publications we get as Members of Parliament.

Further hearing on 25th November, 1963.

Sgd. O. L. de Kretser,  
*Acting District Judge.*  
14. 11. 63

25th NOVEMBER, 1963. 30

TRIAL RESUMED.

SAME APPEARANCES AS ON LAST DATE.

M. SIVASITHAMPARAM. Recalled. Affirmed.

CROSS-EXAMINATION (Continued)

I am myself an Advocate practising mainly in Colombo. I contested a seat for the first time in March 1960. I contested a seat in 1956 also. That was the first time I contested a Parliamentary Seat. Before that I was not in active politics but I was interested. I am myself a Tamil. My home is in Jaffna.

*Q.* Apart from the question of unconstitutionality of the Official Language Act you are opposed to it even otherwise? 40

*A.* I do not understand it.

Q. In this case the plaintiff alleges that the Official Language Act is not good law in that it offends Section 29 of the Constitution. Quite apart from the voidance for that reason are you opposed to making of Sinhala only as Official Language?

A. Yes, I am.

I am a member of the Tamil Congress. There is a party called the Federal Party. Except myself and two other independents all other Members of Parliament in the Tamil area are Federal Party Members. The Tamil Congress is opposed to use of Sinhala only as the Official Language and so is the Federal Party

Q. Were there any members of the Tamil Congress in the House of Representatives in 1956 when the Official Language Bill came up before the Parliament?

A. There was Mr. G. G. Ponnambalam. The Federal Party, The Tamil Congress and the Lanka Samasamaja Party voted against that Bill.

Q. So far as the Federal Party is concerned are you aware that they have called upon Tamil Public Servants not to sit for proficiency tests?

A. Yes. Since 1956 every Tamil political leader has called upon public servants not to study Sinhalese as a part of a campaign of resistance to the Sinhala only Act.

Q. Are you aware that a number of Tamil Public Servants have studied Sinhalese?

A. Yes.

Q. Are you also aware that some of them also have got through proficiency tests?

A. Yes.

Q. Are you also aware that in appointments to Public Service that Tamils are still being appointed?

A. A very small proportion compared to what it was before the Official Language Act was passed. A small number of Tamils is being appointed.

Q. When you say a small number did you go through the statistics?

A. In the results of the General Clerical Service examination Published in 1962, there was only one Tamil name.

After the matter was raised in Parliament a subsequent list of about 25 names was published about a month ago.

TO COURT:

The results are published in the Gazette.

CROSS-EXAMINATION (Continued)

Q. In the Jaffna area there are a lot of Tamils who are not literate even in English?

A. Yes.

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param  
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—Continued

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Evidence  
—  
Evidence of  
M. Siva-  
sithamparam-  
Cross-  
Examination  
—Continued

Q. And when English was the official language they themselves could not hope to get into the Public Service?

A. Yes. But the handicap was common to both the Sinhalese and the Tamils.

Q. Do you accept the position that even among the Sinhalese there are a large number who are not literate in Sinhalese?

A. Yes, in the sense they cannot read and write.

Q. With Sinhalese as the Official Language that class would suffer in the same way as the Tamil who did not know Sinhalese?

A. Some Sinhalese would suffer but all the Tamils would suffer. 10

Q. Even a Tamil who is prepared to learn Sinhalese?

A. I do not know whether I could answer that question from this place. A man may learn a language under compulsion whether he could reach that proficiency to transact his business in that language I do not know

Q. When English was the Official Language lot of Tamils voluntarily studied English?

A. I would not say voluntarily. They had to study English as they were compelled to study by circumstances and Government action. When the Public Service was open only to those with a knowledge of English naturally they had to study English. 20

Q. In the same way if Government Service is open only to those who have a knowledge of Sinhala the Tamils would refuse to learn Sinhala?

A. I would personally ask Tamils not to study Sinhala.

Q. The facilities that were provided for them to learn Sinhalese in about 25 schools have now been removed?

A. Yes.

Q. Those schools do not have those teachers in Sinhalese now? 30

A. As I said earlier when the Government recognised Tamil also as an Official Language as a matter of goodwill the Tamils did learn Sinhalese but when that recognition was removed the Tamils refused to study Sinhalese.

It was on the basis of equality and mutuality that Tamils did study Sinhalese in schools.

Q. When English was the official language the Government Gazette was published only in English?

A. Yes.

Q. At present there are three sections in Sinhalese, Tamil and English. 40

What you say is that the whole of what appears in Sinhalese does not appear in the Tamil section?

A. Yes.



Q. Then the whole of what appears in the Sinhala section appears in the English section?

A. As far as I can gather from the number of pages I think it is so.

Q. You referred to the case of identity cards issued by post offices to students sitting for public examinations?

A. Yes, and to anybody who has any transaction with the post offices.

10 Q. What you said was while the card itself is printed in the three languages the particulars are entered only in Sinhalese?

A. Yes.

My main objection is the recipient of the card cannot read it and find out what is in that card.

Q. Even if it was received in English a man who is not literate in English would have the same disadvantage?

A. Yes

Before the Official Language Act both of us were in the same handicap now only the Tamils are handicapped.

20 Q. A Sinhalese who cannot read and write Sinhalese would be under the same handicap?

A. Yes. Some Sinhalese would be affected but all the Tamils would be affected.

Q. Even a Tamil who knows Sinhalese?

A. The proficiency that is acquired by these proficiency tests is not what can be called proficiency in the real sense.

Q. Except for their own aversion there is nothing to prevent a Tamil learning Sinhalese?

A. Nothing difficult but he will find it more difficult than a Sinhalese to learn Sinhalese.

30 A Tamil who learns Sinhalese can read and understand Sinhalese as much as a man who learns Italian can know what is happening in Italy.

Q. You referred to the question of an official frank which you are permitted to use as a Member of Parliament?

A. Yes.

Q. Where a Public Servant or a Member of Parliament is given the right to use a Frank to send his letters post free of charge you have to give not only the signature but also your designation?

40 A. Yes.

Q. What is insisted on by the Government is that the designation should be in Sinhalese?

A. No, both the signature and the designation. The frank is a composite one and you cannot divide the signature and the designation.

No. 5  
Plaintiff's  
Evidence  
—  
Evidence of  
M. Sivasitham-  
param  
Cross-  
Examination  
—Continued

*Q.* Are you saying that all Public Servants and Members of Parliament who are given the right to use a frank is compelled to use his signature in Sinhalese?

*A.* That would depend on a particular Post Master. Out of kindness of heart he may allow a Member of Parliament to use his signature in his own language. We certainly do not want to live on the mercies of an individual.

*Q.* When you used the Tamil frank they refused to give you the privilege?

*A.* Yes.

10

The frank I used even the designation was in Tamil. Unlike in the case of Government Departments we make our own franks and we are not supplied with franks.

Evidence of  
M. Sivasitham-  
param  
Re-examination

RE-EXAMINATION.

*Q.* You were asked by my learned friend whether you were opposed to Sinhala being the Official Language apart from the provisions of the constitution?

*A.* Yes.

*Q.* Tell us why you are opposed?

*A.* My position is in a multi lingual country where there are people who talk different languages they have a right to communicate and participate in the Government in their own language. That was a right that was recognized in Ceylon from 1947 upto 1956 both by legislative and Government action. Therefore when that right was removed that is a deprivation of a human fundamental right which Tamils have enjoyed and have lost. The right to communicate with the Government in Tamil has been taken away in the sense the reply is not sent in the language in which we write. Under the latest Cabinet conclusion the reply can be in the language we write in or in the Sinhala language.

30

TO COURT:

*Q.* Your complaint was that where there was a need for an office to communicate with you in the first instance that letter would be in Sinhalese?

*A.* Yes where they themselves initiate that correspondence would be in Sinhalese.

RE-EXAMINATION (Continued)

*Q.* What do you mean by participating in public affairs?

*A.* For a citizen to participate in the administration of the country. To read and understand all publications of the Government and to appreciate what the Government is doing. In all these matters the official language is being used.

40

*Q.* In the Northern and Eastern Provinces what would you understand by the participation in the administration?

*A.* For instance participation in the local administration of the Government or to correspond with the Government on matters of official duty and so on. On all those matters unless the Tamils are given a right to correspond in their own language the Tamils would be at a disadvantage.

10 In those areas I would expect the language of the administration to be Tamil. I expect the administration of the Tamil areas to be in Tamil and that right has been taken away by the Official Language Act.

*Q.* You said that in the results of the clerical examination published in 1962 there was only one Tamil name. Roughly about how many Sinhalese names were there?

*A.* There were about 150 Sinhalese names.

(Mr. Tiruchelvam undertakes to mark the Government Gazette showing the results of the 1962 Clerical Service Examination).

*Intld*.....  
*Acting District Judge.*  
25. 11. 63.

20

C. BALASINGHAM. Recalled. Affirmed

(This witness has been recalled at the instance of Court.)

I gave evidence on the last occasion and told the Court that I was the head of the Clerical Service. There are various references in the Clerical Service Minute to appointments being made by the Deputy Secretary to the Treasury. In the Public Service Commission Rules also in rule 23 there is a note that the Deputy Secretary to the Treasury will function as the head of the service. Today I am the head of the Clerical Service, Accountants' Service and the Shroffs' Service which are referred to as the Combined Service.

30

TO COURT:

My powers are delegated under Sec. 61 of the Constitution.

EXAMINATION (Continued)

I produce marked P25 the Public Service Commission Rules dated 1st March 1956.

TO COURT:

*Q.* The Deputy Secretary to the Treasury was given the control of the Combined Services by a delegation by the Public Service Commission.

40

*A.* The rule which I read just now says that the Deputy Secretary to the Treasury will function as the head of the Combined Service.

*Q.* Where do you find the delegation?

*A.* It is in Gazette No. 10847 of the 7th of October 1955.

No. 5  
Plaintiff's  
Evidence  
—  
Evidence of  
M. Siva-  
sithamparam-  
Re-examination  
—Continued

Evidence of  
C. Balasingham  
Examination

No. 5  
Plaintiff's  
Evidence  
—  
Evidence of  
C Balasingham  
Examination  
—Continued

I produce a copy of that Gazette marked P26.

I refer to clauses 2 and 4 of that delegation.

*Q.* PI the minute of the Clerical Service refers to your being in control of the Clerical Service in accordance with rule 23 of the Public Service Commission Rules?

*A.* Yes.

EXAMINATION(Continued)

*Q.* Section 58 of the Constitution refers to the creation of a Public Service Commission. Section 80 says the appointments, transfers, dismissals and disciplinary control of public officers is hereby vested in the Public Service Commission. Section 61 says the Public Service Commission may delegate to any public officer any of the powers vested in the Public Service Commission?

10

*A.* Yes

*Q.* Therefore the position in law would be the original or actual powers, of appointment, transfer, dismissal and disciplinary control of public officers are vested in the Public Service Commission?

*A.* Yes.

*Q.* You or anybody else in Ceylon can exercise only such powers that are delegated to you?

20

*A.* Yes.

*Q.* PI the Clerical Service Minute is issued by the Deputy Secretary to the Treasury?

*A.* Yes.

*Q.* When you issued the Clerical Service minute you issued it as a delegate of the Public Service Commission?

*A.* Yes.

It is issued with the approval of the Public Service Commission.

*Q.* Therefore conditions of service of a Public Officer are prescribed by the Public Service Commission or by its delegates?

30

*A.* Yes.

TO COURT:

Rule 23 itself says that the Deputy Secretary to the Treasury will himself function as head of the Combined Service.

EXAMINATION(Continued)

*Q.* You told the court on the last occasion that this minute has been amended from time to time?

*A.* Yes.

*Q.* I take it all these amendments are made by the Deputy Secretary to the Treasury?

40

*A.* Yes.

TO COURT:

And by publication in the Gazette.

EXAMINATION(Continued)

*Q.* Every one of these amendments which you mentioned last time to Court were made by the Deputy Secretary to the Treasury and were published in the Gazette?

*A.* Yes.

*Q.* In P1 you have given the relevant Gazette notification?

*A.* Yes.

10 (Witness reads Treasury Circular No. 560)

*Q.* Has that Treasury Circular been embodied as an amendment to the Clerical Service Minute?

*A.* No.

TO COURT:

*Q.* Has it been issued with the approval of the Public Service Commission?

*A.* Yes, but it does not say so.

EXAMINATION(Continued)

This is a circular issued by the Secretary to the Treasury.

20 *Q.* You remember you told the Court on the last occasion that the plaintiff in this case Mr. Kodceswaran was obliged to pass an examination in Tamil for the purpose of efficiency bars.

*A.* Yes.

*Q.* In the Clerical Service Minute there is no reference to Tamil as such?

*A.* The subjects of the examination are given. Sinhalese or Tamil one paper in appendix B

*Q.* Do you say it should be Tamil in the case of the plaintiff?

*A.* It is left to the officer to choose the language.

30 TO COURT:

I found that invariably the Tamil officer chose Tamil language.

EXAMINATION(Continued)

I do not have the relevant Gazette where the results of the last Clerical Service examination was published.

*Q.* Are you aware of the number of candidates who sit roughly?

*A.* I cannot say. Roughly it may be about 15000 or so.

*Q.* Have you any idea of the number of Tamils out of that 15000?

*A.* It is difficult to say.

40 TO COURT:

*Q.* Who would know that with accuracy?

*A.* The Commissioner of Examinations.

No. 5  
Plaintiff's  
Evidence  
—  
Evidence of  
C. Balasingham  
Examination  
—Continued

No. 5  
Plaintiff's  
Evidence  
—  
Evidence of  
C. Balasingham  
Examination  
—Continued

Q. Can you tell me with regard to Treasury Circulars from when did the Treasury start sending Treasury circulars?

A. It has been a long standing practice. Even before 1929 on financial matters the Treasury has been issuing circulars. On administrative matters the Colonial Secretary issued circulars. During the Donoughmore era also they continued that. After independence both were merged and the Treasury issued circulars. In the olden days there were what were known as Government circulars, and they were issued with the approval of the Government.

Q. Were they at that time also known as Treasury Circulars or as Government circulars? 10

A. Originally they were called Government circulars. In the Donoughmore era they were separated into Chief Secretary's Office circulars and Treasury Circulars.

Q. How is it now that it is the Secretary to the Treasury who informs the Public Servants of these decisions?

A. In 1947 when the Constitution was first promulgated the subjects and functions were assigned by the Gazette notification dated 29th Sept. 1947 and the two subjects assigned to the Minister of Finance were Ceylon Government Manual of Procedure and the administration of the Public Service except where otherwise provided for. The Treasury issues these circulars more or less as the mouth-piece of the Minister. The power is really vested in the Minister. It is under the powers of the Minister that the Treasury issues these circulars. 20

#### CROSS-EXAMINATION.

Q. Did you say that when circulars are issued by you, you issue them as a delegate of the Public Service Commission?

A. Not circulars.

Q. Under Sec. 68 of the Constitution the powers vested in the Public Service Commission. In relation to the public servants are only the powers of appointment, transfer, dismissal and disciplinary control? 30

A. Yes.

Q. Those powers of the Public Service Commission can be delegated to a Public Officer?

A. Yes.

Q. Those powers in relation to the Clerical Service are delegated to the Deputy Secretary to the Treasury?

A. Yes, and to the heads of departments. 40

Q. In regard to the conditions of service, what salary should be paid, in regard to what examination they should pass who decides those questions?

A. They are decided by the Minister of Finance.

Evidence of  
C. Balasingham  
Cross-  
Examination

*Q.* Why by him?

*A.* Because the conditions under which the Public Service is administered is a subject assigned to the Minister of Finance under the Constitution Order-in-Council Sec. 46 (4).

*Q.* That is conditions of service in all sectors of the Public Service is a subject under the Minister of Finance?

*A.* Yes, and he speaks either through the Secretary to the Treasury, Deputy Secretary to the Treasury or any other officer whom he selects.

10 *Q.* In answer to my learned friend you said that the conditions set out in that circular No. 560 have not been embodied in the minute?

*A.* Yes.

We have not issued a correction slip to the minute as an amendment of the minute. We have not published it in the Gazette.

*Q.* In P1 there are a number of amendments to the conditions made prior to this particular Treasury Circular?

*A.* Yes.

20 Some of those have been published in the Gazette and others have not been gazetted. There is no law which requires conditions to be published in a Gazette. We make a lot of amendments generally by circulars and after a number of years we publish a composite amendment to the minute by publication in the Gazette. All amendments are effective from the date of issuing of the circulars. I would not say that this particular circular is not effective for the reason that it is not embodied in the minute.

*Q.* Did you say that amendments in the conditions of service are in accordance with rule 23 of the Public Service Commission Rules?

30 *A.* The reference to the Deputy Secretary to the Treasury being the head of the Clerical Service is in accordance with rule 23 of the Public Service Commission Rules.

*Q.* That is not conferred by the Public Service Commission?

*A.* It is by the Rules of the Public Service Commission. In regard to conditions of service I am the mouthpiece of the Minister. (Shown Gazette Extraordinary No. 12165 of July 23, 1960 (D8).

This is a notification of assignment of functions made by the Prime Minister.

40 *Q.* You will find that in regard to conditions of Public Service they have been assigned to the Minister of Finance?

*A.* Yes.

TO COURT:

*Q.* I find that some of these Treasury circulars merely reproduces the decisions of the Cabinet in the very same language?

*A.* Yes. Sometimes additions are made.

No. 5  
Plaintiff's  
Evidence  
—  
Evidence of  
C. Balasingham  
Cross-  
Examination  
—Continued

*Q.* For instance take 2 (a) of P9 the actual words of the Cabinet conclusion are used?

*A.* Yes.

*Q.* But in effect there you mean they must sit or they are required to sit?

*A.* Yes. That was what was intended to be conveyed.

#### RE-EXAMINATION.

*Q.* You stated that all the amendments to the documents P1 were made by the Deputy Secretary to the Treasury?

*A.* Yes, with the approval of the Public Service Commission. Thereafter they were communicated to the Public Servants by Gazette notifications. That was the case with regard to every one of the amendments. 10

*Q.* In regard to Treasury Circular No. 560 that has not been embodied to the minute as an amendment?

*A.* No.

*Q.* The assignment of functions was made by the Prime Minister?

*A.* Yes.

*Q.* According to the details given by the Prime Minister the functions delegated to the Minister of Finance were the Ceylon Government Financial Regulations their interpretation and amendments? 20

*A.* Yes.

*Q.* Schemes of recruitment to the Public Service, salary schemes and conditions of service?

*A.* Yes

*Q.* That is to say at the time a particular service is constituted the Treasury would draw up a scheme?

*A.* Some services which are under our control we draw up the scheme of salary and other details and we send for approval. 30

*Q.* Take for example the Grama Sevakas. I believe the Home Ministry drew up the scheme?

*A.* Yes, it was sent to me for approval and finally it was sent to the Public Service Commission for approval and it was thereafter that the recruitment took place by the Public Service Commission.

*Q.* Every one of these amendments to the Clerical Service Minute was made after approval by the Public Service Commission?

*A.* Yes.

#### TO COURT:

*Q.* Does the Treasury initiate any matter of changing conditions of service? 40

*A.* Not in all alterations. Some alterations are initiated by us, that is, those relating to Combined Services and the Ministry of Finance but in regard to other services like the Grama Sevaka the Home Ministry takes it up and sends it to us for approval and then it goes to the Public Service Commission.

Evidence of  
C. Balasingham  
Re-examination



*Q.* When the Cabinet decides that there must be a change of service?

*A.* Then the circular has to be sent by the Treasury. We consult the Public Service Commission also on important matters where it affects conditions of service of Public servants.

Sgd. O. L. de Kretser  
Acting District Judge.  
25.11.63.

No. 5  
Plaintiff's  
Evidence  
—  
Evidence of  
C. Balasingham  
Re-examination  
—Continued

VALLIPURAM NALLATHAMBY NAVARATNAM. AFFIRMED. 35

10 Advocate. Member of Parliament, Chavakachcheri.

I am the Member of Parliament for Chavakachcheri. I am an Advocate of the Supreme Court. I practice in Chavakachcheri and Jaffna. I have been a Member of Parliament from April 1956 up to now. I was present in Parliament when the Official Language Bill was presented. I was also present in Parliament when it was debated and when the final voting took place. I produce marked P27 the Hansard for the period beginning from 14th June 1956 which sets out the voting on this Official Language Bill.

20 *Q.* According to this did this bill have a 2/3rd majority of the Members of Parliament?

*A.* The number voting for the bill was 66 and the number voting against was 29.

At that time the Parliament consisted of only 101 members. I myself voted against it.

*Q.* Is it correct to say that the Tamil Members voted against it?

*A.* All Tamil Members of Parliament voted against the bill and all Muslim Members representing Eastern and Northern Provinces also voted against the bill.

30 I am myself opposed to the Official Language Act.

*Q.* After this bill became law have you yourself experienced any disability?

40 *A.* I have experienced disadvantages as a private citizen and as a Member of Parliament. As a Member of Parliament I find that some of the important letters addressed to me in my capacity of Member of Parliament are addressed to me in a language that I do not understand, that is in Sinhalese. Sometimes letters are sent to me in Sinhalese by the heads of departments and Ministries. In my capacity as a Member of Parliament I have to interview some heads of departments. Specially in the Treasury the name boards are only in Sinhala and it is difficult to locate any particular officer in a particular room.

*Q.* A member of the public deals with the Government in various ways and transacts business with the Government?

*A.* Yes.

Evidence of  
V. N. Navarat-  
nam  
Examination

No. 5  
Plaintiff's  
Evidence  
—  
Evidence of  
V. N. Navara-  
tnam  
Examination  
—Continued

*Q.* Does this from your experience impose any disability on Tamil people?

*A.* I know several cases where when people apply for posts they get letters calling for interviews only in Sinhala and even transfer orders are sent in Sinhala.

In my capacity as an Advocate I have found that notices sent by the Industrial Courts fixing a date or refusing a date are sent in Sinhalese only and as a result there is a lot of difficulty in finding out what they state. I have several cases in mind from Industrial Courts. Most of the notices received in the Northern and Eastern Provinces from the Industrial Courts have been in Sinhalese which Tamils do not understand. 10

*Q.* There is I believe in your electorate a District Revenue Officer's office?

*A.* Yes.

A Sinhalese clerk one Banda has been posted to the District Revenue Officer's office in my electorate.

*Q.* What is he there for?

*A.* I presume to assist the District Revenue Officer in carrying out the work in Sinhala. 20

*Q.* You know when the public apply for a radio licence and other documents from Government offices in the Northern & Eastern Provinces in what language are they sent?

*A.* Most of them apply in Tamil and very few in English and most of them reply only in Sinhala and licences are written out in Sinhala.

We have to send urgent messages to our constituents and the post office close to us is the Secretariat Post Office and several telegrams sent in Tamil through that Post Office have been returned. Although we have made representations no arrangement has been made to receive telegrams in Tamil in that Post Office. 30

#### CROSS-EXAMINATION.

I referred to the voting figures at the second reading of that bill.

*Q.* There are a lot of Tamils doing business and practising their professions in the Sinhalese areas?

*A.* There are a few.

*Q.* They find no difficulty in dealing with Sinhalese customers. Prior to any Official Language question came up there were many Tamil trading in Sinhalese areas and they have found no difficulty in selling their goods to Sinhalese people? 40

*A.* I do not know. There are Tamil gentlemen practising their professions in Sinhalese areas.

Evidence of  
V. N. Nawarat-  
nam  
Cross-  
Examination

*Q.* Until the Official Language Act was passed there was no complaint from these gentlemen?

*A.* Even now the complaint is not in regard to dealing with members of the public but in dealing with the heads of departments we find this difficulty.

RE-EXAMINATION.

Nil.

Sgd. O. L. de Kretser  
*Acting District Judge.*  
25. 11. 63.

No. 5  
Plaintiff's  
Evidence  
—  
Evidence of  
V. N. Navara-  
tnam  
Cross-  
Examination  
—Continued

10 M. P. MUSTAN Affirmed. 65. Pensioner. Moor Street. Mannar.

I am a Muslim from the Mannar District. In that district there is a Muslim population. There are Muslim villages. The mother tongue of the Muslims in the Mannar District is Tamil. Their festival and social activities are conducted in the Tamil language. On the festival days in the Mosques they conduct the prayers in Tamil. Muslims when they get married have to enter the marriage in the form of a document and those documents are in Tamil. The Muslims there use Tamil language for registration of marriages. A Registrar registers the marriage and a priest officiates the civil ceremony. The religious ceremony before the Lebbe is read in Arabic and translated into Tamil. That is the language the parties understand. In homes they speak Tamil. Tamil was used in the Kathi Courts till recently. Everything is done there in Tamil. Questions are put in Tamil and answers are given in Tamil in those Kathi Courts. I do not know whether the records are maintained in English or Tamil.

Evidence of  
M. P. Mustan-  
Examination

*Q.* Would it be correct to say that the language understood and used by Muslims in Mannar district is Tamil?

*A.* Yes.

The Muslims of that area do not know Sinhalese.

30 *Q.* I believe there are some Village Committees where Muslims are in a majority?

*A.* They are the biggest Village Committees. There are no Tamil members in those Village Committees.

The proceedings in the Ericulanpity Village Committee are conducted in Tamil. There is a Town Council in Mannar. There are Muslim members in that Town Council. The proceedings are conducted and minutes are kept in Tamil in that Town Council. I am aware that in 1956 the Official Language Act was passed.

*Q.* What is the effect of that on your community?

40 *A.* We find it difficult to conduct work in Sinhalese as our mother tongue is Tamil.

CROSS-EXAMINATION.

The Village Committee and the Town Council I mentioned still conduct their business in Tamil. I do not know any Sinhalese myself. I know a little English.

Evidence of  
M. P. Mustan-  
Cross-  
Examination

No. 5  
Plaintiff's  
Evidence  
—  
Evidence of  
M. P. Mustan.  
Cross-  
Examination  
—Continued

*Q.* You understand my questions before they are translated into Tamil?

*A.* I have moved with Englishmen and I have moved with English speaking people therefore I understand questions in English.

I have not moved with any Sinhalese people, as I have moved with English people.

TO COURT:

*Q.* What you mean by English people is English speaking people?

*A.* I have worked under Englishmen and I can understand English. 10

*Q.* Have you not worked under Sinhalese people who know English?

*A.* I was working under Mr. N. Q. Dias when he was Government Agent Mannar. He spoke to me in English.

CROSS-EXAMINATION (Continued)

I live in Mannar town. There are Sinhalese people in Mannar Town.

*Q.* Are you able to speak about Muslims anywhere else apart from Mannar district?

*A.* I know about the Mannar district.. I know the whole Mannar area 20

*Q.* Do you know that there are a large number of Muslims in Akurana and Mawanella?

*A.* Yes.

*Q.* Do you know that they speak Sinhalese?

*A.* I do not know they might be speaking.

*Q.* You do not deny that they speak Sinhalese?

*A.* I do not deny because I do not know.

RE-EXAMINATION. Nil.

Sgd. O. L. de Kretser. 30  
*Acting District Judge.*  
25. 11. 63

Evidence of  
M. K. Seyad  
Mohamed-  
Examination

M. K. SEYAD MOHAMED: Affirmed, 42, Cultivator, Eravur.

I am living in Eravur a town to the south of Batticaloa in the Eastern Province. There are Muslim people in the Batticaloa district. From Pothuvil right upto Valachena there are Muslim settlements.

*Q.* Can you tell where the Muslim concentrations are in the Batticaloa district? 40

*A.* Yes, in Pothuvil, Nindavur, Akkarapattu, Sammanthurai, Katankudi.

*Q.* In what other areas are there Muslim concentrations in the Eastern Province?

*A.* In Eravur, Valachenai, Kattanmadu, Pathankudi, Kalmunai, Madavel, Nindavoor, Samanthurai, Pothuvil, Akkaraipattu.

*Q.* In those areas how many Village Committees have Muslim majorities?

*A.* In Samanthurai, Pothuvil, Akkaraipattu, Kalmunai, Madavel, Valachena, Eravur, and Katankudi. In those places Muslims are in a majority in local bodies.

10        *Q.* Out of the local bodies I mentioned some are Town Councils, There are Town Councils in Samanthurai, Kalmunai, Katankudi, and Eravur. In these Muslims are in a majority. I am a member of the Eravur Town Council. I am the Vice Chairman of the Eravur Town Council. Muslims have been settled in the Eastern Province for about 200 years. The home language of the Muslims there is Tamil.

*Q.* In what language are the Muslims of the Batticaloa district educated?

*A.* In Tamil.

20        *Q.* In what language are the local bodies that you mentioned conduct their proceedings?

*A.* They conduct their business in Tamil. There are certain festivals and occasions on which people celebrate events.

*Q.* In what language do you conduct your celebrations?

*A.* In Tamil.

*Q.* I believe in the Batticaloa district there are what is known as folk songs?

30        *A.* Yes, they are in Tamil. The drama and folk songs of Muslims are in Tamil. Muslims of our area do not speak the Sinhalese language. They know only the Tamil language. They conduct their public affairs in Tamil. They do not read or write Sinhalese.

*Q.* The English education has not spread very much among Muslims of that area?

*A.* 1/3rd of the population know English and majority speak Tamil and conduct their business in Tamil.

TO COURT:

*Q.* What fraction know Sinhalese?

*A.* No one knows Sinhalese in that area.

EXAMINATION - (Continued)

40        *Q.* Are there Muslims who have gone to the South as traders?

*A.* Yes.

*Q.* Do those people know Sinhalese?

*A.* Some of those people speak Sinhalese. There are not many traders in that area.

I know in 1956 the Official Language Act was passed.

No. 5  
Plaintiff's  
Evidence  
—  
Evidence of  
M. K. Seyad  
Mohamed-  
Examination  
—Continued

Q. What is the effect of that Act on the Muslim people of your area?

A. We will not be able to speak in Sinhalese as it is not our mother tongue.

Q. In what language have you to communicate with the Government?

A. In Tamil.

Q. Have you yourself received communications from the Government after 1956?

A. Yes.

They are in Sinhalese. I produce marked P28 a letter I received from the Government in Sinhalese. I did not understand this letter. I produce the translation of that letter marked P28A. This was a letter received from the Forest Officer, Batticaloa. I did not understand this letter when I received it. I returned the letter.

Q. How did you get it back?

A. They wrote back in English.

Q. Then did you understand?

A. I got someone else to read it for me. I was able to get the English letter translated.

Q. Are there no other people who can easily translate a Sinhalese letter in your area?

A. No.

No letters are received in our area in Sinhalese.

TO COURT:

Q. How do you know that this letter was addressed to you?

A. The Post Peon brought it and gave it to me and that is how I knew that the letter was for me. By reading it I could not have known that it was for me.

Q. Could you not have asked the Post Peon to translate it for you?

A. He did not open the letter. He only delivered the letter.

Q. He comes round the next day?

A. Yes, if there are any letters. I was told that it is a letter from the Forest Department.

I took the letter to the Forest Department.

I am a contractor with the Forest Department.

CROSS-EXAMINATION.

I have been doing contract work with the Forest Department for sometime. I do contracts under agreements. I do not understand English. The contracts were drafted in English. P28 is signed by some officer. It is signed in English. The person who has signed is one Pillai. He is Chanmugam Pillai. There is a Village Committee in Pothuvil. I do not know how many members are there. In

Evidence of  
M. K. Seyad  
Mohamed-  
Cross-  
Examination

Nindavur there is a Village Committee. I do not know the number of members in that Council. Kathankudi is a Town Council. There are 7 members there. All the seven are Muslims. I am a member of the Eravur Town Council. I am the Vice Chairman. There are five members there. Four of them are Muslims. There are no Sinhalese members in any of the local bodies I mentioned. In the Eravur Town Council we conduct our business in Tamil now. In all the other local bodies I mentioned they still carry on their work in Tamil. There are about 10 to 15 Sinhalese people in Eravur. There are a few Sinhalese cultivators in that area and a few shop keepers. There the majority are Muslims and Tamils.

10

RE-EXAMINED

Nil.

*Sgd. O. L. de Krestser,*  
*Acting District Judge*  
25.11.63

Mr. Tiruchelvam informs me that he has only one other witness Mr. Thondaman and also some formal evidence with regard to the Gazette. He says that Mr. Thondaman is not present today in that he did not expect the other witnesses to be disposed of so quickly. I had asked both Counsel to see that witnesses were not inconvenienced by being in attendance unnecessarily in Court and that I would accommodate both sides in the event of their being some difficulty in regard to this matter. The Deputy Solicitor General has no objection to the case being put off at this stage.

20

The case is therefore adjourned at this stage till 3rd December, 1963.

*Sgd. O. L. de Kretser,*  
*Acting District Judge*  
25.11.63

30

TRIAL RESUMED.

Same appearances as before.

Mr. Tiruchelvam at this stage suggests amendment of issue 3 as follows:-

3. If so (a) is the said Treasury Circular invalid?

(b) is the said Treasury Circular binding on the plaintiff for purposes of amending terms and conditions of the plaintiff's services with the Crown?

40

Mr. Tennekoon objects to the amendment at this stage. He submits that the plaintiff came to Court on the basis that the circular was issued under the Official Language Act and the Official Language Act is ultra vires of Sec. 29 of the Constitution and evidence was led on that. The Crown's position was that the circular was not issued under the

No. 5  
Plaintiff's  
Evidence  
—  
Evidence of  
M. K. Seyad  
Mohamed-  
Cross-  
Examination  
—Continued

No. 4  
Issues Framed  
—Continued

3rd DECEMBER 1963.

Official Language Act. Terms and Conditions of Public Servants is a subject assigned to the Minister of Finance and he on his own or after a Cabinet decision in the exercise of his duties is entitled to alter the terms and conditions of Public Servants. Now the plaintiff seeks to turn the action into an entirely a new case. It alters the whole scope of the action. If the amendment is allowed most of the witnesses will have to be recalled. The plaintiff in the plaint challenged the circular only on the two grounds set out in paragraph 6 of the plaint and no other ground of illegality was suggested in this case. Refers to the plaintiff's evidence at page 32. 10  
The position was specifically put to the plaintiff and his position was that apart from the two grounds pleaded he was not challenging the validity of the circular on any other ground. This new position at this stage is unfair both to the defence and to the Court. Having regard to the way the case has been conducted upto now the Court should not allow the amendment.

Mr. Tiruchelvam cites 22 N. L. R. and 97 and 23 N. L. R. 242.

#### ORDER

The plaintiff in paragraph 6 of his plaint has pleaded the Treasury Circular in question is invalid and *not binding on the Plaintiff* (1) because it is unreasonable and (2) because it is illegal in that it seeks to implement the provisions of the Official Language Act which is itself a nullity. The plaintiff by suggesting the new issue in effect now seeks to give a reason why even if the circular is valid it is not binding on him viz:— that it cannot be used to alter his terms and conditions of service. 20

Having regard to the position taken up by the Crown para 5a of the answer shortly that after a Cabinet decision the Permanent Secretary to the Ministry of Finance in the exercise of his duty is entitled to alter the conditions of service of a Public Servant by circular the question arises whether he is entitled to do so and deprive the plaintiff of his increment. The grievance of the plaintiff is that his increment has been stopped. It is the matter he seeks redress on. The other declarations he seeks are incidental to the obtaining of his relief. 30

De Sampayao J. in the case reported in 23 N. L. R. 242 has stated—

“Under our present system of pleading any omission in the plaint or answer may be supplied by raising relevant issue at the trial and an issue may be stated at any time before judgment” 40



The correctness of that position has never been questioned and is not questioned now. It appears to me therefore that the issue is relevant, can be raised and that I should accept it. It is accepted subject to the right of the defence to recall any witness for cross-examination if they so desire. The right to summon any witness necessary to meet the issue and the right to be paid costs if the exercise of those rights by the defendant necessitates postponement of the decision of this trial

No. 4  
Issues Framed  
—Continued

10

Sgd. O. L. de Kretser,  
*Acting District Judge.*  
3. 12. 63.

RESUMED AFTER LUNCH.

3rd DECEMBER 1963.

Mr. Tennekoon states he does not know on what grounds the plaintiff says that the Treasury circular is not binding and he wants the issues clarified.

Mr. Tiruchelvam now moves to reframe the issues as follows:-

- 20
4. (1) Was it a term of the plaintiff's contract of service under the Government that he should work in English?
  5. (2) Are the terms and conditions sought to be imposed by circular No. 560 part of the terms and conditions of the plaintiff's contract of service?
  6. (3) If not, is the defendant entitled to impose the said conditions.
    - (a) Unilaterally?
    - (b) By a Treasury Circular?

30 Mr. Tennekoon states that he has no objection to the issues as framed subject to his position that an officer has no such thing as a contract of service under the Government and that the correct position is that an officer is employed under terms and conditions.

The issues are now re-numbered afresh. Issues 1,2 and 3 will stand and the present three issues are now numbered as 4, 5, and 6. Original issue No. 4 becomes issue No. 7 and the original issue 5 becomes issue No. 8.

I accept the issues.

40 Mr. Tennekoon submits that on the adoption of the issues now raised he will have to consider his position and will not be able to proceed with his case straightaway as on further instructions he may have to raise further issues after consulting the then Secretary to the Treasury, Mr. Shirley Amarasinghe who issued these circulars.

No. 4  
Issues Framed  
—Continued

I inform Mr. Tennekoon that it will be open to him to raise any issues which he thinks necessary after he has duly considered his position in regard to the issues that have been framed today. In the meantime the evidence of Mr. Thondaman can be recorded. He agrees to this.

No. 5  
Plaintiff's  
Evidence  
—  
Evidence of  
S. Thondaman  
Examination

SAUVUMYAMUTTU THONDAMAN. Affirmed. 45, Agriculturist, Wavendan Estate, Ramboda.

I am a Member of Parliament. I have been a Member of Parliament for a number of years. I am also the President of the Ceylon Workers Congress That is a trade union representing the bulk of the plantation workers upcountry and it has as members other workers also. The bulk of the plantation workers upcountry are Tamils of Indian origin. Tamil labour from India was recruited from about 1837. From about 1837 onwards Tamils of Indian origin have been working as plantation workers. They are concentrated in Central Province, Uva Province and the Sabaragamuwa Province. 10

Q. Could you tell the Court roughly how many of them are in Ceylon?

A. Roughly about 1 million people.

Q. How many out of this million does your trade union represent? 20

A. My union represents about 300,000 workers?

Q. This 1 million includes men, women and children who are not working?

A. Yes.

Q. Would it be correct to say that the Tamil workers of Indian origin have been in Ceylon for 3 or 4 generations?

A. Yes.

Q. Of these some are Citizens of Ceylon by descent?

A. Yes. That is those who are born before 1948 provided their fathers were also born in Ceylon. 30

A certain proportion are Citizens by registration.

Q. Roughly how many of this 1 million people are Citizens by descent?

A. About 60 percent of them by Ceylon law are Citizens by descent.

TO COURT:

Q. Can you speak to this percentage by personal knowledge?

A. Yes, I am living with them. I have been living with them and working for these people for the last 25 years and I have interested myself in issues with the Ceylon Government in solving their problems and I am speaking from my personal knowledge. 40

A Citizen by descent is a person who was born in Ceylon before a certain date and his father also was born in Ceylon. 60 percent of those 1 million people were born in Ceylon before 1948.

That is also so according to the Soulbury Report and Jackson Report.

From 1921 onwards there were about 150000 surplus immigration and the balance are born in this country.

EXAMINATION(Continued)

The 60 per cent is my estimate of that category of Citizens.

Q. A certain percentage of this 1 million are stateless?

A. Some of them are not Citizens by descent or by registration.

Q. A bulk of this 1 million are they settled in Ceylon; have they made Ceylon their home?

10 A. Yes, they have lived here and born here and their fathers or grandfathers have been born in Ceylon.

Q. What is their mother tongue?

A. Tamil.

Q. The children of these estate workers attend estate schools?

A. Yes.

They receive there education in Tamil. A large majority of the estate workers are Hindus.

20 A small percentage of them is Catholics and a few are Muslims. About 80 to 85 per cent of them are Hindus. The balance are Catholics, Christians or Muslims. Hindus conduct their religious affairs in Tamil. Catholics also carry on their religious affairs in Tamil.

Q. Do these people largely know Sinhalese?

A. Some of them know. Most of the upcountry estate workers hardly know Sinhalese. People in estates in the Kalutara area know Sinhalese having come in contact with the Sinhalese there. In the low country they can speak Sinhalese to some extent. They do not read or write Sinhalese. There may be exceptional cases who are able to read and write Sinhalese.

Generally the lowcountry estate labour is mixed.

30 Q. In the Central, Uva, and Sabaragamuwa Provinces there are certain electorates where the Indian estate Tamil population are voters?

A. Yes, in every electorate. There are large concentrations in the Nuwara Eliya and Maskeliya electorates

There are other electorates like Kothmale and Rathtota where there are large numbers of Tamil voters.

40 I know the Official Language Act was passed in 1956. As a result of the Official Language Act being passed the consequences as far as the estate Tamil labour population is concerned are now the registration of voters is done in Sinhalese language and they have in English too but not in Tamil language. There is every year a revision of the voters lists.

No. 5  
Plaintiff's  
Evidence

—  
Evidence of  
S. Thondaman  
Examination  
—Continued

No. 5  
Plaintiff's  
Evidence  
—  
Evidence of  
S. Thondaman  
Examination  
—Continued

*Q.* At the revision are letters written to every householder?

*A.* No. As far as the estates are concerned they send the letter to the Superintendent of estates. Letters are sent to the individuals who are living outside the estates or the Headmen go round to them.

I own estates.

*Q.* In what language do you receive letters in relation to voters lists?

*A.* In the Nuwara Eliya district they send in English. In the estate in the Kandy district they send in Sinhalese. When we write to them that we want the letters in the language which we understand sometimes they oblige us by giving it in English by the time we receive these letters the time given for revision is lost or we are at a disadvantage. 10

TO COURT:

If we write to them they generally send us an English version of the letter. I am talking about the estates. If a Member of Parliament sends a letter there is a quick response but the average citizen, I do know whether receives that response. To me they did not send in Tamil because I always wrote to them in English. 20

*Q.* If you write to the Government in English you will get a reply in English?

*A.* Yes.

*Q.* When you have got something in Sinhalese if you write and ask for clarification in English or for a translation of what was sent to you in Sinhalese in English do they do that?

*A.* If we ask for a translation of the original they will send. When the ordinary citizen writes there is no response but when I write a letter as Member of Parliament there is a quick response. 30

EXAMINATION (Continued)

I am interested in the revision of the electoral lists. All those lists are either in the Official Language or in English. Under the law a person is entitled to make claims or to object to any name being in the register of voters. Our people do not have the facilities of knowing whose names are there because the registers are in Sinhalese or in English. The Tamil people are denied that facility.

*Q.* As a Trade Union worker you have a number of cases pending in the Industrial Courts? 40

*A.* Yes, my union files the largest number of cases before the Industrial Courts.

The notices from the Industrial or Labour Tribunals are sent in Sinhalese now and my Union has already written to the Tribunals to send all those things in English at least because our Lawyers deal with them in English but the Tribunals are not responding to that.

I met the Labour Commissioner and he said he would try to help us but he has not done so.

10 *Q.* From the point of view of estate Tamil workers in what language are the correspondence addressed to them by Government departments ?

*A.* Mostly in Sinhalese and they find it difficult and they are today unable to participate in the affairs of the country.

The other day I went to the Ministry of Education and when I saw the boards I did not know where to go.

#### CROSS-EXAMINATION

*Q.* You said that about 60 per cent of the Indian estate labour population are citizens. What do you understand by that ?

20 *A.* Any person born in this country before an appointed date viz: 15th Nov. 1948 provided his father was born in Ceylon in terms of Ceylon Law is a citizen of Ceylon by descent.

I come under a different category. I am a registered citizen.

*Q.* There is also the Indian & Pakistani Registration Act and a large number of the estate labour population apply for registration under that Act ?

*A.* Yes.

*Q.* Even from among the 60 per cent whom you say are citizens by descent there are people who apply for registration ?

*A.* Yes.

*Q.* They do not regard themselves as citizens by descent ?

30 *A.* No to make sure they do that.

*Q.* Do you know better than the applicants themselves ?

*A.* (No answer)

Indian labour came to Ceylon from about 1837

*Q.* At that time they were brought here by the Englishmen for the purpose of working in the Coffee or Tea estates ?

*A.* Yes, by those who were in charge of the country.

*Q.* Those who were in charge of the country were the British ?

*A.* Yes.

40 *Q.* Right upto recent times English was the Official Language of the country ?

*A.* The administrative language. The administration was in English.

No. 5  
Plaintiff's  
Evidence  
—  
Evidence of  
S. Thondaman  
Examination  
—Continued

Evidence of  
S. Thondaman  
Cross-  
Examination

No. 5  
Plaintiff's  
Evidence  
—  
Evidence of  
S. Thondaman  
Cross-  
Examination  
—Continued

*Q.* When we came to have elections to legislative bodies the electoral lists were prepared in English?

*A.* Yes.

*Q.* When they issued notices to labourers the notices were sent in English?

*A.* The labourers were not participants of the administration at that time. They got them as subjects.

*Q.* They got notices and letters in English?

*A.* Yes.

*Q.* At the time the Indian Tamils came over to Ceylon they knew that English was the official language or the language of administration in Ceylon? **10**

*A.* Yes.

*Q.* Notwithstanding that they came to this country?

*A.* They came here for employment.

*Q.* Were they dragged here by force?

*A.* I know that law was enacted in India that no person shall be recruited from India from a place three miles from any bazaar or a festival place.

*Q.* Are you saying that they were here against their wishes? **20**

*A.* They were brought under compulsion.

*Q.* They did not want to make this country their home voluntarily?

*A.* At the time they came they were brought under compulsion then circumstances shaped and they have settled down here.

The Ceylon Workers Congress consists of workers from upcountry and low country estates and from estates in the Mannar area and other outstations.

*Q.* Is there any limitation by community? **30**

*A.* Certainly not.

*Q.* Are there in fact any persons other than persons of Indian origin who are members of the Ceylon Workers Congress?

*A.* There are Sinhalese roughly about 50,000 all over Ceylon who are members of the Ceylon Workers Congress.

I am giving my evidence in English in this case.

*Q.* You do not find any inconvenience when the administration of the country is in English?

*A.* I cannot play the roll so freely that I can play in Tamil in English. **40**

*Q.* That is because you know your Tamil better than your English?

*A.* Yes.

TO COURT:

Q. You will be in your element if the official language is Tamil ?

A. Yes.

CROSS-EXAMINATION (Continued)

Q. You know sufficient English to read and understand a letter and to read an electoral list etc, ?

A. I am able to manage it.

10 Q. Notwithstanding the fact that English is not the mother tongue ?

A. Yes, it is certainly not my mother tongue.

RE-EXAMINED: Nil.

Sgd. O. L. de Kretser,  
*Acting District Judge.*  
3. 12. 63.

Mr. Tiruchelvam states that at the moment this is his case but he does not close it until he finds out whether Mr. Tennekoon wants to raise further issues.

20 It is agreed that the case should be called on the 5th in order to enable Mr. Tennekoon who has to leave the Island on another important matter to indicate when it would be possible for him to be present to go on with this case.

Call case on 5. 12. 63 to fix further dates of trial.

Sgd. O. L. de Kretser,  
*Acting District Judge.*  
3. 12. 63.

3. 1. 64

Appearances as before.

30 Mr. Tiruchelvam closes case for plaintiff reading in evidence P1-P29.  
Mr. Tennekoon closes case for the defendant reading in evidence D1-D8

Sgd. O. L. de Kretser,  
*Acting District Judge*

Vide separate volume for notes of addresses.

Sgd. O. L. de Kretser,  
*Acting District Judge.*

No. 5  
Plaintiff's  
Evidence  
—  
Evidence of  
S. Thondaman  
Cross-  
Examination  
—Continued

No. 6  
Addresses to Court

10th February 1964

## TRIAL RESUMED.

Same appearances as on last date except that Mr. Advocate D. R. Gulasekeram also appears for the plaintiff.

Mr. Renganathan marks a copy of the Government Gazette No. 13673 of 14. 6. 63 (pages 598, 599 and 600) P 29.

Mr. Tennekoon informs me that he is under the impression that the results of this examination given in P 29 were published in instalments and when he goes through this document if he finds his impression is correct he will have the right to mark the other relevant gazettes. Allowed. 10

Mr. Tennekoon addresses Court:-

I propose to address first of all on issue No. 8. My submission on that issue will help to answer all the other issues. If this issue is answered against the plaintiff none of the other issues will arise. My first submission will be on whether there is a cause of action disclosed in the plaint and whether there is a contract of service in this case, and even if there is a contract whether the plaintiff can bring this type of action whilst still remaining in service and drawing a salary. I have authority for the proposition that while one party repudiates the contract the other party remains in service and draws a salary he cannot bring this type of action. 20

First part of my submission is whether there is a contract and whether he has a right to sue for any alleged breach of any of its terms. I refer to paras 2, 3, 4, 5 and 6 of the plaint and also to the prayer. Your Honour will see there are three separate declarations sought. The real declaration the plaintiff is asking for is 3 and 1 and 2 are only the grounds for it. They are not matters for declarations. They are not matters on which declarations can be asked. The right to the increment is the only claim. I refer to Sec. 5 of the Civil Procedure code. There are declaratory actions. That is where the prayer asks for a declaration or consequential relief. This purports to be a declaratory action but omits the prayer for consequential relief. Can an order go out on the Crown ordering the increment to be paid in this case? In regard to the question whether there is a contract I refer to Section 5 of the Constitution. Firstly a person who holds an office under the Crown cannot have an action for wrongful dismissal, assuming that certain conditions were applicable at the time a person joined and an officer refuses to follow them then he is dismissed at the pleasure of the Crown. It has been accepted in this case in evidence that whatever the conditions may have been at the time he joined the service they are capable of alteration without the consent of the public officers concerned. If those two conditions are accepted that is a complete answer to the question whether there is a contract. 30 40



## COURT TO COUNSEL:

No. 6  
Addresses to  
Court  
— Continued

Q. Do you go so far as to say that the Crown can alter the terms of service unilaterally and is the Crown also entitled to punish an officer for not following those terms?

A. Yes.

Q. The question is whether you can punish a man. You want the man to sit for an examination and he does not sit for it you can dismiss him according to you but can he be punished?

A. It has to be judged on its merit. The power of  
10 punishment in so far as it relates to Disciplinary control is vested in the Public Service Commission. I am not saying he will be punished in every case but there may be good reason why the Public Service Commission may not punish.

Cites 27 *Times Law Reports* page 127; 27 *Times Law Reports*  
page 497. Those were cases in which there was a claim for workmens  
compensation. In the course of the judgment Judges referred to the  
contract between the Crown and a certain officer Refers to Workmens  
Compensation Ordinance Cap. 139 at page 787. The question did arise  
20 whether the Crown is bound to pay compensation if an accident occurs to a public servant in the course of his duty. A workman is defined in Section 2. In order to make the Ordinance applicable to the Crown and to remove any doubt Sec. 3 sub-section 3 is provided. In the definition of employer they said it is deemed to include Her Majesty. The law says the Crown also must pay on the fiction that there is a contract. Cites the case of *Shelton vs Smith* 72  
Law Times Reports page 130. This is a case where a certain person  
was appointed to a post in Western Australia and he sought damages  
against the Crown for being dismissed from office without notice  
and without cause.

30 Even in Ceylon there are some officers who are engaged on special contracts such as the contracts that were entered into with the Viennese Specialists but between a clerical servant and the Crown there is no such contract. There cannot be a contract the terms of which one party can always vary. The 72 Law Times Reports case was followed shortly after by the case of *Dunn vs. Queen 1896 (1) QB page 116*. The foot note there gives another case *Mitchel vs. Queen 1896 (1) Q.B. page 121 at 122*. There may be certain Acts of Parliament which says that such and such officer may be paid a certain salary but still it does not become a contract. The 1896  
40 (1) QB case being a case dealing with a soldier subsequently there was an endeavour to confine this rule only to servicemen. That has been rejected in civil cases and the first was in the case of *Dunn vs. Queen* already cited. They approved the case of *Mitchel vs. Queen* and they said there was no contract at all.

Cites the case of *Venkate Rao vs. Secretary of State 1937 A. I. R.*

(Privy Council) *Page 31, 33.* This case came up when the Constitution of India was governed by the Government of India Act. There is a similar section to our section that Public Servants hold office at Queen's pleasure. On that basis the Privy Council also held that the rules, regulations, minutes and gazettes can never form the basis of a contract between the Crown and its servants.

Cites the case of *Lucas vs Lucas 1943 (Probate) page 68.* This is an action by the husband against the wife, the wife having obtained an order for costs or alimony against husband sought to seize the husband's salary payable by the Government of India. It was contended for the husband that this was not a debt the salary due. The Court held that there was no right in Mr. Lucas to that salary because there was no contract and he had no legal right enforceable in a Court. Judgment at pages 68-77. In this case although the plaintiff confines his case to the granting of his increment it is a certain part of his salary therefore those principles in those cases will apply to this case. 10

Cites the case of *High Commissioner for India vs Lall 1948 A. I. R. (Privy Council) page 121.* The Government of India Act contained certain provisions about Public Servants. They were contained in the Government of India Act Section 240(1). 20

Lall was dismissed without giving due opportunity in terms of the statute. He asked for a declaration that he continued to be a member of the Indian Civil Service. He got that declaration.

Independently of a contract a Public Servant who is able to say he has been dismissed by an authority subordinate to the authority which appointed him he can have that action.

In that action Lall also claimed his salary. It was held in that case there was no right to go to Court and ask for the pay.

There has not been any direct claim for salary in Ceylon. There was a case in *50 N. L. R. page 214* in which a Writ of Mandamus was asked for. That is the case of *Villipuram vs. Post Master General.* He sought to be restored to office on the ground that his dismissal was bad. His particular allegation was that before his dismissal certain rules laid down in the Manual of Procedure were not complied with. In Ceylon the duty to give a hearing is not contained in the statute as in India but it is a matter of rules in Ceylon. Our Courts also have accepted these principles almost completely. 30

Cites the case of *De Zoysa vs the Public Service Commission 62 N. L. R. 492 at 498. Terrel vs The Secretary of State for the Colonies 1953 (2) Q.B. 482.* This is a case where a Judge in Strait Settlements who was due to retire at 62 was asked to retire prior to that. He asked for a declaration that he is still in service. In that case the Judgment of Justice Goddard at 499 says he can sue for his salary. That conflicts with the Privy Council judgment. He says a servant can sue the Crown for his salary during the period the officer served. Shortly 40

after this case Justice Goddard was faced with this problem in another case reported in 1965 (1) A. E. R. 846 Attorney General for New South Wales vs Perpetual Trustee Co. Ltd. It is an action for loss of service. A Public Servant was injured by a vehicle belonging to that company. Crown brought that action on the basis that there was a contract of service between the Public Servant and the Crown. The question for decision was whether there was a contract of service.

No. 6  
Addresses to  
Court  
—Continued

10 *Cites 1956 (2) W. L. R. 919 Inland Revenue Commissioner vs Hambrook.* Justice Goddard reviewing all the authorities in that case ultimately came to the conclusion (at page 924) that he can sue for quantum meruit. Even there he is not correct.

The present action is not related to the amount of work the plaintiff did. This case must be confined to a contractual term and nothing else. What the plaintiff is asking for is the specific performance of the contract.

*Cites Hood Philips Constitutional Law (2nd Edition) page 269.*

*Ridges Constitutional Law of England (6th Edition) Page 173.*

20 *Principles of Administrative Law by Griffiths & Street (2nd Edition) at page 265.*

(This is a passage on which Mr. Tiruchelvam relies).

*Cites Carey 30 Commonwealth Law Reports page 132.*

*Cites the case of Sabaratnam vs Attorney General 57 N.L.R.481.*

30 This is an action in which a Public Works Department Overseer whose salary was about Rs. 100/- a month with the right to get contracts to do road work got a contract to construct a structure a part of which was under water. He was paid Rs. 20,000/- on that. Sometime later the Director of Public Works received a petition that the work underwater was shoddy work. The Director himself dived in water and checked the work and wrote to the Overseer asking him to refund Rs. 10000/-. Then Sabaratnam brought an action for a declaration that he had been rightly paid Rs. 20000/- and that the Crown had no right to call back Rs. 10000/-. When he could not pay the money they withheld his pension. There in the 57 N. L. R. 481 case the same principle was upheld.

*Cites Silva vs The Attorney General 60 N.L.R. page 145.*

40 The power to dismiss a Public Servant is vested in the Public Service Commission under the Constitution. The same section says the Public Service Commission may delegate a part of its powers. The public servant in the 60 N. L. R. case was a Village Cultivation Officer. The power of dismissal was delegated to the head of his department. As Cultivation Officer he was attached to a Kachcheri and the Government Agent thought he was the head of the office and the Government Agent dismissed him. But actually the Director of Irrigation was the head of his department.

The Public Service Commission said that it was the Public Service Commission that dismissed him. He brought an action for a declaration that the dismissal was bad and that he was still a member of the Public Service and also that he be given his salary and so on. The position of the Crown in that case was that notwithstanding a delegation of the power the Public Service Commission can exercise it at any time. The Supreme Court held once the Public Service Commission delegates its powers to another officer it gives up that power completely and that power is with that officer to whom it was delegated and that the plaintiff was still a Public Servant. The properly constituted authority had not dismissed him. That decision is in line with the other authorities in the Indian cases. The rest of the decision in that case is obiter. 10

The plaintiff having come to Court on the basis that he has a contract of service one of the terms of the contract is that on 1st April 1962 he should get an increment without any reference to the Official Language Act, he must establish that contract. He has no legal right to come to Court and get a declaration like that and therefore his action must fail in limine.

But if the Court holds that there is a contract and that a term of the contract is that he should get his increment on 1st April 1962 then I submit what the plaintiff is really asking for in this case is specific performance by the Master of a contract of service. He is asking he be paid his salary. He is still in service, attends his place of work and draws his salary of Rs. 145/- per month and he wants Rs. 150/- paid from 1st April 1962. That is a claim for specific performance of a contract between master and servant. This is not a case of dismissal. In personal contracts master can never get specific performance. *Cites 1 N.L.R. page 282.* It is accepted there too that it is the English Law that applies. For deciding whether one can have specific performance one must go to the English law. The same proposition is stated in a later case *17 N.L.R. Page 238 at 241.* In regard to specific performance it is well accepted in England that you cannot have specific performance of a contract of personal service and that applies both to the Master and the servant. Even if there is a contract the plaintiff cannot have this kind of declaration asked for. This is evident from the plaint and his own evidence although he alleges that the Crown has committed a breach of the terms of the contract, the plaintiff still continues in service drawing his salary. My position is that when a party to a contract so repudiates a term of the contract he cannot come to Court and asks for a declaration like this. His remedy is either to come to Court and claim damages or to accept the repudiation and go on a new contract. 20 30 40

*Cites 1951 (1) K. B. 417* at page 420. On the basis of that authority I submit that this is purely a case in which the plaintiff must make up this own mind as to whether the action of Government in not paying his Rs. 10/- has brought the contract to an end on the repudiation by the Crown. He has no right to come to Court and ask whether the Crown has committed a breach or not.

No. 6  
Addresses to  
Court  
—Continued

*Cites Cheshire & Fifoot on Contracts (3rd Edition)* page 502 under heading Specific Performance pages 503, 504.

10 There is no right to the increment of Rs. 10/- because there is no right to salary because there is no contract. Even if there is a contract on the authority of the 1951 (1) K. B. case there cannot be a declaration. In regard to an action for specific performance, specific performance will not be granted on the application of either party at this stage. There is no cause of action which flows assuming that there is some kind of contract which is contained in the document P1 which is a minute on the Clerical Service existing at the time he is appointed to his present post. That document itself says and the plaintiff in answer to a question said that its terms and conditions can be varied at any time. It is laid down in that very  
20 document. If it is a contract its terms and conditions cannot be varied by the Crown at any time.

In the exercise of that power it has varied its terms and there cannot be a cause of action. With regard to the last issue raised by Mr. Tiruchelvam whether one party can without the consent of the other unilaterally alter the conditions... The evidence in the case including that of the plaintiff was that the terms of service can be altered at any time by the Crown. The plaintiff says that the relationship that came into existence at the time he was employed was that the Crown without consulting him can alter its terms and  
30 conditions at any time. So that the plaintiff's position of the transaction was that the terms and conditions could be altered unilaterally by the Crown.

#### COURT TO COUNSEL:

*Q.* Where it is laid down in a minute have I not to look into the minute and consider it from that point of view and not from a mistaken idea the plaintiff has. Assuming he misunderstood the minute is he bound by it?

*A.* The plaintiff has come in to Court on the basis of a contract between the Crown and himself and he says the relationship that existed was if there were any terms and conditions he understood that those could be altered at any time by the Crown and if the Crown puts those in a minute which was not signed by both parties the Crown can alter them in any way because there is no legal compulsion to state the conditions in a minute or by means of an amendment to a minute.  
40

*Q.* If the plaintiff misunderstood the minute and he thought the Crown had the right to alter the terms and conditions is he bound by that. When the Crown put those conditions down can the Crown unilaterally alter it merely because the plaintiff concedes that he thought that the Crown could alter them? Have I not to go further and consider whether the Crown had the right?

*A.* The minute itself says that the Crown can alter the terms at any time. It is not only what the plaintiff said

*Q.* The other party can say it is true that the Crown can alter the terms and conditions at any time but he must be consulted before altering them. You cannot alter them and punish them? 10

*A.* There is no punishment. The increment is something which he has not earned.

*Q.* In this particular case the increment is stopped on another footing?

*A.* On the basis that he had not qualified for the increment. It is not a punishment but the plaintiff has not earned the increment. If the increment is taken away after he has earned it then it is a punishment.

The increment will be granted on certain events. Punishment is cutting down of a salary which he has already earned. 20

*Q.* If not for this particular condition that was brought in viz. that he should pass a proficiency test in Sinhala the plaintiff would have got his increment if he had performed his duties satisfactorily?

*A.* He would have got his increment on satisfying the conditions laid down. Now the Crown has brought in a new condition but the plaintiff has not satisfied that and earned his increment.

*Q.* Is it not on the face of it a penalty pure and simple for not having sat for the examination?

*A.* Right from the beginning there was a condition that he should pass a proficiency test in Sinhalese but since 1960 or 1961 a new condition has been put in and the plaintiff has not complied with that term or condition. 30

On the question as to whether the Crown can unilaterally alter terms and conditions authorities say it is necessary for the Crown to alter its rules in the public interest. The Crown is the biggest employer in any country. It is not possible to have individual contracts with each employee but there is a general contract and authorities state that those terms can be altered at any time.

Mr. Balasingham for the plaintiff and the plaintiff himself both conceded that the Crown can alter the terms of employment at any time. 40

Q. Your submission would be since the Crown can do it in the public interest it is not open to the Court to decide whether what the Crown did in the public interest is something in the public interest?

A. Yes.

(Adjourned for lunch)

*Intld.*  
*Acting District Judge*  
10.2.64

No. 6  
Addresses to  
Court  
—Continued

10

10th FEBRUARY 1964

Resumed after lunch.

Mr. Tennekoon continues his address.

On what is the way in which this particular public servant the plaintiff understood his relationship with the Crown one must look at the evidence given by the plaintiff at pages 25, 36 and 37.

20 The plaintiff never questions the power to change terms and conditions by Treasury circulars addressed to Permanent Secretaries and Heads of Departments. There is also Mr. Balasingham's evidence on this point at pages 16, 17 and 118. Mr. Balasingham is the head of the clerical service and as to how he understood how those terms and conditions can be altered he has stated in his evidence. The plaintiff also said that if the circular had nothing to do with the Sinhala Only Act then the circular is valid. It is no longer open for the plaintiff to say that conditions cannot be altered by Treasury circulars.

Mr. Balasingham's evidence is that there is no law which requires that these terms and conditions should be published in the Gazette.

30 If there is a contract no term can be altered unilaterally. Treasury Circular 560 does not say that public servants must work in Sinhalese. It only says that public servants are required to pass a proficiency test. The plaintiff was required to pass only a third standard proficiency test before a certain date. The plaintiff is still not required to work in Sinhalese. He still works in English. On the evidence the plaintiff is quite capable of passing the 3rd standard proficiency test. In regard to public servants the only subjects taken away and vested in the Public Service Commission are the powers of appointment, transfer and disciplinary control but conditions of service etc are determined by the executive. Conditions of service  
40 can be decided by the Government, particularly by the Minister of Finance. Alteration of conditions of service can be done by the Minister of Finance.

COURT TO COUNSEL:—

*Q.* What is the position in regard to disciplinary control. Is not the stopping of an increment part of disciplinary control and if so is it not the Public Service Commission who must act?

*A.* Let us forget for a moment this particular circular. There are old terms and conditions. No increment will be given unless he is loyal and efficient. It is again discipline but it never goes to the Public Service Commission.

*Q.* Your submission is that the stopping of the increment for not passing the proficiency test is not a penalty? 10

*A.* Yes.

It is not the plaintiff's case that this is a punishment and it should be done by the Public Service Commission. On the submissions already made the issue No. 1 must be answered no. If the first issue disappears there is no need to answer the other issues. If there is no contract then issues 2, 3 and 4 also disappear. With regard to issue No. 5 there is no right to sue for salary. Therefore there is no right to sue for any part of the salary whether it is called an increment or not. On the submissions made if terms and conditions can be altered by Treasury circular unilaterally then the circular is valid. What we find here is a Treasury circular which is not issued under some written law. It is simply a letter signed by the Deputy Secretary to the Treasury addressed to the people to whom it goes to convey a decision. It is not the circular that is invalid but it is the decision that is invalid. The position of the Crown is it is done in the exercise of its executive powers. The language question does not arise. If the issue in regard to whether there is a contract is answered in favour of the Crown the Court will not proceed to deal with the question of whether the Official Language Act is ultra vires of the Constitution. 20

Cites the case of *David Muskrat vs United States Supreme Court Reports 55 Lawyers Edition page 246 at 250.* 30

Those who have been defeated in the legislature cannot call upon Courts to declare without any cause of action that a law is bad. Counsel submits that in Ceylon a Court will hold a certain section of the Constitution is invalid in a civil case only where there is a cause of action. Where there is no cause of action the Court will not proceed to the constitutional question at all.

Cites *Messacheuttes vs. Mellon United States Supreme Court Reports 67 Lawyers Edition page 1078 at 1082-85.* 40

There the Court refused to go into the constitutional action because there was no justifiable issue.

Cites the case of *Ashwander Vs the Tennesy Valley Authorities United States Supreme Court Reports 80 Lawyers Edition Reports page 688 at 710. (2nd Volume.)*



The argument as understood by the opening of the case of the plaintiff by his Counsel is that the Official Language Act which says that only Sinhalese shall be the one official language is void under section 29 of the Constitution. The real question is does section 29 prohibit the adoption of any one language as the official language. There are three main communities in the Island viz. Sinhalese, Tamil and Burgher and also the European Community and among these communities there are three languages. The question is whether section 29 prohibits the adoption of any one of those languages say even English. It is the plaintiff's case that the adoption of Sinhalese is bad because those whose mother tongue is Tamil will suffer a disadvantage. In the same way if English is adopted those whose mother tongue is not English is equally under a disability. If for the word "Sinhalese" the word "English" is substituted then on that argument the Act is bad. That is a fundamental absurdity of the position of the plaintiff. The Constitution itself is drafted in English and if the plaintiff's submission is correct then the constitution itself is guilty of the very offence which the plaintiff says section 29 is intended to prohibit because on the plaintiff's own theory those whose mother tongue is Sinhalese or Tamil is at a disadvantage. The very first document on which the plaintiff relies for this proposition commits the offence which he complains against. Secondly at the time the Constitution was drafted English was the de facto and in some areas de jure the language of legislation and it is still used as the language of administration and judicial proceedings. That is a language which is not the mother tongue of either the Sinhalese or Tamils. Yet nothing was said to prohibit or to prevent such an injustice continuing after the Constitution was published. In fact English continued and in fact it is still used.

#### COURT TO COUNSEL:

*Q.* When section 29 was enacted was it ever meant to mean that something which obtained at the time should be altered to the detriment of one or to the advantage of the other?

*A.* In trying to interpret section 29 the question of Official Language itself is not referred to anywhere in the constitution.

If the use of English which was not the mother tongue of the Sinhalese and Tamils was going to offend certain provisions of the Constitution then the Constitution itself might have said something about it. The inference that can be drawn from it is that the use of one language as the official language is not a disability within the meaning of Section 29 of the Constitution because otherwise the Constitution would not have allowed the situation to continue which offended the very Constitution. Supposing the Official Language Act said English shall be the one official language that too would be bad on the very theory of the Counsel for the plaintiff. The same arguments which are being used to attack the Sinhala Language Act can be used to

attack that. Section 29 must be given a reasonable interpretation that is that it was not intended to control the official language in this manner. One has to see whether the use of any one language creates disabilities within the meaning of Section 29. The use of any one language as the official language could not have been in the contemplation of the framers of the Constitution regarded as a disability. The various communities in Ceylon are set out in the Soulbury Commissioners Report at page 38. There is no community known as the English speaking community. Communities are Sinhalese, Tamil and so on. Whatever the theory may be about ones mother tongue when one language is made the official language and if that is going to cause disabilities what one must see is a particular community incapable of being literate in that language because competence in a language is not one which you acquire at birth because a child does not know even the mother tongue at birth. A large group of the Tamil children below 6 and 7 years of age are not literate in Tamil. The capacity to learn any language is not given only to the mother tongue of that particular community. The plaintiff and his witness gave evidence in English and his Counsel addressed in English. It is not correct to say that because the mother tongue of a person is Sinhalese or Tamil that he cannot have his rights in a state where the official language is English. On the face of the legislation there is no mention of any community. It is improper and wrong to treat the Tamils as a Tamil speaking community. It is for those who suggest that this was a division to cast disabilities on Tamils to establish it. It is not sufficient to say that the mother tongue of the Tamils is Tamil and therefore any law which makes Sinhalese the Official Language causes disabilities. The Official Language Act is not directed against the Tamils any more against those Sinhalese who do not know Sinhalese. It is the exercise of a legitimate function of the state to decide what the official language is and it is used openly to that end. There is nothing else. If some citizens of the country are caused some inconvenience as a result of that those people are not determined by reference to community but by reference to their illiteracy. Section 29 does not come into operation at all, Cites 54 N. L. R. 433, 437.

(Further addresses tomorrow)

Signed O. L. de Kretser  
Acting District Judge.  
10. 2. 64.

TRIAL RESUMED.

11th FEBRUARY 1964

Same appearances as on last date.

Mr. Tennekoon continues his address.

No. 6  
Addresses to  
Court  
—Continued

COURT TO COUNSEL:

10 *Q.* Ordinarily a Court would not inquire into why conditions of service were changed because those conditions would be presumed to be in the public interest but where the change is subsequently put down as being in implementation of a particular Act which the other side says is in contravention of Section 29 is this Court not entitled to go into that question?

*A.* The circular is headed the implementation of the Official Language Act and it is sent by the Government.....

*Q.* When the Government straightforwardly says it is in implementation of the Official Language Act is it not open for the Court to look into it.

20 *A.* The question then arises what exactly is meant by the implementation of the Act. It is not by reason of any power given to the Secretary to the Treasury under the Official Language Act that he is doing so but he says I have power to change conditions and amend them.

If the Government in the exercise of its powers in altering the conditions of service of its servants introduces a new condition it is an internal arrangement between the Crown and its servants. The word implementation there must not be taken to mean "I derive my power to do this under the Language Act".

30 The power to change conditions of service must necessarily be implied in the relationship between the Crown and its servants because it is in the public interest. The power to change conditions of service must be assumed part of the relationship between the Crown and its servants in the public interest. *Cites 54 N. L. R. 433 at 437, 438.*

That case is to some extent similar to this. The contention of the plaintiff in this case is that a large number of Tamils do not know Sinhalese. In the Citizenship case the contention was that when one looks at sections 4 and 5 of the Citizenship Act a person of the Indian Tamil Community could never become a citizen here. But for a decision by Tamils never to learn Sinhalese they can become proficient in Sinhalese. That is the difference.

40 In the present case it is a proper function of the legislature to decide what the official language is. It is perfectly legitimate to take the language spoken by the overall majority of the country rather than any other language as the official language. A community is not bound together as a community by its illiteracy. The case as put through the witnesses and the case which was further developed is that the mother tongue of the Tamil community is the

Tamil language, that is that the mother tongue of the Sinhalese community is the Sinhala language. Counsel concedes that it is quite a different thing to say that all the Tamils are literate in Tamil and that all the Sinhalese are literate in Sinhalese. Literacy in any language is not the thing that binds a race as a community. Whether a Sinhalese, Tamil or Burgher at birth he is equally incompetent in every language. The Official Language Act does not prohibit the Tamils from learning Sinhalese. It there was such a prohibition coupled with the Official Language Act certainly that will be in violation of the constitution. If there is any advantage to the Sinhalese by the Official Language Act it is because the Sinhalese are willing to learn Sinhalese. Tamils as a political gesture are refusing to learn Sinhalese. It is a self imposed disability.

10

*Refers to page 29 of the evidence.*

In examining the legal question one must ignore the emotional aspect. We must consider the disabilities created by law. If deliberately the Tamils say we are not learning Sinhalese that is different. The plaintiff's evidence at page 29 is that he knew some Sinhalese and it was a very minor matter for him to get through this simple proficiency test. He says "I do not want to study Sinhalese".

20

*Refers to evidence at page 99.*

He makes it perfectly clear that the decision not to make themselves literate in Sinhalese is a self imposed disability. The mother tongue has nothing to do with it.

*Evidence at page 105, 106 and 107.*

It is clear from a Privy Council judgment that disabilities created in law must be created by reference to the community. The whole case of the plaintiff is that persons who are liable to disabilities are those who do not know Sinhalese and it is not understood how he says that is a community. He does not say that those who can attain competency in Sinhalese are those whose mother tongue is Sinhalese.

30

Having regard to the statements in the Citizenship Case that one must look to the whole of the legislation. There is the Tamil Language Act No. 28 of 1958 where certain provision is made for public servants those whose medium of instruction has been Tamil to be examined in Tamil and also that local authorities may conduct their business in Tamil. Those are to be implemented by regulation. Court may also look into those to see if there is any injustice in any sense. In the evidence it transpired that various local authorities conduct their proceedings in Tamil inspite of the Official Language Act. There is also evidence that the present policy of the Government is if a person writes in Tamil he will get a reply in the official language with a translation in Tamil.

40

Here the plaintiff's case is that the Official Language Act created a disability on him to earn his increment of Rs 10/-. He says I can pass the test but I am not going to do it. That is how the disability has arisen. He can sit for his examination at any time and earn his increment. But he is not going to do it. It is a self imposed disability which he has brought upon himself. P29 gives one set of results of the Clerical Service examination held in September 1962. Further results have been published since then in further gazettes. Mr. Tennekoon marks D9 gazette of 14th June 1963: D9a the gazette of 19th July 1963 and D9b gazette of 19th July, Gazette of 23rd August 1963, D9c, D9d gazette of 13th September 1963; D9e Gazette of 8th November 1963 and D9f Gazette of 13th December 1963.

In the case of Carey Vs Commonwealth in the 30 Commonwealth Law Reports 182 it was held that there was a contract of service. But subsequent to that a case came up before the Privy Council from Australia the case of a Police Constable The case of *Attorney General for New South Wales vs. Perpetual Trust Co. & others* 1955 (1) A.E.R. 846, at 854, 856. It was held there is no contract on which an action can be maintained. Therefore the case of Carey vs The Commonwealth can no longer be an authority. Cites the case of *Nixon vs The Attorney General* 1931 Appeal Cases 184.

This case is cited on the question whether a declaratory action can be brought where there is no legal right. In that case the appellant having sought a declaration that he was entitled to have his superannuation amount of pension calculated in a certain way. In that case the question was gone into whether a person can have a declaration in regard to pension. No person shall have an absolute right to pension and if there is no legal right one cannot come to Court whether by declaratory action or by any other action. Cites 49 N.L.R. 359. That was an action for pension by a public servant. The case of *Nixon vs the Attorney General* was followed in that case and it was held that the appellant having no legal right he cannot have a declaratory action.

(Further hearing on 12th and 13th March 1964)

Sgd O. L. de Krester  
*Acting District Judge*

Trial resumed.

12th MARCH 1964.

Same appearances for the Plaintiff.

Mr. Deheragoda, Senior Crown Counsel, instructed for the Defendant.

Mr. Renganathan addresses Court.

The plaintiff in this case has asked for three declarations; firstly that the Treasury Circular No. 560 of 4th December 1961 is unreasonable and is illegal and therefore invalid and not binding on

the plaintiff; secondly in determining whether the plaintiff should be granted the annual increment the said circular should be disregarded; is the plaintiff entitled to the increment of Rs. 10/- from 1st April 1962. The basis on which the plaintiff seeks these declarations are set out in his plaint.

He was appointed to Grade II of the General Clerical Service from 1st October 1959 on a salary of Rs. 1620-120-3780. It is the plaintiff's case that he was entitled to an increment of Rs. 10/- per month from 1st April 1962. He says that increment has not been paid. He further alleges that the position taken up by the defendant is that the increment has been suspended under section 4B of Circular No. 560. The Crown takes up the position that the suspension is a valid suspension. 10

The plaintiff says it is not a valid suspension because the circular is an invalid circular for more reasons than one; firstly the circular has been issued in implementation of the Official Language Act 33 of 1956. That Official Language Act contravenes article 29 of the Ceylon Constitution Order in Council and therefore it is void and of no effect. If the Official Language Act is void and of no effect then the implementation of that and whatever is done in implementation of the void Act is also tainted with that same illegality. 20

The contention of the Crown is that it is a valid one; the Official Language Act does not contravene article 29 of the Constitution and therefore the implementation of the Act is not invalid.

One of the contentions of the Crown is that the Official Language Act is a valid one. Their position is that the circular was not issued in implementation of the Official Language Act but by virtue of the powers vested in the Minister of Finance by delegation under Section 46 of the Constitution Order in Council. Their position is that the circular is independent of the Official Language Act. That is a question of fact as to whether it was issued in implementation of the Official Language Act or not or that it is independent of the Act and whether it was issued by virtue of another power that is vested in the Minister of Finance. Counsel submits that he will show that the circular was issued in implementation of the Official Language Act. The executive control of power is vested in the Cabinet and by virtue of delegation on the Ministers. The Official Language Act makes Sinhalese the only official language. The authority that has to implement that is the Cabinet through the Ministers. Once the Cabinet decides that the Official Languages Act shall be implemented in a particular way the circular is sent out containing the conclusion of the Cabinet decision. The Ministers are informed of the Cabinet decision and they are asked to carry into effect the decision of the Cabinet to implement the Official Language Act. In furtherance of the decision of the Cabinet to implement the Official Language Act the 30 40

Minister of Finance sends a circular to the Departments under him. Similarly the other Ministers send circulars to the departments under them. It is referable to the decision of the Cabinet to implement the Official Language Act. The Minister of Finance is only the agency through whom that directive is sent. The Minister of Finance issued this circular truly and effectively in implementation of the Official Language Act and nothing else. Being a Minister who is subject to the overall control of the Cabinet with regard to the implementation of the laws of the country he issues directives and this is one of the essential steps taken by the Cabinet through the Minister to whom the subject is assigned to implement the Official Language Act. Counsel submits that he will demonstrate that this has nothing to do with the general administrative control that the Minister of Finance has over the Clerical Service and other services. The substance of the claim is this.

The plaintiff says that under the terms of his employment he became entitled to an increment from 1st April 1962 independent and unaffected by the circular No. 560 of December 1962. The Crown says no, under the terms of employment the plaintiff is subject to that circular No. 560. The plaintiff has certain contractual rights. The Crown says the plaintiff is not entitled to rights and his rights are subject to circular No. 560, and under that circular the plaintiff is not entitled to the increment. The position of the Crown is that the plaintiff is not entitled under the contract to the increment because his contract is subject to circular No. 560. The Crown's first submission was that as between the public servant and the Crown there is no contract; there is no binding agreement between the Crown and the public servants. The payment of what is called the salary of a public servant depends on the bounty of the Crown and not on any right vested contractual or otherwise, in the public servants. If there is no right to a salary, therefore there is no right to an increment and its submission is that there cannot be a declaration of a right.

It raises a very important question of law as to the position of a public servant in regard to the appointment under the Crown. It affects a very large section of the people. The submission of the learned Deputy Solicitor General is not correct either under the English law or under our law, which is the law of Ceylon which is the Roman Dutch law modified by statute law. Whether one considers the question under the English law or the Roman Dutch law as modified by our statute law the proposition that there is no contract between the Crown and public servants is not correct.

The second submission made by the Crown is even if there is a contract between public servants and the Crown then there are certain other defences. They are (1) a declaratory decree cannot be given where there is no prayer for consequential relief. A declaratory decree is where one ask for a mere declaration and no consequential

relief. It is such a decree that is called a declaratory decree. The contention of the Crown is that the Court cannot give a declaratory decree unless it is something incidental to substantial relief. Under statute law the court can give a declaratory decree pure and simple as such without there being any prayer for consequential relief. Counsel submits that he will cite the relevant cases.

The second submission made by the Crown is that the plaintiff when he asked for his increment or a declaration that he is entitled to his increment he is in effect asking for specific performance of the contract with the Crown and Courts do not grant specific performance of contracts of service, therefore argues the learned Deputy Solicitor General the Court cannot grant a decree. What is understood by that Courts will not grant specific performance decree is that a Court will not compel a master to keep the servant nor will it compel the servant to serve the master. For various reasons Courts have laid down when it is said that Courts will not grant a decree for specific performance of a contract of service it is just that the Courts will not force a master to employ a servant or a servant to serve a master. In a decree for enforcing a contract of service the emphasis is on the word "service". A servant can come into Court and sue for arrears of salary. That is not giving a decree for specific performance; that is a decree for payment of money. 10 20

The 3rd submission of the Crown is if the Crown has no right to impose a new condition such as the one that is sought to be enforced, i. e. circular No. 560, the Crown says the Crown has repudiated the contract. If the Crown had no right to enforce these conditions such as imposed by circular No. 560 the imposition of those terms and conditions amounts to a repudiation of the contract; therefore the Crown argues that the plaintiff must decide to quit and sue for damages; he cannot remain in service thereafter and ask for this relief. What is meant by repudiation and what is the effect of repudiation? Repudiation means if the other party by words or by conduct indicates that he is not going to perform the contract as entered into. That undoubtedly may amount to repudiation of contract but what is the effect of repudiation. The effect of repudiation is not more than to give to the innocent party the option to accept the repudiation and say I am not going to perform the contract because you have repudiated and I am entitled to quit and sue for damages. 30

The very case cited by the learned Deputy Solicitor General viz. 1956 (1) K. B. page 451 says a repudiation not accepted by the other party has no effect. Repudiation must be accepted by the other party. The option is given to the innocent party either to accept and quit and sue for damages or to remain and if he remains the contract is binding on both sides. Repudiation or no repudiation he is entitled to claim what is due to him. 40



The fourth submission of the Crown was- The learned Deputy Solicitor General argues that the Minister of Finance can vary the terms and conditions of service unilaterally even to the extent of imposing such terms and conditions as are sought to be imposed by circular No. 560. He further argues that it is in the exercise of that power to vary that the Minister has issued this circular. Therefore he argues that this has nothing to do with the Official Language Act. The contract has been rightly varied by imposing the condition that if the plaintiff does not sit for an examination within a particular period his increment will be suspended. Crown argues that it is a variation of the contract and the Minister of Finance has the right to vary it.

Counsel submits that the Minister has no power to vary it in such a way as to impose such a condition that a person should study a particular language i. e. Sinhalese in this case within a particular period and if he does not do so that he will not be entitled to his increment.

The last submission of the Crown is that even if the circular is in implementation of the Official Language Act and not a variation as referred to in his earlier part of the argument it is a valid, effective and binding circular. The plaintiff says no.

Counsel submits that he will deal with the various submissions of the Crown in the order they were dealt with by the Crown. The first question therefore is whether there is a contract between the Crown and public servants such as the plaintiff? Under the law of Ceylon which is the Roman Dutch Law as modified by the statute law the Crown did not stand in any privileged position in regard to public servants. If the Crown employs a person to do any work; in this case the plaintiff is appointed to a clerkship; and agrees or promises to pay him a certain sum of money as salary, increment or allowance and so on there is constituted under the law of the land a contract of service; it is in effect a contract of hiring. There is no privilege attached to the Crown under the Roman Dutch law. The Proclamation of 1799 Cap. 12 Volume 1 page 189 termed the Adoption of Roman Dutch Law. In regard to engagement of public servants Royal Instructions were given to various governments from time to time. One of the instructions given is the engagement must be on the basis that it is terminable at the pleasure of the Crown. In other words by virtue of Royal instructions issued to Government every contract of service between the Crown and the public servants became subject to this one condition and no more; that is their services are terminable at the pleasure of the Crown. The view in England was that that does not mean that there is no contract of service. The consistent view taken by the English Courts upto a certain point of time was on principle, there being authority for that, there is a contract but that contract is determinable. But so

long as the contract is not determined and subsists the rights that accrue to parties during the subsistence of the contract are enforceable. In regard to English law there has been an expression of opinion or enunciation of theory with regard to the so called right of the Crown to command the services of its subjects, therefore the theory has been evolved by certain judges that there is no contract of service. Till recent times it was the view that there is a contract but it is determinable at the pleasure of the Crown.

Counsel submits that he will cite cases to show that under the English law too the position was that there is a contract of service. There is a series of cases which support the view that there is in truth and in fact a contract of service but it is determinable at the pleasure of the Crown. The recent judgments have deviated from those principles and said that on theory the Crown is entitled to the services of its subjects therefore there is no question of bargaining 10

Counsel submits that he will show that the public servants need not depend on the bounty of the Crown. The recent deviations from the original position is not warranted. The law of Ceylon by virtue of the Proclamation is the Roman Duch Law as modified by statute law. There is no statute which says that there is no contract between the Crown and its servants. 20

*Cites Ramanathan Reports 1863-68 at page 316 the case of Frazer vs. Queens Advocate.*

The facts of that case are Frazer was appointed as Postmaster at Galle by the Colonial Government in Ceylon. He was appointed by virtue of the fact that he was the Postmaster at Galle as the Packet Agent of the Imperial Government at Galle. Owing to certain irregularities which were alleged against him his services were discontinued on 26th June 1866. All his salary up to 26th June 1866 had been paid, that is all his salary up to the date of his discontinuance had been paid. He filed action on 5th November 1867 claiming salary from 26th June 1866 up to 5th November 1867 which is the date of the action. Their Lordships of the Supreme Court held that when he was dismissed, it may be wrongfully, the contract of employment came to an end. Therefore they did uphold the claim for his salary from date of discontinuance to the date of the action. But they expressed a very strong opinion that if any part of the salary due before 26th June 1866 had been due he would have been entitled to sue and recover any such portion. At page 320 with regard to the salary under the Imperial Government Their Lordships held that he cannot sue the Queen's Advocate of Ceylon with regard to what was due from the Imperial Government. 30 40

The condition that it is determinable at the pleasure of the Crown was continued from time to time by Royal instructions and later on became embodied as an article in the Constitution. In England as a matter of public policy the common law is that a contract of service is determinable at pleasure of the Crown. The position under the Roman Dutch law the relationship between Crown and its servants is just the same as between a private employer and a private employee, subject only to one condition that it is determinable at the pleasure of the Crown.

- 10 On the same point cites 1863-1868 *Ramanathan Reports page 160 the case of Jansz vs Tranchell*. In that case the question was whether the salary of a public servant could be seized. It can be seized only if the public servant is entitled to a salary. If it is payable only on the bounty of the Crown it cannot be seized. There is no doubt under the law of Ceylon that the salary is a legal debt due from the Crown and it is not on the bounty of the Crown. On this specific question there is the opinion of a full Court that salary payable to public servants is a debt due from the Crown.

- 20 Cites 3 *N. L. R. Page 227* There is the substantial question whether the Queen's Advocate was the proper person to be sued in an action against the Crown. In that connection at page 230 they went into the question what is the law that is applicable in regard to the contract of service. They held that it is the Roman Dutch Law that applies and that an action can be brought under the Roman Dutch Law against the Crown.

It is now held that the Crown can be sued on a contract but not on tort.

Cites 4 *S. C. C. Page 77*

60. *N. L. R. Page 145*

- 30 It was held in that case that in regard to the employment of a public servant the relationship is contractual even under the English law.

- 40 Counsel submits that even under the English law it is not a question of prerogative but it is a pure question of implied contract. It affirms that the relationship between the public servant and the Crown is one of contract and nothing else. At page 152—the relationship between the Crown and its officers are contractual in nature. Held the subjects are entitled to damages for wrongful dismissal. Whatever the position is in England and in India under our law there is no doubt that the relationship between the Crown and the public servant is a contract and it is enforceable in a Court of law. See last para page 156.

In this case P15 says that the plaintiff will be paid a salary etc. A promise by a master to his servant: a promise made by the Crown to its subjects is enforceable just as in the case of any other contract of service.

On an examination of the authorities cited, Counsel submits, it is quite clear that so far as there is undoubtedly a contract of service between the public servant and the Crown no different from a contract of service between a subject and subject except that it is determinable at the pleasure of the Crown by virtue of the provisions in the Constitution and by Royal instructions given from to time. 10

The authorities cited by the Deputy Solicitor General are not applicable to the question for determination in this case.

In the 50 N. L. R. case 214 cited by the Crown the question was whether a person could be discontinued at pleasure. The constitution says so and it can be done. The claim in the present case is not in regard to discontinuance. The plaintiff is asking only for the increment due to him. So long as the plaintiff continues in service the Crown has to keep to its promises and obligations.

The 49 N. L. R. 359 case has no relevancy to this case. The pension minute says that a public servant has no absolute right to a pension. 20

In the 57 N. L. R. 481 case a public servant asked for a declaration that the money withheld by the Crown was due to him. At page 485. It is sufficient if there is some tangible or real right to protect not necessarily a financial right. The 62 N. L. R. 492 and 64 N. L. R. 505 cases also have no relevancy to this case.

Counsel submits, therefore, that so far as the law of Ceylon is concerned, there cannot be the slightest doubt that the relationship between a public servant and the Crown is one of contract.

An examination of the early English cases would show that the position under English law was that there was a contract between a civil public servant as distinct from a soldier subject to an implied term that it is terminable at the pleasure of the Crown. In the early cases it was held that there was no contract of service between the Crown and the soldiers. There were particular reasons why there cannot be a contract of service between the Crown and the soldier. 30

*Cites 1839 (5) Bingham's New Cases Volume V Page 262 at 274,* reasons why there is no contract between the soldier and the Crown are given.

*Cites Cooper vs. Queen 42 Law Times 617.*  
*Shenton vs. Smith 72 Law Times 130*

40

The implied term that a contract is terminable at the pleasure of the Crown is not by virtue of any special prerogative but by virtue of an engagement or agreement between the parties.

The two points established by these cases are that it is not by virtue of a prerogative and that it is a matter of contract.

*Cites 1896 (1) Q. B.* page 121, the case of *Mitchell vs. Queen*.

The case of *Dunn Vs. Queen* 73 *Law Times Reports* 695 also reported in *1896 (1) Q. B.* 117.

There is no case where it has been held in regard to civilian employees that there is no contract between the Crown and the public servants.

*Cites 27 Times Law Reports Page 497*

10 Held that the allowances paid by the Crown should be included in the full pay.

This case is cited to show that there was no contention raised in that case that there was no contract between the Crown and that officer and therefore there was no legal pay but it is a bounty.

*Cites 1920 (3) Q. B. D.* 663 - There is a distinction between civilian officers and military officers.

*Cites 1898 Appeal Cases* 575.

1923 - 39 *Times Law Reports* 294.

*Nixon Vs Attorney General* 1931 *Appeal Cases (House of Lords)* 184.

20 *O'Reilly vs The King* 1933-Vols. 150 *Law Times Reports* 384.

50 *Times Law Reports* 212 at 213-power to determine a contract at will is not inconsistent with the existence of a contract until so determined.

(Adjourned for lunch)

*Signed O. L. de Krester*  
*Acting District Judge.*  
12. 3. 64

#### RESUMED AFTER LUNCH

30 Mr. Renganathan continues his address.

*Cites 1937 A. I. R. (Privy Council)* page 30

*1937 A. I. R. Page 31*

40 The public servants concerned in the two cases were not discontinued by due process of law. They asked for a declaration that they had been discontinued wrongfully without following the due procedure laid down for discontinuance of public servants. They asked for a declaration that they had been wrongfully dismissed. They also asked for arrears of salary between the date of discontinuance and date of coming to Court and for damages for wrongful dismissal. In both cases Their Lordships took the view that the procedure was not followed but the procedure laid down was not law. In the Venkatarao's case Their Lordships refused to give salary on the ground that the contract was terminated at the pleasure of the Crown. At page 35 there is an important statement "but for this provision that it is terminable at will an action lies against the Crown for

arrears of pay and for damages for wrongful dismissal. They examined the principle that there is a contract of service between a public servant and the Crown. There is not a single case where it has been specifically held that there is no contract between a public servant and the Crown.

*Cites Lucas vs. Lucas 1943-1 A.E.R. 110.* In that case an Indian Civil Servant's wife sued her husband for alimony and got a garnishee order to seize his salary. No garnishee proceedings lie against the Crown. Pilcher, J. went on the basis that there was no contract between the Crown and public servants and there was no salary due relying on a Scottish case 1926 Scottish Cases page 842 where Lord Blackburn was of the view that on grounds of Policy a Civil Servant too should be prevented from suing 10

There two principles were established. (1) That in every contract there is an implied term on the ground of public policy that Crown employment is subject to certain qualifications

2. That since a military officer cannot receive salary and a Civil Servant should be able to receive salary This is non sequitur for a criticism of the Case.

*Cites Principles of Administrative Law by Griffith & Street* 20  
page 275 (para 3).

Volume 61 Law Quarterly Review page 262. The case of Lucas Vs Lucas is not an authority that can be followed.

*Cites the High Commissioner of India vs. Lal 1948 A. I. R. (Privy Council) page 121 to 124.* Having held that discontinuance was unlawful and not in accordance with the procedure laid down they quoted the judgment of the Scottish cases. The same criticism that applies to Lucas case applies to this case.

*Cites 1953 (2) A. E. R. page 490 at page 497 Harold vs. Secretary of State for the Colonies. Cites 1955 (1) A. E. R. page 846 Attorney General for New South Wales vs the Perpetual Trustee Co.* Where one sues for injury to a servant the principle is you are entitled to the service of your servant. This was a case of a Constable who was injured and an action was brought by the Attorney General in respect of the injuries caused to the Constable. The question arose as to whether this particular form of action viz per quod servitum amisit was available to a public servant in the service of the Crown. The nature of the office of Constable was examined at length. They pointed out that that was a special statutory function. There were certain obligations and certain rights created. Secondly they examined 40  
the nature of the action per quod servitum amisit and Their Lordships pointed out that it relates to what is called domestic servants; that was the feudal service. It was held that the relationship between a Constable and the Crown was not in the nature of master and servant as between a private employer and private employee. Refers to pages 857 and 858.

Cites 1956 (2) Weekly Law Reports 919, at 924. Lord Goddard refers to quotations from Book on Civil Proceedings by and against the Crown by Robertson 1908 Edition page 354.

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Addresses to  
Court  
—Continued

10 These authorities on which the Crown relies are contrary to principles. Having regard to the principles established in early cases and having regard to reasons and having regard to the modern concept of the relationship between the Crown and subjects what is stated at page 924 cannot stand and 925 destroys what is said in 924. The contention of the Deputy Solicitor General that the relationship between the public servant and the Crown is not a contract is not tenable. Counsel submits that he admits that it is subject to one condition imposed it is a contract between master and servant if a public servant has served the Government and earned his increment it is not open for the Crown to say there is no contract and therefore we will not give it.

(Further addresses tomorrow)

Sgd O. L. de Kretser  
*Acting District Judge*  
12.3.64

20 TRIAL RESUMED.

13th MARCH 1964

Same appearances as on last date.

Mr. Renganathan continues his address.

30 Counsel submits that there is a contract between the plaintiff and the Crown. Assuming that there is a contract the plaintiff has come into court and asked for a declaration that he is entitled to the increment in terms of the contract. The contention of the defence is the contract is now subject to a further condition that unless the plaintiff passes certain examinations during a certain period he would not be entitled to the payment of that increment. The position of the Crown is that the plaintiff cannot ask for a declaratory decree without asking for consequential relief, e. g. for payment of some money. Counsel submits that he will show that the plaintiff is entitled to the declarations that he has asked for.

40 Refers to section 217 of the Civil Procedure Code. Also section 5 of the Civil Procedure Code. There the definition of a cause of action is given. It is a denial of a right. The plaintiff claims his right to his increment under the contract. There is a denial of his right. Therefore he is entitled to ask for a declaration that he is entitled to that right. He comes strictly within section 217 and sec. 5 of the Civil Procedure Code. The declaration No. 3 asked for

by the plaintiff comes strictly within the definition of a cause of action. The declaration No. 1 asked for by the plaintiff is that the circular is null and void. The second declaration asked for is that the circular does not bind the plaintiff and should not be taken into account.

The three declarations asked for in effect form one single declaration.

Cites 55 N.L.R. 426, 55 N. L. R. 390. One need not wait till an infringement of his rights to ask for a declaration. Refers to London Times of the 31st of January 1964 which reports a case which has vital bearing to the plaintiff's case. There, there were two Chief Inspectors of Police, Merricks and another. They were stationed in a particular division. There were allegations that were made from time to time that book makers were operating freely on the streets of that particular place and that the police were conniving and that once in a way they used to get a conviction and pretend that everything was all right. The Commissioner of Police sent another Inspector from a neighbouring area to find out what was happening. He made a very adverse report against these two Inspectors. On the basis of that report which was adverse to these two Inspectors the Commissioner transferred them to another station. They protested. They asked what are the charges against them and they went on transfer. This happened in 1957. In 1959 the private Investigator who reported on them was charged in a Court on various charges and he was found guilty. On this particular investigation he was commended. These two Inspectors asked for a review of their case from the Commissioner of Police and it was refused. Just before the expiry of 6 years in 1963 these two Inspectors came to Court and asked for a declaration that their transfers were illegal.

The preliminary point was taken does the plaint disclose a cause of action. They were trying to give them a chance to vindicate their right as there was some doubt about the power to transfer. In that case the Crown took up the position that the Commissioner of Police whether they committed an offence or not had the power to transfer them to any place he wished. Where a person has a power to do something he does not exercise that, and he purports to exercise some other power vested in him by some regulation and that is attacked of being contrary to law it is not open for him to say that he had a right under some other regulation. In this case the Deputy Secretary to the Treasury was



not trying to vary terms and conditions of the plaintiff's contract of employment, here he was trying to give effect to a Cabinet conclusion. The Secretary to the Treasury was acting in the belief that he had to carry out a valid Cabinet conclusion.

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Addresses to  
Court  
—Continued

Cites Declaratory Judgments by Zamir 1962 Edition page 131.

When there is a contract between party and party and when there is some tangible interest a party need not wait till that particular contingency.

10 The right to give a declaratory decree is the inherent power of the Court the real qualification being that there must be real tangible dispute between party and party.

The case reported in 1951 (1) K.B. 417 was cited by the Deputy Solicitor General in connection with repudiation.

Court held that repudiation if not accepted is of no effect. The result of the repudiation not being accepted is that the original contract continues as if nothing happened.

20 Cites United States Reports 262 Page 447 Mellons Case. There the Federal Parliament passed a law by which different states constituting the Federation would contribute to a certain fund out of which funds could be allocated to various states. A member of one of the States came into Court and said that that was an act contrary to the constitution and asked for a declaration that the act is bad. The question arose what is the interest he had. His position was if the state had to contribute some money there would be increased taxation. There was no real tangible right on the plaintiff in that case. It is completely different from the present case where the plaintiff is asking for this individual rights. That case has no relevancy and should not be given recognition.

30 The other United States cases cited by the Crown are also not relevant. Those are matters where the plaintiff in those cases had no real tangible right.

At the Coup trial in Ceylon the question whether the Minister had the power to constitute a Court came up before three Judges of the Supreme Court and Their Lordships held that the appointment by the Minister was ultra vires of the Constitution.

Refers to Soulbury Commissioners Report page 120 Article 13. Counsel submits the Court is entitled to give the three declarations asked for by the plaintiff.

40 The third contention of the Crown was that the Court cannot decree specific performance of a contract of service. The Deputy

Solicitor General's contention is that when the plaintiff is asking for his increment under the contract of service he is asking for specific performance. The plaintiff is asking for a money decree. It is claimed by the defence that the salary, the terms and conditions of service could be altered according to the terms of the contract between plaintiff and defendant and it is claimed that circular No. 560 is no more than an alteration of the terms and conditions in accordance with the agreement between the parties and they seek to justify circular No. 560 and contend that it is binding on the parties and the rights of the parties are subject to the terms and conditions of the circular. Counsel submits his answers to that are:- Firstly, if there be such a power to vary the terms and conditions the circular was not issued in exercise of that power. Secondly, that the terms and conditions contained in the circular viz. that one should pass an examination up to a certain standard within a certain period and that if he does not do his increment is suspended, is not merely an alteration of the terms and conditions with regard to salary but an alteration of the substance of the contract. e.g. Supposing a person is taken as a clerk in the office of the Registrar of Motor Vehicles on condition that that the Registrar can alter the terms and conditions of his employment and in the exercise of that power he says unless that clerk qualifies as a Motor Engineer by getting through the first examination of the Technical College within a period of six months or one year he will not get his increment. Counsel submits that is not a change in the terms and conditions of service as a clerk but a change of the character of the contract itself. There in addition to his serving as a clerk the Registrar is imposing on him a condition which alters the very substance of the contract. This example shows that it is not merely changing the terms and conditions of the contract but changing the very substance of the contract. Terms and conditions under which the plaintiff was employed are laid down in P1. This is not an alteration of the salary scale. What the Crown says is the increment that you are earning or that you are entitled to under the salary scheme is suspended and stopped if you do not qualify in a particular language viz. Sinhalese. A submission was made by the Crown on this point that the plaintiff will not be required to do his work in Sinhalese language and therefore the contract is not affected. Counsel submits that where in addition to the contract of service Crown imposes a condition that the plaintiff must qualify in something an additional language it substantially alters

the contract. The power to alter salary scale and conditions does not come into this case. We are only concerned with conditions of service. In support of his first submission Counsel refers to the circular itself, viz. P9. Nobody has got into the witness box for the Crown to say they were changing the terms and conditions of service in the exercise of its powers. The evidence that the circular is in exercise of rights under the Official Language Act stands uncontradicted. The heading of the circular is: Public Servants and Official Language-Implementation of the Official Language Act

10 from January 1961-Proficiency Test in Sinhala for old entrants to the public service. This circular is issued by the Secretary to the Cabinet. The Secretary to the Cabinet has nothing to do with regard to alterations of terms and conditions of a public servant. Under Section 46 of the Constitution the control of the public service and matters incidental thereto has been assigned to the Minister of Finance and he has delegated his powers to the Deputy Secretary to the Treasury. Circular No. 560 is in continuation of some earlier circular. Refers to P6. This is addressed to all Permanent Secretaries with the communication that it be communicated to all

20 officers. The circular which preceded circular No. 560 is P6. The heading is Cabinet Conclusion. Sub-head is Implementation of the Official Language Act from 1st January 1961. Counsel submits that there is no doubt that these circulars are issued in implementation of the Official Language Act and not in the exercise of some power which is delegated to the Deputy Secretary to the Treasury to alter terms and conditions of public servants. Refers to conclusion No. 3 in P6, and also to 8, 9 and 10. These were the Cabinet conclusions that were arrived at and which were communicated by the Secretary to the Cabinet to various departments to carry out.

30 P9 contains a Cabinet conclusion of December 1960 regarding the implementation of the Official Language Act. That goes to prove that this circular was issued in implementation of the Official Language Act. Refers to P7. This is not signed by the Deputy Secretary to the Treasury who is in control of the public service but by the Secretary to the Treasury. When a power is assigned to a Minister and the Minister delegates it to a particular officer and if it is in the exercise of that power—it is to the Deputy Secretary to the Treasury that that power has been delegated and the Secretary to the Treasury is not given that power and it should

40 be exercised by the Deputy Secretary to the Treasury. P9 itself is not issued by the Deputy Secretary to the Treasury but it is issued by the Acting Secretary to the Treasury.

Therefore it is quite clear that this circular imposed these conditions not for the purpose of varying the terms and conditions of service. The question arises what is the basis or material on which the Crown makes the submission that this is in the exercise of a power to vary terms and conditions of service? It is no more than an attempt to meet the position by saying we could have made it a term or condition of service but it was not included. It is contrary to the truth. Mr. Balasingham's evidence is that this circular was issued in implementation the Official Language Act. The Deputy Secretary to the Treasury to whom the right to vary the terms and conditions of service of public servants is delegated has not issued any circular varying the terms and conditions. Therefore the Crown must fail. 10

Even if there was an attempt to vary terms and conditions of service of the plaintiff and they did that in implementation of the Official Language Act and not in the due administration by the proper person or by anyone in the exercise of that power they cannot rely on that power which they did not exercise. Cites U. S. Supreme Court Cases Volume 60 Lawyers Edition page 33 at 34. This case has an important bearing on the present case. There was a law that an employer should not employ more than 20 per cent of persons who are not electors. In that case the employer had more than 20 per cent of his employees who were not electors. The employer discontinued the particular employee. The employer's case was that there was an Act which made it illegal for him to employ this particular person. He was discontinued. The contract between the parties was that the employee could be discontinued at will. No doubt the employer was entitled to discontinue the employee at will but it was held that the termination under the compulsory law is not valid. 20

Here in this case the Deputy Secretary to the Treasury may have a right to alter terms and conditions but where the Secretary to the Treasury or the Secretary to the Cabinet under compulsion of law seeks to change terms and conditions it cannot be justified under the other power which existed. It is doing it in obedience of a law which is invalid. It is not exercising administrative discretion vested in regard to public servants. It has not been done so and it is not purported to have been done so. When the person who is entitled to exercise that power does not exercise that power but purports to act and acts under the compulsion of an Act which he thinks is valid, thereafter he cannot justify it under the other power under which he was entitled to act. If the Official Language Act is 30 40

invalid because it contravenes the Constitution they cannot seek shelter under any other provision. As to how the principles that are to be adopted in determining whether a Parliamentary Act contravenes the Constitution or not is dealt with in this case.

If the Act is invalid any act done to implement it by a circular issued under it is also invalid. The necessary consequences of the Court finding that the Official Language Act is invalid is that circular No. 560 is also invalid and if the circular is invalid the contract of the plaintiff stands unaffected. As to whether even if the Deputy Secretary to the Treasury wanted to change the terms and conditions in the exercise of his delegated power in regard to public servants by imposing a condition that a clerk who was recruited in for service in the English medium that he should pass an examination as provided in Sinhalese, and in the exercise of that power the Deputy Secretary to the Treasury issues a circular to say that non Sinhalese officers should pass an examination in Sinhala as provided and otherwise they would not be paid their increments, Counsel submits, even then the variation or amendment of terms and conditions cannot be justified because this would not be an amendment or variation of terms and conditions but a substantial change of the very contract. Changing of the terms and conditions of service is different from changing the very substance of the contract. On that question Counsel refers to the evidence at page 42 and 43 of Sir Kanthiah Vaithyanathan. When the plaintiff was recruited in 1952 the language of administration was English except that in certain areas it was carried on in the language of the area.

Refers to the evidence at page 19.

COURT TO COUNSEL:-

Q. When you say it is not a change of condition but a change of contract as such are you basing that submission on the footing that the officer concerned would have to work in Sinhalese?

A. Even if he is not required to work in Sinhalese the condition was brought that he must pass in Sinhalese and that itself is a change. It is a substantial change in the contract.

Of course the particular circular only calls upon the plaintiff to qualify in Sinhalese but later on when he is proficient he will be called upon to serve in Sinhalese.

Q. Supposing at some stage the Government decided that it was advantageous that clerical servants should be conversant in both languages as opposed to working in both languages, do you say that is a complete alteration of the contract?

A. Yes.

Conditions of service means no more than what are incidental to carry out the contract e. g. granting of leave, typewriting test and things like that. Those can be changed. If the contract says that a person is a clerk to work in a particular language that is a contract.

COURT TO COUNSEL:-

*Q.* Supposing it was the Government never intended you in spite of this change, to work in Sinhalese, forgetting that there was to be the implementation of the Official Language Act, when you were going to continue to work in English, if at that stage the Government made this same regulation that a new condition is imposed that the plaintiff must pass an examination in Sinhalese, is that a change of terms and conditions or a change of contract? 10

*A.* That would be altering the contract.

That is adding a substantial obligation which alters the contract, the original obligation being to serve in English now he is told that he must pass an examination in the Sinhalese language.

*Q.* It is not really giving him an opportunity instead of terminating his contract. The employer is entitled to say I am entitled to terminate this contract?

*A.* The employer can terminate my contract. Supposing it is a contract entered into for a fixed period, say three years. There the master enters into a contract with the servant for a fixed period and the contract is that he the servant should do his duties in English and he is proficient in that language and his contract is to serve in that language. In a case like that supposing the private employer said having regard to the general trend of the country it is desirable that the servant should pass an examination in Sinhalese before such a day otherwise he will not get his increment, that is imposing another obligation which changes substantially the contract. A contract can be changed by adding very substantial obligations. 20 30

(Adjourned for lunch)

Sgd

Acting District Judge  
13.3.64

RESUMED AFTER LUNCH

Mr. Renganathan continues his address.

In every contract one has to find out what is the contract and what are the terms and conditions therein. In a contract of service the actual contract is the obligations on the part of the employee to render a particular type of service. The obligation on the part of the master would be to make certain payments and if there is provision for certain increments to give those increments. 40

That is the substance of the contract. Then there may be terms and conditions which are incidental to such as master agreeing to give certain amount of leave and servant cannot absent himself without leave etc. A power is given to the master to alter the terms and conditions and not a power to alter the substance of the contract.

10 In this particular case they have made special mention of the power to alter salary scales. Supposing if the power was not there they could not have altered the salary scales. In regard to salary scales alone they have made special mention. Out of the substance of the contract there is a power given to alter one essential term in the contract viz. the salary.

By addition of a further obligation to study and pass an examination in Sinhala as provided in the circular is a change in the contract of service and that is not a change in the terms and conditions.

20 The plaintiff was promoted to Grade II of the Clerical Service on 1st October 1955 in terms of the Clerical Service minute P1. Under that clause appendix B he had to sit for an examination. In the case of the plaintiff the contemplation in the minute was that he will serve in English language and he will qualify in Tamil language and on that basis he was promoted. Even if he is asked to work in the Tamil language that would be change in the substance of the contract. In 1955 the Official Language Act had not come into being and the language in all parts of the Island was English and a knowledge of the language of the area was required. Even if a Tamil officer went to a Sinhalese area the work was carried on in English. Counsel submits on the document P1 it is clear that the recruitment of the plaintiff was into the English medium with Tamil as a subject. Refers to circular No. 336. It is quite clear that there was contemplation on either side that a Tamil officer should render service in the English language. Refers to P4. The core of the contract is set out in P4, there is a further obligation added and it is a virtual change in the contract of the plaintiff with the Crown.

(Further hearing on 16. 3. 64)

Sgd. O. L. de Krester  
Acting District Judge  
13. 3. 64

TRIAL RESUMED.

16th March 1964.

Same appearances as on last date.

40 Mr. Renganathan continues his address.

My submission was that circular No. 560 is not binding on the plaintiff for more reasons than one. That means the original contract of the service entered into by P1 and P2 remains intact and unaltered.

The Deputy Solicitor General submitted in passing that how can the plaintiff ask for a declaration that circular No. 560 is not binding. After all it is a document written by one person to another. Counsel refers to P2. The Crown admits that the annual increment of the plaintiff fell due on 1st April 1962 but that it was not paid and it has been stopped by virtue of paragraph 4 of the circular. Refers to the answer of the defendant. In their answer they say that the circular is a binding circular. Counsel submits that it is something more than a mere communication from one person to another. It is a Cabinet conclusion and it is intended to take effect as a Cabinet conclusion or a Cabinet directive. All these circulars contain Cabinet conclusions or Cabinet directives. Whatever power given to alter the terms and conditions of service was not exercised by either the Minister of Finance or by the person to whom that power was delegated. Refers to para 7 of P1. Refers to Manual of Procedure page 143. 10

Cites 51 N. L. R. 229.

In that case under the Co-operative Societies Ordinance disputes between members of the society could be referred to arbitration. There were certain regulations framed in regard to arbitration proceedings. One was regulation No. 29. Under that regulation the Registrar had the power to refer certain disputes to arbitration. There the dispute was not between members but between an officer who had ceased to be an employee and the department. The Registrar referred the matter to arbitration under rule 29 and an award was made and when they came to execute it it was attacked on the ground that it was ultra vires. It was argued successfully that the dispute the Registrar referred to arbitration was not a dispute he could have referred to under regulation 29. It was demonstrated that the dispute was of such a kind that it could not have been referred to arbitration under regulation 29. There was Section 45 of the Co-operative Societies Ordinance under which the matter could have been referred to arbitration. Their Lordships held that the Registrar having not acted under Section 45 and having acted under regulation 29 cannot then say that they purported to act under section 45. 20 30

Counsel submits that there is no question here of a variation of conditions of service by virtue of the power contained in the Clerical Service Minute. Except for an argument that there is a plea there is no material on which the court can hold that there is or there has been a purported variation of the terms and conditions. This is an alteration of the substance of the contract. Where there is a change of obligations by means of substantial additions or variations that is 40



a change of the contract. The stoppage of the increment of the plaintiff is under Section 4 (b) of Circular No. 560. That circular, Counsel submits, was issued in implementation of the Official Language Act. If the Official Language Act is invalid, the circular is invalid. Then an act done in implementation of it or for the purpose of carrying out into effect that act is tainted with that same invalidity. Crown submits that the circular is not issued by virtue of a power contained in the Act itself. It is not necessary that the power should be contained in the Act itself. Under Sections 45, 46, and 46 (1) of the Constitution Order in Council the general control and direction of the Government is vested in the Cabinet. If it is a law passed by the Parliament the Parliament does not implement that. The Parliament legislates. The duty of implementing the law is the function of the Cabinet. It is by virtue of performing that duty that the Cabinet decides to issue various circulars for the purpose of carrying them into effect. The Minister of Finance is in charge of certain subjects. If the Cabinet decides to carry into effect the Official Language Act in a certain way it comes to a certain conclusion and besides issuing directives those are issued by the Minister of Finance as agent of the Cabinet by Treasury circulars. Counsel submits that this is in fact a circular issued for the purpose of implementation or carrying into effect the Official Language Act. Refers to Section 29 of the Constitution Order in Council and also sub sections 2 (b) and 2 (c). To see whether Official Language Act No. 33 of 1956 which is sought to be implemented is void and ultra vires of the constitution Counsel states the answer to the following issues is the best. Is there a disability or disabilities or restriction or restrictions that are imposed on any community? Are those restrictions or disabilities not imposed on other communities? Refers to Section 29 sub section 2(c) of the Constitution Order in Council. Does the Language Act confer any privilege or advantage on any community? Is that privilege or advantage not conferred on the other communities? If the Court finds that it does confer a privilege on a particular community and that that particular advantage is not conferred on other communities then I submit that the Official Language Act violates the provisions of Section 29 and by virtue of Section 29 sub section 3 it is void. In that connection the word "community" has not been defined in the Ceylon Order in Council. When section 29 refers to community or communities we have to find out what exactly a community is. A number of persons bound together with a common interest would be called a community. Refers to Jennings on Ceylon Constitution page 199 sub-section 2.

In 1946 there were certain communities that composed the Ceylonese nation. In giving a meaning to the word community in section 29 one has to give that meaning, that is that there are various communities comprising the nation. The reference here is to those. Those are Sinhalese, Ceylon Tamils, Indian Tamils, Moors, Burghers, etc. Refers to pages 19 and 38 Cap. 7 of Soulbury Report. Ceylon Tamils came to Ceylon several centuries ago and it is not clear as to whether the majority community the Sinhalese or the Tamils came to Ceylon first. This shows that the Ceylon Tamil community was an important community in Ceylon for hundreds of years. Counsel submits that in regard to a community, a community may be bound together by the fact that it belongs to one race and in addition by the fact that they speak the same language. A community may have its distinct characteristics. In the case of the Tamil community it is bound together not merely by race but by the bond of language. So it is with the majority community, the Sinhalese. 10

So that we have in the case of the Ceylon Tamil community it has been in Ceylon for many years bound together by race and also by language. The question sometimes arises are we to have a Tamil speaking community or are the different communities which speak the Tamil language different communities having Tamil as the common language. In regard to the Indian Tamil community they are settlers from about the year 1836. Some of them have not been permanent residents and some of them have become permanent residents. But they form a part of the Tamil community in that they are bound by race and common language the mother tongue Tamil. In finding out what the Tamil community is one should include in it not only the Ceylon Tamils but also the Indian Tamils. They are bound together by a common bond of language. It is sufficient to say that there is an Indian Tamil community and Ceylon Tamil community both having same characteristics. Refers to para 123 of the Soulbury Commissioners Report. The Census Report of 1953 gives the number of Indian Tamils in Ceylon as 974098. By residence here from 1837 and by participating in the affairs of the country they have become a permanently settled community. They are bound together with the Ceylon Tamils by ties of race, religion culture and language. 20 30

Moors are also a part of the Tamil speaking community and they are bound together by the tie of language. One of the essential qualities common to both the Moors and the Ceylon Tamils is the mother tongue Tamil. The plaintiff in this case has called witnesses from the Eastern Province to show that their mother 40

tongue is Tamil. So far as the Tamil speaking community is concerned it consists of three communities which form a larger community one is the Ceylon Tamil community, the Indian Tamil community and the Ceylon Moors.

The 1953 Census Report gives the following population figures—Ceylon Tamils 884703, Indian Tamils 974098, Ceylon Moors 463963 and Indian Moors 47462. Therefore we have a Tamil speaking community of 2,370,620 people. In regard to the majority community there 3,469,512 low country Sinhalese and 2,147,193 upcountry  
10 Sinhalese totalling 5, 616,760. Then we have in addition the Burgher community and the European community. In determining whether an Act is invalid or not one must look what impact or what effect it has on the country and the communities it consists of. With regard to the Burgher community we have the English as their mother tongue. If in considering whether a privilege conferred on the majority community has been conferred on the other communities we must look to all the communities. In the composition of the Ceylonese nation there are three recognised communities. There is a majority community consisting of 70 per cent of the  
20 population. There are distinct minority communities having their own culture. One of the important problems that the Soulbury Commissioners had to face was there being this majority community and the minority communities. One has to keep the rights of the majority community and also safeguard the rights of the minority communities.

(Court to Counsel:

*Q.* Would it be correct to say that at the time the Constitution was drafted nobody paid any attention to an Official Language ?

30 *A.* There was no prohibition for the use of any one of the three languages, Sinhalese, Tamil or English. All three languages were used according to the needs of the people at the lower level particularly and at higher levels when occasion demanded. The prohibition that Tamil or English shall not be used as an Official Language came for the first time in this Official Language Act.)

The Official Language Act itself contains an admission that there were more than one official language. There is inherent in the Official Language Act a deprivation of the rights of the English speaking community and the Tamil speaking community  
40 and conferring an advantage or privilege on the majority community.

## (COURT TO COUNSEL:

*Q.* The community that talks English irrespective of race or the community that talks Tamil irrespective of race only came into any position as a community in consequence of this Act?

*A.* Yes. The division Tamil speaking people and English speaking people became prominent by virtue of this Act. But in regard to Tamil speaking people that bond was always there.

*Q.* The language as being the distinctive feature of the community as opposed to race or anything else became acute in consequence of this Act?

10

*A.* Yes, and there was no distinction drawn between the Tamil speaking people or the Sinhalese speaking people. There were advantages in adopting English language.

*Q.* Up to that time there was a recognised Tamil community and also a recognised European community but it was only after this Act came into being that the language became acute and became not a Tamil speaking community but a Tamil speaking community which included Moors and Malays etc or the English speaking community which included Burghers and may be including certain Sinhalese and some Tamils?

20

*A.* Subject to one qualification. In regard to the Ceylon Tamil community even before the Language Act. When we speak of a Ceylon Tamil community we must see what are the essential characteristics.)

They had the characteristics of the race and the common language. In regard to the Indian Tamil community it was just the same. What brought all these together into a Tamil speaking community as such was this language Act which threatened to destroy the common feature of the Ceylon Tamil, the Indian Tamil and Muslim Tamils the language. It is not that they did not have this common bond or common characteristic of language before. What is the Tamil race without language. What is the Sinhalese community without the Sinhalese language. When we speak of the Sinhalese community there comes into our mind not only the race but their language. So it is with the Burgher race. The language is an essential quality of a community. Refers to page 66 of the Soulbury Commissioners Report paragraph 240. The Soulbury Commissioners had to evolve something by which the minority communities had to be safeguarded. In various countries there are what are called fundamental rights of the minority communities. Legal rights can be altered. But in regard to fundamental rights in the Constitution they can be altered only by an amendment of the Constitution.

30

40

Those safeguards are enshrined in the Constitution itself. We in Ceylon have only one section which provides for preservation of the rights of the minority communities. That is section 29. That is the only section which provides for express fundamental rights. The rights given under Section 29 have to be jealously and carefully guarded. I refer to the context in which and the purpose for which article 29 was introduced in the Ceylon Constitution Order in Council. In a country which was just acquiring a certain independence and power and where we have a majority community and minority communities there may be a tendency for the majority community to arrogate to itself certain special advantages or to impose on the minority community certain disadvantages. Therefore the fundamental rights of the minority communities under section 29 should be safe guarded. Section 29 lays down that Parliament should not pass a law which confers a privilege or an advantage on any community which privilege or advantage is not conferred on the other communities. Therefore the test of finding out whether it is constitutional or not or whether it is valid or not is this. Does it create a privilege or advantage on one community which is denied to the others. It is a question of fact to be ascertained from the circumstances obtaining in the country and the impact of the Act on the various communities. Counsel submits he would refer to facts which the Court should take into account to see whether there is an advantage or privilege conferred on one community which is not conferred on the other communities. One is we have the population report showing how the population is divided into various communities. We have the Ceylon Tamils concentrated in the Northern and Eastern provinces. There is also the population of Ceylon Tamils distributed in the various other provinces. In regard to Ceylon Moors we find a large concentration in the Eastern Province. We also find them in Mannar and we also find them in Galle, Colombo and so on. The Indian population is largely in the Central Province and Uva Province. And you find them also in the other provinces. Refers to the evidence of Sir Kanthiah Vaithianathan at pages 40 and 46 that the mother tongue of the Tamil people is Tamil. When we speak of a community one does not think of the exceptions. One is speaking on the generality of people.

(COURT TO COUNSEL:—

*Q.* If it were not for that there was no necessity for the Sinhalese Only Act. It is because a large majority of the people know Sinhalese the need for the Act?

*A.* Yes.)

Counsel refers to the evidence of witness Mustang. Majority of the Tamil community know only the Tamil language and a fair number is educated in English. The number that can speak Sinhalese is few. Those who could read and write Sinhalese are negligible. In the case of the Indian Tamils also that it is the same position. In the case of the Ceylon Moors the mother tongue is Tamil and a large majority of them speak Tamil. In regard to the Sinhalese community their mother tongue is Sinhalese and all of them can speak Sinhalese and a fairly large number can read and write Sinhalese. We have this fact that so far as the Tamil community itself generally speaking a large number of them can read and write Tamil and a few who can speak Sinhalese. On the other hand we have the majority community the Sinhalese where all of them Sinhalese being their mother tongue speak Sinhalese and the medium of education for them being Sinhalese there will be large numbers who can read and write Sinhalese. If one examines the impact of the legislation that is the Official Language Act, No. 33 of 1956 on the basis of these ascertained facts—the position of the Act is that Sinhalese shall be the one Official Language all three languages prior to the Official Language Act were used for official purposes. English was used largely and Sinhalese and Tamil were used as Official Languages particularly in the lower levels. There is an implication where before the Language Act was passed there were other Languages which were used as official languages.

(COURT TO COUNSEL:

*Q.* Do you say that there is also an implication in that Act that certain people would be placed at a disadvantage?

*A.* Yes.)

Immediately after the passing of this Act they had to pass an act suspending the operation of this Act and providing for the continuation of the existing state of affairs. If one examines the implications of this Act what does it mean supposing the Minister made no provision for the continuation and the Act was there.

To test the validity of an act one has to find out what is the natural effect on a community. The Language Act as it is in its natural effect makes it difficult for an ordinary Tamil villager to transact business with the Government, unless they employ an intermediary. The word Official Language has not been defined in the Official Language Act. We have to find out what it exactly means. The official language is the language of administration. The language in which the state carries on its activities internally, the language in which the state carries on business with the subjects and the language in which the subjects have to deal and transact business. The state deals with the subject in that language. There was no prohibition that Tamil shall be the official language earlier. By virtue of this proclamation he is unable to use the only language that he knows. The Government notifications are only in one language Sinhalese. Important publications of Government are made only in Sinhalese. The Crown's argument was the Official Language is nothing but a legitimate step taken by the Government to fix an official language. The Crowns' argument was that every state has the right to fix the language in which the administration is carried out. There is a fetter placed on that by Section 29. Where a large section of the people do not know a particular language you cannot have the position that the state shall not carry on their administration in their language. The complaint is about the prohibition that Tamil or English shall not be used as an official language. By depriving a community of the use of their mother tongue for official purposes and by using the language of the majority community a very great privilege is conferred on it. By telling you can use only Sinhalese language there is a direct prohibition of the use of English or Tamil languages as official languages. The State has a right to do many things subject to the restrictions placed by the constitution. The majority community has the advantage of the use of their mother tongue, the language which they know and the language which they use in the day to day transaction of Government business. Does that not confer a privilege or an advantage on them. The majority community has the advantage of referring up the Government records which are kept in Sinhalese at any time. What about the people in Jaffna. The Tamil man will have to employ a translator to do the same thing. Section 29 of the Constitution has been violated. The disadvantages and disabilities that the Tamil community is suffering as a result of this Act are numerous.

Does section 29 sanction this kind of legislation. Why is it that they are prohibiting the use of Tamil as an official language. Up to the passing of the Official Language Act there were three languages functioning as official language. Why deprive or destroy one language altogether and say one alone should survive. For an effective participation of the affairs and the social life of the country it is essential that one should have the right to use ones language. At least there should be no prohibition of the of use of ones language. The invalidity lies in the prohibition or the use of the Tamil language. The legislative powers are very wide but where fetters are laid on that by the constitution the constitution is paramount and if Parliament does something which contravenes the provisions of the Constitution then that law passed by the Parliament is bad. The Crown argued on the basis of the 50 N. L. R. case. The Deputy Solicitor General says take the case of a Sinhalese who cannot read and write Sinhalese and compare him with the Tamil who cannot read and write Sinhalese; their disabilities are the same. One has to examine that argument. It cannot be denied a Sinhalese man who cannot read and write Sinhalese can speak Sinhalese. A Sinhalese whose mother tongue is Sinhalese; can speak Sinhalese. There are a number of instances where the knowledge of reading and writing is not necessary but business can be trasacted orally. But in the case of the Tamil man he cannot transact business orally in that manner. There is a lot of difference between an illiterate Sinhalese villager who cannot read and write and a Tamil. We know in a place where the Sinhalese reside where the medium of instructions is Sinhalese a Sinhalese child can always find a member of the household who can help him in his studies. Tamils are concentrated largely in the Northern and Eastern provinces and the evidence is that they have to go miles and find a person who may be able to translate a Sinhalese document. Is there any necessity why a Government should put people into such a situation? It has no rational or reasonable basis for prohibiting the use of a particular language. The Official Language Act says if you want to transact business with a Tamil who does not know Sinhalese transact business in Sinhalese only. Is there anything that more directly contravenes the safeguard enshrined in section 29 of the Constitution What is the comparison between a member of the Sinhalese community who can read and write Sinhalese compared with the members of the Tamil community who admittedly cannot read and write Sinhalese. Is not the advantage tremendous? They can transact all their business



in the language they know. While they can participate effectively in the administration of the Government the Tamil people cannot participate in the life of the country. A special privilege is conferred on the Sinhalese community. Whereas the right of the Tamil man to communicate with the Government in his language is deprived. the crown argues that if there is any disability that is brought upon the Tamil people and if they are unable to avail themselves of the advantage of the Sinhalese Language Act it is of their own seeking. In testing the validity of this Act one is not concerned  
10 only with the plaintiff and the clerical service. It may be possible for the plaintiff to study and pass an examination but one is concerned with the Tamil community young and old; people in the remote villages. What is the effect on them. Is it suggested that the moment this Act was passed the entire villages could have got down books and studied Sinhalese? Why should they do it? It is not a self imposed disability. It is by virtue of the fact that they belong to a community whose mother tongue is Tamil.

(COURT TO COUNSEL:-

20 *Q.* What have you to say to his submission that they were exactly in the same position when English was the official Language?

*A.* There was never a time in the administration of this country that English was the only official language. The administration at the village level has always been in the language of the area. Here Sinhalese has been made the only official language.)

30 What is the answer to the test laid down in Section 29 sub section 4—whether it confers an advantage to one community which it does not confer on the other communities. It answers specifically the test laid down in section 29. Counsel cites 239 United States Reports page 132. Where you assert one power you cannot say I could have done it even without that power. To decide whether a particular Act is unconstitutional or ultra vires what are the tests to be applied.

Cites United States Supreme Court Reports 60 Lawyers Edition page 131 at 134, 135.

The test is what is the natural impact of the Act upon the community as it stands.

(Adjourned for lunch)

Sgd. O. L. de Kretser  
*Acting District Judge.*  
16. 3. 64

## RESUMED AFTER LUNCH.

Mr. Renganathan continues his address.

Cites 471 United States Reports page 500. That is a case where the Philippine Legislature passed a law that no person engaged in business for profits in the Island shall keep his account books in any other language other than in English, Spanish or any other local language. If anyone did so he would be guilty of an offence. It was shown by evidence in that case that the only community that kept accounts in a language other than in English, Spanish or any other local Language was the Chinese community. Although the Act did not mention Chinese by name or purported to discriminate against the Chinese the ostensible object of seeing to it. It was argued that it prevented the Chinese from keeping the accounts of their business in their own language. It was held that this was a violation of the 14th Amendment which provided equal protection for all. Refers to page 511. With regard to our Official Language Act words make it perfectly clear that the use of Tamil as an official language is prohibited. In considering the Official Language Act the Court will decide what the natural effect of the Act is and if it is found to conflict with the constitution the Court will declare it void. Refers to pages 518, 524, 527 same citation. 10 20

The provisions of the Sinhalese language; viz. the prohibition contained in the Official Language Act that Sinhalese shall be the one official language and thereby prohibiting the Tamil and English it directly confers an advantage on one particular community and imposes a disability on the others.

Cites United States Reports page 332 at 633. In that case it was held that that particular law was invalid because it discriminated against the Japanese. Refers to pages 636, 641, 644, 646 and 647.

In our Official Language Act there may be no reference to Tamil as such but one can see from the context of things that there is a direct prohibition against the use of Tamil and English. What is the compelling necessity for prohibiting the use of Tamil language as an official language or prohibiting the use of English? 30

The principles enunciated in the 54 N. L. R. page 433 are supported by some other judgments. This case was cited by the Deputy Solicitor General but the principle was that they must consider the natural effect of the Act. The position is quite different in the case of permanent citizens of this country. In the case of the Indians who have become permanent settlers the right not to legislate against citizens 40

cannot be of any avail. But the essence of the Privy Council decision was that they had not become permanent residents. The legislature has to provide some test to find those who have become permanent residents and those who have not become permanent residents and even in regard to those who have not become permanent residents and who have relations in India they provided them with an opportunity of proving certain facts and becoming permanent citizens. Although in fact a large number of Indians who are permanent settlers are citizens they are asked to do certain things which cannot be done

10 having that background. This case is totally inapplicable to consider the constitutionality of the Language Act. Refers to pages 434 and 437 of the citation. The language of the Official Language Act is *per se* discriminatory. The Official Language on the face of it is discriminatory. It contravenes Section 29 on the face of it. What the Privy Council said in that case was that these acts were part of a scheme; No. 3 of 1941 the earlier impugned Act they were all part of the same scheme. Counsel submits that the passage relied on by the Crown at page 439 does not say that in spite of the provisions in article 29 of the constitution the legislature can lay

20 down tests of citizenship in regard to the nationals of this country. The whole thing there is on the basic assumption that they are not nationals of this country. Counsel submits that those considerations do not apply to the present case.

In this connection the Deputy Solicitor General argued that one must look at the Tamil Language Special Provisions Act.

This is something introduced later on no doubt on a realisation that the Official Language Act was not justified. There is the inherent admission that the prohibition of the use of the Tamil language altogether was unjustified and unreasonable. Therefore

30 they want to make reasonable provision. Secondly it confers no right whatever in regard to the Tamil language as an official language. It does not provide even for the reasonable use of Tamil. This has afforded no relief to the persons of the Tamil community. It gives the right to a master to make such provision for the reasonable use of Tamil for certain administrative purposes in the Northern and Eastern provinces. Refers to clause 3 This has nothing to do with the use of Tamil as an Official language. It is open to the Minister to prescribe the use of Tamil for specified administrative purposes. Even that has not been done. Can this

40 afford any kind of basis for invalidating the Official Language Act.

This is not a part of a legislative plan. The purpose of that act is not to give any relief but for all time to point to and say here is an Act. It affords no relief to get out from the rigours of the Official Language Act. The Official Language Act stands unaffected by this Reasonable Use of Tamil Act. This is just a sop. The Tamils have not got any relief up to date, and the Act itself is causing a great deal of hardship to the Tamils.

(Further hearing tomorrow)

Sgd. O. L. de Kretser  
*Acting District Judge.* 10  
16. 3. 64.

TRIAL RESUMED.

17th March 1964

Same appearances as on last date.

Mr. Renganathan continues his address :

Counsel submits that the judgments from the United States he cited yesterday were on the principles that are adopted in the interpretation of the provision for fundamental rights and constitutional safeguards. Those cases show how jealously Courts guard fundamental rights and that the Courts do not tolerate even slight encroachments upon those fundamental rights. One of the clearest 20 expositions that are adopted in the interpretation of fundamental rights and safeguards is found in the judgment reported in 34th Volume of Lawyers Edition of the United States Reports bottom page 455. It is a provision in the amended constitution that the Federal Parliament has the right to legislate in regard to interstate commerce. The State Parliaments had no right to legislate in regard to state commerce. In one State there was a law passed prohibiting the sale of fresh meat in that particular State where the cattle that were slaughtered for the purpose of taking the meat were not inspected by an Inspector within 24 hours of the sale of 30 that meat. It is for the purpose of ensuring that people were getting wholesome meat. It was an offence to sell meat where cattle had not been so passed. In that particular Act there is no reference to meat coming from outside states. A person who was charged and convicted of selling meat of slaughtered animals which had not been passed 24 hours prior and which had been brought from another state. The question arose of the validity of this Act. The amended constitution provided that no state shall legislate in respect of interstate commerce. That applied to meat from which- 40 ever state it came. It was contended in support of the act that

the object of the Act was no more than to secure that public obtained meat which was fit for human consumption. But the Supreme Court held that it was an invalid Act for the reason that it exceeded the power of the State to legislate in respect of interstate commerce. The effect was that even in respect of meat that was brought from outside that state the cattle had to be so inspected. That established a very important principle, that you look not to the purpose of the Act but to the natural and necessary effect of the Act. If that Act is applied how does it affect.

10 Refers to page 457 of the same citation. Counsel submits if the effect is as to confer a privilege on a particular community which is not conferred on the other communities then that Act is invalid. The prohibition of the use of English and Tamil which is inherent in the Act shows that the object was more than to fix an official language.

Refers to pages 458 and 460 of the same citation. This case was followed in the subsequent case reported in the 34th Edition United States Reports page bottom 862.

20 Adopting those principles here there can be no doubt the Official Language Act confers a privilege on the majority community which it has not conferred on the other communities Ceylon Tamils, Indian Tamils etc. This answers specifically the prohibition contained in Section 29 (2c) and to that extent it imposes a disability which is not imposed on the majority community.

Counsel submits that he has already endeavoured to show what kind of disabilities it has imposed on the Ceylon Tamil community. A community has certain essential qualities which go to make up that community. In the case of the Tamil community it is united by both the essential characteristic of race and the  
30 language. So it is in the case of the Indian Tamil community with the added qualification they came in later. The essential thing is the race and language. Two essential characteristics are the race and language. Language is one of the essential attributes. That being so a community may be a minority community but it has a fundamental right to the use of it. Any deprivation of it or any privilege given to another language is a deprivation of the rights of the other communities. After the first world war there were various minorities and their problems had to be solved by treaties. Counsel submits that he will show that there is something called the rights  
40 of a community to the use of its language. The rights of the minorities had to be protected from a transgression. Cites Copenhagen International Law Volume I 7th Edition pages 651 and 652.

In this country which is multi lingual there are these important languages which have come to stay. In a country like that is it not discriminatory to instal one language as the only language and reject or prohibit the use of other languages as official languages. The prohibition is illegal and renders the Act invalid. It gives an exclusive privileged position to one language and is conferring a privilege to persons of that community which is not conferred on the other communities. The prohibition of the use of a person's mother tongue as an Official Language is imposing a disability or restriction upon the use of the language of the community and it is a restriction upon the persons of that community. 10

(COURT TO COUNSEL:-

*Q.* Has not the Government conceded that Tamils are under a disability ?

*A.* Their circulars themselves concede that. Where they give 6 months to Sinhalese officers they give one year to a Tamil officer. That is because they know that their is a disability.)

Cites United States Reports 347 page 483. There the position was established and argued that the facilities provided for the white children and the Negro children were exactly the same and all the facilities were exactly the same. Then it was argued what is this discrimination. There are what are known as tangible factors in discrimination. Where a community is deprived of the use of a language is a restriction by itself. Refers to pages 486 and 492 of the same citation. 20

In deciding whether an Act is invalid because it contravenes article 29 of the constitution one cannot decide it by saying the plaintiff could have studied the Sinhalese language and could have passed that examination. 30

(COURT TO COUNSEL :

*Q.* That is relevant on the question whether he could have earned his increment ?

*A.* He has earned his increment under the contract.)

On the question as to whether the Language Act is invalid or valid whether the plaintiff could have learnt the language or not is irrelevant. The facts of the matter as spoken to by the plaintiff's witnesses stand uncontradicted. Counsel submits that where the main provisions of the the Act creates a privilege which it does not confer on the others it imposes a disability. By the Act the Tamil public servants who were efficient becomes inefficient 40

overnight and their counterparts the members of the majority community become more efficient than the efficient Tamil officers. The advantage to Sinhalese officers as under the Official Language Act is a permanent disability to the Tamil officer. Counsel refers to the evidence of Mr. Nesiiah at page 57. His evidence stands uncontradicted.

No. 6  
Addresses to  
Court  
—Continued

(COURT TO COUNSEL:

10 Q. What you mean is however efficient a Tamil officer becomes efficient in Sinhalese he will have to think in Tamil and put it down to Sinhalese whereas a Sinhalese officer can attend to it straightway?

Yes.)

20 Mr. Nesiiah's evidence is that there is a permanent advantage conferred on the majority community and a disability that is imposed on the Tamils. Refers to the evidence at pages 73 and 74. Mr. Nesiiah gives, where there are three important languages as to how one is to provide for an official language. What is the ultimate result of the Official Language Act. It will go to the elimination of a large number of people in the public service. In these circulars the Cabinet calls upon the commercial sector to fall in line with the Government. The intention of the Act is something more and it is used for a purpose something more than the fixing of an official language. The plaintiff has come to Court for a declaration that the circular is invalid and it is a clear violation of the provisions of Section 29 of the Constitution. The Crown was relying on the American cases, let us see what is happening in America, the minority communities have adopted the language of the majority. That is no argument in respect of a community whose lifeblood is the language. No doubt this is an action where the plaintiff is  
30 suing for certain declarations in respect of his contract and on some matters which affect his contract but the questions that are involved in determining those facts are of very great legal effect and which concern a very large section of the people.

Judgment on 20. 4. 64.

Sgd O. L.de Kretser  
Acting District Judge.  
19. 3. 64.

KODEESWARAN VS. ATTORNEY GENERAL  
DISTRICT COURT COLOMBO 1026/Z  
Authorities cited during Plaintiff's submissions

I. *The relationship between the public servant and the Crown is a contractual relationship.*

A. *In Ceylon this question to be determined by the Roman Dutch Law and the relevant statute law.*

*Vide-*

1. *Adoption of Roman Dutch Law Ordinance Vol 1. of Rev. L. E. Cap. 12 S. 2 at page 189.* 10

2. *Le Mesurier v. Layard 3 N. L. R. 227 at 230.*

The Royal Proclamation of 1799 established the Roman Dutch Law as the Common Law and "Thenceforth the relations as well between the Government and the subject as between subject and subject must be governed by that law."

3. *Fraser v. The Queen's Advocate*  
*1863-68 Ram's Rep. 316 (at 323 last para)*

A public officer in Ceylon can sue for his salary.

4. *Jansz. v. Tranchell*

*1863-68 Ram's Rep. 160 (at 160 Last para)* 20

The Salary of a public officer for service performed is due to him as a debt.

5. *Silva v. Attorney General.*

*60 N. L. R. 145 (at 153 last para)*

Where Basnayake C. J. quoted with approval Starke J. in *Lucy v. Commonwealth 1923-33 C. L. R. 229.*

"The relationship between the Crown and its officers is contractual in its nature. Service under the Crown involves in the case of civil officers a contract of service."

B. *English Authorities too regard the relationship between the Crown and its civil servant as contractual but a distinction has been drawn in the case of a military officer.-* 30

*Vide-*

6 *1839 Bingham's New Cases Vol 5 page 262 at 274 Gibson v. East India Co. p. 262 at 274.*



Retiring pension of a military officer does not upon his bankruptcy pass to his assignees—"many grounds of inexpediency in allowing a claim of the present description to be recoverable in a court of law readily suggest themselves."

7. *Shenton v. Smith* (P 6)

1895-72 L. T. 130 (at 132 second column)

10 "They (Their Lordships) consider that unless in special cases where it is otherwise provided servants of the Crown hold their office during the pleasure of the Crown—not by virtue of any special prerogative of the Crown, but because such are the terms of their engagement, as is well understood throughout the public service."

8. *Mitchell v. The Queen*

1896-1 Q. B. D. 121 Note at p. 122 (second column)

20 "All engagements between those in the military service of the Crown and the Crown are voluntary only on the part of the Crown and give no occasion for an action in respect of an alleged Contract. It has been argued that this is not to be treated as an engagement between a person in the military service of the Crown and the Crown but as a contract made between a civilian and the Crown. The answer to that contention seems to me that it is contrary to truth."

9. *In Dunn v. The Queen*

1896 Q. B 117 at 119 (second para)

Held a colonial public servant was not entitled to sue the Crown for dismissal before the expiry of his contractual period.

30 "I take it that persons employed as the petitioner was in the service of the Crown.....are ordinarily engaged on the understanding that they hold their employment at the pleasure of the Crown. So I think there must be imported into the *contract for the employment* of the petitioner the term which is applicable to civil servants in general viz. the Crown may put an end to the employment at its pleasure" - Per Lord Herschell.

10. *In Gould v. Stuart*

1896 A. C. 575 at p. 578(Privy Council)

The nature of a civil service tenure of office could be changed by statute.

"These provisions.....are inconsistent with importing into the *contract of service* the term that the Crown may put an end to it at its pleasure."

11. *In Leaman v. The King*  
1920-3 K. B. D. 663

The Court held that a soldier is not entitled to demand his pay on an alleged contract.

12. *In Owners of S. S. Raphael v Brandy*  
27 T L. R. 497 House of Lords

The House of Lords held that where the applicant was employed both by the Crown and by a private party that it was a "typical case of concurrent contracts" and that the Crown was an employer.

13. *In Sutton v. Attorney General.*  
1923-39 T L. R. 294 House of Lords Case

10

The House of Lords held that there was a contract between the Postmaster General who issued the circular and the postal employee and that the employee had a contractual right to share in the full civil pay within the meaning of the circular.

14. *House of Lords Case*  
*In Nixon v. Attorney General 1931 A. C. 184*

The House of Lords held that on a true construction of the Superannuation Acts of 1834 to 1909 there was no legal right enforceable in a Court of Law to superannuation allowances.

20

15. *In Reilly v The King*  
50 T. L. R. 212 at 213

The Privy Council did not approve of "the theory that the relationship between the Crown and the holder of a public office are in no degree constituted by contract. They content themselves with remarking that in some offices at least it is difficult to negative some contractual relations whether it be as to salary or terms of employment ..... And in this connection it is important to bear in mind that the power to determine a contract at will is not inconsistent with the existent of a contract until so determined.

30

16. *In Rangachari v. The Sec. of State*  
1937 A. I. R. (P. C. 27)  
17. *and in Venkata Rao v The Sec. of State*  
1937 AIR (P. C.) 31

The Privy Council held that the Government of India Act 1919 and the rules made thereunder did not confer a right of action on a public servant to enforce the rules made thereunder and to hold his office in accordance with the rules.

Both these cases are discussed by Basnayake C. J. in 60 *N.L.R.* 145 at 154 and 155.

18. *In Lucas v Lucas* 1943-2 *All E. R.* 110

10 The Court for the first time equated the position of the civil servant to that of the military officer as regards his right to a salary for services performed, and extended the application of the doctrine, that the military officers claim to wages was on the bounty of the Crown and not on a contractual debt, to cover the case of a civil servants claim to salary. This extension is not warranted.

For criticism of this case see

19. 1945-61 *Law Quarterly Review* 262 and *Griffith & Street*

20. "Principles of Administrative Law" 3rd edit (1951) at pp. 276-277

20 21. *In the High. Comm. for India v. Lall* 1948 *AIR (P. C.)* 121

The Privy Council held that the Crown servant was entitled to a declaration that his dismissal was wrongful but that he could not claim any arrears of pay for the period during which he did not work.

22. *In Terrel v. The Sec. of State for the Colonies* 1953-2 *All E. R.* 490 at 497

If a servant is engaged whether by the Crown or an individual at a salary but on the terms that he may be dismissed at will he may recover his salary for the time he has served.

30 23. *In Attorney General for N.S.W. v. Perpetual Trustee Co.* 1955-1 *All E. R.* 846

The Privy Council held that the action per quod servitium amissit applied to domestic service and not to public service and that the constable in this case fell under the latter category. This is no authority for the proposition that there is no contract between the Crown and its servant.

*In 29. Inland Revenue Com. v. Hambrook* 1956 (2) *WLR* 919 at 925

Lord Goddard C. J. states that the civil servant could recover his salary for the time he has served but his observation that it would be a claim based on quantum meruit is not correct.

25. He quotes from Counsel's argument at page 354 of *Robertson's Book "Civil Proceedings by and against the Crown."* but Robertson himself at page 338 says that a payment for services rendered to the Crown may be claimed.

II. *A Plaintiff is entitled to institute an action and ask only for a declaratory decree without any further consequential relief. Vide Sections 5 and 217 of the Civil Procedure Code.* 10

26. *Aziz v. Thondaman* 61 N.L.R. 217

27 *Silva v. A. G.* 60 N.L.R. 145 at 152 (first para)

The plaintiff need not wait till there is an infringement of his rights to ask for a declaration.

*Vide.* (27.) *Selvam V. Kuddipillai* 55 NLR 426

(28.) *Naganather V. Velautham* 55 NLR 319

To be entitled to a declaratory decree it is sufficient if the plaintiff can establish that there exists some real tangible dispute between the parties.

*Vide.* (29.) *Zamir on Declaratory Judgments* p. 131 (last para) 20

(30) *A.G. v. Sabaratnam* 57 NLR 481

(Gratien J's comments at p.485 about the claim of the public servant to his salary are obiter as the plaintiff in the case asked for a declaratory decree that the Crown was not entitled to a refund of an alleged over payment).

31. *Merricks et al v. Nott Bower et al* London Times Report of 31.1.64 at page 5

III. (A) The mere fact that the Crown has sought to impose into the contract a new condition which is an invalid condition may amount to a repudiation of the contract on the part of the Crown but unless and until that repudiation is accepted by the Plaintiff the contract between them subsists. 30

*Vide.* 32. *Howard v. Pickford Tool Co.* 1951-1 K.B. 417 at 420 & 421

Per Lord Evershed p. 420 last para

Per Lord Asquith p. 421 last para

(B) *If the condition was imposed by the Crown in the implementation of an illegal statute and not in the exercise of a contractual right, it is not open to the Crown to now rely on the contractual right.*

*Vide.* 33. *Truax v. Raich* 239 U.S. Reports 132-60 *Lawyers Ed* 131.

Where an employee lost his job because a statute prohibited his master from employing him, the Supreme Court held that even though his employment was at will he was entitled to a declaration that the said statute was unconstitutional, because it was clear  
10 that he only lost his job by reason of the statute.

34. *Wijetunga V Weerasinghe* 51 NLR 229 at 231

“And the award itself purports to be made under rule 29 of the rules framed under the Co-operative Societies Ordinance 1921. That being so, I do not think the plaintiffs can be heard to argue that the reference and award, having been shown to be ultra vires rule 29, must be deemed to have been made under Section 45.”

35. *MERRICKS et al v. Nott Bower et al. London Times Report of 31. 1. 64 at page 5*

20 IV. *The Official Language Act contravenes Section 29 (2) (b) and(c) of the Ceylon Constitution Order in Council 1946. Section 29 guarantees the rights of the various communities in Ceylon and to this extent qualifies the sovereign right of the state to enact laws for the peace order and good government of the country.*

A. The protection accorded to the various communities extends to all essential or distinct characteristics of such communities. The language or mother tongue of a community is such a characteristic.

30 *Vide.* 36. *Soulbury Commission Report (Document P19) Chapter on minorities at page 38 etc and also see p. 66 para 249.*

37. Jennings: *The Constitution of Ceylon* 2nd edit. page 199.

38. *Oppenheim: International Law 2nd Edit. Vole. 1 page 651,652.*  
B. *The purpose of an act must be found in its natural operation and effect. Vide the following cases on discrimination.*

39. *Truax v. Raich* 239 U.S. 132 (60 *Lawyers Ed.* 131)  
 40. *Yu Cong V. Trinidad* 271 U.S. 500  
 41. *Minnesota V. Barber* 136 U.S. 313 (34 *Lawyers Ed.* 455)  
 42. *Brimmer V. Rebman* 138 U.S. 78(34 *Lawyers Ed* 862)

(43) *Brown v Board of Education* 347 U.S. 483 esp. at 492-495 which dealing with the racial problem in the field of education took into account *intangible factors of discrimination* and held that even *equal but separate* facilities was discriminatory.

(44) *Oyama v. California* 332 U. S. 633 esp. at 648, 650 & 651 which dealt with an impugned Alien Land Law for which it was claimed that “nowhere in the statute is there a single mention of race, colour, creed, or place of birth or allegiance as a determinant of who may not own or hold farm land. But “however, an examination of the circumstances..... reveals quite a different story.” 10

(45) *Kodakan Pillai v. Mudanayake* 54 NLR 433 at 438, 439. in which at page 439 (third para) in determining “their *suitability* as *citizens* of Ceylon” the *migratory habits* of the Indian Tamils were taken into account as they had “*nothing to do with them as a community.*” and at page 438 20

“..... there may be circumstances in which legislation though framed so as not to offend directly against a constitutional limitation of the power of the legislature may indirectly achieve the same result, and that in such circumstances the legislation would be *ultra vires.*”

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## No. 7

**Additional Written Submissions from Defendant's Counsel  
with list of  
Authorities referred to therein.**

## IN THE DISTRICT COURT OF COLOMBO

Chelliah Kodeeswaran of 321 Main Street, Kegalle.

No. 1026/Z

Vs.

The Honourable The Attorney-General of Ceylon  
Colombo.....*Defendant.*

10

I file herewith Additional Written Submissions from the Defendant's Counsel together with a list of authorities referred to therein and the books of authorities.

Colombo this 6th day of April 1964

*Sgd.* A. H. M. Sulaiman  
Proctor for Defendant

Received notice together with a copy of the Written Submissions and list of authorities.

20

Copy sent by Registered Express Post to Mr. Lucian V. Perera Proctor for Plaintiff, No. 239 Hultsdorf Street, Colombo 12.

Registered Postal Article Receipt No. 9611 dated 6th April 1964 attached overleaf.

*Intld.* A. H. M. S.

DISTRICT COURT COLOMBO CASE No. 1026/Z  
ADDITIONAL SUBMISSIONS OF DEFENDANT'S COUNSEL.

Principal issues are :-

- (1) Is there a contract of service between the plaintiff and the Crown ?
- (2) If so, does it contain a term or condition for the grant of an increment to the plaintiff ?
- (3) Has the plaintiff's increment been withheld contrary to such term or condition ?

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All other issues are subsidiary and accessory to these issues.

(1) CONTRACT BETWEEN CROWN AND ITS SERVANTS ?

*Fraser v. Q.A. (1863-68) Ramanathan's Rep. 316 at 323 is-*

- (a) obiter and
- (b) is based on the assumption that the relationship between the Crown and its servants is in the nature of "an obligation arising out of contract."

The proposition (at p. 178 of submissions) that "under the R. D. L. the relationship between the Crown and its servants is just the same as between a private employer and private employee" is not supported by authority. 10

*In Jansz. v. Tranchell (1863-68) Ram. Rep. 160* there is an admission by the Q.A. that the salary due to a public officer is a debt due from the Crown. Apart from that there is nothing to indicate in the rest of the judgment that the Court held that view.

*In Le Mesurier v. Layord 3 N.L.R. 227 at 230* it was only held that the Crown can be sued by the subject just as in actions between subject and subject but does not decide the question whether there is a contract of service between the Crown and its servants. 20

*In Silva v. A.G. 60 N.L.R. 145 at 155-56* the observations are purely obiter and the passages from Reilley's case (1934) A. C. 176 at 179 are themselves obiter on the question whether there could be a contract of service between the Crown and its servants.

The following passage occurs in Lord *Atkin's Judgment:-*

"In this particular case their Lordships do not find it necessary to express a final opinion on the theory accepted in the Exchequer Court that the relations between the Crown and the holder of a public office are in no degree constituted by contract. They content themselves with remarking that in some offices at least it is difficult to negative some contractual relations, whether it be as to salary or terms of employment, on the one hand, and duty to serve faithfully and with reasonable care and skill on the other." 30

*In Shenton v. Smith (1895) 72 L.T. Rep 130 at 132.* Lord Hobhouse says as follows:-

"they (i.e. the regulations) do not constitute a contract between the Crown and its servants ... They are alterable from time to time without any assent on the part of the Government Servants which could not be done if they were part of a contract with those servants." 40



*In Venkata Rao v. Secretary of State (1937) A. I. R. P. C. 31*  
 Lord Roche cited the above passage (at p.33) and went on to say (at p. 34):-

“The argument for a limited and special kind of employment during pleasure but with an added contractual term that the rules are to be observed is at once too artificial and too far reaching to commend itself for acceptance. The rules are manifold in number and most minute in particularity and are all capable of change.”

10 In the present case there is ample evidence of both the plaintiff and Mr. Balasingham that the Administrative Regulations have been amended from time to time without the consent of the plaintiff. The letter of appointment of the plaintiff (vide P16) is “subject to Public Service Commission Rules, The Financial Regulations, Regulations of the Manual of Procedure, Departmental Orders, and any other Orders or Regulations which may be issued from time to time by Government” (para 6). Administrative Regulation 143 is part of the Manual of Procedure and the question whether or not a Government Officer has “earned his increment” is for the Government to decide and the Government is entitled to take into consideration  
 20 in deciding that question that an officer has failed to fall in line with Government Policy.

Even if P16 is to be treated as a contract it is submitted that para 6 is sufficient authority for Government to issue Circular No. 560. It is true that there is no direct decision to the effect that there cannot be a contract of service between the Crown and its servants, but serious doubt has been expressed as to whether there can be such a contract and even the obiter dicta contained in those cases, only go so far as to say that there can be such a contract and *whether there is such contract or not depends on the*  
 30 *facts of each case.* P16 is only an “appointment” setting out the terms and conditions upon which the appointment is made.

It should be observed however, that no view has been expressed so far as ratio decidendi that there is a contract of service between the Crown and its servants. It is submitted that *Lucas vs Lucas (1943) 2. A.E.R. 110. (1943 Probate 68 at 77) and Lall's Case (1948 A.I.R.P.C. 121)* were correctly decided and that the basis of those decisions is that there is no contract of service between the Crown and its servants.

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On the question as to the proper law applicable to contracts of service with the Crown it was argued that Clause 2 of the Proclamation of 23rd September 1799 relating to the adoption of Roman Dutch Law (Cap. 12 of the Legislative Enactments Vol 1) declared that "the administration of justice shall be henceforth ..... according to the laws and institutions that subsisted under the ancient government of the United Provinces....."

Not a single instance has been cited by the plaintiff of the government of the United Provinces having been sued for salary by a servant of such government, or where the view has been expressed in their Courts, either in United Provinces or Ceylon, that there can be a contract of service between such Government and its servants. Even on the assumption that the Roman Dutch Law as obtaining in ancient Holland supported such a view there is no reason to think that that part of the law was introduced into Ceylon Only so much of the Roman Dutch Law - as is shown to have been introduced into Ceylon is the common law of this country - vide *Samed V. Seguthamby* 25 N.L.R. 481 at p. 496-7. 10

(2) *Is a Declaratory Decree available to Plaintiff?*

The "right or status" referred to in Head "(G)" of Section 217 of the Civil Procedure Code is a "right" of a public nature, not a private right under the terms of a contract. 20

It is true that the definition of a "cause of action" in Section 5 includes "the denial of a right" but if the "right" denied is referable to a contract the party aggrieved cannot ask the Court to determine for him the question whether or not there is a breach of that "right" without suing the offending party for damages for breach under the terms of the contract. In the present case the plaintiff is asking for a declaration that he his entitled under the terms of his "contract" to an increment of salary in the past and for the future. He is not asking for arrears of increment due to him under the contract or for damages for breach of contract. Even the learned writer of the article in 61 Law Quarterly Review at p. 262 only expresses the view that a servant of the Crown can sue the Crown for arrears of salary but does not go so far as to say that he can obtain a declaration that he is *entitled to his* salary for the present and in the future. The plaintiff is virtually asking the Court to affirm the interpretation he has placed on the terms of the so-called contract of service. 30

If such an action is permissible under the Civil Procedure Code every party to a contract can ask the Court to interpret its terms whenever a dispute arises between them while the contract subsists and while both parties are still executing the contract. It is respectfully submitted that the only way such disputes can be decided is by submission to arbitrators by agreement of parties.

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If the plaintiff claims any relief at all it is a declaration that he is entitled to his increment. He is not claiming a specific amount due to him as salary or increment, nor is he asking the Court to grant  
10 him a decree for the payment of increments due to him up to the date of action and thereafter for a further amount due to him as increment from date of action till date of decree computed at a certain rate. Although it may be necessary for the Court to decide Issue No. 2—"If so, is the said Treasury Circular invalid?"—this is merely for the purpose of finding out whether the plaintiff is entitled to his increment, and the plaintiff is not entitled in any event to a *declaration of Court*:

- (a) that the Treasury Circular is invalid or
- (b) that the said Circular should be disregarded in determining  
20 whether the plaintiff should be granted his annual increment.

Assuming without conceding that the plaintiff is entitled to a declaration that he is entitled to the payment of his increment from 1. 4. 62, he is certainly not entitled to a formal declaration from Court of the grounds on which the Court arrives at such a finding. Otherwise a Court may be obliged to embody in its decree in the form of declarations (if the plaintiff prays for it) all the grounds on which the final decision is based.

*Selvam Vs. Kuddipillai* 55 N. L. R. 426 is a quia timet action where the very nature of the action requires a declaration and the right  
30 infringed is a right in rem and not one in personam, as in this case vide rep. p. 428 where reference is made to "invasion of the rights of ownership."

*Naganathan v. Velautham* 55 N. L. R. 319- is also a quia timet action and rights "in rem" as opposed to contractual rights are involved.

The case of *Menick et al v. Nott-Bower et. al.* reported in the London Times of 31. 1. 1964 at page 5 and the cases cited in Zamir's *Declaratory Judgments* (1962 Ed) at p. 131 have to be read in the light of R. S. C. Order 25 rule 5 made under the Supreme Court of Judicature Acts 1837 and 1875, which is reproduced at page 11 of Zamir as follows:-

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“no action or proceeding shall be open to objection, on the ground that a mere declaratory judgment or order is sought thereby, and the Court may make binding declarations of right whether any consequential relief is or *could* be claimed or not.”

It will be observed that under this provision a declaration may be made by Court *even where consequential relief could be claimed*. Section 217 item (G) of our Civil Procedure Code is more limited in its application and only says that a decree of Court may “command the person against whom it operates” to do certain things or “without affording any substantive relief or remedy—declare a right or status.” 10

Unlike in England and in South Africa the Common Law jurisdiction of the Courts to grant declaratory decrees has not been enlarged by statute—*vide Gratien J's observations in Hewavitarne v Chandrawathie 53 N. L. R. 169 at 176-177.*

Regarding Order 25 rule 5 Zamir at page 11 says as follows:—

“The new rule, it may be observed being made in a negative form, does not lay down any limits to the declaratory power, or any principles governing the exercise of it. In consequence the extent to which this power was to be utilised was largely left to the discretion of Court. This discretion was favourably exercised in many cases. Gradually the declaratory Judgment has assumed new functions, and almost unawares it has become a remedy of a very wide range.” 20

English decisions are therefore inapplicable and should not be utilised in interpreting Section 217 of our Civil Procedure Code.

If declarations are given without establishment of the contract, Courts would also have to give declarations in situations like this:

A invites B to dinner, B accepts. B fails to attend. There is no breach of contract, could Court grant a declaration (a) that B promised to attend. (b) that he failed contrary to his promise to attend? 30

Further the plaintiff came to Court for declarations on the basis of the existence of a Contract. If the Court holds there is no Contract, should the Court grant declarations on some other basis or theory which the defence has not been given an opportunity of meeting in its answer or even in the course of proceedings in Court?

## (3) CIRCULAR NO. 560

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The Cabinet "shall be charged with the general direction and control of the Government of the Island" vide Section 46 (1) of the Constitution Order in Council. In the exercise of these powers it has decided by the Cabinet Conclusion to "implement" the Official Language Act. The word "implement" in this context merely means to take the necessary administrative action for the carrying out of the requirements of the Act. "Implementing" the Act in this sense has to be distinguished from "acting under the powers conferred by the Act." The cabinet need not act under the powers conferred by the Act, as their decision can be justified under Section 46 (1) of the Constitution. The Minister of Finance as a member of the Cabinet gives effect to the Cabinet Conclusion (through the Secretary to the Treasury who is also the Permanent Secretary to his Ministry) as the Minister in charge of the subject of the terms and conditions of service of Public Officers-vide assignment of subjects and functions under Section 46 (4). It is well settled that an exercise of a power will be referable to a jurisdiction which confers validity upon it and not to a jurisdiction under which it will be nugatory-vide *L. C. H. Peiris v. C. I. R.-65 New Law Reports 457 at 458* and this principle has been applied even to cases where a statute which confers no power has been quoted as authority for a particular act and there was in force another statute which conferred that power (item at p. 458). The Case of *Wijetunga v. Weerasinghe 51 N. L. R. 229* is distinguishable from the present case. In that case the Registrar of Co-operative Societies and the arbitrator had to act under section 45 of the Ordinance if a dispute arose between the Society (or its committee) and any officer of the Society. A different procedure is prescribed by rule 29 made under the Ordinance for the reference of a dispute to which the Society was not a party. A reference which on the facts of that particular case should have been made under Section 45 for the reason that the Society was a party was purported to have been made under rule 29. It was held that having adopted the wrong procedure applicable to the facts of that case the Registrar could not point to the correct procedure he might have followed and ask the Court to act on the assumption that he followed the correct procedure.

In the present case there is no question of two different procedures being involved. The simple question is did the Acting Secretary to the Treasury have the power to issue Circular No. 560 independently of the Official Language Act?

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If he had the power then the recital in the circular that it is in implementation of the Official Language Act is a superfluity, and should be ignored.

Mellor's Case (262 U. S. Reports p.447) was cited to support the proposition that the Court will not pronounce upon the constitutionality of the Official Language Act unless it holds that circular No. 560 was issued under the powers conferred by that Act. The plaintiff will not have a right to such a declaration in that event as his rights are not affected by the passage of that Act.

The hypothetical case mentioned by the learned Counsel for the plaintiff of a clerk in the office of the Registrar of Motor Vehicles required to pass a technical examination is distinguishable from the plaintiff's case. The plaintiff was required by the terms of his appointment to officiate as a clerk and the requirement that he should attain proficiency in Sinhala is to enable him to continue to officiate as a clerk in the language which the Government has decided to conduct its business. It is only an alteration of the terms and conditions relating to the granting of an increment and not an alteration of the substance of the "contract". It is the minimum requirement to satisfy Government that the officer has performed his duties efficiently and earned his increment—vide administrative Regulation 143. 10 20

Circular 560 is issued by the Acting Secretary to the Treasury not by the Secretary to the Cabinet. The Minister of Finance has not delegated his Powers to the Deputy Secretary to the Treasury. There is no delegation of powers. The Minister has to act through his officers as it is impossible for him to perform personally all the executive acts he is required to do as Minister. It is not a case of delegation but one of agency. The Minister chooses the officers under his Ministry to perform certain functions on his behalf. Lord Greene M. R. in *Carltona Ltd v. Commissioners of Works* (1943) 2 A. E. R. 560 at 563 observes that— 30

"In the administration of Government in this country the functions which are given to Ministers and constitutionally properly given to Ministers because they are constitutionally responsible are functions so multifarious that no Minister could ever personally attend to them....The duties imposed upon Ministers and the powers given to Ministers are normally exercised under the authority of the Ministers by responsible officials of the department."

*Vide also Administrative Law by Wade pp 52-53*

It is therefore immaterial whether the Circular was issued" by the Deputy Secretary to the Treasury or Acting Secretary to Treasury. It is submitted that Circular No. 560 was issued to "implement" the Official Language Act only in the sense of setting up the machinery for the conduct of official business in Sinhala. It was not issued by virtue of the powers vested in any officer under the Official Language Act. Mr. Balasingham's evidence is very clear on this point. Although the evidence shows that English was the language of administration there is no condition in the so-called contract with the plaintiff that he should do his work in English. There is, therefore, no original obligation to serve in English.

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Even if the Official Language Act is found to be invalid and Circular No. 560 states that it is issued in "implementation" of that act the question still remains as to whether the acts done in purported "implementation" of the Act are done under the powers conferred by that Act or under some powers which exist independently of that Act. It is submitted that in the present case the acting Secretary to the Treasury in issuing the Treasury Circular is performing a purely administrative Act on behalf of the Minister of Finance for which he need not have legislative approval. The purpose for which the circular is issued may be to set up the machinery for meeting the situation which would arise from giving effect to the Official Language Act; but the purpose for which the Circular was issued should not be confused with the power under which the Circular could be and should be issued. If the Official Language Act is subsequently declared invalid the purpose for which the Circular was issued would have disappeared but the power under which it was issued, if independent of the Act, will remain. It is therefore incorrect to say that if the Official Language Act is invalid the Circular is invalid.

(4) *Is the official Language Act ultra vires section 29 of the Constitution?*

A Court will be slow in pronouncing an Act of the legislature invalid. In considering the validity of the statute a Court must give it such reasonable construction as can be reached to bring it within the fundamental law — *Yu Cong Eng v. Trinidad U. S. Rep. 70*

*Law Edn: p. 1059 (27 U.S. 500) at 1066.*

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It is submitted that the Court will not hold the Official Language Act void unless it becomes absolutely necessary for the purpose of this case. Supposing Parliament passes a law and for the purpose of "implementing" that law it is necessary to have additional staff. The Public Service Commission thereupon acting under the powers conferred on it by the Constitution appoints a number of officers. This law is subsequently declared void. This does not mean that the appointments made by the Public Service Commission become invalid. The only result is that the officers so appointed cannot legally perform the duties conferred upon them by the void Act. The purpose for which Circular No 560 was issued: viz. that of implementing or making the necessary arrangements and setting up the machinery for giving effect to the the Official Language Act—must be distinguished from the power under which it was issued. The plaintiff has not come into Court in his capacity as a citizen who belongs to the Tamil community who is affected as a member of the public by the Government conducting its business in Sinhala, he has come into Court as a public officer whose increment is withheld for non-compliance with the terms of a Government Circular. If therefore, the issue of the Circular can be justified on other grounds the question whether or not the Official Language Act is void does not arise and is irrelevant.

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*The Case of Yu Cong Eng. v. Trinidad 271 U.S. Rep. 500*

The Philippine Act made unlawful the keeping of account books by *any person, Company or partnership* engaged in Commerce or industry in any language other than those prescribed. In effect it prohibited the use of Chinese even by a Chinese person in maintaining accounts. This law operates in the private area i. e. a person engaging in commerce or industry is engaged in a personal and private venture. It is not the activity of a *public or official body*. The Official Language Act, does prohibit the Tamils from using Tamil in their private transactions, in maintaining their books of account. The Official Language Act does not compel Tamils to use Sinhalese for any of their purposes. The effect of the Official Language Act is only to make Sinhala the Official Language and the exclusion of all other languages from that *status*. Indeed it is only a status that is given to the Sinhala Language. It does not make it illegal for any person to use Tamil for his private purposes. The adoption of a language as an Official Language does not have such implications.

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40



The following passages in the U. S. Supreme Court Judgment are significant.-

- (a) "of course the Philippine Government *may make* every reasonable requirement of its tax payers to keep proper records of their business transactions in English or Spanish or Filipino dialect by which an adequate measure of what is due from them in meeting the cost of Government can be had."

10 Note: English, Spanish or Filipino dialect were the only languages officially recognised.

- (b) quoting from *Lawton v. Steel* "The Legislature may not under the guise of protecting the public interest arbitrarily interfere with *private* business or impose unusual and unnecessary restrictions upon *lawful occupations*"

The Official Language Act does not compel Tamils to use Sinhalese in their private lives or in private business. It operates only in the *public* sphere of Government.

This case far from being against the Crown point of view, supports it completely and overwhelmingly, for

20 (1) Despite the Philippine Bill of Rights the case shows that English, Spanish and Filipino dialect were the official languages and that *Chinese was not an official language*: accordingly it shows that a language used even by a significant Section of the community can be excluded from the status of an official language despite the existence in the constitution of a "due process" or "equal protection" clause.

30 (2) The case shows that the adoption of one Language as an *official* language despite the existence in the country of groups whose home language is something else is constitutional. If it were otherwise the U.S. Supreme Court would by now have declared the use of English as the official language in that country to be unconstitutional on the ground that a large number of people in the states have German, Japanese or Chinese as their home languages. It should be noted in this context that the U. S. due process Clause and the "equal protection" clause (unlike Section 29 of our Constitution) operate not only in the legislative area but also in the Executive

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and Administrative areas. The Yu Cong Eng. Case is authority for the proposition that the Philippine Government (and also the U. S. Government) cannot compel the use of the Official Language (or languages) in the private sphere. It is also authority (by necessary implication) for the proposition that a language or languages can be adopted as an official language or languages to the exclusion of other languages used by significant groups in the country.

Sgd .....

6.4.64

Counsel for Defendant. 10

DISTRICT COURT COLOMBO CASE NO: 1026/Z  
LIST OF AUTHORITIES SUBMITTED BY  
DEFENDANT'S COUNSEL:

- (1910 - 11) 27 Times Law Reports 127 & 147, 72 Law Times Reports 130  
(1896) 1 Q. B. 118  
(1896) 1 Q. B. 121 at 122  
(1937) A. I. R. P. C. 31 at 33 & 34  
(1943) Pr. 68 at 67  
(1948) A. I. R. P. C. 121  
(1953) 2 Q. B. 482 at 499 20  
(1956) 2 W. L. R. 919 at 924-925  
Ridges' Constitutional Law of England (6th Edn.) p 173.  
Principles of Administrative Law—Griffith & Sheet(2nd Edn.)p.265  
(1955) 1. A. E. R. 846 at 854 and 856-858.  
Cheshire & Fifoot on Contracts (3rd Edn.) 502 at 503 and 504.  
(1951) 1 K. B. 417 at 420  
(1931) A. C. 184 at 187  
55 U. S. Supreme Court Reports (Lawyers' Edn) pp. 246, 248,  
& 250 (*Muskrat v. U: S.*)  
67 U. S. Supreme Court Reports (Lawyers' Edn) pp. 1078, 30  
1082, 1084 & 1085 (*Commonwealth of Massachusetts v. Mellon*)  
80 U. S. Supreme Court Reports (Lawyers' Edn:) 668 at 710  
(*Ashwauder v Tenesse Valley Authority*)  
(1943) 2 A. E. R. 560 at 563.  
Wade Administrative Law pp. 52-53.

AUTHORITIES CITED BY PLAINTIFF'S COUNSEL BUT NOT  
AVAILABLE WITH PLAINTIFF'S COUNSEL

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- 60 U. S. Supreme Court Reports (Lawyers' Edn) p. 131 (*Truax v. Raich*)  
 70 U. S. Supreme Court Reports (Lawyers' Edn) p. 1059  
 - 27 U. S. Reports 500  
     (*Yu Cong Eng v Trinidad*)  
 92 U. S. Supreme Court Reports (Lawyers' Edn)  
 -332 U. S. Reports 632  
     (*Oyama v. State of California*)  
 10 34 U. S. Supreme Court Reports (Lawyers Edn) 455  
     (*State of Minnesota v. Barber*)  
     & *Brinmer v. Rebman at p. 862*  
 98 U. S. Supreme Court Reports (Lawyers Edn) 873  
 -347 U. S. Reports 483.  
     (*Brown v Board of Education of Topeka*)  
 Zamir - Declaratory Judgments.  
 Note: (a) The following cases cited from local reports are not  
     submitted  
     Vallipuram v. P.M.G. 50 N.L.R. 214  
 20 De Zoysa's Case 62 N.L.R. 492 at 499  
     Sabaratnam v. A.G. 57 N.L.R. 481 at 484  
     Silva v. A.G. 60 N.L.R. 145  
     Holmes v. Aliya Marikar 1 N.L.R. 282  
     Appuhamy v. Silva 17 N.L.R. 238 at 241  
 Kodakan Pillai v. Mudanayake 54 N.L.R. 433 at 437-439  
 Gunawardena v. A.G. 49 N.L.R. 359  
 Hewavitharana v. Chandrawathie 53 N.L.R. 169 at 176 177  
 L. C. H. Pieris v. Commissioner of Inland Revenue 65 N.L.R. 457 at 458  
 30 (b) 30 *Commonwealth Law Reports* 182 in which the case of  
     *Grey v. Commonwealth* is reported is not available in the  
     Attorney - General's Library, available in the Law Society  
     Library.

Sgd....  
Counsel for Defendant  
6.4.64

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24th APRIL, 1964.

J U D G M E N T

Chelliah Kodeeswaran an officer in Grade II of the Executive Clerical Class in the General Clerical Service of Ceylon was not paid the increment of salary which fell due to him on 1st April 1962.

He thereupon wrote letter P18 dated 26.4.62 to the Head of his Department, the Government Agent, Kegalle asking for the reason for non - payment. He received reply P2 of 28.4.62 which stated:-

10

“The annual increment that fell due to you on 1.4.62 was not paid as you have not passed any of the Proficiency tests prescribed at Para 2(a) & (b) of Treasury Circular No. 560 of 4th December 1961. The suspension has been ordered under Para 4 (b) of that Circular”.

Kodeeswaran has now filed this action seeking a declaration that he is entitled to the payment of this increment in that the Circular in question is invalid because it is unreasonable and/or illegal, and should be disregarded in determining whether the plaintiff should be granted his annual increment.

20

Kodeeswaran was an officer recruited in the English Medium, and was appointed a member of the General Clerical Service of Ceylon with effect from 1.11.52 in consequence of having passed the General Clerical Service examination held on 13.6.52. His letter of appointment dated 16th October, 1952 is P16 in this case.

In the gazette No 10844 of Saturday 1st October 1955 the Minute P1 on the General Clerical Service which had been approved of by the Public Service Commission, who by virtue of Section 60 (1) of Chapter 7 of the Ceylon (Constitution) order in Council of 1946 was vested with “the appointment, transfer, dismissal and disciplinary control of Public Officers” was published for information by the Acting Deputy Secretary to the Treasury Mr.R. H. Wickremasinghe.

30

Para I of the Minute P1 sets out:-

That the General Clerical Service is under the General Control of the Deputy Secretary to the Treasury.

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Para 2 gives the conditions of service and the salary scales and the information that the cadre was shown in the annual estimates under various Heads and Votes of expenditure.

It also states that the salary scales, conditions of service and cadre of the service are liable to alteration from time to time.

10 That officers in the service will also be subject to the Public Service Commission Rules, the Financial Regulations, the regulations of the Manual of Procedure, Departmental orders, and any other orders or regulations of the Government.

Para 7 deals with increments and states that increments on the salary scale applicable would be given annually subject to satisfactory work and conduct.

20 Appendix B sets out regulations and syllabus for the examination on the results of which in terms of para 5 of the Minute, appointment to Grade II of the Executive Clerical Class would be made. It had the note, that the provisions were liable to alteration and that Gazette notifications published from time to time by the Deputy Secretary to the Treasury should be consulted for full up to date information re the examination.

Kodeeswaran qualified in terms of para 5 of the minute to sit for the examination held on 21.11.59 in that he had been confirmed in his appointment to the General Clerical Class and that he had completed four years satisfactory service in that class.

30 For the purposes of this case it is relevant to know that the examination he had to pass was in Sinhalese or Tamil. Being a member of the Tamil community he decided to offer Tamil. He passed the examination held on 21.2.59 and received his appointment P15 of 13th July, which reads:-

"1. The Deputy Secretary to the Treasury has been pleased to appoint you to a clerkship in Grade 2 of the Executive Clerical Class of the General Clerical Service with effect from 1.10.59 on the salary scale of Rs. 1620-120-3780 with an efficiency bar at Rs. 3180/- per annum.

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2. Your appointment will be governed by the terms of the Minute on the General Clerical Service published in Ceylon Government Gazette Extraordinary No. 10844 of 1.10.55 subject to any amendments that may be made to it from time to time”

In terms of the Minute P1 Kodeeswaran had ample time to reach the efficiency bar set at Rs. 3,180/-. Until then in the normal course of things his chief concern would be to earn his increments which in terms of section 143(1) of Para. 5 of Chapter 3 of the Miscellaneous Regulations relating to the Public Services appearing in the Manual of Procedure were not given as of right, but were dependant on the certificate from the Head of the Department, that the officer concerned had discharged his duties with efficiency, diligence and fidelity, and had earned his increment. It is relevant to note that section 143(8) sets out that “an officer whose increment has been suspended, stopped or deferred should be informed of the reasons therefor”. 10

I have set out what should have been his chief concern if the normal course of things obtained, but Kodeeswaran and every officer in the Public Service was aware that the Parliament of Ceylon had passed Act 33 of 1956 which, Para. 1 of the Act stated may be cited as the Official Language Act, but which had become better known as the Sinhala Only Act, for by para. 2 of the Act “The Sinhala language should be the one official language of Ceylon”. 20

Kodeeswaran and other officers like him recruited in the English medium and not required to have any proficiency, or even a nodding acquaintance with the Sinhala language, were faced with the prospect that by 31st December, 1960 at the latest Government wanted its official business completely conducted in Sinhala and they, the servants of the Government would be affected by the efforts at implementing the Act “by administrative order”, for whatever had been done in English or Sinhala or Tamil by the servants of the Government would have to be done in future in Sinhala only and the Act fixed the date for the complete switch over as 1st January, 1961. 30

To learn or depart was the prospect that faced them and that the Government was prepared to help them in implementing either decision is clear for the first of the Treasury Circulars No. 336 of 29.11.56, P3 issued in connection with the implementation

of the language Act promised a bonus for officers who passed the necessary examinations and a retirement scheme for those who felt the task was beyond them. But the solution of the problem was not as simple as all that, for, apart from the practical difficulties that would face them in either event, Kodeeswaran and the large majority of Tamil officers in the Public Service regarded the passing of the Act as an affront to their community, a state of mind more conducive "to the taking of arms against a sea of troubles and by opposing end them" than to accepting them as part of "the slings and arrows of outrageous fortune," and settling down to study.

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Undoubtedly they had room for disappointment for earlier Parliaments had recognized the language of their community-Tamil—as one of the national languages of Ceylon—a state of things which the minute P1 bears witness to, for in it there is the reference to Tamil as a national language — and in the course of this Trial Counsel for Kodeeswaran at every opportunity sought to refer to "the grievances of the Tamil community" and trace the Parliamentary history of the legislation in tones of indignation which were obviously not purely forensic, quite forgetful that the only matter the Court could be concerned with at this Trial was whether the Crown was entitled in law to stop Kodeeswaran's increment in the manner and for the reasons Kodeeswaran complained of.

In order to do so it is necessary to examine the relationship between the Public Servant in Ceylon and the Crown, for the Deputy Solicitor General contends that there is no contractual relationship enforceable in a Court of law between the Crown and its servants and that the Public Servant in Ceylon is dependent on the bounty of the Crown for his pay.

Section 57 of the Ceylon (Constitution) Order in Council of 1946 which reads "save as otherwise provided in this order every person holding office under the Crown in respect of the Government of the Island shall hold office during His Majesty's pleasure" "gives effect" says Sir Ivor Jennings in his book The Constitution of Ceylon, "to the general principle applicable to all appointments under the Queen in all parts of the Commonwealth including the United Kingdom. Public Servants throughout the Commonwealth are servants of the Queen and except where provision is especially made by law hold office at her pleasure"

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It was in Reilly vs. The King 50 T. L. R. page 212 that Lord Aitken pointed out that "A power to determine a contract at will is not inconsistent with the existence of a contract until so determined" and in the instant case Counsel for the plaintiff who concedes that the Crown would be entitled to terminate plaintiff's appointment to the Clerical Service of Ceylon at its pleasure, submits that in the meantime there is in existence a contract between Kodeeswaran and the Crown in regard to salary and terms of employment on the one hand and the duty to serve faithfully and to discharge his duties with efficiency, diligence and fidelity on the other.

10

P16 the letter of appointment, P17 the agreement, P1 the Minute read together with the evidence of the plaintiff and Mr. Balasingham appear to me to clearly establish a contract of service. Of such an appointment Pilcher said in Lucas vs. Lucas 1943 L. R. Probate Division at page 73, "Mr. Lucas was appointed to serve His Majesty in the Indian Civil Service, the salary he was to receive, laid down, and the employment was during the King's pleasure. Mr. Lucas had served as an Indian Civil Servant for some 14 years, and in the circumstances, it would be difficult to say that the Crown did not enter into a contract of service in the ordinary sense of the word"

20

Why then, cannot a person in the Civil employment of the Government enforce his rights on his contract of service? In England, the decided cases establish that in regard to the armed forces, in the words of Lord Esher in Mitchell versus the Queen 1896 1 Q. B. 121 in which a soldier sought to recover pay due to him.

"The law is clear as it can be and it has been laid down over and over again as the rule on the subject that all engagements between those in the Military Service of the Crown and the Crown, are voluntary only on the part of the Crown, and give no occasion for an action in respect of any alleged contract". The reason for this rule is found in the judgment of Tindall C. J. in Gibson vs. The East India Company 1839, 5 Bingham N. C. 262 at 274.

30

It was also settled law after the decisions in Shenton vs. Smith 1895 A. C. 229 and Dunn vs. The Queen 1896, 1 Q. B. 116 that the Sovereign could terminate at pleasure the employment of any person in the public Service except in the special cases where



it is otherwise provided by law. Stewart Robinson in his treatise "Civil Procedure by and against the Crown" after reviewing the available decisions says as follows:-

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10            "Thus apart from any statutory exception such as exists for instance in the case of Judges of the High Court, the Crown may dismiss any of its officers without cause shown, and it follows that no petition of right will lie on the part of any such officer so dismissed for damages for wrongful dismissal or for pension or half pay or any claims based upon such dismissal".

20            It follows then that an action will lie at the instance of the officer in civil employment for salary due unless the claim is in respect of a period after the Crown has exercised its power to dismiss without cause stated. It was in 1943 that what appeared to be a settled state of the law received a set back for in Lucas vs. Lucas and the High Commissioner 1943, 2 A. E. R. 110 Pilcher J, when he considered whether the contract of service which he was satisfied existed in the ordinary sense of the word, was a contract enforceable against the Crown or its appropriate officer, came to the conclusion

30            that if Lucas while continuing to hold his appointment in the I. C. S. and to discharge his duties was not paid his salary he could not maintain an action in respect of the salary so unpaid. In coming to this conclusion he adopted the reasoning of Lord Blackburn in the Scottish case *Mulvenna vs. the Admiralty* that the rule based on public policy which had been enforced against military servants of the Crown and which prevented such servants suing the Crown for their pay on the assumption that their only claim is on the bounty of the Crown and not for a contractual debt must equally apply to every public servant and that this qualification must be read as an implied condition

                 into every contract between the Crown and the public servants, with the effect that in terms of their contract they had no right to their remuneration which could be enforced in a Civil Court of Justice and that their only remedy under the Contract lies in "an appeal of an official or political kind". The soundness of this decision has been the subject of comment both in reviews and text books, for example in the article "The Civil Servant and his pay" by D. W. Logan in 61 *Law Quarterly Review* July 1945 which at page 240 contains the following comment which appears apposite-

“In view of the Crown’s admitted right to terminate a contract of service at pleasure, it is true that the servant has no claim to further salary once the Crown has exercised its right to determine. But it does not follow that if the Crown fails to determine the employment and continues to enjoy the services of the officer, presumably because he is performing his duties satisfactorily it is under no obligation to pay for those services. There may be reason for the dismissal. The Crown should not be bound to continue in the Public Service those whose conduct is no longer satisfactory. There can surely be no ground of public policy for holding that if a servant is allowed to retain office the Crown is under no obligation to pay for the benefits it has received.” 10

Again at page 265 of the Principles of Administrative Law by Griffith & Street it is suggested that “because it was assumed that Military precedents could be relied on, and because the numerous English and Commonwealth cases to the contrary e. g. Bush vs. The Queen, Sutton vs. The Attorney General and Carey vs. The Commonwealth were not cited, the Lucas case is an untrustworthy precedent”. There is also the case of the Inland Revenue Commissioners vs. Hambrook reported in 1956 (2) W. L. R. at page 919 in which Lord Goddard while pointing out that an established servant is more properly described as an officer in the civil employment of His Majesty and that he saw no grounds on which different rules of law in respect of his employment can be applied to the grade and position he occupied commenting on the curious fact that “there does not appear to be a definite and clear decision as to whether there is a contract of service between the Crown and its officers in civil employment” there went on to express his opinion that in view of the fact that an officer in civil employment under the Crown is remunerated by moneys provided by Parliament his employment depends not on a contract with the Crown but on an appointment by the Queen though there may be exceptions e. g. when the engagement was for a definite period. He himself had earlier in Terrell vs The Secretary of State for the Colonies 1953 (2) A. E. R. 490 observed that if a servant is engaged whether by the Crown or an individual at a salary but on terms that he may be dismissed at will, if he is dismissed he may recover his salary for the time he has served. In the case of Inland Revenue Commissioners vs. Hambrook Lord Goddard said he still held the opinion expressed by him in Tyrrell vs. The Secretary of State for the Colonies that the civil servant could recover his salary for 20 30 40

the time he served but he now expressed the view that that would be on a quantum meruit. He did not indicate against whom the claim would lie if not against the Crown and he did not consider the authorities which stated arrears of pay are not legally recoverable: The fact remains that in the only case decided in the House of Lords the decision is to the effect that a Crown servant can sue for his pay. Vide Sutton vs. The Attorney General 1923 (39) P. L. R. at page 239.

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10 Wade in his book on Administrative Law at page 237 comments that the confused state of the decisions in England on this point illustrates case law at its worst which may be due he says to the characteristic English lack of special principles of public law.

In the result, if the matter had to be determined by English Law I would consider myself free to hold that there is an enforceable contract of service between Kodeeswaran and the Crown for in my opinion the weight of authority in England seems much more in favour of that view. When one turns to the Commonwealth Reports one finds the case of Carey vs. the Commonwealth reported in 30 Commonwealth Law Reports at page 182 in which it was held that there was an enforceable contract of service and there is the case of Lucy vs. the Commonwealth reported in 1923 (33) C. L. R. 229 in which 20 Starke J. says—

“the relationship between the Crown and its officers is contractual in nature. Service under the Crown involves, in the case of a civil officer a contract of service peculiar in its conditions no doubt and in many cases subject to statutory provisions and qualifications—but still a contract.”

In Ceylon by Ordinance 5 of 1835 now Cap. XII of Volume 1 of the Legislative Enactments and the Royal Proclamation of 23rd September, 1799 the Roman Dutch Law was established as 30 <sup>42</sup> common Law of the ceded territory and as Bonser C. J. pointed out in Le Mesurier vs. The Attorney General (3 N. L. R. page 227) relations between Government and subject as well as subject and subject had to be governed by that law.

In Frazer vs. the Queen's Advocate reported in 1863-1868 Ramanathan Reports “the nature of the tenure by which civil servants in Ceylon hold their offices and the right of the Crown to dismiss at pleasure and the right to sue the Queen's Advocate

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for breach of contract” were gone into. It was there pointed out that Royal instructions had been given that any person appointed to exercise any office or employment under the Crown should hold that office or employment during pleasure only. It is interesting to note that at this time in England it had not yet been decided that it was implicit that civil employment under the Crown was terminable at His Majesty’s pleasure.

Be that as it may in *Frazer vs. The Attorney General* the matter of interest to the present case was the decision that “Her Majesty’s subjects in this Island who had or might have any money due to them from the local Government for wages for salary, for work or materials, in short for anything due on an obligation arising out of contract were permitted to retain the old right given by the Roman Dutch Law to sue the Advocate of the Fiscal now styled the Queen’s Advocate for the recovery of this money”. It was accordingly held that *Frazer* could sue in respect of the salary due to him for any period during which he actually served and also in respect of the further period for which he still holding the appointment *de jure* was ready and willing to serve but was prevented by the wrongful act of his employer.

In *Young vs. Tranchell* reported also in 1863–1868 *Ramanathan Reports* at page 160 *Carey C.J., Temple J and Stewart J* said-

“It is further certain that the salary of a public officer when his service has been properly performed and when the time for payment has arrived is due to him as a debt and that if it were not paid he might maintain an action for it against the Queen’s Advocate as representing the Government”.

From that time there has been no case reported in Ceylon in which the proposition that a person in the civil employment of the Government of Ceylon serves on an enforceable contract of service terminable by the Crown at will has been challenged and in the recent case of *Silva vs. The Attorney General* (60 N. L. R. page 145) Chief Justice *Basnayake* cited with approval the dictum of *Starke J.*, in *Lucy’s case* which I have set out earlier and stated-

“In this country tenure of office during the pleasure of the Crown was until 1946 an implied term of the contract

of service. Since then the condition that a public officer held office during Her Majesty's pleasure is a matter of written law"

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10 Although an argument ab silentio is never a strong one it is I think of some significance that the written law which gave effect to what had, according to English case law, been an implied term in the contract of service did not think it necessary to give effect also in the written law to what Pilcher J. in Lucas vs. Lucas thought was an implied term in such contracts viz: that they had no legal right to remuneration which can be enforced in a civil Court of Justice. It should be noted also that the tendency in England to consider that service under the Crown is not contractual at all is one that has developed at a point of time after Ceylon gained independence.

I think I have said sufficient to show why in my opinion Kodeeswaran is employed on an enforceable contract of service terminable at Her Majesty's pleasure. Sir Ivor Jennings has pointed out that the manner in which the pleasure is exercised in Ceylon is determined by the Constitution.

20 On the evidence before me it is apparent that in regard to a term in the contract of service there has arisen between the master and servant a dispute which is "real and tangible" The master, who does not deny that the plaintiff has earned his increment in terms of the original contract i.e. by discharging his duties with efficiency, diligence and fidelity, says that he is entitled to stop that increment for the reason that the servant has not passed proficiency tests in Sinhala, the passing of which were required for the first time in terms of a Treasury Circular No. 560 of 4.12.61 on pain of the increment being stopped if that examination  
30 was not passed. The Plaintiff says that the master cannot stop his increment in terms of the Circular, in that the circular in question is unreasonable and/or illegal and should be ignored in regard to the payment of the increment. It is manifest, that is to plaintiff's advantage, to ascertain with precision whether the Crown is entitled to stop his increment in this fashion before plaintiff takes for example, the step of retiring or resigning from the Government Clerical Service. It appears to

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me that plaintiff is therefore, within his rights in seeking from the Court a declaration that he is entitled to his increment.

The relevant portion of his prayer reads as follows:

“Wherefore the plaintiff prays for a declaration:

- (1) That the Treasury circular No. 560 of 4th December 1961 is unreasonable and/or illegal and therefore invalid and not binding on the plaintiff.
- (2) That in determining whether the plaintiff should be granted his annual increment the said circular should be disregarded.
- (3) That the plaintiff is entitled to the payment of the increment of Rs. 10/- per month as from 1. 4. 1962” 10

It appears clear that the draughtsman cannot be congratulated, for (1) and (2) on the material set out in the plaint can only be findings of Court on the evidence placed before it which would entitle the Court to give the declaration asked for at (3) and it is on that footing that I propose to approach the matter.

The Deputy Solicitor General relying on the case of Howard vs. Pickford Tool Company Ltd., reported at page 417 of 1951 I. K. B. D. submits that the plaintiff cannot remain in service under his contract and seek this declaration. The plaintiff in that case alleged that the acts and conduct of the defendant showed the defendant did not intend to abide by the agreement between them. The plaintiff who continued to perform his part of the contract wanted a declaration from the Court that defendant's acts and conduct amount to a repudiation. Evershed M. R. pointed out that it was for the plaintiff to make up his mind whether the acts and conduct had the effect he complained of and take action accordingly, and that the Court would not give a declaration where the question was only academic and would be a declaration which would not conclude the matter, but would almost certainly entail another action. 20 30

Evershed M.R. made it clear that his remarks were confined to the facts of that case. There appears to me to be a world of difference in a party to a contract while continuing the contract asking the Court to declare that certain acts constituted a repudiation and a party to a contract asking the court for a

declaration on a term in a contract with reference to which there is a concrete dispute between the parties.

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The Deputy Solicitor General also submits that in seeking this declaration the plaintiff is virtually asking for specific performance of the contract. There appears to be some confusion in this submission for while it is not possible to have specific performance of a contract of service, in the sense that a Court would not compel a Master to keep a servant or a servant to serve a particular master, to ask for pay due to a servant on a contract of service is surely not to ask for specific performance of the contract. In such a case the servant is asking only for a money decree and I can see no objection in such a case to the servant only asking the Court for a declaration that the money is due to him without asking that the particular sum should be ordered to be paid.

Zamier in his work "The Declaratory Judgment" points out that doubts as to rights and obligations of parties to a contract may be removed by declaration. He points to the Declaratory Judgment being used to declare that a defendant is bound to act in a certain way or that the defendant is not entitled to act in a certain way. He says that contracts of service, as much as other contracts, may be subject to declarations e.g. that an employer is liable to pay an employee a pension.

In Section 5 of the Civil Procedure Code the term "Cause of action" includes the denial of a right, and Section 217 enables a party to seek a declaration of a right without seeking substantive relief or remedy. I am not aware of any authority for the proposition of the Deputy Solicitor General that Section 217 only refers to rights of a public nature and not to a right in terms of a contract.

"It is perfectly true" said Gratiaen J. in Attorney General vs. Sabaratnam 57 N.L.R. 483 "that the jurisdiction conferred on our Courts by the Civil Procedure Code to grant declaratory decrees is not quite as wide as that enjoyed in England and South Africa..... nevertheless there are very many instances in which the Courts have properly assumed jurisdiction to make binding declarations which would serve some tangible purpose concerning the rights and

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liabilities of litigants in respect of “concrete and genuine disputes” as opposed to “controversies of a purely academic nature”... the Crown enjoys no special immunity from declaratory decrees in cases where they would be appropriate in actions between private litigants. “The King is the fountain and head of Justice and equity and it shall not be presumed that he will be defective in either—it would derogate from the King’s honour to imagine that what is equity against a common person would not be equity against King” Pawlett Vs. The Attorney General. It is important to realise that any decree against the Crown for the payment of money to a private individual is itself declaratory in effect though not in form. The Crown is immune from all ordinary modes of enforcing judgment, but in the ultimate result the obligations arising under the decree are invariably honoured” 10

It appears to me, then, that the plaintiff has brought his action in proper form and I therefore now proceed to examine his claim for a declaration that he is entitled to his increment.

The plaintiff has been informed by the head of the department he works in, namely Mr. Nissanka Wijeratne, Government Agent Kegalle, that the reasons why he was not paid his increment was because he had not passed proficiency tests in Sinhala prescribed by Treasury Circular No. 560 of 4. 12. 61 (P9). 20

The need for him to take tests showing his proficiency in Sinhala to that standard was due to the fact that the Government had decided—according to P9—that old entrant officers who did not elect to exercise the option given them to retire would be required to pass the test prescribed in P9.

And the need for officers to have that degree of proficiency was due to the fact that the Government desired to be able to implement the Official Language Act—that is, to conduct its business in Sinhala.

The case for the plaintiff is that the Government in taking these steps to implement the Official Language Act was taking them to implement the Official Language Act, was taking them to implement an Act which was bad in law in that it was an Act that offended 30



section 29 sub-section 2 of the Constitution and that therefore he could not be punished by the deprivation of his increment if he decided to ignore the requirement that he should show he had the requisite proficiency in Sinhala by passing the test prescribed in P9.

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The relevant portion of section 29 of the Constitution reads  
“(2) No such law shall.....

(b) Make persons of any community or religion liable to disabilities or restrictions to which persons of other communities or religions are not made liable or

10 (c) confer on persons of any community or religion any privilege or advantage which is not conferred on persons of other communities and religions.

(3) Any such law made in contravention of sub-section 2 of this section shall to the extent of such contravention be void’.

20 It is useful to know from Sir Ivor Jennings that this sub-section of section 29 is a verbatim reproduction of the Ministers draft except for a proviso with which we are not concerned in the present case. It is also useful to know that the limitation on the legislative power of the Ceylon Parliament was approved of by the Soulbury Commission in para 242 (III). This limitation was obviously put because “the near approach of the complete transference of power and authority from neutral British hands to the people of this country is causing in the minds of the Tamil people, in common with other minorities, much misgiving and fear”. During the time “power and authority” were in British hands the administration not unnaturally was in the main carried in English, which was also the language of legislation and judicial proceedings.

30 The Deputy Solicitor General submits that it is the legitimate exercise of the function of a State which is independent to decide what its official language should be and that it is perfectly fair in making the selection to choose the language spoken by the overall majority of persons in the country. The answer to that submission appears to me is that if that decision involves the passing of an

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Act then whether the Act becomes good in law depends on whether it does not offend the provisions of section 29 subject to which safeguards independence was given and received.

There is no definition of community in the Constitution which as Sir Ivor Jennings says "must therefore be understood in the light of the general understanding of that phrase. In 1946 in popular language it would seem to include not only the so called racial communities Sinhalese, Ceylon Tamils, Moors, Malays, Indians, Burghers and Europeans but also the various castes".

The Deputy Solicitor General has submitted that a community is not bound together by its literacy or illiteracy but by its race or religion. In saying so he appeared to be adopting the language used by Lord Oaksey in the case of Kodaken Pillai vs. Mudannayake (54 N. L. R. at page 439). In the instant case we are not really concerned with what binds together a community. That there are communities is not contested. What we are concerned with for the purpose of this case is whether or not Sinhalese is the language of the Sinhalese community and whether or not it is the language of the Tamil or the European community. To that question there is but one answer. It is the language of the Sinhalese community only. In every community no doubt there would be certain persons who can speak another language. It may be that there are a few persons in each community who cannot speak the language of the community but that in my opinion is no ground for saying that there is no language of a community in Ceylon.

I am satisfied that the language of the Sinhalese community was Sinhala; the language of the Tamils, Moors, Malays and Indians was Tamil and the language of the Burghers and Europeans was English. Now if the members of each community were able to speak, read and write the language of each of the other communities then it is obvious that the selection of the language of one community as the official language, that is the language in which the Government conducts its business - could not cause any handicap to the members of the communities whose language was not chosen however much they resented the fact that their own language was not given pride of place. But every community in Ceylon is not literate in the language of the other communities and short of having three official languages, it is almost a case of resipisc

loquitur that the selection of the language of one community as the official language must cause at least inconvenience if not disability to the communities who are not literate in that particular language.

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The Deputy Solicitor General who submits that section 29 was never intended to curb the choice of an official language seeks to illustrate the point by asking for a consideration of what would happen if the Official Language Act read "English" where it now reads "Sinhala". Would not the communities whose language was Sinhala and Tamil not be able to make the same complaints against it that are now made by Tamils and the other minorities against the Sinhala only Act? The answer appears to be that such an act since it did no more than recognize what already obtained at the time the Act was passed, could not be said to impose disabilities or confer advantages which did not already exist and with knowledge of which the Ministers drafted what is now section 29 of the Constitution. In short even if it was with the intention of serving the largest number of people and not with the sinister motive of handicapping others "who in the battle that goes on through life ask but a field that is fair a chance to compete with all in the strife with the courage to strive and to dare", which is the allegation made by Counsel for Kodeeswaran, the legislation must pass the test prescribed by section 29 if it is to be good in law. In other words it is not possible to put right an injustice which existed at the time the Constitution was accepted by a measure that would cause injustice to someone else. It is necessary to note that on the 7th of July 1956 Sinhala became the only official language subject to the proviso that where the Minister considered it impracticable to use any official purpose immediately the Minister could permit the language or languages hitherto used for that purpose to be used until the necessary change was effected as early as possible before the expiry of 31.12.60. So that whether or not "Sinhala only being the official language caused disability or gave advantage must be considered as at the date the Act became law, and the fact that at the Minister's mercy people who did not know the language were given an opportunity of learning it is no ground for saying that because they were given the opportunity by the Ministers for learning the language

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the Act which was otherwise bad became good in law. It appears to me that considered in this light the submission of the Deputy Solicitor General that if the Sinhalese community gained any advantage it is because those of them who did not know to read and write Sinhala - the Deputy Solicitor General did not go so far as to say there were members of the Sinhalese community who could not speak Sinhala - seized the chance given of becoming literate in it before the time limit imposed even on the Minister's mercy by the Act expired, and that if the Tamil community did not seize that chance of learning not only to read and write but also to speak Sinhala in that same length of time but deliberately decided to sulk they had only themselves to blame for the disabilities they found themselves in. 10

The test imposed by section 29 is whether there is a disability and not whether the persons concerned had a way, if they chose, in time to get over it.

No more eloquent testimony that the members of the Sinhalese community did not start equal but with an advantage over other communities is in my opinion found than in the circular in regard to the time within which the proficiency tests in Sinhala must be passed; it was decided that Sinhalese officers are given six months less time in which to pass than the non Sinhalese officers! Why are non Sinhalese officers given a longer time to get through the tests except in recognition of the fact that as a community they cannot become proficient in the language as quickly as officers of the Sinhalese community? and if that is the true measure of difference between the Sinhalese and non Sinhalese officers in regard to passing the simplest test it is also in my opinion a significant pointer to the big advantage officers of the Sinhalese community, literate and learned in the Sinhala language in the ordinary course of things long before the Official Language Act came into force, would hold once the Act was passed, over non-Sinhalese officers who had seen no need to be learned or literate in any language but their own before the passing of this Act, when it comes to the obtaining of posts or promotions for which the greater the knowledge of Sinhalese the more the qualification of the man who has it to receive the appointment. 20 30

In 1946 according to the Census Report page 190 there were 2,442,418, that is approximately 60 per cent, Sinhalese persons who could read and write Sinhala. There was in that census no record made of how many persons other than Sinhalese were literate in Sinhala but from it we know that there were 815,436 Tamils who could read and write Tamil. The 1953 census shows that out of a total population above the age of three in Ceylon numbering 7,280,987 there was only 719,194 persons who could speak Sinhalese and Tamil. How many of them were Sinhalese and how many of them were Tamil we do not know and of those who were Tamil how many could read and write Sinhalese is also not on record.

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The Deputy Solicitor General submits that making Sinhala the only official language cannot be said to be to the disability of any particular community or to the advantage of any particular community and there is no disadvantage caused by it to a Tamil who does not know Sinhala that is greater than the disadvantage caused to a Sinhalese who does not know Sinhala and no advantage is given by it to a Sinhalese who knows Sinhala that is not given to a Tamil who knows Sinhala and if, says he, some citizens of the country are inconvenienced as a result of the Official language Act that inconvenience is not due to community but to illiteracy. He appears to me in that submission to totally ignore the fact that Sinhala is the language of the Sinhala community with the consequence that practically 100 per cent of that community talk the language and as I already pointed out the census shows that there was as far back as 1946, 2,442,418 Sinhalese or 60 per cent of that community literate in it which would give them as a community an overwhelming superiority when Sinhala became the official language for we have the uncontradicted evidence of Mr. Thondaman that the cases of Indian Tamils able to read and write Sinhala are so few that they may be regarded as exceptional! We have the uncontradicted evidence of Mr. Seyad Mohamed that in the Muslim communities in Batticaloa no one knows Sinhala, and we have the evidence of Mr. Sivasittamparam of the difficulties the Tamil people in the north have when a communication comes to them in Sinhala and recourse has to be had to the Sinhalese baker to understand what it is all about for no one else there is able to read or write Sinhala. Mr. Nesiah whose evidence is uncontradicted gives evidence that the handicap of having

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to use a language other than the one which is ones mother tongue is one that is never overcome. I think Mr. Nesiah is correct for by mother tongue he means the language one learns at the knee of ones mother which of course as the Deputy Solicitor General points out need not necessarily be the language of one's community. Where one is not a linguist the difficulties of trying to learn a language after one has grown to man's state in order to compete with men who have known the language all their lives is manifest.

“If discrimination is practised against a minority it is usually by means of administrative actions which are more difficult to detect and expose than are legislative measures” says the Soulbury Report. In the instant case it is a legislative measure—the Official Language Act—that Counsel for the plaintiff complains is discriminatory legislation. At the time it was passed one has to presume those voting for it were aware of the numbers literate in Sinhala among the Sinhalese and among the non-Sinhalese communities. They must be presumed to know that those literate in Sinhala were going to have a tremendous advantage in at least the matter of appointments and promotions in the public service over those who were not. They had to know that overnight the hitherto efficient non-Sinhala officer would lose his value while even the otherwise inefficient Sinhalese officer would have his utility value doubled. They had to know that Sinhala is the language of the Sinhalese community which had an overall majority in numbers over all other communities. It is hard to resist the correctness of the submission that under the cloak that it was a legitimate function for a Parliament to decide in what language the official business of a Government should be carried on and that in making that decision the language spoken by the largest number of people should be the choice, a legislative act has been passed which gave advantage to one community which the others did not have for the purpose of an act must be found in its natural operation and effect.

The Deputy Solicitor General submitted that the Tamil community suffered no disability by the introduction of Sinhala as the official language that it did not already suffer when English was the official language. That submission would be true if one ignored the fact that for over a hundred years the language of

administration had in the main been English and the fact that the Tamils are largely concentrated in the North and Eastern provinces where Sinhalese are to be found in extremely small numbers and that too for the purpose of trade, such as bakers. The consequence of years of administration in English has resulted in a number of Tamils learning English so that as Sir Kanthiah Vaithiyanathan says even the illiterate Tamils who get a communication in English do not have the same difficulty that they now have when the communication is in Sinhala for while there were plenty who could

10 translate to them what is written in English there is practically nobody who can translate to them what is written in Sinhala in which hardly anyone in the North is literate. If, for example, English and Sinhala had been declared official languages it would be correct to say that Tamils did not suffer any disabilities they did not already suffer at the time Ceylon obtained Independence with section 29 as the safeguard that any legislation should not give any particular community any advantage over the others or impose a disability which was not a disability on persons of all communities. No doubt with the passage of time and the facilities

20 for education any community could learn to speak, read and write Sinhala even as the Burgher community of Ceylon, for example, in the course of hundred years became an English speaking community who could speak, read and write English as well as any English people. But until that is achieved, those who are literate in Sinhala have an initial advantage over everyone else, and as a community I have shown from the census figures that it was the Sinhalese community that at the time of the legislation in question had a hundred per cent speaking knowledge and at least 60 to 70 per cent ability to read and write it which gave them

30 *as a community* an overwhelming advantage over everyone else.

In regard to the time limit imposed by the Act it is as I have already pointed out a time limit imposed on the Minister's discretion not to insist on the use of Sinhala during that space of time and that in the space of time so given that men and women who start with not even a speaking knowledge of the language could not achieve a standard of speaking, reading and writing that would enable them to hold any post of even minor importance, I do not think it necessary to have a Nesiya to speak to as being something which

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cannot be done for, the gift of tongues it is well known is given to exceedingly few and it is not the gifted few but the average man in the community that we are concerned with. The fact that there had to be an extension of the time limit for the implementation of the Act speaks eloquently of the Government's recognition of the endurance of the handicap.

Now on the face of the Act in question it may be said it gives no advantage to any community which it did not give to another for as the Deputy Solicitor General points out there is no prohibition on any community at all using Sinhala but as was pointed in *Kodakan Pillai vs. Mudannayake* "there may be circumstances in which legislation though framed so as not to offend directly against a constitutional limitation of the power of the legislature may indirectly achieve the same result, and that in such circumstances the legislation would be *ultra vires*". It appears to me that that observation clearly applies in the present case. While on the face of it legislation making Sinhala the official language seems innocuous enough on the ground that it is only the exercise of a legitimate function of Parliament to decide in which language official work of the Government should be conducted, the circumstances that obtain in Ceylon cause the act to have the result that one community obtains an advantage that the others do not have. It is no good saying it is open to every community to speak and write Sinhala when the factual position is *at the time of the passing of the Act* that, as a community, it is only the Sinhalese community that is in a position to do so.

A number of American and Canadian cases have been cited to me during the argument but as was pointed out by Lord Oaksey in *Kodakan Pillai vs. Mudannayake* the question for decision in all these cases was what is the pith and substance as it has been called or what is the true character of the legislation. Before I part with this aspect of the case I desire to examine whether the Tamil Language Provision Act passed at a point of time later than the Official Language Act can make any difference to the conclusion I have arrived at. It does not appear to me to do so for it does do no more than at the Minister's discretion permit the use of Tamil in certain areas for certain purposes. That discretion has yet to be exercised! The conclusion I come to then is that the Official Language Act is bad in law.



The Deputy Solicitor General has submitted that in sending out circular P9 the Secretary to the Treasury was doing no more than he was entitled to do viz., to change a condition of the service of the public servant concerned and that quite irrespective of the Official Language Act it was open to the Government to want its officers to become proficient in Sinhala. He points out that there has been in none of the circulars a requirement that the officers concerned must work in Sinhala.

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10 The Secretary to the Treasury who alone can tell us with precision what he was trying to do when he issued the circulars which are productions in this case, has not given evidence and in the absence of his testimony the purpose of the circulars must be ascertained from the circulars themselves and a perusal of them leaves me no doubt that they were issued for one reason only, that is to convey to those to whom they were addressed viz. the Permanent Secretaries and old entrant officers the decisions of the Cabinet with reference to various matters that arose in connection with the implementation of the Official Language Act.

20 The only order contained in the circular is "Please bring the contents of this circular to the notice of all old entrant officers in your Ministry" Assuming that the Secretary to the Treasury had the right to alter conditions of service in that conditions of service was one of the subjects allocated by the Prime Minister to the Minister of Finance whose Permanent Secretary was also the Secretary to the Treasury and assuming that it was by circular that alterations in conditions of service were brought to the notice of those concerned I find it impossible to agree that by this circular P9 officers were being noticed of a change in conditions of service.

30 The requiring of officers concerned to take up examinations showing proficiency in Sinhala so as to enable the implementation of the official Language Act would no doubt entail a change in the conditions of service but I am unable to agree that informing an officer of a decision by the Cabinet is the same thing as telling him "you are therefore hereby informed that in view of this decision of the Cabinet your conditions of service are altered as follows": A convenient way of informing officers of changes in

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conditions of service is no doubt by the issue of a circular but the circular must show that it was issued for that purpose by the relevant authority.

I have considerable doubt as to whether it was possible for the Secretary to the Treasury to require an officer already appointed by the Public Service Commission in whom by section 60 of the Constitution the appointment, transfers and dismissal and disciplinary control of public officers was vested to ask an officer to observe altered conditions of service without at least the Public Service Commission concurring in the order that was made which for example vide P5 was the procedure adopted when the scheme of recruitment of new entrants to the public service in view of the need to implement the Official Language Act was circularised. Once an appointment is made any order requiring such an officer to comply with any altered conditions of service is in my view the function of the Public Service Commission even though the preparation of the alterations to the scheme is part of the work allocated to the Secretary to the Treasury. It is interesting to note in this connection that the Minister's draft provided that any appointments carrying an initial salary of Rs. 3600/- a year should be made on the recommendations of the Public Service Commission leaving everything else to the Minister concerned but on the recommendation of the Soulbury Commission (Para 379 of their Report) the promotion, transfer, dismissal and disciplinary control of public servants also was vested in the Public Service Commission as Jennings points out at page 110. The result is that Ministers have no control over the Public Service in Ceylon. It follows the Secretary to the Treasury who is in the position of an agent to the Minister cannot have the power to alter the terms of an appointment made by the Public Service Commission which alone has that power.

In regard to the circular itself it is at least doubtful on what footing the stopping of the increment would be. On the face of it it appears that the decision of the Government was that an officer who failed to show proficiency should be punished for not taking up the examination or for failing it, in which case the

provisions relating to the disallowance of increments by way of punishment appearing in the Public Service Commission rules would have to be observed and that is a pointer that the authority should have been from the Public Service Commission and not from the Secretary to the Treasury. Again if it was not by way of punishment then it is that to the serving with efficiency, diligence and fidelity as the requisite of earning an increment there was added the need to pass proficiency examinations in Sinhala prescribed to enable the Official Language Act to be implemented and

10 this again would entail an order from the Public Service Commission for stopping of increments is in the exercise of disciplinary control. The measure would involve also an amendment not only of the Manual of Procedure but also P1 the Minute of the Clerical Service and yet I find no instructions at all in this circular from the Deputy Secretary to the Treasury to whom the General control of the service had been delegated vide P1. It will be seen that P9 at no point states that it would be the function of the Head of a Department to stop the increment in the given circumstances and it appears in regard to all these circulars almost as if the Secretary

20 to the Treasury considered that, once he brought to the notice of the Permanent Secretaries and Heads of Departments what the Cabinet had decided, that it was best to let them to work out as best as they could how the decisions of Government had to be given effect to. Time was, when a Head of a Department was left in no doubt as to the part he had to play. I find, for example in the District Court circular No. G 44/1926 issued on 1. 10. 26 which is addressed to the District Judge as head of the department. The relevant portion reads:—

30 “I am directed to state the Government has decided that temporary daily paid clerks should in future be paid at the rate of Rs. 1/70 for each working day.

- (2) You are accordingly authorized to pay any such clerks employed in your department at the above rate with effect from 1. 10. 26”

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I do not think it possible for anyone who reads the Official Language Act together with the circulars to come to any conclusion other than that the only reason officers were not already asked to work in Sinhala was because the Government was aware they were unable to work in Sinhala and the submission that this circular was issued only because the Crown was exercising a right that it had in terms of the contract to alter conditions of service when it issued this circular quite irrespective of the Official Language Act and the need for its implementation is one that I am not prepared to accept in the absence of the Secretary to the Treasury telling me that that was the reason for which he issued this circular. 10

In terms of the contract of service the Crown was entitled to change a condition of service but that does not mean that the Crown could under that guise substitute a fresh contract for the one in existence without the consent of the officers concerned. To work in English was the essence of the contract, which Kodeeswaran recruited in that medium, entered into. Until the passing of the Official Language Act there was no necessity for him to have any knowledge of Sinhala. To ask him to work in Sinhala would be to alter not a condition in his contract but the contract itself. All this points to the correctness of the submission that the action taken by the Secretary to the Treasury in sending out circular P9 was not in pursuit of the power given him to alter conditions of service but to inform the Permanent Secretaries and Heads of Departments and through them the officers in their departments of what the decision of the Cabinet was with reference to implementation of the Official Language Act. 20

In these circumstances I come to the conclusion that the action of the Government Agent of Kegalle, Mr. Nissanka Wijeratne, in not paying the increment which Kodeeswaran had earned by performing his duties with efficiency, diligence and fidelity relying on what is set out in circular P9 is an error. 30

I answer the issues as follows:-

1. Yes.
2. Yes.
3. Yes. in the sense that by it was sought to implement what was bad in law.
4. Yes.
5. No.
6. (a) No.  
(b) No.
- 10 7. Yes.
8. Yes.

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I desire to place on record before I conclude this judgment my thanks for the great assistance given me in coming to my conclusions by Counsel on both sides.

I give judgment for the plaintiff declaring him entitled to the increment that fell due to him on 1. 4. 62. He will also be entitled to his costs.

Sgd. O. L. de Kretser,  
*Acting District Judge.*  
24. 4. 64

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No. 9

**Decree of the District Court**

**DECREE**

CLASS: IV

NO. 1026/Z

IN THE DISTRICT COURT OF COLOMBO

Chelliah Kodeeswaran of No. 321, Main Street, Kegalle.  
.....*Plaintiff.*

*against.*

The Honourable The Attorney General of Ceylon,  
Colombo.....*Defendant.* 10

This action coming on for final disposal before O. L. de Kretser Esqr., Acting District Judge, Colombo on the 24th day of April 1964 in the presence of Proctor on the part of the Plaintiff and of Proctor on the part of the Defendant.

It is ordered and decreed that the Plaintiff is entitled to the increment that fell due to him on 1st of April 1962.

It is further ordered that the Defendant do pay the costs of this action to Plaintiff.

Sgd. S. R. Wijayatilake,  
*Acting District Judge.* 20  
20. 7. 64

24th April, 1964.

Petition of Appeal to the Supreme Court

No. 10  
Petition of  
Appeal to the  
Supreme Court  
4. 5. 64.

IN THE SUPREME COURT OF THE ISLAND OF CEYLON.

Chelliah Kodeeswaran of 321, Main Street, Kegalle.  
.....*Plaintiff.*

*Vs.*

DISTRICT The Honourable the Attorney General of Ceylon,  
COURT Colombo ..... *Defendant.*

10 CASE The Attorney General of Ceylon.....  
NO: 1026/Z ... .. *Defendant-Appellant.*

*vs.*

Chelliah Kodeeswaran of 321, Main Street, Kegalle, presently of the Kachcheri, Colombo.....*Plaintiff-Respondent*

TO:

THE HONOURABLE THE CHIEF JUSTICE AND THE OTHER JUDGES OF THE SUPREME COURT OF THE ISLAND OF CEYLON.

On this 4th day of May, 1964.

20 The Petition of Appeal of the Attorney-General the Defendant-Appellant abovenamed appearing by ABDUL HAMEED MOHAMED SULAIMAN and his Assistants SOLOMON CHRISTOFFELOBEYSEKERA DE LIVERA, LEO SRILAL PERERA, ABAYA TISSA DIMBULANE and JOHN VERNANTIUS TILLEKERATNE his Proctors, states as follows:

1. The Plaintiff-Respondent abovenamed, an Officer of the General Clerical Service of the Government of Ceylon instituted the above action against the Defendant-Appellant as representing the Crown stating inter alia that-

- (a) that in accordance with the terms of his employment under the Government he had earned and was entitled to the payment of an increment of Rs. 10/- per month with effect from 1st April, 1962;
- (b) that the Government Agent, Kegalle, acting for and on behalf of the Government of Ceylon informed him that the said annual increment which fell due on 1. 4. 62 had been suspended as he had not passed any of the proficiency tests prescribed in paragraph 2(a) and (b) of Treasury Circular No. 560 of 4th December, 1961, and did not pay the said increment to him: 10
- (c) that the said Treasury Circular is invalid and not binding on him as the requirements contained therein are-
- (i) unreasonable;
- (ii) illegal, in that they are made in the implementation of the Official Language Act No. 33 of 1956, the provisions of which are null and void in as much as in contravention of Article 29 of the Ceylon Constitution Order in Council they impose on the members of the Tamil Speaking Community disabilities which the members of the Sinhala Speaking Community are not made liable to and/or confer on the latter an advantage which is not conferred on the former: 20
- and prayed for a declaration-
- (i) that the Treasury Circular No. 560 of 4th December, 1961 is unreasonable and/or illegal and therefore invalid and not binding on the plaintiff;
- (ii) that in determining whether the plaintiff should be granted his annual increments the said Circular should be disregarded; 30
- (iii) that the plaintiff is entitled to the payment of the increment of Rs. 10/- per month as from 1. 4. 62.

2. The Defendant-Appellant filed answer admitting that the annual increment which fell due to be paid to the plaintiff on 1. 4. 1962



had been suspended but denying that the plaintiff was entitled as of right to the payment of the said increment and stating—

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- 10
- (a) that the said Circular letter No. 560 is not invalid and that it was binding on the plaintiff;
  - (b) that the requirements of the said Circular letter are not unreasonable or illegal;
  - (c) that the said Circular letter was not issued by the Acting Secretary to the Treasury under any power, authority, duty or function vested in or imposed upon him by or under the Official Language Act No. 33 of 1956 but in his capacity as Permanent Secretary to the Ministry in charge of the administration and conditions of service in the Public Service;
  - (d) that in any event the provisions of the Official Language Act No. 33 of 1956 are not null and void and do not impose on the members of the Tamil Speaking Community disabilities to which the Sinhala Speaking Community are not liable and/or confer on the latter an advantage which is not conferred on the former;

20 The Defendant-Appellant also denied that a cause of action had arisen to the plaintiff for a declaration as described in the plaint, and prayed that the plaintiff's action be dismissed with costs.

3. The case went to trial on the following issues:-

- 30
- (1) Is the plaintiff entitled in terms of his employment under the Government of Ceylon to an increment of Rs. 10/- a month which fell due on 1st April, 1962?
  - (2) Was the said increment withheld by the Crown or its agents in terms of Treasury Circular No. 560 of 4th December, 1961?
  - (3) If so, is the said Treasury Circular invalid?
  - (4) [Subsequently renumbered (7) ] If anyone or more of these issues are answered in favour of the plaintiff is the plaintiff entitled to the declaration asked for in the plaint?

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- (5) [Subsequently renumbered (8)] Does the plaint disclose a cause of action against the Crown?

4. Towards the close of the case of the plaintiff, immediately before the evidence of the last witness was taken, plaintiff's Counsel was, notwithstanding objection by the Appellant, permitted to introduce fresh issues by order of Court dated 3rd December, 1963. The new issues adopted by court were as follows:—

- (4) Was it a term of the plaintiff's contract of service under the Government that he should work in English?
- (5) Are the terms and conditions sought to be imposed by Circular No. 560 part of the terms and conditions of the plaintiff's Contract or Service? 10
- (6) If not is the defendant entitled to impose the said conditions—
- (a) Unilaterally?
- (b) By a Treasury Circular?

The original issues (4) and (5) were renumbered (7) and (8) respectively.

5. The Learned District Judge, after hearing evidence and the submissions of Counsel answered the said issues as follows:— 20

- (1) Yes.
- (2) Yes.
- (3) Yes, in the sense that by it was sought to implement what was bad in law.
- (4) Yes.
- (5) No.
- (6) (a) No.  
(b) No.
- (7) [Original issue (4)] : Yes.
- (8) [Original issue (5)] : Yes. 30

and gave judgment on 24th April, 1964 for the plaintiff declaring him entitled to the increment that fell due to him on 1.4.62 and to his costs

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6. Being aggrieved by the said judgment and decree the Defendant-Appellant begs to appeal to Your Lordship's Court on the following among other grounds that may be urged by Counsel at the hearing of this appeal:-

- (a) that the said judgment is contrary to law and against the weight of evidence adduced at the trial:
- 10 (b) that the learned District Judge was wrong in holding that there is a contract of service between the plaintiff and the Crown. Even if there could be a contract of service between the Crown and its servants it is respectfully submitted that the learned District Judge was wrong in holding that "P16 the Letter of Appointment P17, the Agreement, P1 the Minute read together with the evidence of the plaintiff and Mr. Balasingham" establishes a Contract of Service between the plaintiff and the Crown:
- 20 (c) that the learned District Judge was wrong in holding that the declaration prayed for in paragraph (a) (iii) of the prayer to the plaint was a declaration of a right;
- (d) that the learned District Judge was wrong in holding that an action will lie at the instance of a public officer for his salary;
- (e) that even on the assumption that there is a Contract of Service the learned District Judge-
  - (i) erred in holding that "to work in English was the essence of such contract".
  - 30 (ii) erred in holding that the plaintiff had been required by Circular No. 560 or by the Official Language Act to do his work in Sinhala,
  - (iii) erred in holding that the requirement in Circular No. 560 for a public officer to pass a test in Sinhala before he could get his increment was tantamount to

the substitution of a new contract for the old one. It is respectfully submitted that if a new contract was substituted the plaintiff has accepted the term of that contract by his conduct in continuing to serve in the public service and draw his pay and allowances, and he is not entitled to seek the intervention of Court to rescind the new contract and revive the old,

- (iv) erred in holding that the plaintiff had, in accordance with the terms of such contract established his rights to an increment from 1.4.1962. 10
- (v) erred in holding that the plaintiff was not in substance suing for specific performance by the employer of a contract of service. The Appellant respectfully submits that the plaintiff is not entitled to maintain such an action,
- (vi) erred in holding that the plaintiff is entitled to a declaration of Court regarding the interpretation of a term in such contract while the contract still subsists without seeking any substantial relief under the terms of such contract, 20
- (vii) erred in holding that the plaintiff was entitled to a declaration that he has a right to his increment for the present and for the future:
- (f) that the learned District Judge erred in holding that the plaintiff could maintain an action for a declaration in the circumstances set out in his plaint, more particularly while the plaintiff continues to serve as a public officer and to draw the pay given by the Crown;
- (g) that the learned District Judge erred in holding that the Crown was not entitled to vary the conditions of service unilaterally or by Treasury Circular; 30
- (h) that the learned District Judge erred in holding that if the Official Language Act is void the Treasury Circular is "void" or "invalid";

- (i) that the learned District Judge was wrong in holding that the plaintiff was asking only for a money decree. It is submitted that the plaintiff is not suing for arrears of salary or for arrears of increment for any period he has already served under the Crown:
- 10 (j) that the learned District Judge has misdirected himself on the law when he held that the alteration of the terms and conditions of service of public officers fell within the province of the Public Service Commission and that “Ministers have no control over the Public Service in Ceylon”:
- (k) that while disciplinary control of public officers is vested in the Public Service Commission it is submitted that the administrative control involving the terms and conditions of service of such officers is vested in the Minister of Finance:
- 20 (l) that the learned District Judge has erred in holding that Circular No. 560 was issued not by virtue of the administrative powers vested in the Government under the Constitution but by virtue of powers alleged to be vested in it under the Official Language Act;
- (m) that it is irrelevant and unnecessary for the purpose of the decision of this case to consider the validity of the Official Language Act, and that the learned District Judge has misdirected himself by allowing himself to be influenced by his finding that the Official Language Act is “bad in law”;
- (n) that in any event the learned District Judge was wrong in holding that the Official Language Act was “bad in law”:
- 30 (o) that the learned District Judge has in giving judgment against the Appellant taken into consideration several matters which are outside the pleadings and issues raised at the trial and which did not form the basis of the plaintiff's case.

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WHEREFORE THE DEFENDANT-APPELLANT PRAYS  
THAT YOUR LORDSHIP'S COURT BE PLEASED

- (a) to set aside the said judgment and decree of the District Court;
- (b) to order that the plaintiff's action be dismissed with costs as prayed for in the answer; and
- (c) to make such further and other orders as to Your Lordships' Court shall seem meet.

Sgd. A. H. M. Sulaiman, 10  
*Proctor for Defendant-Appellant.*

Settled by:  
H. Dheregoda.  
Senior Crown Counsel.

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## Judgment of the Supreme Court

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## THE ATTORNEY GENERAL VS. CHELLIAH KODEESWARAN

Present: H. N. G. Fernando, C. J. and G. P. A. Silva, J.

Counsel: Walter Jayawardena, Q. C., Acting Attorney General with H. Deheragoda, Senior Crown Counsel and H. L. de Silva, Crown Counsel for the...  
.....  
.....*Defendant-Appellant.*

10 C. Ranganathan, Q. C., with S. Sharvananda, S. C. Crossette Tambiah, D. S. Wijewardena, N. Kasirajah, K. Devarajah and L. A. T. Williams for the  
.....*Plaintiff-Respondent.*

Argued on: 4th, 7th, 9th, 10th, and 11th October 1966, 23rd, 24th, 25th, 26th and 27th June and 8th, 9th, 10th and 11th July, 1967.

Decided on: 30th August, 1967.

H. N. G. Fernando, C. J.

20 The plaintiff was appointed an Officer of the General Clerical Class of the General Clerical Service on 1st November, 1952, and on 1st October 1959 he was promoted to Grade II of the Executive Clerical Class of the General Clerical Service on a salary scale of Rs. 1620 to Rs. 3780 per annum with annual increments of Rs. 120/-. An increment of Rs. 10/- per month fell due to the plaintiff on 1st April, 1962 but on 28th April 1962 he was informed by a letter P2 from the Government Agent, Kegalle (at that time the Head of the Department in which the plaintiff was serving) that the increment had been suspended under the provisions of a Treasury Circular No. 560 of 4th December, 30 1961. The plaintiff sought in this action a declaration that the Circular is unreasonable and/or illegal and not binding on the

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plaintiff, and that the plaintiff is entitled to payment of the increment which fell due on 1st April 1962. This appeal is from the judgment of the learned District Judge granting such a declaration.

At the time when the plaintiff was promoted to the Executive Clerical Class, the Minutes applicable in relation to recruitment, conditions of service, and salary scales were those published in the Gazette of October 1, 1955. Paragraph 5 of the relevant Minute provided that appointments to the Executive Clerical Class will be made from among members of the General Clerical Class (to which the plaintiff belonged until 1959) on the results of a competitive examination. The regulations and syllabus for the examination were set out in Appendix D to the Minute which prescribed three subjects of examination, i.e. (1) Accounts (2) Regulations, Procedure and office system, and (3) Sinhala or Tamil. The plaintiff, who is Tamil by race, chose Tamil as his language subject for the examination. 10

Paragraph 7 of the Minute provided that officers in Grade II of the Executive Clerical Class must pass an examination in National Languages prescribed in Appendix C before they proceed beyond the Efficiency Bar at the stage of Rs. 3180/-. Appendix C required clerks of Sinhala, Tamil or Moor parentage to pass in one language. Thus under Appendix C the plaintiff could have chosen Tamil as his language subject for this examination as well. 20

I must note here that the Minute clearly states that the salary scales, cadre, and conditions of service are liable to alteration from time to time.

On 4th December, 1961 a new Treasury Circular No. 560 provided that Officers of the category to which the plaintiff belonged must pass a proficiency test in Sinhala. According to this Circular a Tamil officer (as the plaintiff is) is required to pass a test in Sinhala at 3rd standard level within one year from 1st January, 1961, a test at 5th standard level within two years, and at Junior School Certificate standard within three years. 30



The Circular provided for the suspension of an increment falling due after February 17th, 1962 in a case of an officer failing the test. The plaintiff did not present himself for the requisite examination, and the suspension of his increment which fell due on April 1, 1962 was ordered in pursuance of the Circular on the ground that he had not passed the first of the language tests prescribed in the Circular.

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One of the grounds on which the plaintiff's action was resisted by the Attorney-General is that a public servant in Ceylon  
10 has no right to sue the Crown for the recovery of wages claimed to be due for service under the Crown. This defence, which was rejected by the learned trial judge, raises questions of great importance and difficulty, and the Court is much indebted to Counsel for the full and able arguments presented at the hearing of this appeal.

The first question to be decided is whether the relationship between the Crown and its servants in Ceylon is regulated by the Roman Dutch Law, or else by the English Law as altered or modified in its application in this country. The contention that  
20 the Roman Dutch Law applies is supported by two early decisions of this Court which are reported in Ramanathan's Reports 1863-68.

The earlier of the two decisions (*Jansz V Tranchell Ram.* p.160) was in a case in which the question arose whether the salary of a public servant could be seized in execution of a decree against him. The Court there stated that it is certain, and that the Queen's Advocate admitted, that the salary of a public officer, when his service has been properly performed, is due to him as a debt. The Court proceeded to consider the Roman Dutch Law regarding the liability to seizure of the salary of a public servant,  
30 and held that the salary was seizable, but only if other assets of the debtor were not available to satisfy the decree, and if a Court in its discretion regarded the seizure as not being contrary to the public interest in the circumstances of a particular case. The order ultimately made was that the salary of the public servant concerned was not, in the circumstances liable to seizure.

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Thus the Roman Dutch Law was held applicable to the question whether the salary is seizable. But it is not clear from the Judgment on what basis the Court thought it certain that the salary is a debt due to a public servant. There is no statement that this is a principle of Roman Dutch Law or else of English Law. Nevertheless, it is a fair implication that the Crown did not in this case contend that no action lies for the recovery of a public servant's salary.

The later decision, <sup>in</sup> *Fraser's case* (Ram. p. 316) was in a suit against the Queen's Advocate, for the recovery of the balance salary due to the plaintiff as Postmaster of Galle and as a packet agent, on the ground that he had been wrongfully dismissed from those offices. The first of these offices was held under the Ceylon Government, and the second under the Imperial (British) Government. The action was dismissed by the Supreme Court on the ground that the plaintiff held his offices during pleasure, and that he had no right of action at all, so far as the (Ceylon) Postmastership was concerned, as to anything that happened after the date of his dismissal, because it had been shown that he had in fact been paid his salary upto that date.

Nevertheless, in considering the plaintiff's claim for his salary as the holder of an office under the Imperial Government, the Court drew a distinction between the respective rights of such an officer and of one employed under the Ceylon Government. The Court was of opinion that whereas an action would not lie at all in the former case, an action for earned salary would lie against the Queen's Advocate in the latter case. The entire relevant passage in the Judgment has to be cited here :-

"We humbly consider that Her Majesty's predecessors and Her Majesty have been graciously pleased to lay aside, as to this island, part of the prerogative of the Crown as to immunity from being sued. By proclamation of the 23rd September 1799, it was amongst other things published and declared that the administration of "justice and police in the settlements and territories in the Island of Ceylon with their dependencies, shall be henceforth and during Her Majesty's pleasure exercised by all court of jurisdiction, civil and criminal, Magistrates and Ministerial officers, according to the laws and institutions that subsisted under the ancient

Government of the United Provinces, subject to such deviations and alterations by any of the respective powers and authorities herein before mentioned, and to such other deviations and alterations as shall by these present or by any future proclamation and in pursuance of the authorities confided to us, deem it proper and beneficial for the purposes of justice, to ordain and publish, or which shall or may hereafter be by lawful authority ordained and published."

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10 "Afterwards, the Ordinance No. 5 of 1835, (which was allowed and confirmed by Her Majesty) repealed parts of the said proclamation, but expressly reserved and retained so much of it as doth publish and declare that "the administration of justice and police within the settlements then under the British dominion and known by the designation of the maritime provinces should be exercised by all the courts of judicature, civil and criminal, according to the laws and institutions that subsisted under the ancient Government of the united provinces."

20 "The Ordinance of 1835, iteself expressly re-enacts this, and it uses the following words, "which laws and institutions it is hereby declared are and shall henceforth continue to be binding and administered through the said maritime provinces and their dependencies, subject nevertheless to such deviations and <sup>altera</sup>~~altera~~ tions as have been or shall hereafter by lawful authority ordained."

30 "We humbly consider that by these declarations of the royal will Her Majesty's subjects in this island, who had or might have any money due to them from the local Government for wages, for salary, for work, for materials, in short for anything due on an obligation arising out of contract, were permitted to retain the old right given by Roman Dutch Law to sue the advocate of the fiscal, now styled the Queen's Advocate, for recovery of their money. And if the present plaintiff could have shown that any money was due to him under his colonial appointment as Galle Post-master, he might have maintained this action. He might have done so in respect of salary due for any period during which he actually served, and also in respect of the further period for which he, still holding the appointment de jure, was ready and willing to serve, but was prevented from serving by the wrongful act of his employer."

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This statement of the law of Ceylon cannot be regarded as being merely *obiter*. It is clear that, if any salary earned by the plaintiff prior to the date of his dismissal had not in fact been paid to the plaintiff, the Court would have given judgment for the plaintiff for the unpaid amount; this on the basis that a right to sue for salary had existed under the Roman Dutch Law.

The general question of the right of the subject in Ceylon to sue upon a contract with the Crown was considered in the case of *Jayawardena v. Queen's Advocate* (IV, S. C. Circular, p. 77). The Court there stated that "the right to sue the Crown in the person of the Queen's Advocate for claims arising ex contractu has not only been upheld by the Courts of the Colony, but has been recognised by the Legislature in several enactments". Reference was thereafter made to Ordinances No 9 of 1852, No. 7 of 1856 and No. 11 of 1868, all of which contemplated the possibility of suits upon contracts by private parties against the Queen's Advocate. There followed the following observations:-

"Under these circumstances, we think it too late, at this day, to contest in this Court the validity of this practice. We are bound by the previous decisions of this Court, particularly by the considered decision of the Collective Court in the case of *Fraser v. the Queen's Advocate*. To hold at this date for the first time, that a practice, which has so long been sanctioned by the Courts and acquiesced in by the Government is bad in law, and cannot be sustained, would necessarily create widespread confusion and inconvenience, practically amounting in many cases to injustice. If the precedents and decisions upon which this Court acts are wrong, it must be left to the Court of appeal to set us right.

It was urged by the Queen's Advocate that the practice of suing the Crown is an attempt to impugn the royal prerogative, by virtue whereof no suit or action can be brought against the sovereign: and such, no doubt, it would be if the prerogative has not been waived in this respect. This Court in *Fraser's case* humbly expressed an opinion that it had been so waived, and we humbly venture to share that opinion. It should be observed that the question is, after all, one purely

of procedure. If a judgment be obtained against the Queen's Advocate, no execution can issue either against the Queen's Advocate personally or against the Crown. See Marshall, P.75; Thomson's Institutes, p.12. A judgment in an action or suit ex contractu against the Queen's Advocate gives little, if anything, more than a successful petition of right would do in England. It is merely, as it appears to us, a mode of procedure by which a subject is able to prefer and substantiate his claim against the Crown. Compliance with the claim when substantiated must still be, as we take it, a matter of grace. Petitions of right are now in England prosecuted as ordinary actions; and as a matter of convenience, we see no objection to parties preferring their claims against the Crown here in the form of a suit against the Queen's Advocate".

The learned Acting Attorney - General in his argument before us suggested that *Fraser's case* while rightly deciding that the Crown could be sued upon a contract in Ceylon, was wrong in basing the decision on the Roman Dutch Law. He further argued on the authority in the concluding passage cited above from *Jayawardena's case* that the waiver of immunity from suit by the Crown in Ceylon consisted merely of the acknowledgment of a right to sue the Crown in lieu of the right under English Law to proceed by way of a petition of right. His argument, in my opinion, gains support from the observation in *Jayawardena's case* that a suit ex contractu against the Queen's Advocate appears to be merely a mode of procedure by which the subject is able to prefer his claim, and is thus the equivalent of the English Petition of Right.

Shortly after *Jayawardena's case* there was decided in the Privy Council the case of *Siman Appu v. The Queen's Advocate* (9 App. Cases p. 571), in which it was held that a suit upon a contract can be instituted in Ceylon against the Queen's Advocate as representing the Crown. Their Lordships considered the question whether the Roman Dutch Law entitled a subject to sue a Officer of Government on behalf of the Government. The note of the argument of Counsel in that appeal shows that *Fraser's case* (as reported in Creasy's Reports p. 10) and *Jayawardena's case* (incorrectly cited as *Fernandez v. The Queen's Advocate*) were considered in the discussion of this matter. But Their Lordships concluded their consideration of the question with these observations:

“There certainly seems no more antecedent reason why the Counts of Holland should be exempted from suit through their officers than existed for the exemption of the King of Scotland. And though it is very likely that whilst great potentates, like the Dukes of Burgundy and the Kings of Spain, were Counts of Holland, it would not be very safe to sue them, yet when the United Provinces became independent, suitors might find themselves more favourably placed.”

“But whatever speculations may be made upon these points their Lordships cannot advise Her Majesty that such was the Roman-Dutch Law, unless it is shewn to them that it was so. And neither the researches of Counsel nor their own have enabled their Lordships to attain any certainty on the subject.” 10

It appears to me that the true ratio decidendi of *Siman Appu's case* can be deduced from the following passages of the Judgment:-

“That a very extensive practice of suing the Crown has sprung up is certain. In his judgment in the case of *Fernando*, which was decided immediately before the present case came under review, Cayley, C. J., says, ‘The practice has been recognised in many hundreds of decisions, and long acquiesced in by the Crown, and, so far as I am aware, has not till now been called in question’. It was recognised by the judgment of the Court in *Fraser's case*, decided in the year 1868.” 20

“In Mr. Justice Thompson's Institutes of the Laws of Ceylon after referring to the English petition of right, he says that, the Ceylon Government having no Chancellor, a suit against the Government has been permitted, and the Queen's Advocate is the public officer who is sued on behalf of the Crown. He then points out that, except in land cases, this action gives little more than is given by the petition of right, for no execution can issue against the Crown or against the Queen's Advocate.” 30

“It is then certain that prior to 1868 there was such an established practice of suing the Crown that the legislature took it for granted and regulated it. The same state of

things must have existed prior to 1856, for the Ordinance of 1868 is only a re-enactment of an earlier ordinance of 1856. Earlier Ordinances still have been referred to, but their Lordships do not discuss them, because though they speak of suits in which the Crown is defendant, and though it is the opinion of the Supreme Court, and is probable, that they refer to claims *ex contractu*, it is not clear that they do so."

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10 "Whatever may be the exact origin of the practice of suing the Crown, it was doubtless established to avoid such glaring injustice as would result from the entire inability of the subject to establish his claims and finding that the legislature recognised and made provision for such suits at least twenty-eight years ago, their Lordships hold that they are now incorporated into the law of the land."

The reference in the first of the passages just cited to the judgment in *Fraser's case* shows that their Lordships relied on that case, not for the proposition that the proclamation of 1799 (now chapter 12 of the Revised Edition 1956) had waived the Crown's immunity from suits upon contract, but instead only for the fact that 20 this court had often recognised the practice of suing the Crown. The judgment of Cayley, C. J. in *Jayawardena's case* (incorrectly referred to as that of Fernando) was relied on in the same way.

There is accordingly the highest judicial authority, in the decision of *Siman Appu's case* in 1884, to the effect that (as stated in the head note): "There is no authority for saying that the Roman Dutch-Law of Holland, which was in force in Ceylon at the date of its conquest by the British, and has not since been abrogated, empowered the subject to sue the Government. Instead the right to sue exists because there had been a very extensive practice of suing the 30 Crown which was recognised by the Legislature and such suits are now incorporated into the law of the land."

The learned Acting Attorney-General has suggested certain other considerations which tend to support the view that the Proclamation of 1799 was not intended to make the Roman-Dutch Law applicable to the relationship between the Crown and public servants in Ceylon. The first is that the Proclamation, in referring to the Civil and Criminal

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Jurisdiction of the Courts, was not intended to cover matters which are the subject of Constitutional or public law and that the relationship between the Crown and its servants is such a matter. I do not find it necessary to decide the point thus raised, and am content to observe that an argument which invokes the Proclamation must logically include the proposition that even the right of dismissal at pleasure existed in Ceylon by virtue of Roman Dutch Law, and not as a principle of English Law. But I see much substance in the other suggestion that, in regard to so fundamental a matter as the relationship between the Crown and its servants (many of whom must at the time have been British by birth and race), the Proclamation could not have intended that such a matter would be regulated otherwise than by the law applicable in Britain and in other territories of the British Crown. The explanation given in Thomson's Institutes that a suit against the Government had been permitted of necessity and in lieu of the English petition of right, because the Ceylon Government had no Chancellor, is one which is in all the circumstances most acceptable. 10

When this Court in *Fraser's case* assumed that the wages of a public servant in Ceylon, when earned, are a debt due to him, the Court in so doing did not consider the question whether this principle was a matter of Roman Dutch Law or else of English law. But it is clear from the judgment that the Court did recognize that *the power to appoint public officers* in Ceylon was a power derived from, and exercised on behalf of, the Crown; the judgment in this connection refers to the powers of appointment granted to the Governor by his letter of appointment (presumably Letters Patent) and to Colonial Rules and Regulations (page 321 Ram. 1863 - 68). The grant of such powers by the British Sovereign must fairly be presumed to have been an exercise of the Royal Prerogative under the law of England, and not any authority of a sovereign under Roman Dutch law; if this were otherwise, the Court in *Fraser's case* could not have held that the power to dismiss a public officer at pleasure existed in Ceylon without first deciding that such a power existed in Roman Dutch Law. The efficacy or validity of appointments made by the executive in Ceylon was therefore referable to the law of England; and it follows in my opinion that the nature and legal effect of the relationship constituted by such appointments had also to be determined by reference to English law. 20 30



For these reasons I would hold, applying the judgment of their Lordships of 1884, that the right to sue the Crown in Ceylon upon a contract is not founded on the Roman Dutch Law. Accordingly, even if it be the case that the ancient laws of the United Provinces entitled a public officer to sue the Government upon a contract of employment under the Government, those laws did not, and do not now, apply in Ceylon. It follows that the question whether the plaintiff in the present case has a right to sue the Attorney-General must be determined under the English law as altered or modified  
 10 by the laws of Ceylon.

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The question whether under English law a Civil Servant has the right to sue for earned wages, whether by way of a petition of right or otherwise, has been referred to by Judges and text writers as one of much doubt and difficulty. But the case of *High Commissioner for India vs. Lall* (1948. A. I. R. Privy Council, Page 121) is at the least a definite pronouncement on the law of this question as applicable in British India. In that case Mr. Lall, who had been a member of the Indian Civil Service was dismissed from service by the appropriate authority, and he claimed in the action a declaration that  
 20 his removal was ultra vires, that he was still a member of the Indian Civil Service, and that as such he was entitled to all rights secured to him by the covenant rules and regulations issued from time to time by the appropriate authorities. After considering the provisions of s. 240 of the Government of India Act 1935, their Lordships held that there had been a breach of a provision of s. 240 which required that a Civil Servant shall not be dismissed unless he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him, and that the purported removal from office of Mr. Lall was void and  
 30 inoperative. They accordingly granted a declaration to that effect and to the effect that Mr. Lall remained a member of the Indian Civil Service at the date of the institution of his action.

Their Lordships thereafter considered a submission for Mr. Lall that he was entitled to recover in the action his arrears of pay from the date of the purported order of dismissal upto the date of his action. They said that "it is unnecessary to cite authority to establish that no action in tort can lie against the Crown and

therefore any right of action must either be based on contract or conferred by Statute". Reliance was then placed on a judgment of Lord Blackburn in the Scottish case of *Mulvenna v. The Admiralty* (1926 S. C. 842) in which the matter had been discussed as follows:—

"These authorities deal only with the power of the Crown to dismiss a public servant, but they appear to me to establish conclusively certain important points. The first is that the terms of service of a public servant are subject to certain qualifications dictated by public policy, no matter to what service the servant may belong, whether it be naval, 10  
 military or civil, and no matter what position he holds in the service, whether exalted or humble. It is enough that the servant is a public servant, and that public policy, no matter on what ground it is based, demands the qualification. The next is that these qualifications are to be implied in the engagement of a public servant, no matter whether they have been referred to in the engagement or not. If these conclusions are justified by the authorities to which I have referred, then it would seem to follow that the rule based on public policy which has been enforced against military 20  
 servants of the Crown, and which prevents such servants suing the Crown for their pay on the assumption that their only claim is on the bounty of the Crown and not for a contractual debt, must equally apply to every public servant (see (1920) 3 K. B. 663, 25 R. 112 and other cases there referred to). It also follows that this qualification must be read, as an implied condition, into every contract between the Crown and a public servant, with the effect that, in terms of their contract, they have no right to their remuneration which can be enforced in a Civil Court of Justice, and 30  
 that their only remedy under their contract lies in an appeal of an official or political kind."

*Mulvenna's case* itself concerned the question whether the salary of a civil employee of the Admiralty could be arrested in the hands of the Commissioners of the Admiralty at the instance of a person holding a decree against the employee for the payment of a sum of money. Although the Court, including Lord Blackburn, did

refer to earlier decisions in which there had arisen the particular question whether the salary of a civil servant is attachable, it seems clear that Lord Blackburn's own conclusion was based firmly on the primary proposition that a civil servant has no right to remuneration which can be enforced in a civil Court. After the passage I have already cited, there occur in the judgment the following observations:-

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10                    “It further appears to me that, if this conception of the effect of public policy on the contract itself had been developed earlier, it would have led to the same conclusions in the numerous cases to which the Lord Ordinary has referred as were reached on different and, in some cases, on somewhat unsatisfying grounds. It would also have avoided the necessity for several statutory provisions applicable to the pay of particular services which must now be regarded as merely declaratory of the common law”.

20                    Their Lordships in *Lall's case* referred to the provisions applicable to public servants in India prior to the Government of India Act 1935 and to the relevant provisions of the Government of India Act 1919. Section 96B of that Act had declared that a civil servant “holds office during His Majesty's pleasure,.....  
30                    ... but no person in that service may be dismissed by any authority subordinate to that by which he was appointed”. Under sub-section (2) of s. 96B the Secretary of State for India in Council had been empowered to make rules for regulating inter alia the conditions of service, pay and allowances, and discipline and conduct, of the Civil Services of India. One such rule had provided certain conditions precedent to the dismissal of a civil servant such as: that he must be afforded an adequate opportunity of defending himself, that charges should be framed and communicated to the person charged, that a written defence must be entertained if made, and that an enquiry must be held if the person charged so desires. These provisions were the subject of consideration in the Privy Council in 1938. In the case of *Rangachari* (1937 A.I.R. P.C. 27) Their Lordships held that the provision in s. 96 B (1) itself which prohibited the dismissal of an officer by

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any authority subordinate in rank to the authority that appointed him was peremptory, and that a dismissal purporting to be made in violation of that provision was void and inoperative. But In *Venkata Rao's Case* (idem p. 31) decided on the same day, their Lordships rejected the contention that a dismissal in breach of *the rules made under s.96B* could give rise to a right of action by the dismissed officer. Reference was made to an observation in *Gould's case* (1896 A. C. 575):—

“The argument for a limited and special kind of employment during pleasure, but with the added contractual terms that the rules are to be observed is too artificial and far-reaching.” 10

Their Lordships regarded “the terms of the section (96B (2) ) as containing a statutory and solemn assurance that the tenure of office though at pleasure will not be subject to capricious or arbitrary action but will be regulated by rule.....Their Lordships are unable as a matter of law to hold that redress is obtainable from the Courts by action. To give redress is the responsibility of the Executive Government.” Accepting these propositions, the Privy Council decided in *Lall's case* that a public officer had no right to claim arrears of pay under his covenant, or in other words that he had no contractual right enforceable by action. 20

I must note at this stage that at least until the coming into effect of the Ceylon State Council Order in Council 1931, and perhaps even until the coming into operation of the Ceylon Constitution Order in Council 1946, the position of public servants in Ceylon was regulated in a manner similar to that which had obtained in India under the Government of India Act 1919. Their Lordships in *Venkata Rao's case* referred to the fact that s.96B, in sub-section (5), reaffirmed the supreme authority of the Secretary of State over the Civil Service, and relied on this fact for the opinion that rules made under that section did not confer rights enforceable by action in the Courts. A similar supreme authority was formerly vested in the Secretary of State for the Colonies over the public services of Ceylon for much the greater period of British rule in Ceylon, the right to dismiss at pleasure was implied and recognised in the case of the public service of Ceylon, and the pay and conditions of service 30

were regulated by, or under delegated authority from, the Secretary of State. Such rules and regulations, as also the Pension Minute applicable to the public service, were not statutory enactments, nor, (unlike the Indian Rules after 1919) were they even made under empowering statutory provisions.

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10 It is clear to me for these reasons that prior to the operation of the Ceylon Constitution Order in Council 1946 the nature of the rights of a public servant in Ceylon was similar to that of a public servant of India, and that upon the reasoning in the Indian decisions cited above, a public servant in Ceylon had no right of redress by action in the Courts for a breach of rules and regulations prescribing the salaries and conditions of service of public officers. It would seem to follow therefore that the grounds of the decision in *Lall's case* in particular, holding that a public servant had no right to sue for his wages, were applicable also in the case of members of the public services of Ceylon.

20 Counsel for the plaintiff in the present appeal referred to several decisions of English and Australian Courts in support of his argument that the Scottish case of *Mulvenna* was wrongly decided, and that accordingly the decision of the Privy Council in *Lall's case* should not be followed. Certain of the English and Australian decisions, it was urged, did acknowledge the right of a public servant to sue for his earned wages. I must refer even briefly to some of these decisions.

30 In the case of *Carey v. The Commonwealth* (30 Comm. L.R. 132) the Court did hold that a public servant did have the right to sue for earned remuneration. But the only precedent relied upon by the Judge in *Carey's case* in support of this alleged right was the decision in *Williams v. Howarth* (1905) A. C. 551. The report of this latter case, however, shows that the plea was never taken in argument that the Crown could not be sued for wages. The plea if taken would undoubtedly have succeeded, for the suit was one for wages claimed by a member of the Armed Forces of Australia who had served with the British Imperial Forces in South Africa. The only question decided was whether payments made by the

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Imperial Government should be taken into account in determining whether the plaintiff had received the wages payable to him by the Australian Government. The case should not, I think with respect, have been regarded as authority for the proposition that a military or civil servant of the Crown had a right to sue for earned wages.

The case of *Lucy v. The Commonwealth* (33 Comm. L. R. 29) was much relied on by Counsel for the plaintiff in support of the alleged right to sue the Crown on a contract of employment. The plaintiff in that case had until March 1901 held office in the Postal Department of South Australia. At that stage the Department was taken over by the Commonwealth and the plaintiff was then transferred to the Commonwealth Public Service. In 1919 the plaintiff was notified that he would be retired from the Commonwealth Public Service upon attaining the age of 65 years, and in May 1919 he was actually so retired. The plaintiff claimed that under a South Australian Act of 1874 he had acquired a right to retain office until death or removal in terms of that Act and that he had been wrongfully retired at the age of 65 years. Section 60 of the Commonwealth Public Service Act provided that an officer transferred to that Service will retain all the existing and accruing rights which he had previously as a member of the South Australian Service, and it had been held in an earlier case that this section (despite inconsistent provision in section 74 of the Act) preserved to such an officer the right to remain in service after attaining the age of 65 years.

In these circumstances the plaintiff claimed (a) a declaration that he had been wrongfully removed from service on 11th March 1919 (b) a declaration that he was entitled to retain office until his death or until his office was determined in accordance with the South Australian Act of 1874 and (c) damages for wrongful removal or dismissal. A case stated for the opinion of the High Court, after setting out the relevant facts, submitted the question "whether the damages to which the plaintiff is entitled should be measured and ascertained by anyone or more of the following considerations", and thereafter invited the Court to determine whether or not certain specified matters should be taken into account in the assessment of damages.

Despite references in the judgments to the *contract* which the plaintiff had as a member of the Public Service, it seems to me that the question whether a public servant had a right to sue the Crown for his wages was not in fact disputed in this case, for, as I have just stated, the Court was only invited to lay down the measure of damages as for a dismissal from service which was admitted to be unlawful. Indeed the note of the argument of the Counsel for the plaintiff contains this passage:—"the dismissal of the plaintiff was a breach of his statutory right and not a breach of contract; whichever it is, if the plaintiff's remedy is damages, the measure is the same"

10 I must refer however to an observation in the judgment of Higgims J. that "this position would be beyond question in a case of ordinary contract between employer and employee; and in my opinion the relation between the Commonwealth and the officer is a relation of contract (c. f. *Williams v. Howarth*)". Higgims J. was the same judge who had decided the earlier case of *Carey*, and I have already stated my opinion that he had wrongly relied on the decision in *Williams v. Howarth*.

It seems to me that *Lucy's case* is not substantially different in principle from that of *Rangachari* decided by the Privy Council in 1937. In each case the plaintiff had a right of action because he had been dismissed in breach of statutory provision, and not because he was entitled to contractual rights.

20

The nature of service under the Crown in Canada was considered in the judgment of the Privy Council in the case of *Reilly v. the King* (1934, A. C. 176). The suppliant had in 1928 been appointed a member of the Federal Pension Appeal Board for a period of five years. In May 1930 the pension statutes were amended and in consequence the Pension Appeal Board was abolished and a new Tribunal established in its place. Mr. Reilly was not appointed to the new Tribunal, and in October 1930 he was requested to vacate the premises which he had occupied in pursuance of his office. The following observations of Lord Atkin are important for present purposes:-

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"Both Courts in Canada have decided that by reason of the statutory abolition of the office Mr. Reilly was not entitled to any remedy, but apparently on different grounds.

Maclean J. concluded that the relation between the holder of a public office and the Crown was not contractual. There never had been a contract: and the foundation of the petition failed. Orde J's judgment in the Supreme Court seems to admit that the relation might be at any rate partly contractual; but he holds that any such contract must be subject to the necessary term that the Crown could dismiss at pleasure. If so, there could have been no breach.

Their Lordships are not prepared to accede to this view of the contract, if contract there be. If the terms of the appointment definitely prescribe a term and expressly provide for a power to determine "for cause" it appears necessarily to follow that any implication of a power to dismiss at pleasure is excluded. This appears to follow from the reasoning of the Board in *Gould v. Stuart*. That was not the case of a public office, but in this connection the distinction between an office and other service is immaterial. The contrary view to that here expressed would defeat the security given to numerous servants of the Crown in judicial and quasi-judicial and other offices throughout the Empire, where one of the terms of their appointment has been expressed to be dismissal for cause. 10 20

In this particular case their Lordships do not find it necessary to express a final opinion on the theory accepted in the Exchequer Court that the relations between the Crown and the holder of a public office are in no degree constituted by contract. They content themselves with remarking that in some offices at least it is difficult to negative some contractual relations, whether it be as salary or terms of employment, on the one hand, and duty to serve faithfully and with reasonable care and skill on the other. And in this connection it will be important to bear in mind that a power to determine a contract at will is not inconsistent with the existence of a contract until so determined." 30

The dicta of Lord Atkin in *Reilly's case* received careful examination by the Supreme Court of South Africa in the case of *Sachs v. Donges* (1950 (2) S. A. L. R. 265) in which it was sought to equate the case of



the revocation of a passport to the Crown's right to terminate at pleasure the employment of a public officer. Referring to Lord Atkin's statement that "if the terms of the appointment definitely prescribe a term, and expressly provide for power to determine for 'cause' it appears necessarily to follow that any implication of a power to dismiss at pleasure is excluded", two Judges of the South African Court thought it clear that Lord Atkin only contemplated cases of appointments under a statutory power, where the statute itself by implication excluded the prerogative right of dismissal at pleasure. Van den Heever J. A. said in this connection:- "Once it is established that an act is the exercise of discretionary executive power not regulated by statute *cadit quaestio*,.....the subject's redress if any, is political not judicial" Centlivres J. expressed his disagreement with the construction placed on Lord Atkin's dictum in the case of *Robertson v. Minister of Pensions* (1948, 2 A. E. R. 767) where Lord Denning had stated that "in regard to contracts of service, the Crown is bound by its express promises as much as any subject." Let me with great respect state my own reasons for disagreeing with that construction.

In the passage cited above, Lord Atkin first referred to a judgment in which Orde J. in the Canadian Supreme Court, seemed "to admit that the relation might be at any rate partly contractual; but he holds that any such contract must be subject to the necessary term that the Crown could dismiss at pleasure" Lord Atkin then expressed inability to accede to this view of the contract, *if contract there be*. His subsequent statement, that, in certain cases, "any implication of a power to dismiss at pleasure is excluded", is explained by his reference to the cases of "numerous servants of the Crown in judicial and quasi-judicial and other offices throughout the Empire, where one of the terms of their appointment has been expressed to be dismissal for cause" This reference read together with the reference to *Gould v. Stuart* (1896) A. C. 575), indicate that Lord Atkin had in mind only cases in which the power to dismiss at pleasure becomes excluded by contrary provision in a statutory power of appointment. Had he intended to say that the power could be excluded *by contract*, he would surely not have failed to refer to *de Dohse v. Reg* (1897, 66 L. J. Q. B. 422) and to *Dunn v. Macdonald* (1897, 66 L. J. Q. B. 423), both cases in which the contrary opinion had been strongly expressed.

In *Gould v. Stuart* itself, Lord Hobhouse, in delivering the judgment of the Privy Council observed that “servants of the Crown hold their offices during pleasure; not by virtue of any special prerogative of the Crown, but because such are the terms of their engagement, as is well understood through<sup>out</sup> the public service” But the case itself concerned an office the tenure of which was regulated by the Civil Service Act of New South Wales, the provisions of which were inconsistent with the power to dismiss at pleasure. The power of dismissal being thus excluded by statute, it was not material to decide the precise base on which the power rested. Moreover, it is not easy to understand why an arbitrary power of dismissal is to be implied in a contract of employment except upon a supposition that such a power exists *aliunde*. And if such a power does exist, it is only the prerogative to which the power is fairly referable. With much respect therefore, I doubt whether the dictum of Lord Hobhouse can now be regarded as authority for the proposition that the terms of the engagement of servants of the Crown impose on the Crown contractual obligations, the breach of which may properly be the subject of dispute in Petitions of Right or (in Ceylon) in suits against the Attorney General.

10

20

I do not consider it useful to refer to other cases cited during the argument, many of which were concerned with alleged wrongful dismissals of servants of the Crown. It suffices for me that we have not been referred to any decision holding, despite objection directly taken on behalf of the Crown, that a Petition of Right or civil suit lies against the Crown to enforce the performance of the terms of the engagement of a servant of the Crown, not being terms laid down by statute. The Ceylon decision in *Fraser's case* is thus quite exceptional.

The decisions of the Privy Council in the appeals from India lay down clearly the principle that the provisions of the covenants and rules governing the public service are not enforceable by action. This principle must apply to all such provisions, including those which prescribe rates of pay and increments, and it denies to this plaintiff a right to sue for the increment alleged to be due to him under the Minutes.

30

There remains one possibility to which I must advert, namely whether the provisions of the Ceylon Constitution have affected the operation in Ceylon of the principle formerly applicable.

Section 57 of the Order in Council declares that (with some exceptions not here relevant) every person holding office under the Crown holds the office during Her Majesty's pleasure. Sections 58 and 60 establish a Public Services Commission, and vest in the Commission "the appointment, transfer, dismissal and disciplinary control of *public officers*", i. e. of persons holding a paid office... as a servant of the Crown in respect of the Government of Ceylon (vide s. 3. definition). Section 61 authorises the Commission to delegate any of its powers, subject to the right of appeal to the Commission itself.

10 Thus the powers of appointment and dismissal, which were those of the Sovereign in early English law, are now exercisable by the Commission. It is not disputed that the plaintiff in this case is a Public officer within the meaning of these provisions.

Neither in Part VII of the Order in Council, under the title "The Public Service", nor in any other provision of the Order, is there express statutory declaration vesting in any specified authority the power to prescribe the salaries and conditions of service of public officers. But Part V, which is entitled "The Executive", vests in Ministers the subjects and functions which may be assigned to them by the Prime Minister. The subject of "the public service"

20 has been so assigned to the Minister of Finance, and I have no difficulty in assuming that the Minutes and Circulars referred to in this case, which were issued by the Secretary to the Treasury or his Deputy, were in fact issued under the authority of the Minister of Finance. Under s. 51, the Secretary to the Treasury, who is also the Permanent Secretary to the Ministry of Finance, exercises control over the departments of Government in charge of his Minister and is thus the head of the Public Service, subject only to the special powers reserved by s. 60 to the Public Service

30 Commission. The Minister of Finance, or his Permanent Secretary, in the exercise of their powers of control and administration of the public service, have necessarily to adhere to decisions of Parliament, particularly those decisions which are incorporated in the Appropriation Acts which appropriate funds for various public purposes; they have also to adhere to decisions of the Cabinet, which under s. 46 of the Order in Council is charged with the general direction and control of the government of the Island. There has been no suggestion during the argument of this appeal that the act of the plaintiff's head of department in withholding the plaintiff's increment,

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in any way infringes or usurps powers which under the Constitution are vested in Parliament, the Cabinet, the Public Service Commission, or the Minister of Finance. The head of department acted under the provisions of a Circular issued by an authority fully competent to issue it.

I find nothing in the relevant provisions of the Constitution (which have just been examined) which can in any way be construed as altering or affecting, either expressly or by implication, the principle that the terms of a public officer's engagement to serve the Crown in Ceylon do not entitle him to institute a suit to recover earned wages or to enforce the terms of his engagement. The case of *Silva v. The Attorney General* (60 N. L. R. 145) is easily distinguishable, for we are not here concerned with anything resembling the dismissal from service of a public officer by an authority not legally competent to dismiss him. 10

Counsel for the plaintiff argued that, although the Crown or the Executive Government in Ceylon has a power freely to alter the terms and conditions of service prescribed in the relevant minutes in force at the time of the plaintiff's promotion to the Executive Clerical Class, that power was unlawfully exercised when the Treasury Circular No. 560 was issued in December 1961. The ground of this argument was that the circular was issued for the purpose of the implementation of the Official Language Act No. 33 of 1956. Referring to the terms of the Circular itself, and to those of a Cabinet memorandum containing directions as to the implementation of that Act, Counsel submitted that the Treasury Circular had to be issued under the compulsion of the Act; and, relying upon certain decisions in the United States, he further submitted that anything done under the compulsion of an invalid statute is itself invalid, despite the fact that what is done may be valid if done in the exercise of some ordinary contractual right or other power. 20 30

These submissions regarding the Treasury Circular depend on Counsel's other submission that the Official Language Act of 1956 was ultra vires on the ground that in enacting it Parliament transgressed the prohibitions against discrimination contained in section 29 of the Constitution. Indeed the learned District Judge who heard the instant case has held the Act to be void on that

ground. In considering whether this Court should now make any pronouncement as to the validity of the Act of 1956, I take note of the reluctance of the American and Indian Supreme Courts to make such pronouncements. The principle is thus expressed in Cooley, Constitutional Limitations (8th Ed. p. 332):-

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10 “It must be evident to anyone that the power to declare a Legislative Enactment void is one which the Judge, conscious of the fallibility of the human judgment, will shrink from exercising in any case where he can conscientiously and with due regard to duty and official oath decline the responsibility”.

In *Burton v. United States* (196 U. S. Reports at P 295) it was observed that “It is not the habit of the Court to decide questions of a constitutional nature unless absolutely necessary to a decision of a case”. Again in *Silver v. Louis Ville N. R. Co.* (213 U. S. Reports at p. 191) the Court stated that if a case could be decided on one of two grounds, one involving a constitutional question, and the other a question of statutory construction or general law, the Court will decide only the latter.

20 In the instant case, it is not even clear whether the question of the compulsion of a statute does arise. I have already reached the conclusion that under our Law a public servant has no right to sue for his wages. Accordingly the plaintiff is not entitled to a remedy in the Courts for any alleged default in the payment to him of the increment, even if the relevant minutes and regulations had not been altered or modified by the Treasury Circular No. 560.

30 The position of the Crown here is not that there was an alteration in the terms and conditions of service in consequence of which the plaintiff has become disentitled to the increment. The Crown’s position is that the plaintiff cannot sue for the payment of the increment, even if the minutes and regulations provide for such a payment. Since such in my opinion is the correct position in law, this Court should not now venture to rule upon the submissions as to the invalidity of the Language Act. As a note of caution I must say also that the ruling on that submission made by the learned District Judge in this case must not be regarded in any way as a binding decision.

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We did not call upon the learned Acting Attorney - General to submit his arguments on the question of the validity of the Language Act. Instead, at the close of the hearing of this appeal, I indicated my intention that if our findings on the other issues arising in this case necessitate consideration of that question, I would in exercise of my powers under Section 51 of the Courts Ordinance refer the question for decision of a Bench of five or more Judges. That course is not now necessary; but I should here express the firm opinion that a question of such extraordinary importance and great difficulty, if and when it properly arises for decision, must receive consideration by a Bench constituted under Section 51. 10

The judgment and decree of the District Court are set aside. I do not in the circumstances make any order as to the costs in the District Court, but the plaintiff must pay the costs of this appeal.

Sgd. H. N. G. Fernando,  
*Chief Justice.*

G. P. A. SILVA J.  
 I agree.

20

Sgd. G. P. A. SILVA  
*Puisne Justice.*

## Decree of the Supreme Court

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Decree of the  
Supreme Court-  
30. 8. 67

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

Chelliah Kodeeswaran of 321, Main Street, Kegalle.  
.....*Plaintiff.*

*Vs.*

10 The Honourable The Attorney-General of Ceylon.  
Colombo.....*Defendant,*

The Honourable The Attorney-General of Ceylon.  
Colombo *Defendant-Appellant.*

*against*

Chelliah Kodeeswaran of 321, Main Street, Kegalle.  
.....*Plaintiff-Respondent.*

Action No. 1026/Z.

## DISTRICT COURT OF COLOMBO

20 This cause coming on for hearing and determination on the  
4th, 7th, 9th, 10th, 11th, October, 1966, 23rd, 24th, 25th, 26th, 27th June,  
1967 and 8th to 11th July, 1967, 30th August 1967, upon an appeal  
preferred by the Defendant-Appellant before the Hon. Hugh Norman  
Gregory Fernando, Chief Justice and the Hon. Gardiye Punchedi-  
wage Amaraseela Silva, Puisne Justice of this Court, in the presence  
of Counsel for the Defendant-Appellant and the Plaintiff-Respondent.

It is considered and adjudged that the judgment and decree  
of the District Court be and the same are hereby set aside.

It is ordered and decreed that the Plaintiff-Respondent do  
pay to the Defendant-Appellant the taxed costs of this appeal.

30 (Vide copy of Judgment attached)

Witness the Hon. Hugh Norman Gregory Fernando, Chief  
Justice at Colombo the 10th day of September, in the year One  
thousand Nine hundred and Sixty seven and of Our Reign the  
Sixteenth.

Sgd. B. F. Perera  
*Deputy Registrar S.C.*

No. 13  
Application for  
Conditional  
Leave to  
Appeal to the  
Privy Council-  
22. 9. 67

No. 13  
Application for Conditional Leave to Appeal  
to the Privy Council

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of an application for Conditional Leave to appeal to Her Majesty the Queen in Council under the Appeals (Privy Council) Ordinance.

Supreme Court 408 F/1964

D. C. Colombo 1026/Z. Chelliah Kodeeswaran of 321, Main Street, Kegalle presently of the Department of Social Services, Colombo 3. *Plaintiff-Petitioner* 10

*Vs.*

The Attorney - General of Ceylon, Colombo *Defendant-Respondent.*

This 22nd day of September 1967

To His Lordship the Hon'ble the Chief Justice and the other Judges of the Supreme Court of Ceylon.

The Petition of the Plaintiff-Petitioner abovenamed appearing by Lucian Valentine Perera, his Proctor, states as follows:-

1. That feeling aggrieved with the judgment and decree of this Court pronounced on the 30th day of August 1967 in the above action; the plaintiff-petitioner is desirous of appealing therefrom to Her Majesty the Queen in Council. 20

2. The said judgment is a final judgment and the matter in dispute on the appeal amounts to or is of the value of Rupees Five Thousand or upwards and/or the appeal involves directly or indirectly some claim or question, to or respecting property amounting to or of the value of Rupees Five Thousand or upwards.

3. The questions involved in the appeal are such, which by reason of their great general or public importance or otherwise, ought to be submitted to Her Majesty the Queen in Council for decision. 30



4. The plaintiff-petitioner has by notice dated 4th September, 1967 given due notice, in terms of Rule 2 of the Schedule to the Appeals (Privy Council) Ordinance, to the Respondent of his intention to apply to this Court for leave to appeal to Her Majesty the Queen in Council, by having such notice sent by registered and ordinary post to the Respondent and also by having same delivered at the office of the Respondent.

No. 13  
Application for  
Conditional  
Leave to  
Appeal to the  
Privy Council-  
22. 9. 67  
—Continued

Wherefore the plaintiff-petitioner prays :-

- 10
- (a) that Your Lordships' Court be pleased to grant conditional leave to appeal to her Majesty the Queen in Council against the said judgment of this Court dated the 30th day of August, 1967
  - (b) for costs, and
  - (c) for such other and further relief as to this Court, shall seem meet.

Sgd. Lucian V. Perera.  
*Proctor for Plaintiff-Petitioner*

No. 14  
Minute of order  
Granting  
Conditional  
Leave to Appeal  
to the  
Privy Council-  
6. 11. 67

## No. 14

**Minute of Order granting Conditional Leave to Appeal  
to the Privy Council**

## IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of an application for Conditional  
S.C. Application Leave to Appeal to the Privy Council under the  
No. 352/67. Rules set out in the Schedule to the Appeals  
(Conditional (Privy Council) Ordinance.  
Leave)

S.C.No.408(Final) Chelliah Kodeeswaran of 321, Main Street, Kegalle 10  
of 1964. presently of the Department of Social Services.  
D.C. Colombo Colombo 3.....*Plaintiff-Petitioner.*  
No. 1026/Z.

*Vs.*

The Attorney-General of Ceylon, Colombo. ..  
.....*Defendant-Respondent.*

The application of Chelliah Kodeeswaran of 321, Main Street,  
Kegalle presently of the Department of Social Services, Colombo 3  
for Conditional Leave to Appeal to Her Majesty the Queen in  
Council from the Judgment and Decree of the Supreme Court of  
the Island of Ceylon pronounced on the 30th day of August, 1967 20  
in S. C. No. 408 (Final) of 1964-D. C. Colombo Case No. 1026/Z having  
been listed for hearing and determination before the Honourable  
Asoka Windra Homantha Abeyesundere, Q.C. Puisne Justice and the  
Honourable George Terrence Samarawickreme, Q. C., Puisne Justice,  
in the presence of C. Ranganathan Esquire, Q.C., with S. Sharvananda  
Esquire, Advocates for the Plaintiff-Petitioner and H. L. de Silva  
Esquire, Crown Counsel for the Defendant-Respondent, Order has  
been made by Their Lordships on the Sixth day of November, 1967  
allowing the aforementioned application for Conditional Leave to  
Appeal to Her Majesty the Queen in Council. 30

Sgd. N. Navaratnam  
*Registrar of the Supreme Court.*

**No. 15**  
**Application for Final Leave to Appeal**  
**to the Privy Council**

No. 15  
 Application for  
 Final Leave to  
 Appeal to the  
 Privy Council-  
 17. 11. 67

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of an application for Final Leave to Appeal to Her Majesty the Queen in Council under the Appeals (Privy Council) Ordinance.

No. 433/67.

S.C. 408 F/1964 Chelliah Kodeeswaran of 321, Main Street, Kegalle,  
 D.C. Colombo presently of the Department of Social Services,  
 10 No. 1026/Z. Colombo 3.....*Plaintiff-Petitioner.*

*Vs.*

The Attorney-General of Ceylon, Colombo. ... ..  
 ... ..*Defendant-Respondent.*

To:

The Hon'ble the Chief Justice and other Judges of the Supreme Court.

On this 17th day of November, 1967

The Petition of the Plaintiff-Petitioner abovenamed appearing by Lucian Valentine Perera his Proctor states as follows:-

20 1. The Plaintiff-Petitioner on the 6th day of November, 1967 obtained conditional leave from the Honourable The Supreme Court to appeal to Her Majesty in Council against the judgment of this Court pronounced on the 30th day of August, 1967.

2. The Plaintiff-Petitioner in compliance with the conditions on which such leave was granted:-

(a) has duly deposited with the Registrar of the Supreme Court a sum of Rs. 3000/- and hypothecated the same by Bond on the 13th of November, 1967.

30 (b) has further deposited in terms of Section 8(a) of the Appellate Procedure (Privy Council) Order with the

No. 15  
Application for  
Final Leave to  
Appeal to the  
Privy Council-  
17. 11. 67  
—Continued

Registrar of the Supreme Court on the 11th day of November 1967 a sum of Rs. 300/- in respect of the amounts and fees mentioned in Section 4 (2) (b) and (c) of the said Ordinance (Chap. 85).

3. The Plaintiff-Petitioner has by notice dated 14th November 1967 given due notice of this application for Final Leave to appeal to Her Majesty in Council to the Defendant-Respondent by having such notice sent by registered and ordinary post to the said Respondent and also having same delivered at the office of the said Respondent.

Wherefore the Plaintiff-Petitioner prays:-

10

- (a) that he be granted Final Leave to appeal to Her Majesty in Council against the said judgment of this Court dated the 30th day of August, 1967;
- (b) for costs, and
- (c) for such other and further relief as to Your Lordship's Court shall seem meet.

Sgd. Lucian V. Perera  
*Proctor of Plaintiff-Petitioner.*

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**No. 16**  
**Minute of Order granting Final Leave to Appeal**  
**to the Privy Council**

No. 16  
 Minute of  
 Order Granting  
 Final Leave to  
 Appeal to the  
 Privy Council—  
 21. 12 67

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

	In the matter of an application for Final Leave to Appeal to the Privy Council under the Rules set out in the Schedule to the Appeals (Privy Council) Ordinance.						
10	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%;">S.C.Application No.352/67 (Conditional Leave)</td> <td style="width: 75%;">Chelliah Kodeeswaran of 321, Main Street, Kegalle presently of the Department of Social Services, Colombo 3.....<i>Plaintiff-Petitioner.</i></td> </tr> <tr> <td style="text-align: center;">S.C.No.408 (Final) of 1964.</td> <td style="text-align: center;"><i>Vs.</i></td> </tr> <tr> <td>D. C. Colombo No. 1026/Z.</td> <td>The Attorney-General of Ceylon, Colombo.....<i>Defendant-Respondent.</i></td> </tr> </table>	S.C.Application No.352/67 (Conditional Leave)	Chelliah Kodeeswaran of 321, Main Street, Kegalle presently of the Department of Social Services, Colombo 3..... <i>Plaintiff-Petitioner.</i>	S.C.No.408 (Final) of 1964.	<i>Vs.</i>	D. C. Colombo No. 1026/Z.	The Attorney-General of Ceylon, Colombo..... <i>Defendant-Respondent.</i>
S.C.Application No.352/67 (Conditional Leave)	Chelliah Kodeeswaran of 321, Main Street, Kegalle presently of the Department of Social Services, Colombo 3..... <i>Plaintiff-Petitioner.</i>						
S.C.No.408 (Final) of 1964.	<i>Vs.</i>						
D. C. Colombo No. 1026/Z.	The Attorney-General of Ceylon, Colombo..... <i>Defendant-Respondent.</i>						
	S.C.Application No. 433/67. (Final Leave)						

20 The application of Chelliah Kodeeswaran of 321, Main Street, Kegalle presently of the Department of Social Services, Colombo 3 for Final Leave to Appeal to Her Majesty the Queen in Council from the Judgment and Decree of the Supreme Court of the Island of Ceylon pronounced on the 30th day of August, 1967 in S.C. No. 408 (Final) of 1964 D. C. Colombo Case No. 1026/Z having been listed for hearing and determination before the Honourable Albert Lionel Stanley Sirimane, Puisne Justice and the Honourable Veeravagu Siva Supramaniam, Puisne Justice, in the presence of C. Ranganathan, Esquire Q. C. with S. Sharvananda Esquire, Advocates for the Plaintiff-Petitioner and Mervyn Fernando Esquire, Crown Counsel

30 for the Defendant-Respondent, Order has been made by Their Lordships on the Twenty-first day of December, 1967 allowing the aforementioned application for Final Leave to Appeal to Her Majesty the Queen in Council.

Sgd. N. Navaratnam  
*Registrar of the Supreme Court.*



**PART - II**  
**EXHIBITS.**





**Report of the Commission on Constitutional Reform  
(Soulbury Commission) Section 249**

P19  
Report of the  
Commission on  
Constitutional  
Reform  
(Soulbury  
Commission)  
Section 249  
11. 7. 45.

COLONIAL OFFICE.

CEYLON

REPORT OF THE COMMISSION ON CONSTITUTIONAL REFORM

CHAPTER XIII

REPRESENTATION

249. In any country possessing representative institutions and  
 10 responsible Government, the problem of representation is of  
 fundamental importance, particularly when the electorate is not  
 homogeneous but, like the electorate of Ceylon is composed of a  
 number of communities, differing from, each other in race, religion,  
 tradition, culture, education, customs habits and language. It is  
 therefore not surprising that, since 1833, when representation was first  
 introduced into the Legislature of the Island, political relations between  
 the various communities - Sinhalese (Low Country and Kandyan)  
 Ceylon Tamils, Indian Tamils, Muslims (Moors and Malays) Burghers  
 and Europeans, have been permeated by pressure from one or other  
 20 or all of them for increased representation - for the purpose of  
 securing a larger number of seats in the Legislature not so much  
 for the people of the Island as a whole, as for one particular section  
 compared with another. Of these sections, the Sinhalese, constituting  
 about two-thirds of the population, were and are the most important;  
 and of the minorities, the Ceylon Tamils, predominant in the  
 Northern and Eastern Provinces rank next in voting strength and  
 influence.

**P 20 (a)**  
**Census of Ceylon 1946 - Volume I, Part II - Statistical Digest (Page 105)**  
**SECTION 4 RACE**  
**TABLE 26**

Population classified by Race and Sex, for Revenue Districts (inclusive of Municipal and Urban Council areas) March 19, 1946

Race	Revenue District											
	CEYLON 2	Colombo 3	Kalutara 4	Kandy 5	Matale 6	Nuwara Eliya 7	Galle 8	Matara 9	Hambantota 10	Jaffna 11	Mannar 12	
All Races	6,657,339	1,420,332	456,572	711,449	155,720	268,121	459,785	351,947	149,686	424,788	31,538	
T	3,532,218	779,800	234,630	376,990	83,194	140,592	227,055	175,841	79,862	212,194	18,787	
M	3,125,121	640,532	221,942	334,459	72,526	127,529	232,730	176,106	69,824	212,594	12,751	
F	2,902,509	1,125,302	391,580	72,070	14,610	19,362	432,396	331,173	143,699	3,215	963	
Low Country Sinhalese	1,514,607	586,992	199,757	41,498	8,350	11,493	212,302	164,971	76,315	2,108	769	
T	1,387,902	538,310	191,823	30,572	6,260	7,869	220,094	166,202	67,384	1,107	194	
M	1,717,998	26,103	4,535	339,149	91,466	81,908	2,082	1,071	833	1,331	223	
F	905,108	15,189	2,278	175,399	48,180	42,368	947	511	593	871	159	
Northyan Sinhalese	812,890	10,914	2,257	163,750	43,286	39,540	1,135	560	240	460	64	
Ceylon Tamils	733,731	58,654	3,804	29,903	4,883	5,277	3,119	2,343	787	409,070	16,076	
T	382,817	35,066	2,330	16,810	2,748	3,279	1,916	1,355	555	201,967	8,972	
M	350,914	23,588	1,474	13,093	2,135	1,998	1,203	988	232	207,103	7,104	
F	780,589	61,194	29,410	207,860	34,174	153,694	6,845	7,472	261	4,194	3,547	
Indian Tamils	430,264	47,428	16,205	108,858	17,930	78,803	4,067	4,111	193	3,013	2,618	
T	350,325	13,766	13,205	99,002	16,244	74,891	2,778	3,361	68	1,181	929	
M	373,559	60,185	24,736	48,328	8,263	3,864	13,679	8,964	2,382	5,159	9,504	
F	197,910	33,584	12,445	25,403	4,430	2,195	6,883	4,367	1,320	2,838	5,155	
Ceylon Moors	175,649	26,601	12,291	22,925	3,833	1,669	6,796	4,597	1,062	2,321	4,349	
T	35,624	17,782	392	4,620	1,034	1,233	160	50	10	461	906	
M	30,814	16,224	335	3,650	817	902	145	46	5	447	839	
F	4,810	1,558	57	970	217	331	15	4	5	14	67	

Race	REVENUE DISTRICT											
	CEYLON	Colombo	Kalutara	Kandy	Matale	Nuwara Eliya	Galle	Matarata	Hambantota	Jaffna	Mannar	
	2	3	4	5	6	7	8	9	10	11	12	
Burghers and Eurasians												
T	41,926	28,686	667	3,769	464	928	757	387	106	384	41	
M	20,978	14,062	331	1,866	228	437	354	184	59	208	25	
F	20,948	14,624	336	1,903	236	491	403	203	47	176	16	
Malays												
T	22,508	13,193	325	2,512	321	643	231	114	1,401	113	14	
M	11,868	6,937	183	1,296	169	347	119	57	700	68	10	
F	10,640	6,256	142	1,216	152	296	112	57	701	45	4	
Veddahs												
T	2,361	5	—	3	1	—	—	—	1	1	1	
M	1,258	4	—	1	1	—	—	—	1	1	1	
F	1,103	1	—	2	—	—	—	—	—	—	—	
Europeans												
T	5,418	2,843	98	778	88	510	113	30	4	45	12	
M	3,017	1,573	60	423	54	282	66	11	3	19	9	
F	2,401	1,270	38	355	34	228	47	19	1	26	3	
Others												
T	41,116	26,385	1,025	2,457	416	702	403	343	202	815	251	
M	33,577	22,741	706	1,786	287	486	256	228	118	654	230	
F	7,559	3,644	319	671	129	216	147	115	84	161	21	

**P20 (b)**  
**Census of Ceylon 1946 - Volume I Part II - Statistical Digest (Page 151)**

TABLE 35

The Population Five Years of Age and over classified according to Sex and Literacy in Mother Tongue for Revenue Districts (inclusive of Municipal and Urban Council Areas) March 19, 1946

Revenue District	Literacy in Mother Tongue									
	Total			Sinhalese			Tamil			F 10
	T 2	M 3	F 4	T 5	M 6	F 7	T 8	M 9		
<b>CEYLON</b>	3,325,188	2,153,858	1,171,330	2,442,418	1,528,881	913,537	815,436	579,287	236,149	
Colombo	902,413	550,365	352,048	740,187	428,796	311,391	115,692	89,704	25,988	
Kalutara	253,988	150,794	103,194	231,775	133,998	97,816	21,155	16,142	5,013	
Kandy	288,326	201,574	86,752	195,606	127,686	67,920	87,480	70,822	16,658	
Matale	67,161	47,686	19,475	50,039	34,630	15,409	16,500	12,668	3,832	
Nuwara Eliya	91,184	68,558	22,626	46,102	31,336	14,766	43,376	36,317	7,059	
Galle	239,613	140,135	99,478	228,860	132,664	96,196	9,779	6,910	2,869	
Matara	164,957	100,163	64,794	157,363	94,838	62,475	7,073	4,987	2,086	
Hambantota	55,694	40,778	14,916	53,708	39,372	14,336	1,767	1,253	514	
Jaffna	267,839	150,807	117,032	4,108	3,358	750	262,689	146,693	115,996	
Mannar	18,268	13,049	5,219	950	804	146	17,045	12,019	5,026	
Vavuniya	14,226	9,629	4,597	2,307	1,677	630	11,840	7,882	3,958	
Batticaloa	75,170	54,776	20,394	4,619	3,486	1,133	70,099	51,025	19,074	
Trincomalee	42,641	35,172	7,469	12,680	11,760	920	27,478	21,158	6,320	
Kurunegala	241,239	164,311	76,928	227,381	152,578	74,753	13,010	11,153	1,857	

Revenue District	Literate in Mother Tongue											
	Total					Sinhalese					Tamil	
	T 2	M 3	F 4	T 5	M 6	F 7	T 8	M 9	F 10			
Puttalam	21,689	16,215	5,474	12,102	8,962	3,140	9,322	7,067	2,255			
Chilaw	88,400	51,539	36,861	78,881	44,050	34,831	8,848	6,933	1,915			
Anuradhapura	64,087	51,025	13,062	53,741	42,507	11,234	9,792	8,143	1,649			
Badulla	114,742	88,825	25,917	72,723	53,385	19,338	40,204	34,258	5,946			
Ratnapura	135,182	97,345	37,837	114,348	80,097	34,251	19,766	16,463	3,303			
Kegalla	178,369	121,112	57,257	154,988	102,886	52,102	22,521	17,690	4,831			

**P21 (a)**  
**Census of Ceylon, 1953 - Volume III (Part I) - Page 17**

**SECTION 4 RACE**

**TABLE 1: Population Classified by Race, Conjugal Condition and Sex, for Revenue Districts (inclusive of Municipal and Urban Council areas) March 20, 1953 (Contd)**

Race, Conjugal Condition and Sex	1	Ceylon	2	Nuwara Eliya	REVENUE DISTRICT			Hambantota
					Galle	Matarala	10	
Ceylon Tamils	T. M. F.	884,703 462,111 422,592	2	7,067 4,029 3,038	3,036 18,894 1,142	2,489 1,488 1,001	10	
Unmarried	T. M. F.	487,595 272,277 215,318		4,180 2,524 1,656	1,774 1,147 627	1,499 920 579		
Married (Registered)	T. M. F.	203,807 102,208 101,599		1,634 914 720	712 462 250	613 377 236		
Married (Customary)	T. M. F.	128,977 68,544 60,433		1,004 495 509	460 240 220	312 156 156		
Widowed	T. M. F.	58,956 16,369 42,587		226 84 142	78 35 43	56 29 27		
Divorced	T. M. F.	4,447 2,033 2,414		23 12 11	10 9 1	4 2 2		
Unspecified	T. M. F.	921 680 241		— — —	2 1 1	5 4 1		

**P21 (b)**  
**Census of Ceylon, 1953 Volume III (Part I) - Page 23**

SECTION 4 - RACE

TABLE I - Population Classified by Race, Conjugal Condition and Sex, for Revenue Districts (inclusive of Municipal, and Urban Council Areas) March 20, 1953 (contd.)

Race, Conjugal Condition and Sex	Ceylon 2	Revenue District			
		Jaffna 11	Mannar 12	Vavuniya 13	Batticaloa 14
Indian Tamils	T 974,098 M 531,378 F 442,720	7,589 5,032 2,557	7,979 5,641 2,338	2,339 1,560 779	1,825 1,392 433
Unmarried	T 523,682 M 298,417 F 225,265	3,920 2,790 1,130	3,957 2,940 1,017	1,088 769 319	822 591 231
Married (Registered)	T 96,084 M 58,871 F 37,213	1,094 757 337	1,273 933 340	273 184 89	456 371 85
Married (Customary)	T 301,454 M 154,274 F 147,180	2,148 1,322 826	2,264 1,442 822	812 499 313	474 388 86
Widowed	T 49,398 M 17,974 F 31,424	388 134 254	406 259 147	141 86 55	62 37 25
Divorced	T 3,095 M 1,547 F 1,548	29 19 10	61 49 12	18 15 3	9 3 6
Unspecified	T 385 M 295 F 90	10 10 —	18 18 —	7 7 —	2 2 —

**P21 (c)**  
**Census of Ceylon, 1953 Volume III (Part I) - Page 26**  
SEC ION 4 - RACE

**TABLE 1-Population Classified by Race, Conjugal Condition and Sex for Revenue Districts ( inclusive of Municipal and Urban Council areas March 20 1953**

Race, Conjugal Condition and Sex 1	Ceylon 2	Revenue District				
		Colombo 3	Kalutara 4	Kandy 5	Mutale 6	
Ceylon Moors	T 463,963 M 245,125 F 218,838	78,756 43,303 35,453	28,534 14,288 14,246	56,644 29,145 27,499	11,052 6,008 5,044	
Unmarried	T 246,885 M 148,594 F 98,291	45,987 27,779 18,208	16,316 9,158 7,158	24,150 19,098 5,052	6,362 3,748 2,614	
Married (Regd)	T 148,904 M 76,499 F 72,405	24,838 12,846 11,992	9,968 4,605 5,363	16,724 8,010 8,714	3,348 1,715 1,633	
Married (Customary)	T 36,857 M 13,949 F 22,908	2,517 1,339 1,178	264 138 126	12,885 1,421 11,464	770 408 362	
Widowed	T 28,230 M 4,785 F 23,445	4,948 1,091 3,857	1,903 350 1,553	2,668 537 2,131	544 127 417	
Divorced	T 2,819 M 1,103 F 1,716	406 192 214	82 36 46	199 68 131	26 9 17	
Unspecified	T 268 M 195 F 73	60 56 4	1 1 -	18 11 7	2 1 1	

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**P21 (d)**  
**Census of Ceylon, 1953 Volume III (Part I) Page 31**

P21 (d)  
 Census of  
 Ceylon 1953 -  
 Volume III,  
 Part I  
 (Page 31)

SECTION 4 — RACE

TABLE I-Population Classified by Race, Conjugal Condition and Sex for Revenue Districts  
 (inclusive of Municipal and Urban Council Areas)  
 March 20, 1953 (contd)

Race, Conjugal Condition and Sex 1	Ceylon 2	Revenue District				
		Colombo 3	Kalutara 4	Kandy 5	Matale 6	
Indian Moors	T	47,462	21,008	516	6,279	1,472
	M	39,093	18,350	416	4,530	1,155
	F	8,369	2,658	100	1,749	317
Unmarried	T	20,860	8,434	257	3,029	681
	M	16,638	7,240	194	2,121	523
	F	4,222	1,194	63	908	158
Married (Regd)	T	16,775	7,929	210	1,778	464
	M	14,576	7,091	182	1,365	382
	F	2,199	838	28	413	82
Married (Customary)	T	8,346	4,023	39	1,266	259
	M	7,173	3,741	35	976	215
	F	1,173	282	4	290	44
Widowed	T	1,348	579	10	189	65
	M	612	245	5	62	33
	F	736	334	5	127	32
Divorced	T	113	40	—	16	3
	M	74	30	—	5	2
	F	39	10	—	11	1
Unspecified	T	20	3	—	1	—
	M	20	3	—	1	—
	F	—	—	—	—	—

**P21 (e)**  
**Census of Ceylon 1953 Volume III (Part I) - Page 604**  
**SECTION 5 — LITERACY**

TABLE 17 : Population 3 years of age and over, who are able to speak Sinhalese, Tamil and English classified by Sex and Age Groups, for Revenue Districts, (inclusive of Municipal and Urban Council Areas) March 20, 1953

Revenue District, Literacy and Sex  1		Population 3 years of age and over  2	Age group		
			3-4 3	5-9 4	10-14 4
Ceylon	T	7,280,987	457,684	1,066,460	911,474
	M	3,856,797	230,276	539,886	470,123
	F	3,424,190	227,408	526,574	441,351
Ability to speak Sinhalese only	T	4,289,957	316,821	716,510	584,809
	M	2,110,451	157,190	357,006	298,523
	F	2,179,506	159,631	359,504	286,286
Ability to speak Tamil only	T	1,570,084	124,980	274,289	190,805
	M	750,585	62,182	134,774	91,166
	F	819,499	62,798	139,515	99,639
Ability to speak English only	T	14,066	1,381	1,704	2,061
	M	7,933	754	910	1,358
	F	6,133	627	794	703
Ability to speak both Sinhalese and Tamil	T	719,194	6,575	32,016	49,680
	M	500,758	3,666	16,233	27,888
	F	218,436	2,909	15,783	21,792
Ability to speak both Sinhalese and English	T	307,570	2,780	19,468	44,694
	M	185,136	1,957	12,843	24,418
	F	122,434	823	6,625	20,276
Ability to speak both Tamil and English	T	146,549	3,755	14,443	24,764
	M	116,142	3,357	12,714	17,778
	F	30,407	398	1,729	6,986
Ability to speak Sinhalese, Tamil and English	T	233,567	1,392	8,030	14,661
	M	185,792	1,170	5,406	8,992
	F	47,775	222	2,624	5,669

P 16

**Letter sent to C. Kodeeswaran (Plaintiff) by the  
Deputy Secretary to the Treasury re appointment to the  
General Clerical Class of the General Clerical Service**

P16  
Letter sent to  
C. Kodeeswaran  
(Plaintiff) by  
the Deputy  
Secretary to the  
Treasury  
re appointment  
to the General  
Clerical Class  
of the General  
Clerical Service  
16. 10. 52.

No. G. 23/52.

General Treasury,

COLOMBO, 16th OCTOBER, 1952.

10 Mr. C. Kodeeswarar,  
555, Averiwatta Road,  
Kurunduwatta, Wattala.

**APPOINTMENT TO THE GENERAL CLERICAL CLASS  
OF THE GENERAL CLERICAL SERVICE.**

With reference to the Central Clerical Examination held on June 13, 1952, you are informed that the Deputy Secretary to the Treasury has been pleased to appoint you to a clerkship in the General Clerical Class of the General Clerical Service with effect from 1st November 1952.

20 2. You are posted to the Ministry of Posts and Information. The Permanent Secretary will inform you direct of the Department at which you should report for duty.

3. The post is pensionable and unless your appointment is determined earlier you will be on two years' probation from the date of your appointment and until you receive a letter confirming you in your appointment.

4. If your services are unsatisfactory while you are on probation, you are liable to be discontinued at any time during the period of probation or at the end of it.

30 5. If your services during the period of probation have been satisfactory, you will be confirmed in your appointment at the end of the probationary period.

6. You will be subject to the Public Service Commission Rules, the Financial Regulations, the Regulations of the Manual of Procedure, Departmental Orders, and any other Orders or Regulations which may be issued from time to time by the Government.

P16  
 Letter sent to  
 C. Kodeeswaran  
 (Plaintiff by  
 the Deputy  
 Secretary to the  
 Treasury  
 re appointment  
 to the General  
 Clerical Class  
 of the General  
 Clerical Service  
 16. 10. 52.  
 —Continued

7. You should before the date on which you are to assume duties submit yourself to a medical examination by the nearest Government Medical Officer in charge of a Hospital (in Colombo the Physician, Out-Patients' Department, General Hospital, and in Kandy or Galle, the Chief Physician of the Hospital). You should first obtain a suitable date and time from the Medical Officer concerned and then present yourself for examination. For the purpose of this examination, you should complete the annexed form, General 169, and hand it together with the annexed Medical Examiner's Report form (Medical 169) to the Medical Officer. No fee is chargeable for this examination. If you are not certified as physically fit to serve in any part of the Island, your appointment will not take effect. 10

8. You will be liable to transfer and should serve in any part of the Island in which you are called upon to serve.

9. You will be paid a salary of Rs. 840/- per annum rising to Rs. 2,424 per annum by annual increments of Rs. 72/-, with Efficiency Bars before Rs. 1,488/ and Rs. 2,064/, subject to any incremental credit allowable in respect of previous service as temporary clerk, and / or Assistant Clerk under Government in terms of Treasury Circular No. 344/15-72 (ii) ET / D 626 of the 13th February 1952. If your salary as a temporary clerk immediately prior to your appointment is less than Rs. 840/- per annum, or if your service as a temporary clerk and/or Assistant Clerk is less than 6 months on 23.5.51 no incremental credit will be due to you. If you have been a full time serving member of a unit of the Armed Forces or a full time member of the Auxiliary Fire, Air Raid Precautions or Civil Defence Services and if you were more than 22 years of age on June 1, 1952, and you became eligible in respect of age for the examination only by reason of such service (excluding service as a civilian clerk in Service Departments), you will be placed at a suitable point in the salary scale so that you may receive some credit for such service from 3rd September, 1939, to 31st December, 1949, (provided the service began before 15th August, 1945, and was continuous). 20 30

10. You are bound to furnish security in terms of the Public Officers, (Security) Ordinance if so required by the Head of your Department.

11. You should also sign the annexed form of Agreement (General 160) and hand it to the Head of your Department before assuming duties.

12. You will be required to pass a test in typewriting within one year from the date of your appointment. Failure to pass the test within one year will result in the first annual increment being stopped until you pass the test. The stoppage will be converted to deferment if you fail to pass the test within two years. You should accordingly take steps to have yourself examined in Typewriting by a Staff Officer of the Department within one year of the date of your appointment.

13. A copy of Financial Regulation 1625 is appended below for your information. *You should apply to the Head of the Department to which you are posted for any Railway Warrants you may require.*

14. You should furnish your birth certificate to the Head of your Department for reference and return. The special certificate of birth issued for purposes of admission to schools will not be accepted.

15. You are liable to contribute to the Widows and Orphans Pension Scheme at the rate of 4 per cent of your salary from the date of your appointment.

Sgd. C. TOUSSAINT  
For Deputy Secretary to the Treasury.

Encl. 3.

“F. R. 1625 – An officer proceeding to take up his first appointment in the public service of the Island will be entitled to the free transport of himself, his family, servants, household furniture, baggage (including bicycles) and conveyance in accordance with the term of Financial Regulations 1598 and 1600 from his home in Ceylon or port of arrival to the place of his first appointment. He will not be entitled to subsistence allowance or packing or incidental expenses for this journey.”

P16  
Letter sent to  
C. Kodeeswaran  
(Plaintiff) by  
the Deputy  
Secretary to the  
Treasury  
re appointment  
to the General  
Clerical Class  
of the General  
Clerical Service  
16. 10. 52.

—Continued

P17  
 Agreement  
 entered into  
 with the  
 Government of  
 Ceylon  
 4. 11. 52.

### Agreement entered into with the Government of Ceylon

THIS AGREEMENT entered into on the dates hereinafter mentioned between Chelliah Kodeeswarar of 555, Averiwatta Road, Kurunduwatta, Wattala of the one part and Mapatunage James Perera hereinafter referred to as the Additional Director General of Broadcasting which term shall mean and include the said Mapatunage James Perera and his successors for the time being holding the said office of the Additional Director General of Broadcasting and all other officers for the time being holding office as the Additional Director General of Broadcasting (acting for and on behalf of the Government of Ceylon) of the other part, 10

Witnesseth:

*First-* The said Chelliah Kodeeswarar in consideration of his appointment to the office of Clerk General Clerical Class agrees that he will at no time demand his discharge from, nor without the permission of the Deputy Secretary to the Treasury/Head of Department leave, the Service of Government until a full calendar month has elapsed from the date of his giving a written notice to the said Director General of Broadcasting or to the Head of the Department in which he may be serving at the time of his desire to leave. 20

*Second -* In the event of the said Chelliah Kodeeswarar leaving the service of Government without giving notice or before the expiration of one calendar month from the date when he may have given notice the said Chelliah Kodeeswarar agrees and promises to pay into the General Treasury, a sum of money equal to the full amount which he may have received as salary for the month next preceding that in which the said Chelliah Kodeeswarar may so leave. 30

IN WITNESS WHEREOF the said parties have hereto set their hands at the places on the dates hereinafter mentioned.

Signed by the said Chelliah Kodeeswarar at the Department of Broadcasting, Colombo, on the 1st day of November, One thousand Nine hundred and Fifty two.

Signature: C. Kodeeswarar (Officer)

In the presence of:-

- Witnesses
1. Sgd. (Illegibly)
  2. Sgd. (Illegibly)

Signed by the said Mapatunge James Perera at Radio Ceylon, Colombo 7, on the Fourth day of November One Thousand Nine  
10 hundred and fifty two.

Signature: Illegible  
Designation: Director General of Broadcasting.

In the presence of:-

- Witnesses:-
1. (Illegible)
  2. (Illegible.)

P17  
Agreement  
entered into  
with the  
Government of  
Ceylon  
4. 11. 52.  
—Continued

D 3  
Blank form of  
Confidential  
Report

**D 3**  
**Blank form of Confidential Report**  
**CONFIDENTIAL REPORT**

**Part A**

(To be completed by Officer concerned and checked by Chief Clerk or Head of Branch)

\*G. C. C. March 1, 19 ... to February 28/29, 19...

Department: .....  
\*D. C S./Q. C. S. May 1, 19 ... to April 30, 19 .....

1. Full name of officer, with Surname first:.....
2. Service and Class/Grade with Date of entry to it.....Date of Birth: ..... **10**
3. **Personal Particulars-**

(a) Present salary Fees and similar emoluments drawn during the year ..		(e) (i) Present station and period of service there . ... years ...months	
(b) Educational quali- fications .		(ii) Present Branch or Office and period of service there	.. years ...months
(c) Whether married and, if so, the num- ber of children and their ages		(f) Station preferred .  Work preferred	<b>20</b>
(d) Nature of duties .		(g) Number of days sick leave taken during the year.	

(h) Degree of proficiency in Languages:	Sinhalese	Tamil	Other Languages
(i) Speaking .. . (i)	(i)	(i)	(i)
(ii) Reading .. .. (ii)	(ii)	(ii)	(ii)
(iii) Writing .. .. (iii)	(iii)	(iii)	(iii)
(iv) Interpreting or translating. (iv)	(iv)	(iv)	(iv)
(v) Has he passed the Profi- ciency Examination in Sinhalese/Tamil? If so indicate level (v)	(v)	(v)	
(vi) Details of(iv)above done during the year .. ..			

I declare that the information given above is correct to the best of my knowledge.  
I attach a brief statement of the work done by me during the year. **40**

Date: .....  
Signature of Officer

\*Delete whichever is inapplicable.



## NOTES

D 3  
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Confidential  
Report  
—Continued

1. The Certifying Officer will be the Staff Officer immediately in charge of the officer reported on. If there has been a transfer of the Certifying Officer, or the officer reported on, in the case of the G. C. C. Officers, after 1st November and in the case of other officers, after 1st January, the report will be made by the Certifying Officer under whom the officer reported on worked before 1st November and 1st January respectively. The Staff Officer under whom the officer reported on happens to be working in march (in the case of G. C. C. Officers), or May (in the case of other officers) will make his comments in the light of his own observations.
- 10 The Certifying Officer will also certify, on the Statement of Work submitted by the officer reported on, that he has carefully read and examined it, and comment on the claims made by the officer. When he is unable to support any of the claims he will state his reasons in full.
2. The preparation of Annual Reports on the staff is a very important duty. The opinions expressed by the Certifying Officer should be based on his personal knowledge of the officer's performance throughout the year (or that portion of the year during which the officer reported on worked under the Certifying Officer), and should be the result of careful consideration. He should be ready to justify his opinions. If the Certifying Officer does not have personal knowledge of any of the characteristics on which he is required to report, he should consult the Head of the Branch in which the officer concerned worked.
- 20
3. The Head of the Department will be the Countersigning Officer. In exceptional cases, the Head of the Department may, with the approval of his Permanent Secretary, nominate an officer superior to the Certifying Officer as Countersigning Officer. The Countersigning Officer should make an independent assessment based on his own knowledge of the officer's work or on substantial evidence and with due regard to the Certifying Officer's own merits as a Reporting Officer. Every such assessment should be rendered without reference to previous reports or notes left behind by previous Certifying or Countersigning Officers.
- 30 In the case of an officer transferred after the relevant date—*vide* paragraph I above—the Head of the Department in which the officer worked before that date (or his nominee) will be the Countersigning Officer. The Head of the officer's new Department may make his own observations.
4. A report on this form will be required on those officers in the General Clerical Class of the General Clerical Service who have been confirmed in their appointments but have not completed 6 years' service in that Class at the close of the period in respect of which the report is due (i.e., February 28/29), and on every officer in the District Clerical Service and in the Quasi-Clerical Service who has been confirmed in his appointment. The report should be forwarded in duplicate to the Permanent Secretary who will forward one copy to the Deputy Secretary to the Treasury. Heads of Departments not grouped under any Ministry will forward one copy direct to the Deputy Secretary to the Treasury. **Office copies of reports should in no circumstances be maintained.**
- 40

D 3  
Blank form of  
Confidential  
Report  
—Continued

5. The Annual Reports are to be regarded as confidential. At the time of making the report, all assessments of "below average", and "poor" (i.e., "D" and "E") in cage (a) below should be communicated to the officer concerned and any written statement or protest made by him in that connection should be annexed to the Report.

6. The column for grading in cage (a) should be filled by the insertion of A, B, C, D or E against each item according to the following assessment:—

- A. Excellent.
- B. Very Good.
- C. Average
- D. Below average.
- E. Poor.

10

The remarks column should be used for explanatory comments. In all cases where the assessment is "excellent" or "poor" (i. e., "A" or "E") an indication should be given in the remarks column of the manner in which such particular merit or shortcoming has been shown.

**PART B**  
**Report on Personal Qualities and Performance of Duties**  
 (To be completed by Certifying Officer)

D 3  
 Blank form of  
 Confidential  
 Report  
 --Continued

	<i>Grading</i>	<i>Remarks</i>
<p>10 (a) (i) Knowledge—</p> <p style="padding-left: 40px;">(a) of the work of his Department</p> <p style="padding-left: 40px;">(b) of the work of his Branch</p> <p style="padding-left: 40px;">(c) of his own work</p> <p>(ii) Powers of expression</p> <p>(iii) Accuracy</p> <p>(iv) Zeal and Industry</p> <p>(v) General intelligence</p>		
<p>(b) Any special characteristics or aptitude noticed by the Certifying Officer</p>		
<p>(c) Can he type with reasonable neatness and accuracy? If so, state his speed of typing in words per minute</p>		
<p>(d) Is his efficiency indoor or outdoor, affected by ill-health?</p>		
<p>20 (e) General Remarks on officer's work and conduct (including recommendations for transfer)</p>		
<p>(f) If an assessment of "below average" or "poor" is made in respect of any of the items in cage (a) above, state whether it has been communicated to the officer. It should also be mentioned if any statement from the officer concerned is attached in this connection—  <i>-vide Note 5 on page 2</i></p>		

30

Date .....

.....  
*Signature and Designation of  
 Certifying Officer.*

D 3  
Blank form of  
Confidential  
Report  
—Continued

**PART C**  
**Report of the Countersigning Officer/Head of Department**

1. From your knowledge of the officer reported on and of the Certifying Officer would you make any alteration in Part B? If so, indicate any such alterations	
2. General remarks ... ..	

Date.....

.....  
*Signature and Designation of Countersigning  
Officer/Head of Department.*

D 5

**Confidential Report of C. Kodeeswaran (Plaintiff)****CONFIDENTIAL REPORT**

General 96

**Department:** Department of Broadcasting **Year:** 1st year report on officer on probation

A. To be completed by Officer concerned and checked by Chief Clerk

D 5  
Confidential  
Report of  
C. Kodeeswaran  
(Plaintiff)-  
30. 10. 53.

	1. Full name (block capitals). Class and Grade, salary and date of birth	CHELLIAH KODEESWARAR G.C.C, G.C.S. Rs. 840/-per annum (w.e.f. 1. 11. 52) 23. 12. 34
10	2. Religion and race. Whether married, and number and ages of children	Hinduism Ceylon Tamil Bachelor
	3. Districts in which landed property owned	Nil
	4. (1) Present post and nature of duties (2) Present station (3) Amount of fees per annum and any other emoluments with particulars	Clerk, Department of Broadcasting Accounts work Colombo
	5. Educational qualifications	Senior School Certificate (English) Dec. 1951
	6. Station preferred Work preferred	Colombo Correspondence work
20	7. If a member of the P.S.M.P.A. or any thrift society, give particulars	No.

I am aware that any false declaration will be punished by dismissal.

Date: 30th October, 1953

Signed: C. Kodeeswaran

B. - To be filled in by Staff officer in charge of Clerk

30	8. Degree of Proficiency in the use of languages:- (a) Speaking (b) Reading (c) Writing (d) Interpreting	Sinhalere. Tamil. Other languages (e.g. Malay, Hindustani, &c) Good Very good Good Very good Good Very good Good Good
	9. What translating or interpreting work has he done during the year?	There was no occasion for it
	10. Can he type with reasonable neatness and accuracy? If so, state his speed of typing in words per minute	Yes, over 25 words per minute
	11. Number of days leave taken during the year for sickness Is his efficiency, indoor or outdoor, affected by ill-health?	5 days. No.

D 5  
Confidential  
Report of  
C. Kodeeswaran  
(Plaintiff)-  
30. 10. 53.  
-Continued

Name (block capitals) CHELLIAH KODEESWARAR. Year: 1st year report on officer on probation

12. Has he been reported during the year as a Judgment Debtor? Is he to your knowledge seriously embarrassed pecuniarily?	No. No.	
13. (a) Personality and force of character (b) Power of taking responsibility (c) Initiative (d) Accuracy (e) Tact (f) Power of supervising staff (g) Zeal (h) Official conduct (See Note 1 of instructions below.)	B C C B B C B B	10
14. General remarks (including note of any specific qualifications not included above)	Takes interest in his work	
15. If he has shown power of organisation or supervision during the year the particular matters in which it has been shown should be indicated.	_____	20
16. If he has shown knowledge or particular merits or failings state details. Mention any particular piece of good work done	_____	

Date: 13.11.1953

Sgd. (Illegibly)  
Signature and Designation of Officer

C. To be completed by Head of Department

17. Degree of fitness for promotion to next grade (See note 2 of instructions below.)	Remarks Officer is on probation	30
18. Other information or remarks (e.g. recommendations for transfer, recommendations for staff rank, head clerkship, &c.; with reasons)	_____	
19. If any adverse entry is made in this report state whether it has been communicated to the officer?	_____	

Date: 17th November 1953

Sgd. M. J. Perera. D.G.B.  
Head of Department

Note. - (1) Insert in this column A, B, C, D, or E against each item according to the following appraisalment:-

- A. Excellent
- B. Very Good
- C. (Normal)-Good
- D. Fair
- E. Poor

Note. - (2) The estimate of fitness for promotion should be related to the officer's capacity for the permanance of the duties of the grade above. If he is marked "eminently suitable" or "not yet suitable" the reasons for the marking should be stated; and in general reporting officers should make the fullest use of the "remarks" space.

40

50

**D 4**  
**Certified Copy of Confidential Report of C. Kodeeswaran (Plaintiff)**  
**CONFIDENTIAL REPORT**

**Part A**

(To be completed by Officer concerned and checked by Chief Clerk or Head of Branch)  
 Period: Jan. '55 to February, 56

D4  
 Certified copy  
 of Confidential  
 Report of  
 C. Kodeeswaran  
 (Plaintiff)-  
 23. 3. 56

Department: Broadcasting

1. Full name of Officer with Surname first: Kodeeswaran Chelliah
2. Service and Class Grade with Date of entry to it: Clerk G. C. C. of G. C. S. 1. 11. '52  
 Date of Birth: 23. 12. 1934

**10 3. Personal Particulars-**

(a) Present salary Fees and similar emoluments drawn during the year	Rs. 1176 - p. a.	(d) (i) Present station and period of service there .	Colombo, Accounts Branch Three years & Four months Intd. C. K.
(b) Educational quali- fications	Exempted from Inter Arts (Lond)	(ii) Present Branch or Office and period of service there	.....years.....months
(c) Whether married and, if so, the num- ber of children and their ages	No.	(f) Station preferred .. Work preferred .	Colombo Establishment
(e) Nature of duties	Accounts	(g) Number of days sick leave taken during the year.	3 days

20

30

(h) Degree of proficiency in Languages:	Sinhalese	Tamil	Other Languages
(i) Speaking	(i) Fair Intd. C. K Below average	(i) Excellent	(i) ———
(ii) Reading	(ii) Fair Intd. C. K. Below average	(ii) Excellent	(ii) Sanskrit Intd. C. K.
(iii) Writing	(iii) Fair Intd. C.K. Below average	(iii) Excellent	(iii) Sanskrit Intd. C. K.
(iv) Interpreting or translating.	(iv) ———	(iv) Excellent	(iv) ———
(v) Has he passed the Profi- ciency Examination in Sinhalese/Tamil? If so indicate level	(v) ———	(v) Yes. Adv. Level	
(vi) Details of (iv) above done during the year	Necessity did not arise.		

I declare that the information given above is correct to the best of my knowledge.  
 I attach a brief statement of the work done by me during the year.

Date: 23rd March 1956

Sgd. C. Kodeeswaran

*Signature of Officer*

40

Certified copy of page one of the Confidential Report on Mr. C. Kodeeswaran for  
 the period 1955/1956

June, 15, 1963

Sgd

for D. S T.

\*Delete whichever is inapplicable.

## NOTES

D4  
 Certified copy  
 of Confidential  
 Report of  
 C.Kodeeswaran  
 (Plaintiff)-  
 23. 3. 56  
 —Continued

1. The Certifying Officer will be the Staff Officer immediately in charge of the officer reported on. If there has been a transfer of the Certifying Officer, or the officer reported on, in the case of the G. C. C. Officers, after 1st November and in the case of other officers, after 1st January, the report will be made by the Certifying Officer, under whom the officer reported on worked before 1st November and 1st January respectively. The Staff Officer under whom the officer reported on happens to be working in March (in the case G. C. C. Officers), or May (in the case of other officers) will make his comments in the light of his own observations.

The Certifying Officer will also certify, on the Statement of Work submitted by the officer reported on, that he has carefully read and examined it, and comment on the claims made by the officer. When he is unable to support any of the claims he will state his reasons in full. 10

2. The preparation of Annual Reports on the staff is a very important duty. The opinions expressed by the Certifying Officer should be based on his personal knowledge of the officer's performance throughout the year (or that portion of the year during which the officer reported on worked under the Certifying Officer), and should be the result of careful consideration. He should be ready to justify his opinions. If the Certifying Officer does not have personal knowledge of any of the characteristics on which he is required to report, he should consult the Head of the Branch in which the officer concerned worked. 20

3. The Head of the Department will be the Countersigning Officer. In exceptional cases, the Head of the Department may, with the approval of his Permanent Secretary, nominate an officer superior to the Certifying officer as Countersigning Officer. The Countersigning Officer should make an independent assessment based on his own knowledge of the officer's work or on substantial evidence and with due regard to the Certifying Officer's own merits as a Reporting Officer. Every such assessment should be rendered without reference to previous reports or notes left behind by previous Certifying or Countersigning Officers.

In the case of an officer transferred after the relevant date—*vide* paragraph I above—the Head of the Department in which the officer worked before that date (or his nominee) will be the Countersigning Officer. The Head of the officer's new Department may make his own observations. 30

4 Report on this form will be required on those officers in the General Clerical Class of the General Clerical Service who have been confirmed in their appointments but have not completed 6 years' service in that Class at the close of the period in respect of which the report is due (i.e., February 28/29), and on every officer in the District Clerical Service and in the Quasi-Clerical Service who has been confirmed in his appointment. The report should be forwarded in duplicate to the Permanent Secretary who will forward one copy to the Deputy Secretary to the Treasury. Heads of Departments not grouped under any Ministry will forward one copy direct to the Deputy Secretary to the Treasury. Office copies of reports should in no circumstances be maintained. 40



5. The Annual Reports are to be regarded as confidential. At the time of making the report, all assessments of "below average", and "poor" (i.e., "D" and "E") in cage (a) below should be communicated to the officer concerned and any written statement or protest made by him in that connection should be annexed to the Report.

6. The column for grading in cage (a) should be filled by the insertion of A, B, C, D or E against each item according to the following assessment:—

- A. Excellent.
- B. Very Good.
- C. Average.
- D. Below average.
- E. Poor.

10

The remarks column should be used for explanatory comments. In all cases where the assessment is "excellent" or "poor" (i. e., "A" or "E") an indication should be given in the remarks column of the manner in which such particular merit or shortcoming has been shown.

D 4  
 Certified copy  
 of Confidential  
 Report of  
 C. Kodeeswaran  
 (Plaintiff)—  
 23. 3. 56  
 —Continued

D 4  
 Certified copy  
 of Confidential  
 Report of  
 C. Kodeeswaran  
 (Plaintiff)-  
 23 3. 56  
 -Continued

**PART B**  
**Report on Personal Qualities and Performance of Duties**  
 (To be completed by Certifying Officer)

	<i>Grading</i>	<i>Remarks</i>
<p>(a) (i) Knowledge—</p> <p style="padding-left: 40px;">(a) of the work of his Department</p> <p style="padding-left: 40px;">(b) of the work of his Branch ...</p> <p style="padding-left: 40px;">(c) of his own work</p> <p style="padding-left: 20px;">(ii) Powers of expression ... ..</p> <p style="padding-left: 20px;">(iii) Accuracy ...</p> <p style="padding-left: 20px;">(iv) Zeal and Industry ...</p> <p style="padding-left: 20px;">(v) General intelligence ...</p>		<b>10</b>
<p>(b) Any special characteristics or aptitude noticed by the Certifying Officer</p>		
<p>(c) Can he type with reasonable neatness and accuracy? If so, state his speed of typing in words per minute</p>		
<p>(d) Is his efficiency indoor or outdoor, affected by ill-health?</p>		
<p>(e) General Remarks on officer's work and conduct (including recommendations for transfer) ... ..</p>		<b>20</b>
<p>(f) If an assessment of "below average" or "poor" is made in respect of any of the items in cage (a) above, state whether it has been communicated to the officer. It should also be mentioned if any statement from the officer concerned is attached in this connection—  <i>-vide Note 5 on page 2</i></p>		

Date .....

.....  
*Signature and Designation of  
 Certifying Officer.*

**PART C**

**Report of the Countersigning Officer/Head of Department**

D 4  
Certified copy  
of Confidential  
Report of  
C. Kodeeswaran  
(Plaintiff)-  
23. 3. 56  
—Continued

1. From your knowledge of the officer reported on and of the Certifying Officer would you make any alteration in Part B? If so, indicate any such alterations	
2. General remarks	

10 Date.....

.....  
*Signature and Designation of Countersigning  
Officer/Head of Department.*

**Ceylon Government Manual of Procedure  
(Fourth Edition-1957) Regulation 143**

**SECTION 5 - INCREMENTS**

143. (i) An officer whose salary is on an incremental scale is not entitled to draw any increment as of right. The payment of an increment is dependent on a certificate that the officer concerned has discharged his duties with efficiency, diligence and fidelity and has earned his increment.

(ii) When such certificate cannot be granted and the increment is disallowed, disallowance may take one of the following forms, viz.; deferment of increment, stoppage of increment, reduction of salary and suspension of increment. 10

(iii) *Explanation of terms:-*

*Deferment:-* If an officer's increment is deferred, the loss of pay is continuous until the officer reaches the maximum salary of his class, for example:-

	<i>If increment allowed</i>	<i>If increment be deferred for two consecutive periods of six months each</i>	<i>Loss</i>
	Rs.	Rs.	Rs.
1st Year	1,200	1,200	—
2nd Year	1,300	1,200	100
3rd Year	1,400	1,300	100
4th Year	1,500	1,400	100
5th Year	1,600	1,500	100
6th Year	1,600	1,600	—
	<u>8,600</u>	<u>8,200</u>	<u>400</u>

*Stoppage:-* When stoppage is ordered the loss of pay operates only for the period of the stoppage and is the amount due by way of increment for that period. The next increment is due in full on its due date, e.g., if an annual increment of Rs. 20, due to an officer on Rs. 1,200, on January 1, be stopped for six months, he will draw Rs. 1,220 from July 1, and the next increment, i.e., Rs. 1,240 from the following January, 1 30

the loss of pay resulting from the stoppage being Rs. 10.

*Reduction :-* (i) Where the stoppage of an officer's increment would not take effect within a month of the decision, the order should take the form of a reduction of the officer's salary to the stage next below his own for a certain period. For example, if an officer whose increment falls due on January 1 commits an offence in February, for which the most suitable punishment is stoppage of his increment for three months, he would not ordinarily suffer his punishment till his next incremental date is reached in January of the following year. In such a case his salary may be reduced to what it was before his last increment was paid, for a period running from the first day of the month in which the decision is made. It should be borne in mind that reduction of salary under this section does not involve the continuing loss of pay which results from deferment of increment.

(ii) If it is intended that the punishment should extend beyond the officer's incremental date, the order should take the form of a combination of reduction and stoppage, viz., reduction of salary up to (but not including) the incremental date and thereafter stoppage, for the remainder of the period of punishment, of the increment due on that date. For example, if an officer drawing Rs. 1,200 per annum on the scale Rs. 1000 40 Rs. 1,400, whose incremental date is the 10th of January, commits an offence in October for which the most suitable punishment would be stoppage of increment for six months, his salary may be reduced by the amount of one annual increment (*i.e.*, from Rs. 1,200 to 1,160) for three months and nine days (from the 1st of October to the 9th of January inclusive), and thereafter the increment normally due on the 10th of January may be stopped from that date upto (and including) the 31st of March in which case the officer would be paid salary at the rate of Rs. 1,200 per annum from the 10th of January to the 31st of March, and at the rate of Rs. 1,240 from 1st April.

*Suspension of Increment :-* When the payment of an increment is suspended for a period the sum withheld lapses to revenue at the end of that period unless the officer discharges his duties satisfactorily during the period of suspension. If he discharges his duties satisfactorily the sum so withheld shall be paid to him. Suspension may be either the suspension of the last annual increment or the suspension of the increment falling due.

(iv) *When appropriate:*

*Deferment:-* When the quantity or quality of an officer's work or his conduct since his last incremental date has been generally below the standard required of an officer of his incremental stage his increment should be deferred.

*Stoppage:-* Stoppage may be ordered for specific offences and in cases of general inefficiency for which deferment is regarded as too severe a remedy. When stoppage is ordered for inefficiency the order will be made on the distinct understanding that if the officer does not show improvement in his conduct and efficiency 10  
the order of stoppage will be extended, if necessary, and altered at the end of six months or one year to one of deferment. This will be explained to the officer at the time the order of stoppage is made.

*Suspension of increment falling due:-* Suspension is appropriate when the officer responsible for issue of the increment certificate is unable on the facts before him to sign it, but desires to place the officer under closer observation before making a final order. It is also appropriate to cases where an officer's ability is adequate but where he has not worked to the best of his ability, where stoppage 20  
is considered too severe and suspension is considered likely to produce an improvement. If the quantity and quality of the officer's work or his conduct during the period of suspension are below the standard required the certificate will not be issued and the increment will be stopped or deferred from the date on which it fell due.

Reduction takes the place of stoppage where stoppage would not take effect within one month of the decision. It may also be ordered after an order of suspension of last increment has been passed. See 144(v) below.

Suspension of last increment is appropriate when, after the 30  
issue of an incremental certificate, an officer's work or conduct falls below the standard required of an officer at his incremental stage.

*Note.* Stoppage, reduction, and deferment may be used as punishments for specific acts of misconduct, &c. They provide a range of punishments varying from stoppage for one month to deferment for one year. Suspension of increment may also be

ordered in certain cases, *e.g.*, where it is desired to place a first offender on probation. *Disallowance of increments by way of punishment for specific offences is governed by the disciplinary provisions relating to punishments appearing in the Public Service Commission Rules.*

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(v) *Period:*

Deferment operates for a period either of six months or of one year and the officer's incremental date will be altered accordingly. If at the end of one period the certificate still cannot be signed  
10 the increment should be deferred for a further period. Stoppage, reduction and suspension may be for any number of months from one to twelve. See 144 (v) below. If stoppage or suspension for a shorter period than six months is converted into deferment, the order of deferment should be for not less than six months and should take effect from the commencement of the period of stoppage or suspension.

**The Ceylon Government Gazette - Extraordinary - Minute on the  
General Clerical Service**

THE CEYLON GOVERNMENT GAZETTE  
EXTRAORDINARY.

No. 10,844 SATURDAY OCTOBER 1, 1955  
(Published by Authority)

PART I: SECTION I - (GENERAL)  
GOVERNMENT NOTIFICATIONS  
1/261/(G)

10

MINUTES ON THE GENERAL CLERICAL SERVICE, THE  
STENOGRAPHERS' TRANSFERABLE SERVICE, TYPISTS' SERVICE,  
THE ASSISTANT CLERKS' SERVICE AND THE QUASI-CLERICAL  
SERVICE.

The following Minutes on the General Clerical Service, the  
Stenographers' Transferable Service, the Typists' Service, the Assistant  
Clerks' Service and the Quasi-Clerical Service which have been approved  
by the Public Service Commission, are published for information.

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2 The Minute on the General Clerical Service published in  
*Gazette Extraordinary* No. 10,544 of July 1, 1953, as subsequently amended,  
and the Minutes on the Stenographers' Transferable Service, the  
Typists' Service, the Assistant Clerks' Service and the Quasi Clerical  
Service published in *Gazette Extraordinary* No. 10,544 of July 1, 1953  
are hereby cancelled.

General Treasury,  
Colombo, September 5, 1955.

Sgd. R. H. Wickremasinghe  
*Actg. Deputy Secretary to the Treasury.*

30

MINUTE ON THE GENERAL CLERICAL SERVICE.

The General Clerical Service is under the general control of  
the Deputy Secretary to the Treasury.

2. The present conditions of service and salary scales are  
indicated below. Officers in the Service will also be subject to the  
Public Service Commission Rules, the Financial Regulations, the  
Regulations of the Manual of Procedure, Departmental Orders and

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any other orders or regulations of Government. The cadre is shown in the Annual Estimates under the various Heads and Votes of Expenditure.

The salary scales, conditions of service, and cadre of the service are liable to alteration from time to time.

3. *Structure and Salary Scales of the Service:-*

(i) Salary Scales-

*Executive Clerical Class*

10	Special Grade	Rs. $\frac{5,580-6,540}{4 \text{ of } 240}$	
	Grade I	Rs. $\frac{3,900-5,340}{8 \text{ of } 180}$	
	Grade II	Rs. $\frac{1,620-3,780}{18 \text{ of } 120}$	(E.B. with examination before Rs. 3,180)

*General Clerical Class*

20	Rs. $\frac{960-2688}{24 \text{ of } 72}$	(E.BB. before Rs. 1320,1608 and Rs. 2184)
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(ii) Recruitment to the General Clerical Service is only through the General Clerical Class.

(iii) The ratios between the numbers in the above Grades will be -

- 1 in Grade I, Executive Clerical Class to 4 in Grade II.
- 2 in Grade II, Executive Clerical Class to 5 in General Clerical Class.

30 If the ratio of 2:5 above does not allow of 50 promotions being made in any particular year to Grade II of the Executive Clerical Class, the cadre of Grade II may be increased sufficiently to allow of 50 promotions being made that year, provided that the ratio does not exceed 1:2.

The number in the Special Grade will vary from time to time according to the requirements of Government.

40 4 *General Clerical Class:-* (i) Recruitment to the General Clerical Class will be made on the results of an open competitive examination which will be held periodically at appropriate centres as notified in the *Ceylon Government Gazette* by the Deputy

Secretary to the Treasury from time to time. The regulations and syllabus for the examination appear as Appendix A to this Minute.

(ii) Successful candidates will be appointed, as suitable vacancies occur, on three years' probation subject to their passing a medical examination as to their physical fitness for service in any part of Ceylon. They will be required to pass a test in typewriting in English, Sinhalese or Tamil, within one year of the date of their appointment. Failure to pass this test within one year of appointment will result in the first annual increment being stopped until they pass. If they fail to pass within two years of appointment the increment stopped will be deferred until they pass. Those who are over the age of 35 years on the date of their appointment may be exempted from this test with the approval of the Deputy Secretary to the Treasury. 10

The passing of this test is not a condition required for confirmation of officers in their appointments.

*Note:-* See Regulation 120 in Manual of Procedure regarding probation.

*(Note made in ink:- "4(ii) for details regarding the test in typewriting please see Treasury Circular No. 466 of November 1, 1958 as amended by Treasury Circular letter No. 1/87/5(G) of March 28, 1959.)* 20

5 *Grade II of the Executive Clerical Class:-* (i) Appointments to Grade (II) of the Executive Clerical Class will be made on the results of a competitive examination for which the following will be eligible:-

- (a) Clerks with not less than four years' satisfactory service in the General Clerical Class;
- (b) Clerks who were in Government Service or in the Rubber or Tea Control Departments prior to August 1, 1935 (other than members of the Customs, Postal, Survey, Harbour Engineer's or Railway Departments), from whatever funds they may have been paid, who were at that time clerks in Government Service as defined by Section II of Appendix A to the Public Service Regulations (since cancelled) *who have retained the same status* and whose services have been satisfactory. 30

*(Note made in ink: "5(c) Deleted with P.S.C. approval as this Grade of Officers has ceased to exist (vide S/P S. C. letter B 30/47 of 28/5/56 in file 1/23/2/4 (G).)*

*Note:-* Persons not in Government service are not eligible to sit for the examination. 40

Though the examination is competitive, a minimum qualifying standard must be attained. The regulations and syllabus for the examination appear as Appendix B to this Minute. Successful candidates who do not already hold pensionable appointments under Government will be appointed to Grade II of the Executive Clerical Class on two years' probation.

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(ii) One out of every ten vacancies in Grade II of the Executive Clerical Class will, however, be filled by the promotion (without examination) for special merit of an officer with not less than ten years' service in the General Clerical Class (*vide* paragraph 8(iii)).

6. *Appointments to Grade I and Special Grade of the Executive Clerical Class.*—Appointments to Grade I and the Special Grade of the Executive Clerical Class will be by promotion from Grade II and Grade I respectively [*vide* paragraphs 8 (iv) and (v)].

7. *Increments and Efficiency Bars.*—Increments on the salary scale applicable will be given annually, subject to satisfactory work and conduct. They will be given on the same condition during the probationary period in the General Clerical Class.

20 The regulations in the Manual of Procedure regarding increments and Efficiency Bars will apply to the General Clerical Service.

Officers in Grade II of the Executive Clerical Class on the salary scale of Rs. 1,620-120-Rs.3,780 must pass the examination in national languages and accounts prescribed in Appendix C before they can proceed beyond the Efficiency Bar before Rs. 3,180 per annum. Only those who have passed this examination will normally be considered for promotion to Grade I of the Executive Clerical Class to fill vacancies occurring on and after October 1, 1955.

30 *Note.*—Notwithstanding anything contained in the above paragraph, officers in Grade II of the Executive Clerical Class who have reached the age of 50 years may be exempted from this examination and may be promoted over the Efficiency Bar with the approval of the Deputy Secretary to the Treasury, provided their work and conduct warrant the concession. Officers so promoted over the Efficiency Bar without examination shall not for that reason be debarred from promotion to Grade I.

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8. *Confidential Reports and Promotions:-* (i) Heads of Departments should submit annual confidential reports to the Permanent Secretary to the Ministry on all officers of the General Clerical Service in their departments who are not on probation. These reports must be forwarded in duplicate on form General 90 under confidential cover not later than January 20. The Permanent Secretary will forward one copy of each report, with any remarks he may wish to make, to the Deputy Secretary to the Treasury by January 31. Heads of Departments not grouped under a Ministry should forward one copy of the report direct to the Deputy Secretary to the Treasury by January 31. 10

(ii) Any adverse report made in the confidential report, history sheet or personal file of an officer must be communicated to the officer. A note must be attached to the report stating that this has been done.

(Note made in ink: "8 (ii) Deleted (*vide* Correction Slip 3 of May 15, 1958 to Administrative Regulations.)

(iii) Recommendations for promotion for special merit from the General Clerical Class to Grade II of the Executive Clerical Class (*vide* paragraph 5 (ii)) must be made in the annual confidential reports and no other recommendations or applications for promotion will be considered by the Deputy Secretary to the Treasury. Selection will be based on the suitability of the officer to carry out the duties normally assigned to officers in Grade II of the Executive Clerical Class. The fact that an officer has for several years drawn the maximum salary of the General Clerical Class is not in itself a ground for promotion and officers should be recommended only if they are in every way fit for promotion to Grade II of the Executive Clerical Class. 20

(iv) If it is considered that an officer in Grade II of the Executive Clerical Class deserves promotion to Grade I (*vide* paragraph 6) an appropriate recommendation should be made in the annual confidential report, making special reference to the possession by the officer reported upon of such qualities as are likely to fit him to take command of, and to supervise and direct, the work of subordinate clerks, as in making promotions from Grade II to Grade I, special regard will be paid to the possession of such qualities. 30

If it is considered that an officer in Grade II of the Executive Clerical Class is deserving of accelerated promotion to Grade I an appropriate recommendation should be made in the annual confidential report, giving reasons in support of the opinion. An officer should not be recommended for accelerated promotion unless he has shown such conspicuous merit as would justify his superseding those officers (not only in his own department but, as far as can be judged, in other departments) who are senior to him in Grade II of the Executive Clerical Class.

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- 10 No recommendations or applications for promotion to Grade I of the Executive Clerical Class other than those made in the annual confidential reports will be considered by the Deputy Secretary to the Treasury.

(v) Promotions to the Special Grade of the Executive Clerical Class (*vide* paragraph 6) will be made by the Public Service Commission advised by the Deputy Secretary to the Treasury. In making these promotions due regard will be paid both to merit and to seniority. Mere seniority unaccompanied by special merit will not be regarded as a ground for promotion.

- 20 Recommendations for promotion to the Special Grade should be made in the annual confidential reports and may be made in the case of all officers in Grade I. In every case full reasons for the recommendation must be given and attention drawn to an officer's special merits and failings.

No recommendations or applications for promotion to the Special Grade other than those made in the annual confidential reports will be considered by the Deputy Secretary to the Treasury or the Public Service Commission.

#### 9. *Transfers:*

- 30 Officers of the General Clerical Service are liable to transfer and may be posted to any station in Ceylon. Transfers of officers within a department will be made by the Head of the department, subject to general supervision by the Permanent Secretary to the Ministry. Inter-departmental transfers within a Ministry will be made by the Permanent Secretary. Transfers between Ministries will be made by the Deputy Secretary to the Treasury at his discretion.

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### 10. Pensions:

The General Clerical Service is a pensionable service and officers confirmed in either class of the Service are entitled to the benefits of the Pension Minute in appropriate circumstances.

#### APPENDIX A REGULATIONS AND SYLLABUS OF EXAMINATION FOR RECRUITMENT TO THE GENERAL CLERICAL CLASS (vide *paragraph 4*)

(I) Candidates must be Ceylonese (as defined in the Manual of Procedure) and of good character and must possess at least :- 10

- (a) The Ceylon Senior School Certificate; or
- (b) The Sinhala Commercial Certificate of the Department of Examinations; or
- (c) General Certificate of Education (Ordinary Level) in Sinhala, or Tamil Language, Arithmetic or Pure Mathematics or Elementary Mathematics or Commercial Arithmetic and in four other subjects, provided passes in at least five of these subjects have been secured on one and the same occasion; or
- (d) one of the following:- 20
  - (i) J. S. C. of the Education Department
  - (ii) J. S. C. of a School approved by the Education Department
 } together with one of the following:-

- (i) Either the Commercial Education Certificate (General Commercial or Shorthand Typists' Section) (Overseas of the Higher Commercial Education Certificate (General Commercial or Shorthand Typists' Section) (Overseas) under the Ceylon Scheme of the London Chamber of Commerce. 30
- (ii) Either the Commercial Education Certificate (General Commercial or Shorthand Typists' Section) or the Higher Commercial Education Certificate (General Commercial or Shorthand Typists' section) awarded by the Ceylon Chamber of Commerce and the Ceylon Education Department.
- (iii) The Commercial Certificate or the Higher Commercial

Certificate (for Book-keepers or for Shorthand Typists) of the Ceylon Technical College

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(II) Candidates must be not less than 17 years nor more than 22 years of age.

(III) Clerks in the District Clerical Service controlled by the Deputy Secretary to the Treasury and in the Quasi Clerical Service who have been confirmed in their appointments, will be permitted to sit for the examination until they reach the age of 45 years, irrespective of educational qualifications.

10	(IV) <i>Scheme of Examination-</i>	
	A. COMPULSORY:	Marks
	(1) Language and Composition (Sinhala or Tamil or English) 1 1/2 hours	150
	(2) General and Local Knowledge (Sinhala or Tamil or English) 1 hour	100
	(3) Arithmetic (including tots) (Sinhala or Tamil or English) 1 hour	100
	(4) General Intelligence (Sinhala or Tamil or English) 45 Minutes	100
20	(5) Dictation. (Sinhala or Tamil or English)	100
	(Note-candidates should be able to write legibly and to take down to dictation at 22 words per minute in English or 15 words per minute in Sinhala or Tamil).	
	B. <i>Optional</i>	
	Two and not more than two to be selected from the following subjects (6) — (10) subject to the conditions stated below —	
	(6) Geography (Ceylon and World) (Sinhala or Tamil or English) 1 hour	100
30	This is compulsory for all candidates for the Customs Clerical Service, but optional for the General Clerical Service, the Postal Clerical Service and the Railway Clerical Service.	
	(7) History (Ceylon and World) (Sinhala or Tamil or English) 1 hour	100

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- (8) Elementary Mathematics  
(Sinhala or Tamil or English) 1 hour 100  
Questions will be set on Elementary Algebra and Elementary  
Geometry.
- (9) Elementary Science.  
(Sinhala or Tamil or English) 1 hour 100  
Questions will be set on Physics, Chemistry, Botany, Physiology,  
and Hygiene. Knowledge of any two will be sufficient to answer  
the required number of questions.
- (10) Additional Language 1 hour 100 10  
(A paper in any one of the language subjects that could  
be taken at the General Certificate of Education  
(Ordinary Level) Examination, other than the  
Language in which subject (1) above, *i.e.* Language and  
Composition is taken.)

#### C. VIVA VOCE TEST:

The Examination is held in two parts, the written examination is held first and on the results of it candidates are selected competitively to attend the *viva voce* test which will be held in Colombo. The number to be called for the *viva voce* examination will be fixed by the Deputy Secretary to the Treasury in consultation with the Commissioner of Examinations. The *viva voce* examination, may however, be dispensed with if the number of candidates qualifying for it falls short of the number of vacancies. 20

*Note.*— The above provisions are liable to alteration. The *Gazette* notifications published from time to time by the Deputy Secretary to the Treasury should be consulted by prospective candidates for full up to date information regarding the examination.

#### APPENDIX B

#### COMPETITIVE EXAMINATION FOR PROMOTION TO GRADE II OF THE EXECUTIVE CLERICAL CLASS 30 (VIDE PARAGRAPH 5 (1))

(I) This examination will be held periodically in all Kachcheri Stations as notified in the *Ceylon Government Gazette* by the Deputy Secretary to the Treasury from time to time.



(II) The subjects of the examination are as follows:-

	Marks
(1) Accounts (one and a half hour paper). The paper will consist of questions in accounts, totals &c., and will be designed to test accuracy in handling figures and a knowledge of simple fundamental rules of accounts	100
(2) Regulations, procedure and office systems (two hour paper). The paper will be designed to test an officer's usefulness and competence as a clerk. He may be required to make a precis of an actual series of official letters, to submit a draft letter in terms of an order, to show a knowledge of index system, filing, &c., and to have the ability to express himself clearly on paper	200
(3) Sinhalese or Tamil (one and a half hours paper)	100

(III) Though the examination is competitive, candidates must obtain a minimum of 45 per cent of the marks allotted for each of the papers in Accounts and Regulations, procedure and office systems and an aggregate of 50 per cent of the marks in both papers. The syllabus of the examination in Sinhala/Tamil and the minimum qualifying standard which the candidates should attain in this subject will be laid down in the *Gazette* Notifications which will be published from time to time by the Deputy Secretary to the Treasury.

In all written papers marks will be deducted for bad writing and mistakes in spelling. Candidates whose writing is illegible are liable to be disqualified.

*Note.*- The above provisions are liable to alteration. The *Gazette* notifications published from time to time by the Deputy Secretary to the Treasury should be consulted by prospective candidates for full up to date information regarding the examination.

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## APPENDIX C

EXAMINATION IN NATIONAL LANGUAGES AND ACCOUNTS  
FOR OFFICERS IN GRADE II OF THE EXECUTIVE CLERICAL  
CLASS (*vide* Paragraph 7)

(I) The subjects of the examination will be (a) the two national languages, Sinhalese and Tamil, and (b) the system of

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accounts employed in Government offices. This will consist of the Financial Regulations, Part 1, of the Ceylon Government, excluding Chapter X.

(II) The examination in Sinhalese and Tamil will be divided into—

- (a) conversation and interpretation;
- (b) reading and writing.

(III) Clerks of Sinhalese, Tamil and Moor parentage will be required to pass in one language and accounts.

*Note.- In and after 1957, the standard of Sinhalese/Tamil required of these candidates will be that of the General Certificate of Education (Ordinary Level).* 10

(IV) Clerks of other parentage will be required to pass in accounts and in one language (conversation and interpretation only).

*Note.- In and after 1957, these candidates will be required to pass in accounts and in one language (both (II) (a) and (II) (b) above, and the standard of Sinhalese/Tamil required of them will be the 6th standard.*

(V) In the examination under regulation (II) (a) above the candidate will be tested in conversation so as to satisfy the examiner as to his power of understanding Sinhalese or Tamil of different classes and of making himself understood by them both in common conversation and in the course of official business. He will also be required to act as interpreter between the examiner and Sinhalese or Tamils entirely ignorant of English, the interpretation to be on matters connected with ordinary official business. The candidates referred to in section III above will be required in this examination to obtain a minimum of 50 per cent of the total marks, and those referred to in section (IV) will be required in this examination to obtain a minimum of only 40 per cent. 20 30

*Note.- In and after 1957, the candidates referred to in section (IV) above also will be required in this examination to obtain a minimum of 50 per cent of the total marks (vide 1/22/9 (G) mp. XLVIII) ref. Aug 63 Exam.*

(VI) In the examination under regulation (II) (b) above,

(i) the candidates referred to in section (III) above will be required to write an English translation of two short Sinhalese or Tamil reports from headmen written in different running hands, to translate a short English order to a headman into Sinhalese or Tamil, and to read and translate an extract from a Sinhalese or Tamil notarial deed and from the proceedings of a Rural Court case put into their hands for the first time, and

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(ii) the candidates referred to in section (IV) above will be required, *in and after 1957*, to write an English translation of two short Sinhalese or Tamil reports from headmen written in different running hands, to translate a short English order to a headman into Sinhalese or Tamil, to read and translate orally an extract from a Sinhalese or Tamil newspaper and to read a manuscript letter and answer oral questions on comprehension.

*Note.- All candidates will be required in this examination to obtain a minimum of 50 per cent of the total marks.*

(VII) Candidates for the examination under regulation (I) (b) above will be required to obtain a minimum of 50 per cent of the total marks in accounts.

(VIII) (i) the examinations will be held in Colombo in February and August of each year, and entries for them should reach the Commissioner of Examinations not later than the first day of January and July, respectively, on the prescribed entry forms to be obtained from him by each Head or Local Head of Department on behalf of his officers not later than December 15 and June 15, respectively.

(ii) Each candidate will receive from the Commissioner of Examinations, sufficiently in advance of the date fixed for the examination, his Admission Form giving the date and place of examination. If a candidate does not receive his Admission Form at least 10 days before the date of the examination, he should communicate, without delay, with the Commissioner of Examinations, Colombo 2. (Telegraphic address: EXAMS, Colombo).

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(iii) Candidates are bound by the Rules and Regulations prescribed by the Commissioner of Examinations, for the conduct of examinations, and are liable to punishment for any breach of them subject to the approval of the Deputy Secretary to the Treasury and the Public Service Commission.

(IX) A candidate may take up the language and accounts examinations, if he so desires, separately and on different occasions.

(X) The expenses of all clerks attending an examination will be paid by Government at the rates laid down in the Financial Regulations, provided the examiners certify that the candidate was, with the knowledge exhibited by him reasonably justified in presenting himself for examination. 10

*Note:* The above provisions are liable to alteration from time to time.

#### MINUTE ON THE STENOGRAPHERS' TRANSFERABLE SERVICE

The Stenographers' Transferable Service is under the general control of the Deputy Secretary to the Treasury.

2. The present conditions of service and salary scales are indicated below. Officers in the Service will also be subject to the public Service Commission Rules, the Financial Regulations, the Regulations of the Manual of Procedure, Departmental Orders and any other orders or regulations of Government. The cadre is shown in the Annual Estimates under the various Heads and Votes of Expenditure. 20

The salary scales, conditions of service and cadre of the Service are liable to alteration from time to time.

#### 3. *Structure and salary scales of the Service—*

Higher Grade	Rs. $\frac{3,300-5,340}{5 \text{ of } 120 \text{ \& } 8 \text{ of } 180}$	(Efficiency Bar before Rs. 3,900)	30
Lower Grade	Rs. $\frac{1,740-3,780}{17 \text{ of } 120}$	(Efficiency Bar before Rs. 2,940)	

4. *Appointment to Lower Grade.*— (i) Appointment will be by competitive examination. Details of the examination are given in the Appendix to this Minute.

(ii) Successful candidates will be given appointments, as vacancies occur, subject to their passing a medical examination as to their physical fitness for service in any part of Ceylon. Successful male candidates will be appointed on three years' probation and successful female candidates on three years' trial. Confirmation of male candidates and continued employment of female candidates will depend on satisfactory work and conduct and on the passing of an Efficiency Test for which a practical examination is prescribed. (*vide* pps in 1/88/2 (G). In the case of absorbed Stenos the period of probation/trial to commence from the date of letter of appointment – vide pps. in 1/101/1 (G.)

(iii) The practical examination referred to in the preceding sub-paragraph will be on the following lines for candidates recruited through the examination held in the English medium:—

- (a) Taking down notes from dictation at a speed of about 120 words a minute and transcribing the notes on the typewriter at a speed not less than 12 words a minute;
- (b) Drafting a reply to a letter on the lines to be indicated at the time;
- (c) Sinhalese or Tamil (*in and after 1956*) (A minimum of 40 per cent should be obtained in this subject).

*Note:* The standard of Sinhalese/Tamil should be such as to test whether the candidates have a working knowledge of the Language. (*vide* Circular letter No. 1/23/5 (G) of 15. 9. 59.)

(Candidates are now allowed w. e. f. 12/8/57 to take subject by subject (*vide* Circular letter No. 1/83/3 (G) of 21. 8. 1957)

The examination will be held quarterly in Colombo by the Commissioner of Examinations or an officer appointed by him on the 2nd Saturday of January, April, July and October each year. If any of these dates falls on a Public Holiday, the examination will be held on the next succeeding Saturday.

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(iv) The practical examination referred to in sub-paragraph (ii) for candidates recruited through the examination held in the Sinhalese/Tamil medium will be as follows:-

- (a) Taking down notes from dictation at a speed of about 80 words a minute and transcribing the notes on the typewriter at a speed not less than 7 words a minute;
- (b) Drafting a reply to a letter on the lines to be indicated at the time.

The examination will be held quarterly in Colombo by the Commissioner of Examinations or an officer appointed by him on the 3rd Saturday of January, April, July and October each year. If any of these dates falls on a Public Holiday, the examination will be held on the next succeeding Saturday. 10

(v) Applications for admission to these examinations should be made on the prescribed form which may be obtained from the Commissioner of Examinations up to a date one week before the date of closing of applications for each quarterly examination. Entries should reach the Commissioner of Examinations one month before the date of the examination. 20

(Officers may sit for the confirmation Test at any time during their period of probation/trial (vide Treasury Circular letter No: 1/83/3 (G) of 21. 8. 57).

*Note:* (a) The provisions in regard to these examinations are liable to alteration from time to time.

(b) See Regulation 120 in Manual of Procedure regarding probation and trial.

5. *Promotion to Higher Grade:-*

(i) Appointments to the Higher Grade will be made by promotion from the Lower Grade on the results of a competitive examination which will be held by the Commissioner of Examinations or an officer appointed by him. No officer will be allowed to compete unless he has been confirmed in his appointment and the Deputy Secretary to the Treasury considers that his service has been in every way meritorious. Officers who have been appointed to the Lower Grade on the specific condition that they will not be eligible for admission to the examination for promotion to the Higher Grade unless and until they obtain the basic educational qualification stipulated in the notifications relating to the examinations on the results of which they were appointed, will also not be permitted to sit for this examination unless they have either obtained the prescribed basic educational qualification and have been confirmed in their appointment or have completed 4 years service and have been confirmed in their appointment - (vide Treasury letter 1/92/4 (G) of 15. 10. 57,

(ii) This examination will be on the following lines for candidates recruited through the examination held in the English medium.

Candidates will be required to take down in shorthand a passage dictated at 140 words per minute for a continuous period of 8 minutes and to transcribe their notes on the typewriter at the rate of 20 words a minute (i.e. in 56 minutes.)

Candidates who attain 95 per cent accuracy in this test will then be required to pass a practical test in taking down proceedings of a conference for about 20 minutes and transcribing their notes on the typewriter, the time allowed for such transcription being 9 minutes for every 1 minute of note-taking. This conference will be arranged by the Commissioner of Examinations.

Candidates will also be required to take papers in English including *precis* writing and General Knowledge. In and after 1956, they will also be required to take a paper in Sinhalese or Tamil.

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This paper will be of such a standard as to test whether the candidates have a working knowledge of the language. (*Vide* Circular letter No. 1/23 / 5(G) of 15. 9. 59.)

Selections for promotion will be made on the results of the examination provided candidates have attained the following minimum standard:-

- 60 per cent of the marks in the practical Conference Test.
- 35 per cent of marks in English.
- 35 per cent of the marks in General Knowledge.
- 40 per cent of the marks in Sinhalese/Tamil (*in and after 1956*). 10

(iii) The examination referred to in sub-paragraph 1 for candidates recruited through the examination held in the Sinhalese/Tamil medium will be as follows:-

Candidates will be required to take down in shorthand a passage dictated at 100 words per minute for a continuous period of 8 minutes and to transcribe their notes on the typewriter at the rate of 12 words a minute (i.e. in 67 minutes).

Candidates who attain 95 per cent accuracy in this test will then be required to pass a practical test in taking down proceedings of a conference for about 20 minutes and transcribing their notes on the typewriter, the time allowed for such transcription being 10 minutes for every 1 minute of note-taking. This conference will be arranged by the Commissioner of Examinations. 20

Candidates will also be required to take papers in Sinhalese/Tamil including precis writing and General Knowledge.

Selections for promotion will be made on the results of the examination, provided candidates have attained the following minimum standard:-

- 60 per cent of the marks in the practical Conference Test.
- 35 per cent of the marks in Sinhalese/Tamil. 30
- 35 per cent of the marks in General Knowledge.

*Note-*

The provisions in regard to these examinations are liable to alteration from time to time

(iv) Vacancies in the Higher Grade will also be filled by the promotion (without examination for special merit) of officers who have passed the Efficiency Bar before Rs. 2,940/- in the Lower Grade. The number of



officers so promoted in any one year will not exceed the number who are promoted on the results of the examination held in that year or 10 per cent of the vacancies in the Higher Grade, which ever is less. If in any year there are vacancies and no officers qualify in the examination one officer may be promoted without examination (*vide* paragraph 8(iii)).

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*Date of appointment to Higher Grade:* It has been decided with effect from 1. 10. 53 promotion of Stenographers in the Lower Grade to the Higher Grade will take effect from the dates of the vacancies or the first October of the financial year in which the examination for promotion is held, whichever is later (*vide* (6) in file 1/92/1 (G) ).

6. Stenographers will be required to work out of office hours when necessary without extra remuneration. They will also be required to assist in the general clerical work of the department in which they are serving.

Stenographers are entitled to overtime in respect of work outside normal hours, subject to normal overtime rules. (*vide* Circular letter No. 309/1/50 (ET/DE) 55 of 8. 5. 48). Also see Case No 1/97/5(G). Deputy Secretary to the Treasury has ordered amending the para 6 accordingly.)

7. *Increments and Efficiency Bars.*- (i) Increments on the salary scale applicable will be given annually, subject to satisfactory work and conduct. They will be given on the same condition during the probationary period. A Stenographer's work should be kept under constant review throughout the year to enable a decision regarding his annual increment to be reached without the further formality of a test (*vide* Treasury Circular 360 of 26. 2. 57).

The regulations in the Manual of Procedure regarding increments and Efficiency Bars will apply to the Stenographers' Transferable Service.

(ii) Stenographers in the Lower Grade are not eligible to pass the Efficiency Bar before Rs. 2,940 unless they have passed a test. They are allowed to take the Efficiency Bar Test subject by subject any time after they have been confirmed in their appointments (*vide* Circular letter 1/83/3 (G) of 21. 8. 57 )

The Government has now decided that this requirement should be waived in the case of Stenographers in the Lower Grade who have reached the age of 50 years and have served at least 15 years in that Grade, provided their work and conduct warrant the concession (*vide* Circular 238 of 16. 5. 55 and note (b) below.

(iii) This test for stenographers recruited through the examination held in the English medium will be held quarterly in Colombo by the Commissioner of Examinations, on the 2nd Saturday of January, April, July and October each year. If any of these dates falls on a Public Holiday, the test will be held on the next succeeding Saturday.

Applications for admissions to the examination should be made on the prescribed form which may be obtained from the Commissioner of Examinations up to a date one week before the date of closing of applications for each quarterly examination. Entries should reach the Commissioner of Examinations one month before the date of the examination. 10

The examination will consist of-

- (a) Taking down to dictation for 2 periods of 5 minutes each with an interval not exceeding 2 minutes between periods, passages of ordinary difficulty dictated in 120 words a minute and transcribing the notes on the typewriter at 12 words a minute.
- (b) Recording, for one hour, proceedings of a meeting of a Board or such other meeting as the Commissioner of Examinations may prescribe, and producing a transcript to the satisfaction of the Commissioner of Examinations or of an officer appointed by him. 20
- (c) Writing a half-hour essay on one of a selection of subjects set by the Commissioner of Examinations
- (d) A test in Sinhalese/Tamil (*in and after 1956*) (A minimum of 40 per cent should be obtained in this test).

*Note* The standard of Sinhalese/Tamil will be such as to test whether the candidates have a working knowledge of the language. (Circular letter No. 1/23/5(G) of 15. 9. 59.)

(iv) The test referred to in sub-paragraph (ii) for stenographers recruited through the examination held in Sinhalese/Tamil medium will be held quarterly in Colombo by the Commissioner of Examinations, on the 3rd Saturday of January, April, July and October each year. If any of these dates falls on a Public Holiday, the test will be held on the next succeeding Saturday. 30

Applications for admission to the examination should be made on the prescribed form which may be obtained from the Commissioner of Examinations up to a date one week before the date of closing of applications for each quarterly examination. Entries should reach the Commissioner of Examinations one month before the date of the examination.

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The examination will consist of-

- 10 (a) Taking down to dictation for 2 periods of 5 minutes each with an interval not exceeding 2 minutes between periods, passages of ordinary difficulty dictated at 80 words a minute, and transcribing the notes on the typewriter at 7 words a minute.
- (b) Recording, for one hour, proceedings of a meeting of a Board or such other meeting as the Commissioner of Examinations may prescribe, and producing a transcript to the satisfaction of the Commissioner of Examinations or of an officer appointed by him.
- (c) Writing a half-hour essay on one of a selection of subjects set by the Commissioner of Examinations.
- 20 (v) A stenographer who fails to pass the examination will not be allowed to take it again for a further 6 months.

*Note* (a) The provisions in regard to these examinations are liable to alteration from time to time.

- (b) Notwithstanding anything contained in the above paragraph, Stenographers in the Lower Grade who have reached the age of 50 years may be exempted from this test and may be promoted over the Efficiency Bar with the approval of the Deputy Secretary to the Treasury, provided they have served at least 15 years in the Grade and their work and conduct warrant concession.
- 30

#### 8. *Confidential Reports and Promotions:*

- (i) Heads of Departments should submit annual confidential reports to the Permanent Secretary to the Ministry on all officers of the Service in their departments who are not on probation or trial. These reports must be forwarded in duplicate on form General 90 under confidential cover not later than January 20. The Permanent Secretary will forward one copy of each report, with any remarks he may wish
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to make, to the Deputy Secretary to the Treasury by January 31. Heads of Departments not grouped under a Ministry should forward one copy of the report direct to the Deputy Secretary to the Treasury by January 31. Heads of Departments not grouped under a Ministry should forward one copy of the report direct to the Deputy Secretary to the Treasury by January 31.

(ii) Any adverse report made in the Confidential Report, history sheet or personal file of an officer must be communicated to the officer. A note must be attached to the report stating that this has been done. 10

(iii) Recommendations for promotion for special merit from the Lower Grade to the Higher Grade (vide paragraph 5 (iv) must be made in the Annual Confidential Reports and no other recommendations or applications for promotion will be considered by the Deputy Secretary to the Treasury. The fact that an officer has for several years drawn the maximum salary of the Lower Grade is not in itself a ground for promotion and officers should be recommended only if they are in every way fit for promotion to the Higher Grade.

9. *Transfers.*- (i) Officers of the Service are liable to transfer and may be posted to any station in Ceylon. 20

(ii) Transfers of Officers within a department will be made by the Head of the Department subject to general supervision by the Permanent Secretary to the Ministry. Inter-departmental transfers within a Ministry will be made by the Permanent Secretary. Transfers between Ministries will be made by the Deputy Secretary to the Treasury at his discretion.

#### 10. *Pensions and Provident Fund Benefits*-

Male Stenographers confirmed in the Service are entitled to the benefits of the Pension Minute in appropriate circumstances. Female Stenographers will be eligible for Provident Fund benefits only. 30

(vide Treasury Circular No. 372 of 29. 4. 57 regarding Pension Rights of Female Officers in Government Service).

### APPENDIX

#### EXAMINATION FOR APPOINTMENT TO THE LOWER GRADE OF THE STENOGRAPHERS' TRANSFERABLE SERVICE.

Competitive examinations in the English medium, Sinhalese medium and Tamil Medium, for male and female candidates wishing to enter

the Service will be held, when vacancies are available, as advertised in the *Ceylon Government Gazette* by the Deputy Secretary to the Treasury from time to time.

2. (i) Candidates must be Ceylonese (as defined in the Manual of Procedure) and of good character

(ii) Candidates for the Examination (English medium) must possess at least-

10 (a) The London Matriculation Certificate or the Cambridge Senior Certificate or the Ceylon Senior School Certificate (English) or the Senior Domestic Science Certificate; or

(b) *deleted* (vide pps in 1/23/6/67 G).

(c) The Cambridge Junior Certificate or the Junior School Certificate (English) of the Education Department, Ceylon, or the Junior School Certificate (English) awarded by a School approved by the Education Department *together* with one of the following:-

(i) the Higher Commercial Certificate (either Section) of the London Chamber of Commerce;

20 (ii) the Commercial Certificate (either Section) of the London Chamber of Commerce;

(iii) the Ceylon Chamber of Commerce Certificate.

(iii) Candidates for the Examination (Sinhalese/Tamil medium) must possess at least:-

(a) the London Matriculation Certificate or the Cambridge Senior Certificate or the Ceylon Senior School Certificate (English) or the Senior Domestic Science Certificate *with* Sinhalese or Tamil as a subject; or

(b) the Senior School (Sinhalese or Tamil) Certificate

30 (iv) The age limits for candidates will be laid down in the *Gazette* notification referred to in paragraph 1 above; the lower and upper age limits at present are 17 years and 30 years respectively.

(v) Officers in the Typists' Service controlled by the Deputy Secretary to the Treasury who have been confirmed in their appointments will be permitted to sit for the examination irrespective of age and educational qualifications.

(vi) Clerks in the Quasi Clerical Service who have been confirmed in their appointments will be permitted to sit for the examination, irrespective of educational qualifications, provided they are below the age of 45 years at the time of the examination. Those who do not possess the basic educational qualifications stipulated in sub-paragraph (ii) or (iii) above, as the case may be, and are selected for appointment to the Lower Grade, will not be eligible to enter the Higher Grade of Stenographers unless and until they obtain either the basic educational qualification or have completed 4 years, service and have been confirmed in their appointments (vide Treasury Circular letter 1/92/4(G) of 15.10.57). 10

3. (i) The subjects of the examination in the English medium will be as follows and marks will be assigned as indicated against each:-

PART I		<i>Marks</i>
(1) English Essay (one hour)		50
(2) Shorthand-Taking down in Shorthand passages dictated, at 100 words a minute for 5 minutes and transcribing the record in longhand at 8 words a minute		150
(3) Typewriting Making a correct copy of a passage of about 600 words on the typewriter in 20 minutes, i. e. at the rate of 30 words per minute		20 50

*Note*- Candidates should bring their own typewriters; otherwise they will be expected to type on the machines provided, irrespective of make or model. Touch typewriting will be regarded as essential. Neatness and accuracy will be taken into account in marking the scripts.

	<i>Marks</i>
(4) Sinhalese or Tamil (one hour)	50

*Note:* (a) This paper will be regarded as a qualifying test only, and every candidate will be required to obtain a minimum of 40 per cent of the marks allotted for the paper. The marks obtained in this paper will not, however, be taken into consideration when selecting candidates for appointment from among those who have so qualified. 30

- (b) The standard of this paper will be as follows:
- At the 1956 examination, if held 5th standard
  - At the 1957 examination, if held 6th standard
  - At the 1958 examination, if held 7th standard.

(c) Candidates who have obtained a Senior School Certificate with Sinhalese or Tamil or Lower Sinhalese or Lower Tamil as a subject or have passed the General Certificate of Education (Ordinary Level) Examination in Sinhalese or Tamil or Lower Sinhalese or Lower Tamil will be exempted from this paper.

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## Part II

Marks

5. *Viva Voce*

50

(ii) The subjects of the examination in the Sinhalese/Tamil medium will be as follows and marks will be assigned as indicated against each:-

## Part I

- |   |     |
|---|-----|
| (1) Sinhalese/Tamil Essay (one hour)  | 50  |
| (2) Sinhalese/Tamil Shorthand-Taking down in shorthand passages dictated at 70 words a minute for 5 minutes and transcribing the record in longhand at 5 words a minute | 150 |
| (3) Sinhalese/Tamil Typewriting-Making a correct copy of a passage of about 400 words on the typewriter in 20 minutes, i. e. at the rate of 20 words per minute         | 100 |

*Note-* Candidates should bring their own typewriters; otherwise they will be expected to type on the machines provided, irrespective of make or model. Neatness and accuracy will be taken into account in marking the scripts.

## Part II

Mark

- |                      |    |
|----------------------|----|
| (4) <i>Viva Voce</i> | 50 |
|----------------------|----|

(iii) The examination will be held in two parts. Part I will be held first, and candidates who have attained a sufficiently high standard in it will be summoned later for Part II, of the *viva voce*. The *viva voce* examination, may however, be dispensed with if the number of candidates qualifying for it falls short of the number of vacancies.

*Note-* The above provisions are liable to alteration. The *Gazette* notifications published from time to time by the Deputy Secretary to the Treasury should be consulted by prospective candidates for full up-to-date information regarding the examination.

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The Typists' Service is under the general control of the Deputy Secretary to the Treasury. It does not form part of the General Clerical Service.

2. The present conditions of service and salary scale are indicated below. Officers in the Service will also be subject to the Public Service Commission Rules, the Financial Regulations, the Regulations of the Manual of Procedure, Departmental Orders and any other orders or regulations of Government. The cadre of the Service is shown in the Annual Estimates under the various Heads and Votes of Expenditure.

The salary scale, conditions of service and cadre of the Service are liable to alteration from time to time.

## 3. Present Salary Scale-

	960-2,688	
Rs.	—————	(Efficiency Bars before Rs. 1320,
	24 of 72	Rs. 1,608 and Rs. 2 184)

4. *Appointment.*— (i) Appointment will be by competitive examination. Details of the examination are given in the Appendix to this Minute.

(ii) Successful candidates will be given appointments, as vacancies occur subject to their passing a medical examination as to their physical fitness for service in any part of Ceylon. Successful male candidates will be appointed on three years' probation and successful female candidates on three years' trial.

Note.— See Regulation 120 in Manual of Procedure regarding probation and trial.

5. *Increments and Efficiency Bars.*— Increments on the salary scale will be given annually subject to satisfactory work and conduct. They will be given on the same condition during the probationary period.

The Regulations in the Manual of Procedure regarding increments and Efficiency Bars will apply to the Typists' Service.



6. *Confidential Reports:-*

(i) Heads of Departments should submit Annual Confidential Reports to the Permanent Secretary to the Ministry on all officers of the Service in their departments who are not on probation or trial. These reports must be forwarded in duplicate, on form General 90, under confidential cover, not later than January 20. The Permanent Secretary will forward one copy of each report, with any remarks he may wish to make, to the Deputy Secretary to the Treasury by January 31. Heads of Departments not grouped under a Ministry should forward one copy of the report direct to the Deputy Secretary to the Treasury by January 31.

(ii) Any adverse report made in the Confidential report, history sheet or personal file of an officer, must be communicated to the officer. A note must be attached to the report stating that this has been done.

7. *Transfers-*(i) Officers of the Service are liable to transfer and may be posted to any station in Ceylon.

(ii) Transfers of officers within a department will be made by the Head of the Department subject to general supervision by the Permanent Secretary to the Ministry. Inter departmental transfers within a Ministry will be made by the Permanent Secretary. Transfers between Ministries will be made by the Deputy Secretary to the Treasury at his discretion.

8. *Pensions and Provident Fund Benefits.-* Male Typists confirmed in the Service are entitled to the benefits of the Pension Minute in appropriate circumstances. Female typists will be eligible for Provident Fund benefits only (*vide* Treasury Circular 372 of 29. 4. 57 regarding Pension Rights of Female officers in permanent service).

9. *Eligibility for admission to the examination for recruitment to the Stenographers' Transferable Service.-*

Officers in the Typists' Service who have been confirmed in their appointments will be allowed to sit for the examination for entry into the Lower Grade of the Stenographers' Transferable Service controlled by the Deputy Secretary to the Treasury irrespective of age and educational qualifications.

## APPENDIX

## EXAMINATION FOR APPOINTMENT TO THE TYPISTS' SERVICE

A competitive examination for male and female candidates wishing to enter the Typists' Service will be held when vacancies are available, as advertised in the *Ceylon Government Gazette* by the Deputy Secretary to the Treasury from time to time.

2. Candidates may take this examination in the English medium or Sinhalese medium or Tamil medium.

3. Candidates must be Ceylonese (as defined in the Manual of Procedure) and of good character and must possess at least one of the following:— 10

(a) the London Matriculation Certificate or the Cambridge Senior Certificate or the Ceylon Senior School (English) Certificate or the Senior Domestic Science Certificate;

or (b) the Senior School (Sinhalese or Tamil) Certificate;

or (c) The Sinhala Commercial Certificate of the Department of Examinations:

or (d) The Higher Commercial Certificate (either section) of the London Chamber of Commerce;

or (e) Commercial Certificate (either section) of the London Chamber of Commerce: 20

or (f) The Ceylon Chamber of Commerce Certificate;

or (g) General Certificate of Education (Ordinary Level) in Sinhala or Tamil Language, Arithmetic or Pure Mathematics or Elementary Mathematics or Commercial Arithmetic and in four other subjects provided passes in at least five of these subjects have been secured on one and the same occasion.

4. The age limits for candidates will be laid down in the *Gazette* notification referred to in paragraph 1 above; the lower and the upper age limits at present are 17 years and 24 years, respectively. 30

5. Clerks in the District Clerical Service controlled by the Deputy Secretary to the Treasury, and in the Quasi Clerical Service who have been confirmed in their appointments, will be permitted to sit for the examination until they reach the age of 45 years, irrespective of educational qualifications.

6. *Scheme of Examination.* The examination will be held in two parts, viz. Part I (Written) and Part II (Viva Voce). The subjects of the examination and the marks assigned to each subject are given below. In all written papers marks will be deducted for bad writing and mistakes in spelling. Candidates whose writing is illegible are liable to be disqualified.

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<i>PART I (Written)</i>		<i>Marks</i>
A. COMPULSORY SUBJECTS:		
	(1) Essay (English or Sinhalese or Tamil) 1 hour	100
10	(2) Typewriting (English or Sinhalese or Tamil) Minimum speed: 30 words per minute in English Typewriting and 20 words per minute in Sinhalese or Tamil Typewriting 20 minutes	150
<i>Note-</i> (a) Neatness, accuracy, and speed will be taken into consideration. In the case of English typewriting, touch typewriting will be regarded as essential.		
(b) Candidates should bring their own typewriters; otherwise they will be expected to type on the machines provided, irrespective of make or model.		
20	(3) General Knowledge (English or Sinhalese or Tamil) 30 minutes-	50
	(4) Special Language (Sinhalese or Tamil) 45 minutes	50
<i>Note-</i> Candidates who take the examination in the English medium should take subjects (1), (2) and (3) in the English medium and also subject (4) Special Language (Sinhalese or Tamil).		
Candidates who take the examination in the Sinhalese or Tamil medium should take subjects (1), (2) and (3) in the same medium.		
30	Every candidate who take the examination in the English medium must obtain a minimum of 30 per cent in subject (4) Special Language.	
B. OPTIONAL SUBJECT:		
	(5) Shorthand (English or Sinhalese or Tamil) 70 words per minute in English Shorthand, and 50 words per minute in Sinhalese or Tamil Shorthand	50

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*Note-* (a) Candidates may or may not take this subject as their order of merit will not be influenced by the marks scored in it. Candidates who know Shorthand are, however, advised to take the subject.

(b) This subject should be taken in the same medium as subjects (1), (2) and (3) in A above.

Part II (*Viva Voce*) 50

The *viva voce* examination will be conducted in the medium selected by the candidate in respect of subjects (1), (2) and (3) in Part I A above. 10

The written examination will be held first and on its results candidates will be selected competitively to attend the *viva voce* examination. The number to be called for the *viva voce* examination will be fixed by the Deputy Secretary to the Treasury in consultation with the Commissioner of Examinations. The *viva voce* examination may however, be dispensed with if the number of candidates qualifying for it falls short of the number of vacancies.

*Note-* The above provisions are liable to alteration. 20

The *Gazette* Notifications published from time to time by the Deputy Secretary to the Treasury should be consulted by prospective candidates for full up to date information regarding the examination.

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#### MINUTE ON THE DISTRICT CLERICAL SERVICE

The District Clerical Service is under the general control of the Deputy Secretary to the Treasury. It does not form part of the General Clerical Service and is regarded as a District Service, each Administrative District being treated as a separate unit.

2. The present conditions of service and salary scales are indicated below. Officers in the Service will also be subject to the Public Service Commission Rules, the Financial Regulations, the Regulations of the Manual of Procedure, Departmental Orders and any other orders or regulations of Government. The cadre is shown in the Annual Estimates under the various Heads and Votes of Expenditure. 30

The salary scale, conditions of service and cadre of the Service are liable to alteration from time to time.

3. *Present Salary Scale:-*

Rs.  $\frac{888-2,184}{18 \text{ of } 72}$  (Efficiency Bar before Rs. 1,608)

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4. *Appointment.-*

(i) Appointment will be by competitive examination. Details of the examination are given in the Appendix to this Minute.

(ii) Candidates may be selected for service in any Government office in the Administrative District to which they seek appointment. They will not, save for special reasons and in exceptional circumstances, be appointed to an office in any other Administrative District.

(iii) Successful candidates will be appointed, as suitable vacancies occur, on two years' probation subject to their passing a medical examination as to their physical fitness. They will be required to pass a test in typewriting in English, Sinhalese or Tamil within one year of the date of their appointment. Failure to pass this test within one year of appointment will result in the first annual increment being stopped until they pass. If they fail to pass within two years of appointment the increment stopped will be deferred until they pass. Those who are over the age of 35 years on the date of their appointment may be exempted from this test with the approval of the Deputy Secretary to the Treasury.

The passing of this test is not a condition required for confirmation of officers in their appointments.

Note- See Regulation 120 in Manual of Procedure regarding probation.

5. *Increments and Efficiency Bars.-* Increments on the salary scale will be given annually, subject to satisfactory work and conduct. They will be given on the same condition during the probationary period.

The regulations in the Manual of Procedure regarding increments and Efficiency Bars will apply to the District Clerical Service.

6. *Confidential Reports.-*

(i) Heads of Departments should submit Annual Confidential Reports to the Permanent Secretary to the Ministry on all officers of the Service in their departments who are not on probation. These reports must be forwarded in duplicate on form General 90 under confidential

cover not later than January 20. The Permanent Secretary will forward one copy of each report, with any remarks he may wish to make, to the Deputy Secretary to the Treasury, by January 31. Heads of Departments not grouped under a Ministry should forward one copy of the report direct to the Deputy Secretary to the Treasury by January 31.

(ii) Any adverse report made in the Confidential Report, history sheet or personal file of an officer must be communicated to the officer. A note must be attached to the report stating that this has been done. 10

7. *Transfers:* (i) District Clerks will be liable to transfer from one Government office to another within the Administrative District to which they have been selected for appointment, but will not, save for special reasons and in exceptional circumstances, be transferred to an office outside that district.

(ii) Transfers of officers within a department will be made by the Head of the Department subject to general supervision by the Permanent Secretary to the Ministry. Inter-departmental transfers within a Ministry will be made by the Permanent Secretary. Transfers between Ministries will be made by the Deputy Secretary to the Treasury at his discretion. 20

8. *Pensions.*— The District Clerical Service is a pensionable service and officers confirmed in the Service are entitled to the benefits of the Pension Minute in appropriate circumstances.

9. *Eligibility for admission to examinations for recruitment to other Services.*

District Clerks who have been confirmed in their appointments will be permitted to sit for the examinations for recruitment to the General Clerical Service and to the Typists' Service until they reach the age of 45 years, irrespective of educational qualifications.

## APPENDIX

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### EXAMINATION FOR APPOINTMENT TO THE DISTRICT CLERICAL SERVICE

A competitive examination for male candidates wishing to enter the District Clerical Service will be held, when vacancies are available, as advertised in the *Ceylon Government Gazette*, by the

Deputy Secretary to the Treasury from time to time.

2. Candidates may take up the written test prescribed for this examination in the English medium or Sinhalese medium or Tamil medium.

3. Candidates must be Ceylonese (as defined in the Manual of Procedure) and of good character. They must specify in their applications the Administrative District to which they seek to be appointed, and they or their parents or guardians must be people of that district who normally reside therein. They will also be  
10 allowed to specify in their applications two other Administrative Districts to which they desire appointment.

4. Candidates should have passed the Junior School Certificate Examination (English, Sinhalese or Tamil) or equivalent or higher examination.

5. Candidates must be not less than 16 years nor more than 20 years of age.

6. The following categories of Government employees will be permitted to sit for the examination:-

(i) Bookbinders who were in Government Service prior to  
20 August 1, 1935, and who have the right to sit for the Executive Clerical Class Grade II Examination.

(ii) Bookbinders who have had one years continuous satisfactory service under Government as Bookbinders and who are not more than 45 years of age.

(iii) Clerks in the Quasi Clerical Service who have been confirmed in their appointments and who are not more than 45 years of age.

*Note.*- (a) Bookbinders in categories (i) and (2) serving in departments such as the Railway, Postal, Customs and Survey which have their own Departmental Clerical Services will not be eligible to  
30 take this examination.

(b) Officers who have sat for the District Clerical Examination on two or more occasions after attaining the age of 20 years will not be eligible to sit for the examinations to be held in and after 1957.

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7. The examination will be held in two parts viz. Part I (written) and Part II (viva voce). The subjects of the examination and the marks assigned to each subject are given below. In all written papers marks will be deducted for bad writing and mistakes in spelling. Candidates whose writing is illegible are liable to be disqualified.

Part I (Written)	Marks
(i) Language and Composition (English or Sinhalese or Tamil). A one and a half hour paper which will include an essay, a precis and questions to test the correct use of the language.	10 200
<i>Note:</i> Every candidate must obtain a minimum of 40 per cent in this subject.	
(ii) Arithmetic (English or Sinhalese or Tamil) A one and a half hour paper.	100
(iii) General and Local knowledge (English or Sinhalese or Tamil) A one hour paper.	100
(iv) Intelligence Test (English or Sinhalese or Tamil). A paper of 40 minutes duration. (The marks of this test will not be added to the aggregate but will be used for awarding marks at the <i>Viva Voce</i> )	20
(v) Special Language (English or Sinhalese or Tamil). A one and half hour paper.	200
<i>Note:</i> Candidates who take the examination in the English medium should take subjects (i), (ii), (iii) and (iv) in the English medium and also subject (v) Special Language (Sinhalese or Tamil). Candidates who take the examination in the Sinhalese or Tamil medium should take subjects (i), (ii), (iii) and (iv) in the same medium and also subject (v) special Language English. Every candidate must obtain a minimum of 40 per cent in subject (v) Special Language.	30
<i>PART II (Viva Voce)</i>	200

The *viva voce* examination will be conducted in the English medium for all candidates.



The written examination will be held first and those candidates whose performances in the written examination entitle them to further consideration will then be asked to attend a *viva voce* examination at a time and place which will be notified to them. The *viva voce* examination will be held in each Administrative District. The *viva voce* examination may, however, be dispensed with if the number of candidates qualifying for it falls short of the number of vacancies.

**10** *Note:* The above provisions are liable to alteration. The *Gazette* notifications published from time to time by the Deputy Secretary to the Treasury should be consulted by prospective candidates for full up-to-date information regarding the examination.

### MINUTE ON THE QUASI-CLERICAL SERVICE

The Quasi-Clerical Service was formed by the absorption therein of temporary clerks (including temporary typists) who satisfied the conditions laid down for such absorption. The Service is under the general control of the Deputy Secretary to the Treasury. (No Grades with effect from 1.10.1957 *vide* Treasury Circular letter No. 1/91/7 (G) of 9.7.1958).

**20** 2. The present conditions of service and salary scales are indicated below. Officers in the Service will also be subject to the Public Service Commission Rules, the Financial Regulations, the Regulations of the Manual of Procedure, Departmental Orders and any other orders or regulations of Government.

The salary scales, conditions of service and cadre of the Service are liable to alteration from time to time.

#### 3. *Salary Scale:*

Rs. 888-2,112  
17 of 72

**30** *Note:* Officers whose salaries at the time of appointment to this Grade exceeded the maximum of the scale for the Grade have been permitted to retain those salaries as fixed salaries personal to them for as long as they remain within the Service.

4. *Appointment:* (i) All officers eligible for absorption into the Service were appointed prior to September 1, 1955 on a Provident Fund basis on 2 years' trial subject to their passing a medical examination as to their physical fitness for service in any part of Ceylon.

(ii) Officers are required to pass a test in typewriting in English, Sinhalese or Tamil within one year from the dates of their letters of appointment. Failure to pass this test within this year will result in the next increment, if any, falling due after the expiry of the year being stopped for a period equivalent to the time taken in excess of one year to pass the test. The stoppage will be converted to deferment if the test is not passed within two years. Those who were over the age of 35 years on the dates of their appointment may be exempted from this test with the approval of the Deputy Secretary to the Treasury.

10

The passing of this test is not a condition required for confirmation of officers in their appointments.

*Note:* See Regulation 120 in Manual of Procedure regarding probation/trial.

#### 5. *Increments and Efficiency Bars.*—

Increments on the salary scale applicable will be given annually subject to satisfactory work and conduct. They will be given on the same condition during the period of probation/trial.

The regulation in the Manual of Procedure regarding increments and Efficiency Bars will apply to the Quasi-Clerical Service.

20

#### 6. *Confidential Reports.*—

(i) Heads of Departments should submit Annual Confidential Reports to the Permanent Secretary to the Ministry on all officers of the Service in their departments. These reports must be forwarded in duplicate on from General 90 under confidential cover not later than January 20. The Permanent Secretary will forward one copy of each report, with any remarks he may wish to make, to the Deputy Secretary to the Treasury by January 31. Heads of Departments not grouped under a Ministry should forward one copy of the report direct to the Deputy Secretary to the Treasury by January 31.

30

(ii) Any adverse report made in the Confidential Report, history sheet or personal file of an officer must be communicated to the officer. A note must be attached to the report stating that this has been done.

7. *Transfers.*— (i) Officers of the Quasi-Clerical Service are liable to transfer and may be posted to any station in Ceylon.

(ii) Transfers of officers within a department will be made by the Head of the Department, subject to general supervision by the Permanent Secretary to the Ministry. Inter-departmental transfers within a Ministry will be made by the Permanent Secretary. Transfers between Ministries will be made by the Deputy Secretary to the Treasury at his discretion.

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#### 8. *Pensions and Provident Fund Benefits.*

The Quasi-Clerical Service will be declared pensionable with effect from September 1, 1955, and officers who have been confirmed in either Grade of the Service and who have elected to come over to the pensionable service will be entitled to the benefits of the Pension Minute in appropriate circumstances.

In the case of officers who receive, as personal to themselves, salaries higher than the maximum salary of the scale for that Grade, and who have elected to come over to the pensionable service, their pensions at retirement will be determined on the maximum of the salary scale and not on the salaries personal to them. Those who have not elected to come over to the pensionable service will remain as members of the Public Service Provident Fund

#### 9. *Eligibility for Admission to examinations for recruitment to other Services.—*

(i) Officers who have been confirmed in their appointments, are eligible for admission to the Central Clerical, District Clerical, Stenographers, and Typists' Examinations, irrespective of educational qualifications, provided they are below the age of 45 years at the time of each examination.

(ii) Officers who have been confirmed in their appointments are eligible for admission to the District Clerical Examination, irrespective of educational qualifications, up to the age of 45 years.

*Note:* No officer who has sat for the District Clerical Examination on two or more occasions after attaining the age of 20 years will be eligible to sit for the examinations to be held in and after 1957.

### AMENDMENTS TO THE MINUTE ON THE GENERAL CLERICAL SERVICE

An Efficiency Bar before Rs. 1320/- was introduced (*vide* paragraph 2 (B) (V) of Treasury Circular 581 of July 20, 1962).

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(I) Deleted and substituted as in attached Extract from the notification No. 1/23/6/6(G) of May 5, 1962 published in the *Ceylon Government Gazette* No. 13,101 of May 11, 1962.

(III) "Assistant Clerks Service" was re-designated as "District Clerical Service" (vide correction Slip No 9 of April 10, 1959 to the Ceylon Government Manual of Procedure).

(IV) Deleted and substituted as in attached Extract from the notification No. 1/23/6/6(G) of May 5, 1962 published in the *Ceylon Government Gazette* No. 13,101 of May 11, 1962.

4 (ii) Period of Probation altered from 2 years to 3 years. 10  
(Vide paragraph 2(B) (i) of Treasury Circular 428 of 31.1.58).

Details regarding the test in typewriting are found in Treasury Circular No. 466 of November 1, 1958, as amended by Treasury Circular letter No. 1/87/5(G) of March 28, 1959.

5 (c) Deleted with the approval of the Public Service Commission as this grade of officers has ceased to exist (vide S/P.S.C.'s letter B 30/47 of May 28, 1956 in file 1/23/2/4/(G)).

8(ii) Deleted (vide Correction Slip No. 3 of May 15, 1958 to the Ceylon Government Manual of Procedure).

(V) B. Deleted and substituted as in attached Extract from the Notification No. 1/23/6/6(G) of May 5, 1962, published in the *Ceylon Government Gazette* No. 13,101 of May 11, 1962. 20

(II) (3) One hour paper altered to one and a half hours papers (vide notification No. 1/23/2/4(G) of 5. 6. 1956 published in the *Ceylon Government Gazette* No. 10,939 of 8. 6. 1956).

(III) Amended to read as follows:-

"Though the examination is competitive candidates must obtain a minimum of 45 per cent of the marks allotted for each of the papers in Accounts and Regulations, Procedure and Office systems and an aggregate of 50 per cent of the marks in both papers. The syllabus of the examination in Sinhala/Tamil and the minimum qualifying standard which the candidates should attain in this subject will be laid down in the *Gazette* Notification which will be published from time to time by the Deputy Secretary to the Treasury. 30

(VIII) Amended as follows:-

(VIII) (i) The examinations will be held in Colombo in February and August of each year, and entries for them should reach the Commissioner of Examinations not later than the first day of January and July, respectively, on the prescribed entry forms to be obtained from him by each Head or Local Head of Department on behalf of his officers not later than December 15, and June 15 respectively.

10 (ii) Each candidate will receive from the Commissioner of Examinations, sufficiently in advance of the date fixed for the examination, his Admission Form giving the date and place of examination. If a candidate does not receive his Admission Form at least 10 days before the date of the examination, he should communicate, without delay, with the Commissioner of Examinations, Colombo 2. (Telegraphic address: EXAMS, COLOMBO).

20 (iii) Candidates are bound by the Rules and Regulations prescribed by the Commissioner of Examinations for the conduct of examinations, and are liable to punishment for any breach of them subject to the approval of the Deputy Secretary to the Treasury and the Public Service Commission.

(Vide Treasury Circular Letter No. 1/36/2/1(G) of 15. 11 1957).

(COPY)

No. 1/36/2/1(G)  
General Treasury,  
Colombo, 15th November, 1957.

To: All Permanent Secretaries  
and Heads of Departments.

**Efficiency Bar Examination for officers in Grade II  
of the Executive Clerical Class of the General Clerical  
Service.**

30 The examination in National Languages and Accounts for officers in Grade II of the Executive Clerical Class of the General Clerical Service is conducted at present in *April* and *October* each year. Arrangements are being made to conduct this Examination in *February* and *August* each year, instead *commencing with the year 1958*.

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2. The necessary amendment of Section (VIII) of Appendix C to the Minute on the General Clerical Service will be issued shortly. Heads Local Heads of Departments are referred to the requirement at (i) of Section (VIII) as amended, which is reproduced below for easy reference.

3. Please bring the contents of this Circular to the notice of all officers concerned.

Sgd / N. L. D. Caspersz.  
for D.S.T.

Sgd / A. T. M. Silva  
A. C. E.

10

*Amendment to Section (VIII) of Appendix C to  
read as follows:—*

(VIII) (i) The examinations will be held in Colombo in February and August of each year, and entries for them should reach the Commissioner of Examinations not later than the first day of January and July, respectively, on the prescribed entry forms to be obtained from him by each Head or Local Head of Department on behalf of his officers not later than December 15 and June 15, respectively.

20

(ii) Each candidate will receive from the Commissioner of Examinations, sufficiently in advance of the date fixed for the examination, his Admission Form giving the date and place of examination. If a candidate does not receive his Admission Form at least 10 days before the date of the examination, he should communicate, without delay, with the Commissioner of Examinations, Colombo 2. (Telegraphic Address: EXAMS, Colombo).

(iii) Candidates are bound by the Rules and Regulations prescribed by the Commissioner of Examinations for the conduct of examinations, and are liable to punishment for any breach of them subject to the approval of the Deputy Secretary to the Treasury and the Public Service Commission.

30

## P26

## Extract from the Ceylon Government Gazette No. 10,847

Extract from the Ceylon Government Gazette  
No. 10,847 of October 7, 1955.

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## THE CEYLON (CONSTITUTION) ORDER IN COUNCIL 1946

Order under Section 61.

ORDER made by the Public Service Commission under Section 61  
of the Ceylon (Constitution) Order in Council 1946.

10

Colombo, October 1, 1955

Sgd. E. G. Goonewardena  
*Secretary*  
*Public Service Commission*

## ORDER NO. 83

1. The powers specified in column 1 of the Schedule hereto  
are hereby delegated to the officer specified in the corresponding  
entry of column 2 of that Schedule, subject to the following  
conditions:-

20

- (a) that those powers shall be exercised according to such  
instructions as may be issued from time to time by  
the Public Service Commission; and
- (b) that, in any case, where the Public Service Commission  
decides that any power of punishment delegated to  
such officer shall be exercised by the Public Service  
Commission, such officer shall not exercise that  
power in that case.

2. The Order dated February 5, 1948, and published in *Gazette  
Extraordinary* No. 9,829 of February 5, 1948, is hereby revoked.

## SCHEDULE

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## I

## II

- |  |  |    |
|--|--|----|
| <p>1. The power to appoint a public officer (other than an officer of any of the combined services or of the Quasi Clerical Service) whose initial salary does not exceed Rs. 4,080 per annum.</p>   | <p>The Head of the Department in which the appointment is to be made</p> |    |
| <p>2. The power to appoint a public officer of any of the Combined Services or of the Quasi Clerical Service whose initial salary does not exceed Rs. 4,080 per annum.</p>   | <p>The Deputy Secretary to the Treasury</p>                              | 10 |
| <p>3. The power to dismiss or to otherwise punish for misconduct, on the ground of conviction, a public officer (other than an officer of any of the Combined Services or of the Quasi Clerical Service) who is working in a Department assigned to a Minister and—</p> <p>(a) who is the holder of a pensionable post and who is paid a salary not exceeding Rs. 2,700 per annum, or</p> <p>(b) who is the holder of a non-pensionable post and who is paid a salary not exceeding Rs. 3,180 per annum.</p> | <p>The Permanent Secretary to the Ministry</p>                           | 20 |
| <p>4. The power to dismiss or to punish with a fine exceeding one week's pay or with suspension, stoppage, reduction or deferment of increment for a period exceeding one year, a public officer of any of the Combined Services or of the Quasi Clerical Service whose salary does not exceed Rs. 2,700 per annum</p>   | <p>The Deputy Secretary to the Treasury</p>                              | 30 |
| <p>5. The power to reprimand, or to punish with a fine not exceeding one week's pay or, with suspension, stoppage, reduction or deferment of increment for a period not exceeding one year, a public officer of any of the Combined Services or of the Quasi Clerical Service who is working in a Department not assigned to any Minister and whose salary does not exceed Rs. 2,700 per annum.</p>  | <p>The Head of the Department</p>  | 40 |



6. The power to reprimand, or to punish with a fine not exceeding one weeks pay or with suspension, stoppage, reduction or deferment of increment for a period not exceeding one year, on the ground of conviction, a public officer of any of the Combined Services or of the Quasi Clerical Service who is working in a Department assigned to a Minister and whose salary does not exceed Rs. 2,700 per annum.

The Permanent Secretary  
to the Ministry

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7. The power to reprimand, or to punish with a fine not exceeding one week's pay or with suspension, stoppage, reduction or deferment of increment for a period not exceeding one year, on any ground other than on the ground of conviction, a public officer of any of the Combined Services or of the Quasi Clerical Service who is working in a Department assigned to a Minister and whose salary does not exceed Rs. 2,700 per annum.

The Head of the  
Department

8. The power to dismiss or to otherwise punish for misconduct, a public officer (other than an officer of the Combined Services or of the Quasi Clerical Service) who is working in a Department not assigned to any Minister, and -

- (a) who is the holder of a pensionable post and who is paid a salary not exceeding Rs. 2,700 per annum, or
- (b) who is the holder of a non-pensionable post and who is paid a salary not exceeding Rs. 3,180 per annum.

The Head of the  
Department

9. The power to dismiss or to otherwise punish for misconduct, on any ground other than on the ground of conviction, a public officer (other than an officer of any of the Combined Services or of the Quasi Clerical Service) who is working in a Department assigned to a Minister, and

The Head of the  
Department

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- (a) who is the holder of a pensionable post and who is paid a salary not exceeding Rs. 2,700 per annum, or
- (b) who is the holder of a non-pensionable post and who is paid a salary not exceeding Rs. 3,180 per annum

10 The power to reprimand or to reprimand severely, or to punish with a fine not exceeding one week's pay or with suspension, stoppage, reduction or deferment of increment for a period not exceeding one year, on any ground other than on the ground of conviction, a public officer (other than an officer of the Civil Service)-

10

- (a) who is the holder of a pensionable post and who is paid a salary exceeding Rs.2,700 per annum but not exceeding £690 or Rs.9,360 per annum, or
- (b) who is the holder of a non-pensionable post and who is paid a salary not exceeding Rs. 3,180 per annum but not exceeding £690 or Rs. 9,360 per annum.

The Head of the  
Department

20

11. The power to reprimand, or to reprimand severely, a public officer (other than an officer of the Civil Service) whose salary exceeds £690 or Rs. 9,360 per annum and who is working in a Department assigned to a Minister

30

The Permanent Secretary  
to the Ministry

12. The power to reprimand or to reprimand severely a public officer (other than an officer of the Civil Service) whose salary exceeds £690 or Rs. 9,360 per annum and who is working in a Department not assigned to any Minister

The Head of the  
Department

40

13. The power to reprimand or reprimand severely an officer of the Civil Service } The Secretary to the Treasury

14. The power to retire an officer who has reached the age of optional retirement, the commencing salary of whose post does not exceed Rs. 4,080 per annum } The authority who appointed the officer

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In this schedule -

10 "Combined Services" means the Accountants' Service, the General Clerical Service, the Assistant Clerks' Service, the Typists' Service, the Stenographers' Transferable Service and the Service known as the Shroffs' Scheme, and

"Conviction" means a conviction by any Court but does not, except in item 10, include a conviction by a Rural Court.

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Hansard showing the voting on the Official Language Bill - 14.6.56.

**Hansard showing the Voting on the Official Language Bill**  
**PARLIAMENTARY DEBATES**

( HANSARD )

HOUSE OF REPRESENTATIVES

OFFICIAL REPORT

(PAGE 1925 & 1926:)

Principal Contents-OFFICIAL LANGUAGE BILL

5th - 14th June 1956

\* \* \* \* \*

AYES

The Hon. S. W. R. D. Bandaranaike	10
The Hon. W. Dahanayake	
The Hon. C. P. de Silva	
The Hon. P. H. W. de Silva	
The Hon. Stanley de Zoysa	
The Hon. D. P. R. Gunawardena	
The Hon. T. B. Illangaratne	
The Hon. Jayaweera Kuruppu	
The Hon. C. A. S. Marikkar	
The Hon. R. G. Senanayake	20
The Hon. M. Senanayake	
The Hon. Vimala Wijewardena	
Mr. Henry Abeywicrekma	
Mr. C. R. Beligammana	
Mr. M. P. de Zoysa	
Mr. I. M. R. A. Iriyagolle	
Mr. P. B. G. Kalugalla	
Mr. J. C. Munasinghe	
Mr. D. A. Rajapakse	
Mr. L. Rajapakse	
Mr. K. M. P. Rajaratne	30
Mr. M. Samaraweera	
Mr. T. B. Subasinghe	
Mr. P. B. A. Weerakone	
Mr. A. Adikari	
Mr. W. P. G. Ariyadasa	
Mr. M. D. Banda	
Mr. S. D. Bandaranayake	
Mr. C. A. Dharmapala O.B.E.	

Mr. A. Dissanayake  
 Mr. M. S. Dissanayake  
 Dr. M. P. Drahaman M.B.E.  
 Sir Razik Fareed O.B.E.  
 Mr. Hugh Fernando  
 Mr. R. P. Gaddum  
 Mr. S. Godage  
 Mr. K. D. Gunaratne  
 Mr. D. S. Gunasekera  
 10 Mrs. Kusumasiri Gunawardena  
 Mr. K. Hemachandra  
 Mr. M. Herath  
 Mr. D. F. Hettiarachi  
 Mr. E. L. B. Hurulle  
 Mr. C. P. Illangakoon  
 Mr. B. E. Jayatilleke  
 Mr. S. Jinadasa  
 Mr. L. B. S. Jinasena  
 20 Mr. V. T. G. Karunaratne  
 Mr. Nimal Karunatileke  
 Mr. Rosslyn Koch O.B.E.  
 Mr. M. B. W. Mediwaka  
 Mr. D. B. Moonekulame  
 Mr. J. R. Murray  
 Mr. Sagara Palansuriya  
 Mr. D. T. Pasqual  
 Mr. S. A. Pieris O.B.E.  
 Mr. R. S. Pelpola  
 30 Mr. R. S. V. Poulter C.B.E.  
 Mr. S. W. D. Ratnayake  
 Mr. W. G. M. Albert Silva  
 Mr. R. Singleton Salmon C.B.E.  
 Mr. M. Tennekoon  
 Mr. P. Tennekoon  
 Mr. T. B. Tennekoon  
 Mr. M. S. Themis  
 Mr. J. D. Weerasekera

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 Hansard showing the voting  
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#### NOES

40 Mr. V. A. Alegacone  
 Mr. A. Amirthalingam  
 Mr. S. J. V. Chelvanayakam Q.C.  
 Mr. S. U. Ethirimanasingham M.B.E.  
 Mr. V. A. Kandiah

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Mr. M. M. Mustapha  
Mr. V N. Navaratnam  
Mr. G. G. Ponnambalam Q.C.  
Mr. N R. Rajavarothiam  
Mr. C. Suntheralingam  
Mr. C. Vanniasingham

DECLINED TO VOTE

Dr. Colvin R. de Silva	
Dr. Hector Fernando	
Mr. Meryln Fernando	10
Mr. Leslie Goonewardena	
Mrs. Vivienne Goonewardena	
Mr. D. B. R. Goonewardena	
Mr. Y. G. Jayasinghe	
Mr. M. P. Jothipala	
Mr. P. Kandiah	
Mr. P. B. G. Keuneman	
Mr. J. C. T. Kotelawala	
Mr. A. H. Macan Markar	
Mr. M. E. H. Mohamed Ali	20
Mr. Anil Moonesinghe	
Dr. N. M. Perera	
Mr. E. P. Samarakody	
Mr. Bernard Soysa	
Dr. S. A. Wickremasinghe	

Main Question,: "That the Bill be now read a Second Time." put

**Mr. Speaker** having collected the Voices, declared that the "Ayes" had it.

**Mr. Suntheralingam** Divide by name.

The House divided: Ayes, 66; Noes. 29 30

AYES

The Hon. S. W R. D. Bandaranaike  
The Hon. W Dahanayake  
The Hon. C. P de Silva  
The Hon. P. H. W. de Silva  
The Hon. Stanley de Zoysa

The Hon. D. P. R. Gunawardena  
 The Hon. T. B. Illangaratne  
 The Hon. Jayaweera Kuruppu  
 The Hon. C. A. S. Marikar  
 The Hon. Mr. R. G. Senanayake  
 The Hon. M. Senanayake  
 The Hon. Vimala Wijewardena  
 Mr. Henry Abeywickreme  
 Mr. C. R. Boligammana  
 10 Mr. M. P. de Zoysa  
 Mr. I. M. R. A. Iriyagolle  
 Mr. P. B. G. Kalugalla  
 Mr. J. C. Munasinghe  
 Mr. D. A. Rajapakse  
 Mr. L. Rajapakse  
 Mr. K. M. P. Rajaratne  
 Mr. M. Samaraweera  
 Mr. T. B. Subasinghe  
 Mr. P. B. A. Weerakoon  
 20 Mr. A. Adikari  
 Mr. W. P. G. Ariyadasa  
 Mr. M. D. Banda  
 Mr. S. D. Bandaranaike  
 Mr. C. A. Dharmapala, O.B.E.  
 Mr. A. Dissanayake  
 Mr. M. S. Dissanayake  
 Dr. M. P. Drahaman, M.B.E.  
 Sir Razik Fareed, O.B.E.  
 30 Mr. Hugh Fernando  
 Mr. R. P. Gaddum  
 Mr. S. Godage  
 Mr. K. D. Gooneratne  
 Mr. D. S. Goonesekera  
 Mrs. Kusumasiri Gunawardena  
 Mr. K. Hemachandra  
 Mr. M. Herath  
 Mr. D. F. Hettiarachchi  
 Mr. E. L. B. Hurulle  
 Mr. C. P. Illangakoon  
 40 Mr. R. E. Jayatilleke  
 Mr. S. Jinadasa  
 Mr. L. B. S. Jinasena  
 Mr. V. T. G. Karunaratne

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 Hansard showing the voting  
 on the Official  
 Language Bill -  
 14.6.56.

—Continued

P27  
Hansard showing the voting on the Official Language Bill - 14.6.56.  
—Continued

Mr. Nimal Karunatileke	
Mr. Roslyn Koch O.B.E.	
Mr. M. B. W. Mediwake	
Mr. D. B. Moonnekulame	
Mr. J. R. Murray	
Mr. Sagara Palansuriya	
Mr. D. T. Pasqual	
Mr. S. A. Pieries, O.B.E.	
Mr. R. S. Pelpola	
Mr. R. S. V. Poulier, C.B.E.	10
Mr. S. W. D. Ratnayake	
Mr. W. G. M. Albert Silva	
Mr. R. Singleton Salmon, C.B.E.	
Mr. M. Tennekoon	
Mr. P. Tennekoon	
Mr. T. B. Tennekoon	
Mr. M. S. Themis	
Mr. J. D. Weerasekera.	
<i>NOES</i>	
Mr. V. A. Alegacone	20
Mr. A. Amirthalingam	
Mr. S. J. V. Chelvanayakam, Q.C.	
Dr. Colvin R. de Silva	
Mr. S. U. Ethirmanasingham, M.B.	
Dr. Hector Fernando	
Mr. Meryl Fernando	
Mr. Leslie Goonewardena	
Mrs. Vivienne Goonewardena	
Mr. D. B. R. Goonewardena	
Mr. Y. G. Jayasinghe	30
Mr. M. P. Jothipala	
Mr. P. Kandiah	
Mr. V. A. Kandiah	
Mr. P. G. B. Keunemen	
Mr. J. C. T. Kotelawala	
Mr. A. H. Macan Markar	
Mr. M. E. H. Mohamed Ali	
Mr. Anil Moonesinghe	
Mr. M. M. Mustapha	
Mr. V. N. Navaratnam	40
Dr. N. M. Perera	
Mr. G. G. Ponnambalam, Q.C.	



Mr. N. R. Rajavarothiam  
 Mr. E. P. Samarakoody  
 Mr. Bernard Soysa  
 Mr. C. Suntheralingam  
 Mr. C. Vanniasingham  
 Dr. S. A. Wickremasinghe

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 Hansard showing the voting on the Official Language Bill - 14.6.56.

—Continued

P3

Treasury Circular No. 336

Treasury Circular No. 336

P3  
 Treasury Circular No. 336 - 29.11.56

10

No. 2/9/156(H)  
 General Treasury,  
 Colombo, 29th November, 1956.

To: All Permanent Secretaries and Heads of Departments.

PUBLIC SERVANTS AND THE OFFICIAL LANGUAGE

The implications of the Official Language Act, No. 33 of 1956, so far as it affects the position of public servants appointed to the Public Service before the passing of the Act, have been examined by the Government and certain decisions on policy have been reached.

20           2. In reaching these decisions, Government has given full consideration to the fact that hitherto English was the language predominantly used in Government Departments for official business.

While appreciating the fact that officers recruited before the passing of the Official Language Act will be confronted with difficulties in regard to the adoption of Sinhalese in official business, Government has decided that the conditions under which these officers were recruited, so far as they relate to the use of any particular language or languages in official business, must be strictly enforced.

30           3. The Ministry of Finance has been directed by the Cabinet to prepare a detailed and comprehensive statement of the obligations in regard to the use of Sinhalese, Tamil and English assumed under the terms and conditions of their appointment, by various grades of public officers appointed to the Public Service prior to July 7, 1956.

The Treasury would be glad if you would furnish with the least possible delay a detailed statement indicating the nature and extent of these obligations in regard to each group or class of officers in your Department, other than members of the Ceylon Civil Service or of any Combined Service under the control of the Deputy Secretary to the Treasury.

4. The following are examples of obligations assumed by public officers in regard to languages:-

- (a) There is the rule that a reply to a communication should be sent in the same language as the communication itself. Officers who are expected to conform to that rule will have to continue to do so. 10
- (b) Officers who have to pass Efficiency Bars in Sinhalese, or Tamil or English, must maintain a standard of proficiency in that language at least equivalent to the standard of the Efficiency Bar Tests.
- (c) Where proficiency in a language was a necessary qualification for appointment, or had to be acquired at some later stage, officers must be expected to transact any official business in that language for which that standard of proficiency would be adequate. 20

5. The following decisions which apply to public servants recruited to the Public Service before July 7, 1956, have also been taken by Government consequent on the enactment of the Official Language Act.

**(i) Retirement Scheme.**

An officer who is unable to satisfy the requirements of the new language policy will be allowed to apply for retirement.

If an officer is permitted to retire, no compensation for loss of career will be granted. Wherever possible officers who are unable to fulfil the requirements of the new language policy will be found such employment in the Public Service as would enable them to carry out their functions as they have hitherto done 30

**(ii) Bonus Scheme:**

A scheme is being prepared for the payment of a cash bonus to officers who pass a prescribed test in Sinhalese before July, 1960. This bonus is intended to serve as an encouragement to officers to acquire proficiency in Sinhalese.

The nature of the test will be determined by the Department of Official Language Affairs in collaboration with the Ministry of Finance.

The bonus will not be paid to public servants who have been recruited for their proficiency in Sinhalese, for example, Translators and Interpreters.

6. Full particulars of the Retirement Scheme and the Bonus Scheme referred to in the preceding paragraph will be notified in due course.

7. This Circular does not apply to officers in the Judicial Service and the Local Government Service.

8. Please bring the contents of this Circular to the notice of all officers in your Ministry/Department.

Sgd. S. Amerasinghe  
*Secretary to the Treasury*

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Treasury  
Circular  
No. 336 -  
29.11.56

—Continued

**P4**

**Treasury Circular No. 425**

Treasury Circular No. 425

No. 2/9/156/3(H)  
General Treasury,  
Colombo, 18 January 1958.

P4  
Treasury  
Circular  
No. 425 -  
18.1.58

20

To: All Permanent Secretaries and Heads of Departments.

**PUBLIC SERVANTS AND THE OFFICIAL LANGUAGE-  
OBLIGATIONS OF OLD ENTRANT OFFICERS.**

REFERENCE is invited to paragraph 2 of Treasury Circular No. 336 of the 29th November 1956, where it is stated that Government has decided that the conditions under which old entrant officers were recruited, so far as they relate to the use of any particular language or languages, in official business, must be strictly enforced.

2. The obligations of these old entrant officers in regard to the use of Sinhala, Tamil and English in official business resulting from conditions of recruitment are set out below.

30

(i) Officers recruited or absorbed or promoted to a grade of the Public Service through examinations conducted in the Sinhala medium or otherwise for their proficiency in Sinhala, are obliged to transact official business in Sinhala, as may be directed.

(ii) Similarly officers recruited or absorbed or promoted to a grade of the Public Service through examinations conducted in the Tamil or the English medium, or otherwise, for their proficiency in Tamil or English, must, whenever required, transact official business in that language.

(iii) Officers recruited or promoted to a grade of the Public Service through an examination held in the English medium at which they were required to attain a prescribed qualifying standard in Sinhala and/or Tamil, are obliged to maintain at least an equivalent standard of proficiency in Sinhala and/or Tamil, so that they may transact any official business in those languages for which that standard of proficiency would be adequate. 10

(iv) Similarly, officers recruited or promoted to a grade of the Public Service through an examination held in the Sinhala or the Tamil medium at which they were required to attain a prescribed qualifying standard in English, are obliged to maintain at least an equivalent standard of proficiency in English, so that they may transact any official business in that language for which the standard of proficiency would be adequate. 20

(v) Where proficiency in a language was a necessary qualification for appointment, or had to be acquired at some later stage, officers may be required to transact any official business in that language for which that standard of proficiency would be adequate.

(vi) Where a colloquial knowledge or a working knowledge of Sinhala and/or Tamil was a necessary qualification for appointment, or had to be acquired at some later stage, officers are required to maintain at least that knowledge of those languages. 30

(vii) Where a colloquial language or a working knowledge of English was a necessary qualification for appointment, or had to be acquired at some later stage, officers are required to maintain at least that knowledge of the language.

(viii) Officers recruited for service in a particular locality for proficiency in the language of that area, will be expected to transact their official business in that language.

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Circular  
No. 425 -  
18.1.58

- *Continued*

(ix) Officers recruited for their ability to address meetings in Sinhala, Tamil and English, in addition to other qualifications, will be expected to maintain such ability in those languages

(x) Officers who have hitherto been expected to write letters or to communicate in either Sinhala or Tamil although they were recruited for service through English, should continue to perform  
10 the same service.

(xi) Officers recruited for stenographic and typing duties in Sinhala or Tamil or English must continue to attend to such duties in that language.

(xii) Officers recruited for stenographic duties in a medium other than Sinhala, who have been trained in Sinhala shorthand by the Official Language Department, must, whenever required, attend to stenographic duties in Sinhala.

(xiii) Officers who have passed departmental tests in typewriting in Sinhala or Tamil or English or those who have been trained in  
20 Sinhala, or Tamil typewriting by the Official Language Department, must, whenever required, attend to typing duties in Sinhala or Tamil or English, as the case may be

3. The categories of officers who are deemed to be old entrants are set out in paragraph 2(ii) of Treasury Circular No. 379 of 23rd May, 1957.

4. Please bring the contents of this Circular to the notice of all old entrant officers in your Ministry/Department.

Sgd. S. Amerasingho  
*Secretary to the Treasury.*

## Treasury Circular No. 428

Treasury Circular No. 428

No: 2/9/156/4 (H)  
 General Treasury,  
 Colombo, 31st January, 1958

To: All Permanent Secretaries and Heads of Departments.

OFFICIAL LANGUAGE - RECRUITMENT AND CONDITIONS  
 OF SERVICE OF NEW ENTRANTS TO THE  
 PUBLIC SERVICE

10

REFERENCE is invited to the Circular No. B. 119/48/68 of the 23rd November, 1956, issued by the Secretary, Public Service Commission, regarding the revision of Schemes of Recruitment. To enable you to revise these schemes to bring them in line with the language policy of Government, the decision of Government regarding the medium of recruitment and conditions of service of New Entrants to the Public Service are set out below.

2. (A) *Medium of Examination for Recruitment*

- (i) The medium of examination for recruitment to the Public Service should be linked to the educational policy of the Government and to the various stages reached with regard to the languages in the process of putting that policy into operation.
- (ii) Candidates should be required to take up the competitive test, if any, for entry into any grade of the Public Service in the language through which he was taught when he passed the qualifying test, or the language through which he would have been taught, had he passed the qualifying test in this country. Candidates should, of course, be allowed to opt for the Official Language.

20

For example, the minimum educational qualification required of candidates for admission to a competitive examination for entry into a grade of the Public Service is the Senior School Certificate. The competitive examination should, in this case, be held in all three media-Sinhala, Tamil and English. A candidate who possesses the Senior School Certificate (Sinhala) must take the examination in the Sinhala medium, a candidate who possesses the Senior School Certificate (Tamil) should take the examination in the Tamil medium or the Sinhala medium; and a candidate who possesses the Senior School Certificate (English) should take the examination in the English medium or the Sinhala medium.

30

40

(iii) If, under the educational system, candidates had been taught different subjects through different media, they should answer the papers through those latter media, respectively.

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--Continued

(B) *Conditions of Service of New Entrants*

(i) The period of probation/trial of "New Entrant Officers" (as defined below) appointed to pensionable posts/non-pensionable posts, as the case may be, shall be three years, unless a longer period is prescribed in respect of any posts.

10 (ii) All "New Entrant Officers" appointed to the Public Service should be required to comply with any rules already made, or that may hereafter be made, for giving effect to the Language policy of Government, and, in particular, for implementing the provisions of the Official Language Act No. 33 of 1956.

(iii) (a) These officers should acquire proficiency in Sinhala during their period of probation/trial.

(b) Their confirmation, at the expiry of the period of probation/trial, will depend *inter alia*, on the passing of a proficiency test in Sinhala.

20 Those who fail to reach the prescribed standard of proficiency in Sinhala during the period of probation/trial are liable to be discontinued, but discontinuance may be deferred if the appointing authority is satisfied that a genuine attempt had been made to acquire proficiency in the Official Language. Loss of seniority may be waived at the discretion of the appropriate authority if the officer passes the test within a reasonable time after the due date.

(iv) Officers who qualify for entry into the Public Service through the Sinhala medium should be exempted from the Proficiency test in Sinhala.

30 (v) The term "New Entrant Officers" shall for the purpose of the Official Language Policy, mean officers appointed to posts in the Public Service on or after September 24, 1956, who are not deemed to be Old-Entrant Officers in terms of sub-paragraph 2 (i) (b) and 2 (ii) (c) of Treasury Circular No. 379 of 23rd May, 1957

3. The schemes of recruitment in respect of posts in your Department should be revised to accord with the above decisions of Government. If further details or special conditions are required to be inserted, the Special Commissioner for Official Language Affairs should be consulted.

#### 4. *Letters of Appointment*

(a) (i) In terms of the decisions referred to in paragraph 2 (B) of the letters of appointment to 'New Entrant Officers' should contain the following conditions:

(1) The post is permanent and pensionable/permanent and non-pensionable, and, unless your appointment is determined earlier, you will be on three years' probation/trial from the date of your appointment and until you receive a letter confirming you in your appointment.

(2) You will be required to comply with any rules already made or that may hereafter be made, for giving effect to the Language Policy of the Government, and, in particular, for implementing the provisions of the Official Language Act No. 33 of 1956. 10

(ii) Letters of appointment issued to 'New Entrant Officers' recruited through the Tamil/English medium should embody the decisions referred to in paragraph 2 (B) (iii) (b) above. In letters of appointment issued to temporary officers recruited through the Tamil/English medium, it should be stated that, unless their appointment is terminated earlier, their employment beyond a period of three years will depend on the passing of a proficiency test in Sinhala. It should, however, be made clear that the passing of the proficiency test in Sinhala will not necessarily imply that they will be allowed to continue in service beyond 3 years. 20

(b) Letters of appointment already issued to such officers, which do not contain the above conditions, should be amended by their inclusion.

(c) Similarly, letters of appointment issued to officers who are deemed to be 'Old Entrant Officers' in terms of Treasury Circular No 379 of 23rd May, 1957, which contain conditions referred to in subparagraph (a) (i) above, should be amended by- 30

(i) modification of the clause regarding period of probation trial; and

(ii) deletion of condition 4 (a) (i) (2) above.

#### 5. *Proficiency Test in Sinhala*

It will be noted from paragraphs 2 (B) (iii) and (iv) above that the confirmation of officers recruited through the Tamil/English medium will be dependant on the passing of a proficiency test in Sinhala. The necessary arrangements for holding these tests for the various grades of New Entrant Officers appointed to posts



in your Department (other than members of the Civil Service and the Combined Services under the control of the Deputy Secretary to the Treasury) should be made in consultation with the Commissioner of Examinations. Advice in regard to the standard and scope of these tests should be obtained from the Department of Official Language Affairs.

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31 1.58

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10 In regard to officers of the Civil Service and of the Combined Services under the control of the Deputy Secretary to the Treasury, the Secretary to the Treasury and the Deputy Secretary to the Treasury, respectively, will take necessary action.

6. *Departmental Examinations (including Promotion and Efficiency Bar Examinations)*

(a) The Departmental Examinations, for which provision has been made in the existing schemes of recruitment, will continue to apply to all officers who are deemed to be 'Old Entrants' in terms of Treasury Circular No. 379 of 23rd May, 1957

(b) Amendments will, however, have to be made in such schemes in respect of 'New Entrant Officers'

20 As the official Language is Sinhala and all New Entrant Officers would have acquired proficiency in that language before they are confirmed in their appointments, these examinations will have to be held in the Sinhala Medium. Advice in regard to the revision of schemes of these departmental examinations should be obtained from the Department of Official Language. If, for any reason, all or any of the subjects at a departmental examination for New Entrant Officers should continue to be taken in the English medium for some time longer, the concurrence of the Special Commissioner for Official Language Affairs should be obtained.

30 In regard to departmental examinations for 'New Entrant Officers' of the Civil Service and of the Combined Services under the control of the Deputy Secretary to the Treasury, the Secretary to the Treasury and the Deputy Secretary, to the Treasury, respectively, will take the necessary action.

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31.1.58.

—Continued

7. Please forward to the Treasury, in due course, the revised schemes of recruitment and of departmental examinations, in duplicate, for transmission to the Public Service Commission.

8 The decisions referred to in paragraph 2 (B) will be embodied in the General Conditions applicable to appointments to posts in the Public Service, published at the beginning of Part I Section II of the *Gazette*.

9. This Circular does not apply to officers recruited to the Judicial Service and the Local Government Service.

10. This Circular is being issued with the concurrence of the Public Service Commission 10

Sgd. S. Amerasinghe  
*Secretary to the Treasury*

P15

**Letter sent to C. Kodeeswaran (Plaintiff) by the  
Deputy Secretary to the Treasury re appointment to Grade II  
of the Executive Clerical Class, General Clerical Service.**

Mr. C. Kodeeswaran.

No. F. 1179/52,  
General Treasury,  
Colombo, 13th July, 1960. 20

**APPOINTMENT TO GRADE II OF THE EXECUTIVE  
CLERICAL CLASS, GENERAL CLERICAL SERVICE.**

With reference to the examination for promotion to Grade II of the Executive Clerical Class held on 21st November, 1959, you are informed that the Deputy Secretary to the Treasury has been pleased to appoint you to a clerkship in Grade II of the Executive Clerical Class of the General Clerical Service with effect from the 1st October, 1959, on the salary scale of Rs. 1,620-120-3,780, with an Efficiency Bar before Rs. 3,180 per annum. 30

2. Your appointment will be governed by the terms of the Minute on the General Clerical Service published in the *Ceylon Government Gazette Extraordinary* No. 10,844 of October 1, 1955, subject to any amendments that may be made to it from time to time.

Sgd.  
*for Deputy Secretary to the  
Treasury.*

P15  
Letter sent to  
C.Kodeeswaran  
(Plaintiff) by  
the Deputy  
Secretary to the  
Treasury re  
appointment to  
Grade II of the  
Executive  
Clerical Class,  
General Clerical  
Service—  
13.7.60

D8

**Ceylon Government Gazette-Extraordinary**  
**No. 12,165 (Notification of Assignment of Functions made**  
**by the Prime Minister)**

THE CEYLON GOVERNMENT GAZETTE-EXTRAORDINARY.

No. 12,165 - Saturday, July 23, 1960

(Published by authority)

PART I: SECTION (I) GENERAL  
 GOVERNMENT NOTIFICATIONS

D8  
 Ceylon  
 Government  
 Gazette -  
 Extraordinary-  
 No. 12,165  
 (Notification  
 of Assignment  
 of Functions  
 made by the  
 Prime Minister)  
 23.7.60

- 10 It is hereby notified that under the provisions of section 46 (iv) of the Ceylon (Constitution and Independence) Orders in Council, 1946 and 1947, I have assigned Departments, Subjects and Functions to Ministers with effect from July 23, 1960, as indicated in the Schedule below

All previous assignments of Departments, Subjects and Functions under section 46(iv) of the Orders in Council are hereby cancelled with effect from July 23, 1960.

Sirima R. D. Bandaranaike,  
*Prime Minister*

- 20 Office of the Prime Minister,  
 Colombo. July 23, 1960.

\* \* \* \* \*

MINISTER OF FINANCE

<i>Department</i>	<i>Subjects and Functions</i>
Treasury	The Central Bank of Ceylon
Stores Department	Public Debt
Department of Inland Revenue	Management of Currency
Customs Department	Exchange Control
Widows and Orphans' Pension Office.	The Ceylon Savings Bank
	State Mortgage Bank
30 Department of Census and Statistics	The Agricultural and Industrial Credit Corporation of Ceylon
Department of National Savings Loan Board	The Board of Local Loans and Development
Department of Government Printer	Commissioners. State and State Aided Banks
Department of National Planning	Economic Affairs The Planning Secretariat

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10

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20

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Financial implications of papers to  
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30

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40

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10

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20

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30

Purchase of stores and equipment  
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Service and works contracts including  
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Security of Public Officers

Disposal of Government property

Costing

Ex-gratia compensation to private  
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Shipping Freights

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40

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Prime Minister)  
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10

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20

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30

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Rendering of accounts to all Government Departments in respect of materials purchased abroad and other materials supplied by the Department

40

Maintenance of Government bungalows at Nuwara Eliya, Kandy, Diyatalawa, Galle, Jaffna, and Bandarawela, including the residences of H. E. the Governor General, the Prime Minister, and the Chief Justice

Maintenance of the Government Explosives Magazine

Miscellaneous duties including the supply of furniture, &c., to Ceylon

D8  
Ceylon  
Government  
Gazette  
Extraordinary-  
No. 12,165  
(Notification  
of Assignment  
of Functions  
made by the  
Prime Minister)  
23.7.60  
—Continued

Missions Abroad, equipment of bungalows allocated to officers specially recruited for Government Service in Ceylon, supply of furniture and equipment for State Functions as and when required, and advising of Government Departments on Stores problems generally.

*Inland Revenue.*

Income Tax. Excess Profits Duty and Profits Tax. Estate Duty and Stamps 10

*Customs*

Levyng of Customs Duties

*Port Dues*

Recovery of Warehouse Rent

Recovery and disbursement of all other charges (except light dues) relating to the administration of the Customs Department 20

Refunds, rebates, draw-backs of and exemption from Customs duties  
Detection and Prevention of smuggling and prosecution connected therewith.

Enforcement of the provisions imposing prohibitions and restrictions on the importation and exportation of goods

Levyng of Export Cesses and Royalties 30

Recovery of light dues

Compilation and issue of a monthly return of Customs Statistics.

Enforcement of the prohibitions and restrictions imposed on imports and exports by Ordinances other than the Customs Ordinance

Enforcement of the Prohibition and Restrictions imposed on imports and exports by the Defence Regulations

Coastwise Passenger Traffic.  
 Passenger Traffic to India  
 Boats

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 of Assignment  
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 made by the  
 Prime Minister)  
 23.7.60

*Widows' and Orphans' Pension Office.*  
 Award of pensions to widows and  
 orphans of Public Officers under the  
 Widows' and Orphans' Pension Fund  
 Ordinance (Chapter 296)

—Continued

*Census and Statistics*

10

Census  
 Statistics

*National Savings*

Propaganda for small savings and  
 Government Loans  
 Ceylon Savings Certificates  
 Organise Savings Campaigns

*Loan Board*

20

Investments, Management and  
 Administration of suitors moneys in  
 accordance with the provisions of  
 the Loan Board Ordinance

*Government Printer*

30

Executing printing and binding for  
 Government Departments and Quasi-  
 Government Departments.  
 Calling for tenders for Government  
 printing and entering into contracts  
 with private printers in terms of  
 F. R. 960  
 Distributing Government advertise-  
 ments in terms of F. R. 973 (i)  
 certifying bills and making payments  
 for same from an Advance Account  
 operated by the Department.

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P 6  
Cabinet Conclusion

No. CP. A. 278/60  
Cabinet Office,  
Colombo, December 20, 1960.

To: All Permanent Secretaries and Heads of Departments not grouped under Ministries.

I send herewith a conclusion reached by the Cabinet at its meeting on December 20, 1960, in order that you may communicate it for necessary action to the officers concerned. 10

B. P. Peiris  
*Secretary to the Cabinet*

CONCLUSION

Implementation of the Official Language Act from 1.1.61.

The following decisions were reached:-

- (1) Accounts should be kept in English.
- (2) Notices calling for tenders and formal contracts should be in English.
- (3) A period of 3 years should be fixed as the limit within which the Ministries and Departments concerned should attain that degree of proficiency to enable them to have their accounts kept and audited in the Sinhala Language. This could be done by the required examinations in the Accountants' Service being conducted in the Sinhala language. Those who have already qualified should be required to pass a paper in Sinhala within this period of 3 years. 20
- (4) The staff in the various Departments should be so readjusted as to make the language switch-over as from 1st January practicable. The Treasury should take cognizance of this fact and make the necessary arrangements at the earliest possible date
- (5) Each Head of a Government Department should take the initiative and take full responsibility for making the necessary changes in regard to staff as early as possible. He should also detail an officer in his Department who has an enthusiasm for the introduction of the Official Language to report on the progress made and on any deficiencies that require to be remedied. 30
- (6) Every officer (other than an officer engaged in professional, scientific or technical work, who should be allowed to work in English) should be allowed to retire without compensation but on normal pension before the 31st of December, 1961, if he is over 50 years of age. 40

(7) Officers who do not exercise the option to retire and who are over 50 years of age will be required to pass the following proficiency tests which would enable them to have a working knowledge of the Sinhala language:-

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<i>Standard</i>	<i>For Sinhalese</i>	<i>Non-Sinhalese</i>
3rd at end of	6 months	1 year
5th at end of	1 1/2 years	2 years
7th at end of	2 1/2 years	3 years

(8) Special consideration should be given to an officer's knowledge of the Sinhala language when deciding whether he should continue to serve the Government when he reaches the age of optional retirement at 55.

(9) All Government Officers below the age of 50 years will be required to pass proficiency tests which will be as follows:-

	<i>Standard</i>	<i>For Sinhalese</i>	<i>Non Sinhalese</i>
1st Proficiency Test	3rd	at end 6 months	1 year
2nd Proficiency Test	5th	at end of 1 1/2 years	2 years
3rd Proficiency Test	J.S.C.	at end of 2 1/2 years	3 years

(10) Officers who do not pass the proficiency test should have their increments suspended until they pass the proficiency test. If they fail to pass the proficiency test within the prescribed time they should have their next increment suspended. If they yet fail to pass within a further period of six months from the prescribed date, the suspension should be converted to one of stoppage and grant of any increment stopped until they finally pass such test.

(11) Officers below the age of 50 years who do not pass any of the proficiency tests and who are unable to work in the Sinhala language should up to i.1.64 be allowed to retire without compensation but on normal pension.

(12) Officers who have already passed the proficiency test in the Official Language at Ordinary Level or who have obtained a pass in Sinhalese at the S.S.C. or G.C.E. Examination should not be required to pass a further proficiency test.

(13) The directive already issued, that a candidate seeking entry into any grade of the public service should be examined in the language through which he passed the qualifying examination, and that all new-entrants (i.e. from the date on which the Official Language Act came into operation) who qualified through English or Tamil should be required to learn Sinhalese with sufficient expedition and reach the prescribed standard of efficiency within three years of appointment, should be adhered to.

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—Continued

(14) New Entrants, whether Sinhalese or Tamil, should have even a minimum knowledge of the English language. This should be made binding on all employees serving in the Government and Local Government Services and in Corporations established under the Government's Corporation Act, No. 19 of 1955 or the State Industrial Corporation Act, No 49 of 1957, including the Gal Oya Development Board, the Ceylon Transport Board, the Port (Cargo) Corporation, the Ceylon State Plantations Corporation, the Ceylon Institute of Scientific and Industrial Research, the Milk Board, and the Air Ceylon Limited.

10

(15) Officers recruited to the Public Service after 24th September, 1956, should be required to pass the proficiency tests set out below:-

	<i>Standard</i>	<i>For Sinhalese</i>	<i>Non-Sinhalese</i>
1st Proficiency test	3rd at end of	6 months	1 year
2nd Proficiency test	5th at end of	1 1/2 years	2 years
3rd Proficiency test	J.S.C. at end of	2 1/2 years	3 years

These officers will be confirmed at the end of 3 years if they have passed these proficiency tests in addition to other requirements applicable to their service. Within two years they should be required to pass an Efficiency Bar Examination in Sinhalese at S. S. C. level to qualify for increments. Officers who have already acquired proficiency in Sinhala at any of the above levels will be exempt from a qualifying proficiency test at that level.

20

(16) All recruits to the Combined Service or its equivalent or higher after 1.1.61 should have a S. S. C. pass in Sinhala if the candidate is a Sinhalese.

(17) All officers who have been recruited on a competitive examination other than through the Sinhalese medium should be required to acquire a proficiency in Sinhala within 3 years and their appointments should be on probation and subject to the condition that they acquire the proficiency. At the expiry of two years they should pass a proficiency test at the 7th standard level and by the end of the 3rd year they should pass a further test at the J. S. C. level. The first Efficiency Bar Examination should have Sinhala at S. S. C. level within 2 years after confirmation.

30

(18) With regard to appointments made without a competitive examination a working knowledge of Sinhala should be considered an added qualification for such appointment. This rule would be applicable to appointments of officers already in service to a higher grade or class or to a higher appointment or to appointments of officers from one post to another.

40

(19) Officers already in service and who may wish to sit for the Accountants' Examination or any other Departmental examination qualifying for promotion should be entitled to sit for these examinations in the medium in which they were examined at the time they first entered the Public Service; provided however that they also qualify at the proficiency test in Sinhalese applicable to all public servants.

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—Continued

The following general directives were approved:-

10 (1) Public officers who do not have a knowledge of Sinhala may be permitted to make their minutes and reports in English for a maximum period of 3 years.

(2) Public officers who cannot read in Sinhala adequately should be provided with a translation in English.

(3) Every minute or report which is in English should be translated into Sinhala. In office files, sheets should be kept in two halves: the left half being used for writing minutes in Sinhala or translations in Sinhala, and the right half containing any minutes that might be made in English by officers who are unable to make minutes in Sinhala.

20 (4) Heads of Departments should provide translators in each Department or office under them. The number to be provided would vary according to the size of the Department or the extent of translation work involved.

30 (5) Heads of Departments should endeavour to utilise the services of officers already in service and proficient in Sinhala as translators within their own Departments. Such officers would be more acquainted with the work of the respective Departments and would be more helpful than new recruits who have a knowledge of translation work only. If the utilisation of officers for such purposes involves recruitment of additional staff in their stead the number so required should not be unduly large.

(6) Correspondence between Ministries, Government Departments and statutory Corporations should, as from 1.1.61 be in the Official Language. In regard to certain subjects of a scientific or technical nature, it might not be practicable to have correspondence in the Official Language. Correspondence and official reports on these subjects may be in English, with a Sinhala translation whenever practicable, with the consent of the Minister in charge of the particular subject.

(7) Correspondence with the private sector should be in the Official Language. Where, however, a letter is received in English or Tamil a translation of the official reply in that language should be attached.

The private sector too should understand that the Official Language of the country is Sinhala. Commercial establishments may be advised to fall in line with the Government policy on this matter without delay.

According to the Tamil Language (Special Provisions) Act a person educated through the Tamil medium may correspond with Government Departments in the Tamil Language. Special regulations have also been framed in regard to correspondence between persons educated in that medium and Government Departments in the Northern and Eastern Provinces. 10

(8) It will be the responsibility of the Permanent Secretaries and the Heads of Departments to collect all the necessary data in regard to the staff of their respective Ministries and Departments and to assess the number of officers in their particular offices that would be sufficient to conduct the work of their offices in Sinhala from 1.1.61. 20

(9) As, at the commencement of the switch-over in January 1961, the total number of officers with the required proficiency in Sinhala will not be available, considering the Public Service as a whole, it will be the duty of Permanent Secretaries and Heads of Departments to inform the Secretary to the Treasury or the Deputy Secretary to the Treasury as the case may be (in respect of Transferable Service) of any excess of officers proficient in Sinhala in their respective offices beyond the bare minimum necessary to conduct the work of the offices in Sinhala so that immediate action may be taken by the Secretary to the Treasury or the Deputy Secretary to the Treasury to have such excess officers transferred to an office in which there is a shortage of officers proficient in Sinhala. 30

(10) Similarly, it will be the duty of Permanent Secretaries and Heads of Departments, in whose offices there is a shortage of officers proficient in Sinhala, to enable the work to be conducted in Sinhala, to assess their requirements immediately and to apply to the Secretary to the Treasury or the Deputy Secretary to the Treasury, as the case may be, for all replacements in their respective offices in place of officers who do not possess adequate proficiency, who may therefore be transferred by the Secretary to the Treasury or the Deputy Secretary to the Treasury to other offices. 40



(11) In view of the serious financial implications of a considerable increase of staff to the Government which is already over-burdened with a disproportionate personal emoluments bill, it is of the utmost importance that Permanent Secretaries and Heads of Departments should consider with the greatest care whether the existing cadre in their respective offices can, with the necessary adjustments, cope with the work of their offices in spite of the switch-over or whether certain additions to the existing cadre are absolutely necessary in order to promote the efficient administration of the offices.

10 (12) With the language switch-over there is likely to be an excess of Stenographers and Typists trained in the English Language. These officers could be absorbed into the Clerical Service in place of officers who will undertake the new duties of Translators.

(13) Stenographers and Typists trained in Sinhala should be appointed to all Government Departments with the least possible delay.

(14) In almost every Government Department there is also an acute shortage of Sinhala typewriters. The Treasury should take immediate steps to supply the required deficiency.

20 (15) As by law the Official Language Act is applicable to the Northern and Eastern Provinces (subject to the provisions of the Tamil Language (Special Provisions) Act) immediate steps should be taken by the Treasury to post to all Government Departments in those Provinces an adequate number of officers who are proficient in Sinhala. These officers should preferably have a knowledge of Tamil and English as well.

(16) Further directives will follow whenever they are considered necessary.

30 (17) Heads of Departments are requested to communicate with the Minister in charge of Official Language Affairs regarding any subject where the implementation of Official Language Act on 1.1.61 is totally impracticable. In such an instance the English language may continue to be used for the purpose until special directives are issued by the Minister.

(18) In order to provide public servants with the opportunity and facilities for receiving instructions in the Sinhala Language, the instruction courses should be revived by the Official Language Department in consultation with Heads of Departments.

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Treasury Circular No. 536

Treasury Circular No. 536

No. 2/9/156/2(H)  
General Treasury,  
Colombo, 24th May, 1961.

To: All Permanent Secretaries and Heads of Departments

PUBLIC SERVANTS AND THE OFFICIAL LANGUAGE-  
RETIREMENT SCHEME

10

The question whether those officers who are unable to satisfy the requirements of the Official Language Policy should be permitted to retire has been considered by the Government and the under-mentioned decisions have been reached:-

2. (i) Every officer, whatever his age, who is deemed to be an "old entrant" for the purpose of the Official Language policy may be allowed to retire at his option from the Public Service without compensation but on pension or gratuity of such an amount as would have been awarded to him under the Minutes on Pensions if he had retired from such office on the grounds of ill-health—subject to such retirement taking effect on or before 31st December 1963—provided he gives 3 months' notice of such retirement to the Head of the Department. A Head of Department will give similar notice to the Permanent Secretary to the Ministry. In the case of officers in the Civil Service, notice will be given to the Secretary to the Treasury, and, in the case of officers in the other Combined Services, to the Deputy Secretary to the Treasury through the Head of Department and the Permanent Secretary.

20

(ii) An officer, who wishes to avail himself of the concession to retire under the above provisions, should furnish a written declaration to the Head of his Department that he is unable to work in the Sinhala Language, and, therefore, wishes to avail himself of the concession to retire from Service. It will be the responsibility of the Head of the Department to see that *such declarations are transmitted with the notice of retirement to the authority competent to order the retirement of the officer concerned (vide Treasury Circular No. 239 of 23rd May, 1955).*

30

*Note:* The categories of officers who are deemed to be "old entrants" are set out in paragraph 2 (ii) of Treasury Circular No. 379 of 23rd May, 1957, as amended by Treasury Circular letter No. 2/9/156/1 (H) of 4th September, 1958.

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3. Steps are being taken to amend the Minutes on Pensions suitably.

4. The provisions of this Circular are *not applicable* to officers in the following categories:-

- 10 (a) Officers engaged in professional, scientific or technical work who were 50 years of age or over on 1. 1. 61.
- (b) Those who have been recruited for their proficiency in Sinhala (i. e. those in respect of whose appointment Sinhala was an essential qualification).
- (c) Those who have qualified for appointment or who have been recruited to the Public Service, through an examination taken by them in the Sinhala medium.
- (d) Those who have drawn the bonus for proficiency in the Official Language, in terms of Treasury Circular No. 379 of 23rd May, 1957
- 20 (e) Those in Minor Grades recruited in accordance with approved schemes of recruitment in which no educational qualifications are stipulated, and those in respect of whom a knowledge of a language is not essential for the efficient discharge of their duties and no educational qualifications are necessary for appointment to the posts.

30 5. The question whether any particular officer or class of officers is engaged in professional, scientific or technical work will be determined by the Treasury in consultation with the Permanent Secretary to the Ministry concerned and the Permanent Secretary of the Ministry to which the subject of Official Language has been assigned.

6. Please bring the contents of this Circular to the notice of all old entrant officers serving in your Ministry/Department.

Sgd. S. Amerasinghe  
Secretary to the Treasury



10.45 a.m. 12.45 p.m.	Paper II, Translation
<i>Grade 3 (7th Standard level)</i>	<i>Proficiency Test.</i>
9.45 a.m.-11.45 a.m.	Written Test.
<i>Grade 1 (3rd Standard level)</i>	<i>Proficiency Test.</i>
1.00 p.m.-2.00 p.m.	Written Test
<i>Grade 4 (J.S.C. Standard level)</i>	<i>Proficiency Test.</i>
2.00 p.m.-3.30 p.m.	Paper I Language and Composition
3.45 p.m.-5.15 p.m.	Paper II Translation.

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(N. B. Time Tables will not be issued to individual candidates).

- 10 Arrangements will be made by the Commissioner of Examinations to hold the Oral Tests prescribed for Grade 1 (3rd Standard level) Proficiency Test, Grade 2 (5th Standard level) Proficiency Test and Grade 3 (7th Standard level) Proficiency Test immediately before or after the written paper.

5. **Applications:** (i) Candidates should apply for admission through the Head of their local office or sub-office on the prescribed entry lists (in triplicate) which will be issued by the Commissioner of Examinations, on application being made to him *direct* by each local Head. The obtaining of lists by Heads of Departments for  
20 distribution to their local offices or sub-offices only causes unnecessary delay.

Candidates, who wish to sit on each occasion for more than one of the tests referred to in paragraph 4 above, should consult the Time Tables appearing in that paragraph before selecting the tests for which they wish to enter. They must not sit for tests they are not required to pass.

- (ii) The names and designations on the lists should be type-written and the duplicate and triplicate copies should be carbon copies, to ensure that the name shown against each serial number  
30 is identical in all three copies. Where this is not possible, owing to the absence of a typewriter in the office, the names and designations may be written by hand but block capitals should be used.

(iii) The lists should be signed by each local Head and all three copies forwarded well in time to the *Head of the Department* under Registered cover. For this purpose, the term "local Head" shall mean the officer directly in charge of the sub-office or sub-department in which the applicant/s work/s. In the case of candidates employed in Head Offices of Departments, the Head of the Department will take the place of the local Head. The local Head's designation

should be given in such a manner as to be readily identifiable. Abbreviated designations in use intra-departmentally should *not* be used.

(iv) All candidates entering for the examination from an office, local office or sub office are required to take it together at the same centre. None of them will be permitted to take the examination at a different centre.

Where a candidate has been transferred from one Department/Local Office to another Department Local Office he should make immediate application through his Head of Department/Local Head for transfer of his name from the list of his previous Department/Local Office to that of his present Department/Local Office. 10

(v) The Entry List should be completed according to the instructions thereon. These instructions should be carefully observed. Heads of Departments and Local Heads are particularly requested to see that the names of officers in each of the Combined Services are grouped together and entered in the order of their Grade or Class.

(vi) An Entry List which does not conform to these Regulations, or has not been prepared according to the instructions thereon, will be rejected. The Head of Department or Local Head will be held responsible for any consequences of such rejection. 20

(vii) Each Head of Department will check the eligibility of the candidates and forward the entry list (in triplicate) by registered post to the Commissioner of Examinations. The name of the Examination should be written on the top left hand corner of the envelope enclosing the lists, so that easy identification may be ensured.

(viii) The necessary supply of entry list forms should be obtained from the Department of Examinations not later than *December 1* and *June 1* preceding, in respect of the examinations to be held in *February* and *August*, respectively. In respect of the examinations to be held in *January, 1962*, the necessary supply of entry list forms should be obtained during the period from *November 13 to 25, 1961*. An indication of the probable number of candidates should be given to enable the Department of Examinations to issue a sufficient supply. Any excess may be preserved for use at subsequent examinations. 30

All completed entry lists should reach the Commissioner of Examinations on or before the second Tuesday in December and June, in respect of the examinations to be held in February and August, respectively. In respect of the examinations to be held in January, 1962, all completed entry lists should reach the Commissioner of Examinations on or before November 27, 1961.

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6. Candidates who have entered for the examinations should be granted leave as on duty to present themselves at the examinations. The expenses of candidates should be paid at the rates laid down in the Financial Regulations, if the candidates pass the examination or the examiners certify that the candidates were, with the knowledge exhibited by them, reasonably justified in presenting themselves for the examination, provided that in the latter case no expenses will be paid for attending a subsequent examination if the officer again fails to pass it.

7. **Admission Forms:** (i) The Commissioner of Examinations will return direct to each Local Head or the Head of the Department, as appropriate, the duplicate entry list, indicating (a) the Index Numbers assigned to each of his candidates and (b) the Place of Examination (Hall) which has been allocated to them. A sufficient supply of Admission Forms and the Rules governing the conduct of candidates will also be sent at the same time. *As Time Tables to individual candidates will not be issued, candidates should note the Time Table appearing in paragraph 4 of this Circular*

The local Head will enter on each Admission Form the name Index Number, centre and place of examination (Hall) as indicated in the duplicate entry list, and issue them to his candidates. THEREAFTER THE HEAD WILL RETURN THE DUPLICATE ENTRY LIST PROMPTLY TO THE COMMISSIONER OF EXAMINATIONS (RESULTS BRANCH). THE ENVELOPE ENCLOSING IT SHOULD BE SUPERSCRIBED WITH THE NAME OF THE EXAMINATION AND THE WORDS "DUPLICATE ENTRY LIST."

(ii) If the local Head does not receive the Admission Forms for his candidates at least seven days before the date of the examination, he should communicate without delay with the Commissioner of Examinations, Colombo 2. (Telegraphic Address: EXAMS. Colombo).

8. **Results:** The Commissioner of Examinations will return the duplicate entry list to each Head of Department conveying the results of his officers. The passes and failures will be indicated.

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Each Head of Department will convey the results to his officers in the various local offices or sub offices.

The signature forms of the successful candidates will, at the same time, be forwarded to be filed in the Departmental Personal Files. The necessary entries should also be made in their History Sheets.

In the case of members of the Accountants' Service, the General Clerical Service, the Stenographers' Transferable Service, the Shroffs' Service, the Typists' Service, the Government District Clerical Service, the Quasi-Clerical Service, and the Translators' Service, whose History Sheets are maintained in the Treasury, the necessary entries will be made by the Treasury, on receipt of the results from the Commissioner of Examinations. 10

9. Any matter not provided for in these regulations will be dealt with at the discretion of the Secretary to the Treasury

10. The instructions in this Circular supersede those in Treasury Circular No. 473 of January 27, 1959.

11. Please bring the contents of this Circular to the notice of all Heads of Local Offices/Sub Offices, and all other officers concerned in your Ministry/Department. 20

Sgd. Shirley Amerasinghe  
*Acting Secretary to the Treasury.*

## APPENDIX 1-SYLLABUSES AND SCHEMES OF EXAMINATION

### Grade 1 (3rd Standard Level) Proficiency Test

The Examination which will be of the 3rd standard level, will consist of-

- (a) an oral test...5 minutes Marks 40
- (b) a written test 1 hour .. ,, 60

In order to qualify for a pass in the examination, candidates will be required to obtain 50 per cent of the aggregate marks in the oral and written tests. 30

(a) *Oral Test:* Simple questions on subject matter included in content\* (see below). Answers may be in one or two words.



(b) *Written Test*- About 30 questions involving selection of correct word or word form, filling blanks etc. There will be no composition of any sort. Instructions to candidates will be in Tamil/English.

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**\*Content:** Candidates should be familiar with the following in Sinhala: The family and family relationship, the home, food, clothes parts of the body, colours, days of the week, months of the year, the time of the day, the names for the different parts of the day like morning, noon, evening, etc. the weather and the things in the office.

*Language:* (a) Simple questions forms and question words like මොකක්, කොහොමද, කවද, කවදද, etc.

(b) The pronouns and their case forms like මම, එයා, මහු, ඔහු අපි, ඔබ, ඇ, අපට, අපෙන්, etc.

(c) Common adjectives and adverbs like බොහොම-පිකක්, කෙටිවු-කර, වේගයෙන් - හෙමින්, පරෙස්සමෙන් etc. to be learnt as synonyms and antonyms where possible.

(d) Words denoting place, direction, time, etc. like අද, හෙට, මෙතන, එතන, එහා, මෙහා, උඩ, යට, අර, මේ, දිගේ etc. also to be learnt as synonyms and antonyms where possible.

(e) The two simple colloquial tense forms-Present and past: යනවා-ගියා: කනවා-කෑවා: දකිනවා-දුක්කා, etc.

Note-(1): Familiarity with the aspirated consonants, (මහා ප්‍රාණ), the use of tied letters (බැඳී අකුරු) and the more complex characters like the රේඛ සංගස will not be expected. The රකාරංගස (ප්‍ර. ක්. etc.) and the four nassals ඔ, ග, ද, ඩ, should be known. Candidates should recognize න ණ ළ ල එ but no distinction in their use is expected.

Note-(2) All the language at this stage will be confined to colloquial Sinhala.

### 30 **Grade 2 (5th Standard Level) Proficiency Test.**

The examination, which will be of the 5th standard level, will consist of

	Marks
(a) an oral test..... 5 minutes	..... 40
(b) a written test... 1 hour	..... 60

In order to qualify for a pass in the examination, candidates will be required to obtain 50 per cent. of the aggregate marks in the oral and written tests.

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- Continued

(a) *Oral Test*-Questions on matters included in content\* (see below). Answers to be in full sentences.

(b) *Written Test*- The selection of correct word or word form, filling blanks, casting of given sentences into required forms, e.g. changing the number in nouns and pronouns, changing the tense-joining sentences, re-arrangement of jumbled sentences, etc.

\**Content* The content prescribed for Grade I more fully and in addition, things associated with normal life like food, occupations, work, travelling, marketing, village and town services like the Post Office, Hospital, School, U. C., M. C., etc. plants and animals. The Office and its organization and workings. 10

*Language* - The language work prescribed for Grade I in greater detail - in addition:

(a) the use of *appropriate* adjectives and adverbs like දිග බ.කුම, නපුරු සනා, කෙටි සටහන, වේගයෙන් පැදවීම etc. Synonyms and antonyms e.g. ගොරෝසු-මාදු: සිහින්-සන: තර - මහන etc. One word instead of a phrase, බාල සහෝදරයා - මල්ලී, නැව් නවතන නැන - වරයා

(b) A transition from the purely colloquial language to simple written language will be expected.

The correct form of the verb according to number, person and tense. The *use* of the nominative and oblique forms(උක්ත රූපය අනුක්ත රූපය) 20

(c) *Construction of sentences* with participial gerundial forms, etc, and the expression of time, reason, cause, spare concession, e.g. සුර්ව ක්‍රියා, මිශ්‍ර ක්‍රියා, අසම්භාව්‍ය ක්‍රියා, අර්ථ ක්‍රියා, භාව ක්‍රියා, කාදන්ත forms etc. e.g. මා ගිය විට, .....මෙය මෙසේ වුවත්.....ඉර බැස ගිය කල.....අද වැසි වැස්සෙත්..... නද පැවිල්ල නිසා.....Gerundial forms හැසීම, හඬන්නා, හඬන්නී The joining of simple sentences.

Note: (1) The introduction of these terms or study of pure grammar as such is not expected.

Note: (2) All characters in common use in modern Sinhala, like ය, ෂ, ඥ, ඞ, ඩ, including the single untied aspirated consonants like බ, ස, ඵ, ඩ, etc. should be known. The use of tied letters and the distinctions between න, ඤ, ල, ල, ඵ will not be insisted upon. 30

**Grade 3 (7th Standard Level) Proficiency Test.**

The examination, which will be of the 7th Standard level will consist of-

	Marks
(a) an oral test .....5 minutes .....	40
(b) a written test ....2 hours .....	60

In order to qualify for a pass in the examination, candidates will be required to obtain 50 per cent. of the aggregate marks in the oral and written tests.

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—Continued

(a) *Oral Test*—Testing ability to understand and speak the language. Answers to be in several sentences, e.g. "Tell me about your family/the work in your office." The candidates will be questioned about himself, his work, interests, hobbies, his place of work, place of residence, etc.

- 10 (b) *Written Test*— Question 1: A letter on one of three or four given subjects. The topics may be social, letters of apology, excuse, leave of absence, congratulations, condolence, invitation, etc. and simple business or official requests like asking for information, etc.

Question 2: Comprehension of simple prose passage. Questions will be set on the subject matter of the passage. There may be questions on language based on the passage. (Other questions will be on vocabulary and language). Candidates will be expected to have a vocabulary with a special bias towards official work and the office.

**Grade 4 (J. S. C. Standard Level) Proficiency Test.**

- 20 The examination, which will be of the J. S. C. standard level, will consist of two written papers:

		<i>Marks</i>
Paper I—Language and Composition:	1 1/2 hours	100
Paper II—Translation ... ..	1 1/2 hours	100

In order to qualify for a pass in this examination, candidates will be required to obtain 30 per cent of the marks in Paper I (Language and Composition) and 35 per cent. of the aggregate marks in Papers I and II.

PAPER I.

- 30 Question 1: A composition of 250 words 300 words involving description, imagination, narrative, letter writing and making reports. Candidates will be asked to select one of several topics set. The topics may be on life and work in this country, festivals, ceremonies, customs, hobbies, pastimes, etc. and on any aspect of office work.

Question 2: Comprehension of a more difficult passage, questions as for Grade 3.

(Other questions will be on vocabulary and language including proverbs, idioms, etc).

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PAPER II.

Translation of sentences and passages into Sinhala from Tamil/  
English:

- (a) Easy sentences;
- (b) A passage of simple prose;
- (c) An easy extract from an official documents or report.

**Grade 5 (G. C. E. (Ordinary Level) Examination Standard Level)  
Proficiency Test.**

There will be two papers of 2 hours each.

	<i>Marks</i>	<b>10</b>
PAPER I-Composition 2 hours	...	100

*Question 1*-An essay on one of several subjects dealing with current world and local events and topics.

*Question 2*: A precis of a passage of general interest.

*Question 3*: Drafting a letter or report regarding an official matter, given in the form of extracts from an official file with the pertinent office minutes, &c.

*Question 4* -A letter or memorandum on an official matter.

PAPER II:

Translation from English/Tamil into Sinhala **20**

(There will be no translation from Sinhala) 2 hours ... 100

*Question 1*: Translation of sentences involving official terms.

*Question 2*: One or two passages from an official document.

*Question 3*: A passage of general interest.

In order to qualify for a pass in this examination, candidates will be required to obtain 30 per cent. of the marks in Paper I (Composition) and 35 per cent. of the aggregate marks in Papers I and II.

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**Treasury Circular No. 555**

TREASURY CIRCULAR NO. 555

P8  
Treasury  
Circular  
No. 555-  
31. 10. 61

No. 2/9/414 (H)  
GENERAL TREASURY.  
Colombo, October 31, 1961

To: All Permanent Secretaries and Heads of Departments. IMPLEMENTATION OF THE OFFICIAL LANGUAGE ACT FROM 1. 1. 61 -EXTENTIONS OF SERVICE TO OFFICERS WHO REACH THE AGE OF OPTIONAL RETIREMENT

10

REFERENCE is requested to Treasury Circular No 203 of 20th November, 1954, regarding the grant of extensions to public officers who reach the age of optional retirement, viz. 55 years.

It has been decided that as from 1st January, 1962 special consideration should be given to an officer's knowledge of the Sinhala language when deciding whether he should continue to serve the Government when he reaches the age of optional retirement.

20

2. The authorities who are competent to grant extensions of service - (*vide* Treasury Circular No. 239 of 23rd May 1955)-should note that, in terms of the above decision, extensions of service should be granted only to those officers who are able to carry out their day to day duties in the Sinhala Language. In case any exception is to be made, the matter should be referred to the Permanent Secretary to the Ministry concerned who will arrive at a decision in consultation with the Permanent Secretary of the Ministry to which the subject of Official Language has been assigned.

30

Officers who have already been granted extensions of service notwithstanding their inability to work in Sinhala may be permitted to continue in service until the expiry of their current extensions of service, but no further extensions should be granted to those officers except in accordance with the instructions set out above.

3. The provisions of this Circular will not apply to the following groups:-

40

- (a) Officers engaged in professional, scientific or technical work who were 50 years of age or over on 1st January, 1961;
- (b) Employees in Minor Grades recruited in accordance with approved schemes of recruitment in which no educational qualifications are stipulated; and
- (c) persons employed on duties for the efficient performance of which a knowledge of a language is not essential and holding posts for appointment to which no educational qualifications are necessary.

Sgd. Shirley Amerasinghe  
Acting Secretary to the Treasury

## Treasury Circular No. 560

## TREASURY CIRCULAR NO. 560

No 2/9/156/15 (H).  
General Treasury,  
Colombo, 4th December, 1961

To: All Permanent Secretaries and Heads of Departments.

PUBLIC SERVANTS AND THE OFFICIAL LANGUAGE-IMPLEMENTATION OF THE OFFICIAL LANGUAGE ACT FROM JANUARY 1, 1961-PROFICIENCY TESTS IN SINHALA FOR OLD ENTRANTS TO THE PUBLIC SERVICE. 10

Reference is invited to the Circular No. CPA 278/60 of December 20, 1960, issued by the Secretary to the Cabinet, containing the Cabinet Conclusion of December 20, 1960, regarding the implementation of the Official Language Act, from January 1, 1961 and Treasury Circular No. 536 of May 24, 1961, regarding the Retirement Scheme in respect of those old-entrant officers who are unable to satisfy the requirements of the Official Language Policy of the Government. The decision reached by Government in regard to the proficiency tests that should be passed by those officers who do not exercise the option to retire are given below- 20

2. (a) *Old-Entrant officers who reached the age of 50 years on or before January 1, 1961.*

Officers in this category who do not elect to exercise the option to retire will be required to pass the following proficiency tests in Sinhala.

	<i>Period of time allowed to pass the Test</i>		30
	<i>Sinhala Officers</i>	<i>Non-Sinhala Officers</i>	
Grade 1 (3rd Standard Level) Proficiency Test	6 months	1 year	
Grade 2 (5th Standard Level) Proficiency Test	1 1/2 years	2 years	
Grade 3 (7th Standard Level) Proficiency Test	2 1/2 years	3 years	

(b) *Old-Entrant Officers who were below the age of 50 years on January 1, 1961.*

Officers in this category who do not elect to exercise the option to retire will be required to pass the following proficiency tests in Sinhala:-

*Period of time allowed  
to pass the Test*

<i>Sinhala Officers</i>	<i>Non-Sinhala Officers</i>
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--Continued

Grade 1 (3rd standard Level)	Proficiency Test	6 months	1 year
Grade 2 (5th standard Level)	Proficiency Test	1 1/2 years	2 years
Grade 4 (J.S.C. Standard Level)	Proficiency Test	2 1/2 years	3 years

10 (c) Those in minor and subordinate grades, for the purpose of whose recruitment to the Public Service an educational qualification not higher than the 7th Standard is necessary, will not be required to pass a proficiency test higher than the 5th standard level.

*Note:-* Where clarification on any point in respect of this paragraph is desired, the Commissioner for Official Language Affairs should be consulted.

3. Details of the syllabuses and schemes of examination of the proficiency tests referred to in paragraph 2 (a) and (b) are set out in the Treasury notification dated March 20, 1961, published in Part I, Section II, of the *Government Gazette* No. 12,328 of March 24, 1961. The first set of tests will be held on February 17, 1962.

20 The dates on which these tests will be held annually and other information relating to them are set out in Treasury Circular No. 554 of October 31, 1961.

4 (a) The period of time allowed in respect of each of the proficiency tests referred to in paragraph 2(a) and (b) will count as commencing from January 1, 1961.

(b) In view of the delay in holding the Proficiency Tests, it has been decided that failure on the part of any officer to pass the Grade I (3rd Standard Level) proficiency test to be held on February 17, 1962, will result in the increment that falls due to him on or after that date being suspended. If the test is not

30 passed at the next succeeding examination, the suspension will be converted to stoppage, such stoppage operating until the test is passed.

(c) Failure to pass the Grade II (5th Standard Level) proficiency test at the examination to be held in August, 1962, by an officer who is required to pass it before July 1, 1962, will result in the increment that falls due to him on or after the date of that examination

being suspended. If the test is not passed at the next succeeding examination the suspension will be converted to stoppage, such stoppage operating until the test is passed. Failure to pass the Grade II (5th Standard Level) proficiency test by other officers within the prescribed period will result in the increment that falls due to them on or after January 1, 1963, being suspended. If the test is not passed at the next succeeding examination, suspension will be converted to stoppage, such stoppage operating until the test is passed.

(d) Failure to pass the Grade III (7th Standard Level) proficiency test or the Grade IV (J.S.C. Standard Level) proficiency test within the prescribed period will result in the increment that falls due to such officers immediately after the expiry of that period being suspended. If the test is not passed at the examination which is held immediately after the expiry of the prescribed period, the suspension will be converted to stoppage, such stoppage operating until the test is passed. 10

5. (A) The provisions of paragraph 2 (a) and (b) of this Circular are not applicable to the following categories of officers:-

- (a) Officers engaged in professional, scientific or technical work who were 50 years of age or over on January 1, 1961. (Paragraph 5 of Treasury Circular No. 536 of May 24, 1961 refers). 20
- (b) Those who have been recruited for their proficiency in Sinhala (i.e. those in respect of whose appointment Sinhala was an essential qualification).
- (c) Those who have qualified for appointment or who have been recruited to the Public Service through an examination taken by them in the Sinhala medium.
- (d) Those who have passed the Proficiency Examination of the Treasury in Sinhala at either the Advanced Level or Ordinary Level. 30
- (e) Those in minor grades recruited in accordance with approved schemes of recruitment in which no educational qualifications are stipulated, and those in respect of



whom a knowledge of a language is not essential for the efficient discharge of their duties and no educational qualifications are necessary for appointment to the posts.

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--Continued

(B) (i) Officers possessing one of the following qualifications or equivalent or higher qualifications will be eligible for exemption from all the proficiency tests referred to in paragraph 2(a) and (b) above:-

- 10 (a) The Ceylon Senior School Certificate (Sinhala).
- (b) The Ceylon Senior School Certificate (English) with Sinhalese Language or Sinhalese Literature or Classical Sinhalese or Advanced Sinhalese or Modern Sinhalese.
- (c) The Ceylon General Certificate of Education (Ordinary Level)-Sinhala Medium-in Sinhalese Language or Sinhalese Literature; or
- the Ceylon General Certificate of Education (Ordinary Level)-English Medium-in Sinhalese Language or Sinhalese Literature; or
- 20 the Ceylon General Certificate of Education (Ordinary Level)-in and after December, 1957-in Sinhalese Language or Sinhalese Literature.

(ii) Officers possessing one of the following qualifications will be eligible for exemption from the 3rd Standard Level and 5th Standard Level Proficiency Tests referred to in paragraph 2 (a) and (b) above:-

- (a) The Ceylon Senior School Certificate (English) with Lower Sinhalese; or
- (b) the Ceylon Senior School Certificate (Tamil) with Sinhalese; or
- 30 (c) The Ceylon General Certificate of Education (Ordinary Level)-English Medium in Lower Sinhalese; or the Ceylon General Certificate of Education (Ordinary Level)-Tamil Medium in Sinhalese; or
- the Ceylon General Certificate of Education (Ordinary Level)-in and after December,-1957 in Practical Sinhalese; or

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--Continued

(d) a certificate from a Government or Assisted or Approved School to the effect that the officer has successfully completed the sixth standard course in the Sinhalese medium.

(iii) The authorities competent to grant exemptions will be as set out in Treasury Circular letter No: 2/9/156/4 (i) H January 22, 1960.

6. The provisions of this Circular will not apply to officers of the Ceylon Judicial Service, Presidents of Rural Courts and Officers of the Local Government Service.

10

7 Please bring the contents of this Circular to the notice of all old-entrant officers concerned serving in your Ministry/Department.

Sgd: Shirley Amerasighe  
*Acting Secretary to the Treasury.*

**P 28 (a)****English Translation of P 28**

**(Letter sent to M. K. Seyathu Mohamed by the Divisional  
Forest Officer, Eastern Division)**

P28 (a)  
English  
Translation of  
P 28 (Letter sent  
to  
M. K. Seyathu  
Mohamed by  
the Divisional  
Forest Officer,  
Eastern  
Division)  
13. 3. 62

LISTED

My No. D. S. 1903 of 13. 3. 62

Mr. M. K. Seyathu Mohammed,  
Punnakuda Road,  
Eravur.

**AGREEMENT EXPEDITING WORK 93/60/61****10** Sir,

I request you to transport without further delay the logs selected by the representative of the Welikada Prison from the road-side store of Illuppadichenai to the Eravur Railway Terminus. You should start the work very soon and complete that job within the next 10 days.

I am,  
Your Obedient servant,  
Sgd/Illegibly.

**20**

Divisional Forest Officer,  
Eastern Division.

Office of the Divisional Forest Officer,  
Batticaloa. 13. 3. 1962.  
Liyanage.

Translated by me.  
Sgd B. Dahanayake  
S. T. D. C. C.

P18  
Letter sent to  
the Government  
Agent by  
C. Kodeeswaran  
(Plaintiff)-  
26. 4. 62

P 18

**Letter sent to the Government Agent by  
C. Kodeeswaran (Plaintiff)**

G. A./A. F. C.

I have not been paid my increment which fell due this month. I shall be thankful if you will please inform the reasons for non-payment of my increment.

Sgd/C. Kodeeswaram  
26. 4. 1962

P 2  
Letter sent to  
C. Kodeeswaran  
(Plaintiff) by  
the Government  
Agent, Kegalle  
re-Increment  
28. 4. 62.

P 2

10

**Letter sent to C. Kodeeswaran, (Plaintiff) by the  
Government Agent, Kegalle  
re-Increment**

Mr. C. Kodeeswaram,  
Clerk, E. C. C. Grade II.

No. P. F. 157

## INCREMENT

Reference your letter dated April 26, 1962.

The annual increment that fell due to you on April 1, 1962, was not paid as you have not passed any of the Proficiency Tests prescribed at paragraph 2 (a) and (b) of Treasury Circular No. 560 of December 4, 1961. The suspension has been ordered under paragraph 4 (b) of that circular. 20

Sgd  
for G. A. Kegalla

The Kachcheri,  
Kegalla,  
April 28, 1962.

D 6

**Plaint in District Court Colombo,  
Case No. 978/Z**

D6  
Plaint in  
District Court  
Colombo.  
Case No. 978/Z  
14.5.62

IN THE DISTRICT COURT OF COLOMBO.

Arasanka Eluthuvinaignar Sankam of 62 1/5 Kumaran  
Ratnam Road, Colombo ..... *Plaintiff*

No. 978/Z

*Vs*

1. Hamilton Shirley Amerasinghe,  
Secretary to the Treasury,  
General Treasury, Colombo.

10

2. The Attorney General, Colombo (substituted in place  
of 1st defendant) J. E. S. .... *Defendant*

On this 14th day of May 1962.

The Plaintiff of the Plaintiff abovenamed appearing by LUCIAN VALENTINE PERERA, its Proctor states as follows:-

1. The defendant resides and the cause of action hereinafter set out arose in Colombo within the local limits of the jurisdiction of this Court.

20 2. The plaintiff is a Trade Union duly registered under the name of ARASANKA ELUTHUVINAIGNAR SANKAM in terms of Section 10 of the Trade Unions' Act. (Cap: 138) with capacity to sue and to be sued in its registered name.

3. The plaintiff Trade Union is an Association of Tamil Speaking citizens of Ceylon who are members of the General Clerical Service of the Government of Ceylon. The object of the plaintiff Trade Union includes the duty to watch, safeguard, promote and further the rights and privileges of its members.

30 4. Under the rules made by the Governor General in terms of Section 2 (1) of the Public and Judicial Officers Retirement Ordinance (Chap: 355), the Public Service Commission or the Judicial Service Commission or any delegate thereof, as the case may be, is empowered to order the retirement of a Public or Judicial Officer on his completing the age of 55 years or any time thereafter. The defendant however by Treasury Circular No. 555 of 31st October 1961 wrongfully and unlawfully has issued a directive that extension of the service beyond the age of 55 should be granted only to those

D6  
 Plaintiff in  
 District Court  
 Colombo.  
 Case No. 978/Z  
 14 5 62  
 —Continued

officers who are able to carry out their day to day duties in the Sinhala Language.

5 The plaintiff states that the said directive is discriminatory and will adversely affect the interests of all its members who are naturally not familiar with the Sinhala Language and imposes on its members disabilities which persons of the Sinhala community are not liable to.

6. A cause of Action has therefore arisen to the plaintiff to sue the defendant for a declaration that the directive contained in Clause 2 of Treasury Circular 555 of 31st October, 1961 is illegal and ultra vires of the powers of the defendant and or void and of no force or avail in law. 10

7. Due notice of this action has been given to the defendant in terms of Section 461 of the Civil Procedure Code (Chapter 101).

8. The plaintiff values this action at Rupees Ten Thousand (Rs. 10,000/-).

WHEREFORE THE PLAINTIFF PRAYS:-

- (a) for a declaration that the directive contained in the clause 2 of the Treasury Circular No. 555 of 31st October, 1961, is illegal and ultra vires of the powers of the defendant and/or void and of no force or avail in law; 20
- (b) for costs and for such other or further relief as to this Court shall seem meet.

Sgd/Lucian V. Perera  
*Proctor for Plaintiff*

Settled by:

S. Sharvananda Esqr.,  
 G. T. Samarawickrema Esqr.,  
 M. Tiruchelvam Esq., Q.C.  
 Advocates.

30

True copy of plaint in District Court Colombo  
 Case No. 978/Z.

Sgd... ..  
*Asst. Secretary, District Court Colombo*  
 4.12.63

D7

**Plaint in District Court Colombo Case No 984/Z**  
**IN THE DISTRICT COURT OF COLOMBO**

D7  
 Plaint in  
 District Court  
 Colombo  
 Case No.  
 984/Z. -  
 9 6.62

Arasanka Eluthuvinaignar Sankam of 62 1/5  
 Kumaran Ratnam Road, Colombo..... *Plaintiff.*

No. 984/Z

*Vs.*

The Attorney General of Ceylon, Colombo.

..... *Defendant*

On this 9th day of June 1962.

10        The Plaintiff of the Plaintiff abovenamed appearing by Lucian Valentine Perera its Proctor states as follows:-

1. The defendant is being sued in this instance as representing the Crown.

2. The Plaintiff is a Trade Union duly registered under the name of Arasanka Eluthuvinaignar Sankam in terms of Section 10 of the Trade Union's Act (Chap. 138) with capacity to sue and be sued in its registered name.

3. The defendant resides and the cause of action hereinafter set out arose in Colombo within the jurisdiction of this Court.

20        4. The Plaintiff Trade Union is an association of Tamil speaking citizens of Ceylon who are members of the General Clerical Service of the Government of Ceylon. The object of the plaintiff Trade Union includes the duty to watch, safeguard, promote and further the rights and privileges of its members.

5. In terms of the contract of service between the Crown and the public officers holding office under the Crown, public officers whose salaries are on an incremental scale are entitled to be paid their annual increments if they have discharged their duties with efficiency, deligence and fidelity and thereby earned their increments.

30        6. The Crown, however, by its Treasury Circular No. 560 dated 4th December 1961 marked 'A' and filed herewith and pleaded as part and parcel of the plaint, provided inter alia, that those public officers who do not pass the proficiency test in the Sinhala Language within a prescribed period will be liable to have their increments suspended and eventually stopped. The Crown is taking action for not complying with the requirements of the above Circular and many members of the plaintiff Union have had their annual increments suspended.

D7  
 Plaintiff in  
 District Court  
 Colombo  
 Case No.  
 984/Z. -  
 9.6.62  
 -Continued

7 The aforesaid Circular was issued for the purpose of implementation of the Official Language Act, No. 33 of 1956, which Act is illegal and of no force or avail in law in as much as the contravention of Section 29 of the Ceylon Constitution Order in Council it makes members of the Tamil speaking community liable to disabilities to which persons of the Sinhala speaking Community are not made liable and/or confers on the Sinhala speaking Community an advantage which is not conferred on persons of the Tamil speaking Community and thereby imposes disabilities on the members of the plaintiff Union. 10

8. The plaintiff Trade Union states that the aforesaid Circular is invalid and not binding on the members of the plaintiff Trade Union in as much as:-

(a) its requirements that they should complete proficiency tests within the time prescribed is unreasonable in respect of them particularly as they are Tamil speaking and are conversant with the Sinhala Language.

(b) it is illegal as having been made in the implementation of the Official Language Act No. 33 of 1956 which is illegal and void for reasons stated in paragraph above. 20

9. In the premises the plaintiff is entitled to a declaration,

(a) that the Treasury Circular No. 560 of 4th December, 1961, is illegal and of no force or avail in law;

(b) that the Official Language Act No. 33 of 1961 is in contravention of Section 29 of the Ceylon Constitution Order in Council and is illegal in that it makes members of the Tamil speaking community liable to disabilities to which persons of the Sinhala speaking community are not made liable to and/or confer on persons of the Sinhala speaking Community an advantage which is not conferred on persons of the Tamil speaking Community and thereby imposes disabilities on the members of the Arasanka Eluthuvinaignar Sankam. 30

10. Due Notice of this action has been given to the defendant in terms of Section 461 of the Civil Procedure Code.

11. The Plaintiff values this action at Rs. 10,000/-.

WHEREFORE THE PLAINTIFF PRAYS:-

(a) a declaration that the Treasury Circular No 560 of 4th December, 1961, is invalid and of no force or avail in law;



- (b) a declaration that the Official Language Act No. 33 of 1956 is in contravention of Section 29 of the Ceylon Constitution Order in Council and is illegal in that it makes members of the Tamil speaking Community liable to disabilities to which persons of the Sinhala speaking Community are not made liable to and/or confer on persons of the Sinhala speaking Community an advantage which is not conferred on persons of the Tamil speaking community and thereby imposes disabilities on the members of the plaintiff union;
- (c) for costs; and
- (d) for such other and further relief as to this Court shall seem meet.

10

Sgd. Lucian V. Perera.  
*Proctor for Plaintiff.*

True copy of plaint in District Court, Colombo Case No. 984/Z.

Sgd.....  
*Asst. Secretary District Court, Colombo*  
 4.12.63

D7  
 Plaint in  
 District Court  
 Colombo  
 Case No.  
 984/Z. -  
 9.6.62  
 —Continued

P10  
Treasury Circular No. 581

Treasury Circular No. 581

No. 2/9/156/4/2(H)  
General Treasury,  
Colombo, July 20, 1962.

To: All Permanent Secretaries and  
Heads of Departments.

OFFICIAL LANGUAGE - RECRUITMENT AND CONDITIONS  
OF SERVICE OF NEW-ENTRANTS TO THE PUBLIC SERVICE.

10

REFERENCE is invited to Treasury Circular No. 428 of January 31, 1958, in terms of which Permanent Secretaries and Heads of Departments were required to revise schemes of recruitment to bring them in line with the Language policy of Government. In accordance with the decisions of Government, contained in the Secretary to the Cabinet's Circular No. CPA. 278/60 of December 20, 1960, regarding the implementation of the Official Language Act, from January 1, 1961, schemes of recruitment should be further revised. The decisions of Government regarding the medium of recruitment and conditions of service of new-entrants to the Public Service are set out below, 20  
for your information and compliance.

2. (A) *Medium of Examination for Recruitment:*

(i) The medium of examination for recruitment to the Public Service should be linked to the educational policy of the Government and to the various stages reached with regard to the language in the process of putting that policy into operation.

(ii) Every candidate should be required to take up the competitive test, if any, for entry into any grade of the Public Service in the language through which he was taught when he passed the qualifying test, or the language through which he would 30  
have been taught, had he passed the qualifying test in this country. Candidates should, of course, be allowed to opt for the Official Language.

For example, the minimum educational qualification required of candidates for admission to a competitive examination for entry into a grade of the Public Service is the Senior School Certificate. The competitive examination should, in this case, be held in all three media-Sinhala, Tamil and English. A candidate who possesses

the Senior School Certificate (Sinhala) must take the examination in the Sinhala medium; a candidate who possesses the Senior School Certificate (Tamil) should take the examination in the Tamil medium or the Sinhala medium; and a candidate who possesses the Senior School Certificate (English) should take the examination in the English medium or the Sinhala medium.

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(iii) If, under the educational system, candidates had been taught different subjects through different media, they should answer the papers through the corresponding media.

- 10 (iv) A candidate for a post for appointment to which the minimum educational qualification prescribed is a pass in the S.S.C. examination or equivalent or higher examination, should have a pass in the Sinhala language [or its equivalent—vide (iii) and (iv) of Section (A) of the Appendix to this Circular] obtained at the Senior School Certificate examination or its equivalent if he is a Sinhalese educated in the Sinhala medium.

*Note:* This requirement will not apply to those officers who have been in the Public Service from a date prior to January 1, 1961, and who seek appointments to other posts in the Public Service.

20 (B) *Conditions of Service of New-Entrants*

(i) The period of probation/trial of “New-Entrant Officers” appointed to pensionable posts/non-pensionable posts, as the case may be, shall be three years, unless a longer period is prescribed in respect of any posts.

- Note:* The term “New-Entrant Officers” shall for the purpose of the Official Language policy, mean officers appointed to posts in the public service on or after September 24, 1956, who are not deemed to be old-entrant officers in terms of sub-paragraphs 2 (ii) (b) and (ii) (c) of Treasury Circular No. 379 of May 23, 1957 as amended by  
30 Treasury Circular letter No 2/9/156/1(H) of September 4, 1958.

(ii) All “New-Entrant Officers” appointed to the Public Service should be required to comply with any rules already made, or that may hereafter be made, for giving effect to the Language policy of the Government, and, in particular, for implementing the provisions of the Official Language Act, No. 33 of 1956.

(iii) (a) These officers should acquire proficiency in Sinhala during their period of probation/trial.

(b) Their confirmation, at the expiry of the period of probation/trial will depend, *inter alia*, on the passing of the following proficiency tests in Sinhala:-

<i>Standard of Test</i>	<i>Period of time allowed to Pass the Test</i>	
	<i>Sinhalese Officers</i>	<i>Non Sinhalese Officers</i>
Grade 1 (3rd Standard Level) Proficiency Test	6 months	1 year
Grade 2 (5th Standard Level) Proficiency Test	1 1/2 years	2 years
Grade 4 (J.S.C. Standard Level) Proficiency Test	2 1/2 years	3 years

The period of time allowed in respect of each of these proficiency tests, will count commencing from the date of appointment, except in the case of those referred to in paragraph 2 (C) below. 10

*Note:* (i) Those officers who are in minor and subordinate grades, for purposes of whose recruitment to the Public Service an educational qualification not higher than the 7th Standard is necessary, will not be required to pass a proficiency test of a standard higher than the 5th Standard Level, as a prerequisite for confirmation. Where any clarification on this point is desired, the Commissioner for Official Language Affairs should be consulted.

*Note:* (2) Officers in the following categories will be exempt from passing proficiency tests in Sinhala as a pre-requisite for confirmation:- 20

- (a) Those who qualify for entry into the Public Service through the Sinhala medium.
- (b) Those in minor grades recruited in accordance with approved schemes of recruitment, in which no educational qualifications are stipulated, and those in minor grades in respect of whom a knowledge of a language is not essential for the efficient discharge of their duties and no educational qualifications are necessary for appointment to the posts.

The period of probation/trial of officers in this category may be prescribed at the discretion of the appointing authority, notwithstanding the provisions of paragraph 2 (B) (i) above. 30

- (c) Those who have already acquired proficiency in Sinhala in accordance with the Appendix to this Circular. The authorities competent to grant these exemptions will be as set out in Treasury Circular letter No. 2/9/156/4 (i) (H) of January 22, 1960.

(iv) (a) Failure to pass, within the prescribed period, the Grade I and Grade 2 proficiency tests in the case of an officer who is required to pass all three tests, or the Grade I proficiency test in the case of an officer who is required to pass the first two 40

tests only, will result in suspension of increment. If the test is not passed within a further period of six months beyond the prescribed period, suspension will be converted to stoppage, such stoppage operating until the test is passed.

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Where no test is held within the period of time allowed to pass a test, the prescribed period may be deemed to extend up to the date of the test held after the expiry of the prescribed period.

(b) The provisions of Administrative Regulations 120 and 121 will apply to those officers who fail to reach the prescribed standard of proficiency in Sinhala by the end of the period of probation/trial.

(v) All "New-Entrant Officers" should pass an Efficiency Bar Test in the Sinhala Language of the Senior School Certificate standard within two years from the date of confirmation in appointment. The prescribed test is the Grade 5 [General Certificate of Education (Ordinary Level) standard] proficiency test referred to in Treasury Circular No. 554 of October 31, 1961. An Efficiency Bar, the surmounting of which should be conditional on the passing of this test in the Sinhala language, should accordingly be fixed before the point of salary an officer is to receive on the sanctioning of the fifth increment in his salary scale.

Failure to pass the test will result in deferment of increment —*vide* Administrative Regulation 146 (iv).

*Note:* (1) The provisions of paragraph 2 (B) (v) will not apply to those who belong to the categories mentioned in Note (1) and Note 2 (b) to paragraph 2 (B) (iii) and in (A) of the appendix to this Circular.

(2.) Those officers who have already been confirmed in their appointments will be required to pass the Efficiency Bar Test within two years from the date of this Circular. Failure to do so will result in the deferment of the increment falling due after the expiry of that period.

(3.) Those officers who will have a period of less than two years from the date of confirmation to earn the fifth increment and those who have already been paid their fifth increment will be required to pass the Efficiency Bar Test within two years from the date of confirmation. Failure to do so will result in the deferment of the increment falling due after the expiry of that period.

(4.) The date of confirmation, for the purpose of this rule, will be the date of expiry of the period of probation/trial.

(C) *New Entrant Officers appointed prior to July 20, 1962 (the date of this Circular).*

(i) "New-Entrant Officers" who were appointed prior to July 20, 1962, (the date of this Circular) and who have not yet passed the Confirmation Test (Higher Grade) in Sinhala will now be required to pass the tests prescribed in paragraph 2 (B) (iii) (b). Those who have not yet passed the Confirmation Test (Lower Grade) in Sinhala will now be required to pass the Grade I proficiency test and the Grade 2 proficiency test in Sinhala, referred to in paragraph 2 (B) (iii) (b). The period of time allowed in respect of each of these proficiency tests will count as commencing from January 1, 1961, or from the date of appointment, whichever is later. 10

The provisions of paragraph 2 (B) (iv) (a) will apply to these officers, in respect of any increments falling due on and after February 17, 1962.

*Note:* The Confirmation Tests (Higher Grade) and (Lower Grade) in Sinhala referred to in Treasury Circular No. 473 of January, 27, 1959, will not be held hereafter. The Grade 2 (5th Standard Level) proficiency test, and the Grade 4 (J. S. C. Standard Level) proficiency test referred to in paragraph 2 (B) (iii) (b) above are equivalent to the Confirmation Test (Lower Grade) in Sinhala and the Confirmation Test (Higher Grade) in Sinhala respectively. 20

(ii) The periods of probation/trial of those who have completed their periods of probation/trial before February 17, 1962, should be extended as indicated below:

- (a) The extension up to February 17, 1962 (the date on which the proficiency tests were held) under proviso (1) to Administrative Regulation 121, provided their failure to qualify for confirmation has been due solely to their failure to pass the Confirmation Test (Higher Grade) or (Lower Grade). 30
- (b) The extension from February 17, 1962, to the date of passing the Grade 4 proficiency test [or the Grade 2 proficiency test in the case of those referred to in Note (1) to paragraph 2 (B) (iii)] or up to the date of expiry of the period of time allowed in respect of such test, whichever date comes earlier, with no proviso specified, provided their failure to qualify for confirmation has been due solely to their failure to pass the Confirmation Test in Sinhala. 40

(iii) The period of probation/trial of those who had not completed their period of probation/trial on February 17, 1962, may be extended, with no proviso specified, up to the date of passing the Grade 4 proficiency test [or the Grade 2 proficiency test in the case of those referred to in Note (1) to paragraph 2 (B) (iii)] or up to the date of expiry of the period of time allowed in respect of such test, whichever date comes earlier, provided their failure to qualify for confirmation has been due solely to their failure to pass the Confirmation Test in Sinhala.

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- 10 *Note:* The seniority of officers whose periods of probation/trial are extended under the provisions of sections (ii) (b) and (iii) above will not be affected if they qualify for confirmation within the periods specified therein.

(iv) The officers concerned should be informed accordingly, in writing.

(D) *Temporary Officers:*

The provisions of sub-paragraphs (B) and (C) will apply, *mutatis mutandis*, to temporary officers as well.

- 20 3. The schemes of recruitment in respect of posts in your Department should be revised to accord with the above-mentioned decisions of Government. If further details or special conditions are required to be inserted, the Commissioner for Official Language Affairs should be consulted.

4. *Letters of appointment:*

(a) (i) In terms of the decisions referred to in paragraph 2(B) the letters of appointment issued to "New-Entrant Officers" [other than those mentioned in Note (2) (b) to paragraph 2 (B) (iii)] should contain the following conditions:-

- 30 (1) The post is permanent and pensionable/permanent and non-pensionable, and, unless your appointment is determined earlier, you will be on three years probation/trial from the date of your appointment and until you receive a letter confirming you in your appointment.
- (2) You will be required to comply with any rules already made, or that may hereafter be made, for giving effect to the Language policy of the Government, and, in particular, for implementing the provisions of the Official Language Act, No. 33 of 1956.

(ii) Letters of appointment issued to “New-Entrant Officers” recruited through the Tamil/English medium should embody the decisions referred to in paragraphs 2 (B) (iii), 2 (B) (iv) and 2(B) (v). Letters of appointment issued to, New-Entrant “Officers” recruited through the Sinhala medium should embody the decision referred to in paragraph 2 (B) (v).

(iii) In letters of appointment issued to Temporary Officers recruited through the Tamil/English medium, it should be stated that unless their appointment is terminated earlier, their employment beyond the period of time allowed in respect of the Grade 4 proficiency test (or the Grade 2 proficiency test where applicable), will depend on the passing of such test. It should, however, be made clear that the passing of the tests will not necessarily imply that they will be allowed to continue in service. 10

(b) Letters of appointment already issued to such officers, which do not contain the above conditions, should be amended by their inclusion.

#### 5. *Proficiency and Efficiency Bar Test in Sinhala.*

The syllabuses and schemes of examination of the Proficiency Tests in Sinhala, referred to in paragraph 2(B) (iii) and 2 (B) (v) above are set in Treasury Circular No. 554 of October 31, 1961. 20

#### 6. *Departmental Examinations (including Promotion and Efficiency Bar Examinations)*

(a) The departmental examinations, for which provision has been made in the existing schemes of recruitment, will continue to apply to all officers who are deemed to be “Old-Entrants”, in terms of Treasury Circular No. 379 of May 23, 1957, as amended by Treasury Circular Letter No. 2/9/156/1 (H) of September 4, 1958.

“Old-Entrant Officers” who wish to sit for any departmental examinations (which have hitherto been held in the English medium) may be permitted to sit for such examination in the Sinhala or the English medium, at their option. 30

(b) Amendments will, however, have to be made in such Schemes in respect of “New-Entrant Officers”

As the Official Language is Sinhala and all “New-Entrant Officers” would have acquired proficiency in Sinhala, having reached the required standard before confirmation in their appointments, these



examinations will have to be held in the Sinhala medium. Advice in regard to the revision of the schemes of these departmental examinations should be obtained from the Ministry to which the subject of the Official Language has been assigned. If for, any reason, all or any of the subjects at a departmental examination for "New-Entrant" Officers should continue to be taken in the English medium for some time longer, the concurrence of the Permanent Secretary of the Ministry to which the subject of the Official Language has been assigned should be obtained.

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10 In regard to departmental examinations for "New-Entrant Officers" of the Civil Service and of the Combined Services under the control of the Deputy Secretary to the Treasury, the Secretary to the Treasury and the Deputy Secretary to the Treasury, respectively, will take necessary action.

7. Please forward to the Treasury, in due course, the revised schemes of recruitment and of departmental examinations, in duplicate, for transmission to the Public Service Commission.

20 8. The decisions referred to in paragraph 2 (B) above will be embodied in the General Conditions applicable to appointment to posts in the Public Service, published at the beginning of Part I, Section II of the *Gazette*.

9. The provisions of this Circular do not apply to officers of the Ceylon Judicial Service, Presidents of Rural Courts, and officers of the Local Government Service.

10. This circular, which is being issued with the concurrence of the Public Service Commission, supersedes Treasury Circular No. 428 of January 31, 1958.

Sgd. Shirley Amerasinghe  
Secretary to the Treasury.

## APPENDIX

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(A) Officers possessing one of the following qualifications will be exempted from the Grade 1, Grade 2, Grade 4 and Grade 5 Proficiency Tests referred to in this Circular:-

(i) A pass in the Proficiency Examination (Advanced Level) in Sinhala of the General Treasury [Those officers who have passed the Proficiency Examination (Ordinary Level) in Sinhala will also be exempted from Grade 1, Grade 2 and Grade 4 Proficiency Tests.]

(ii) The Ceylon Senior School Certificate (Sinhala).

(iii) The Ceylon Senior School Certificate (English) with Sinhalese Language or Sinhalese Literature or Classical Sinhalese or Advanced Sinhalese or Modern Sinhalese. 10

(iv) The Ceylon General Certificate of Education (Ordinary Level)-Sinhala Medium—in Sinhalese Language or Sinhalese Literature; or the Ceylon General Certificate of Education (Ordinary Level)-English Medium—in Sinhalese Language or Sinhalese Literature, or the Ceylon General Certificate of Education (Ordinary Level)- in and after December, 1957 - in Sinhalese Language or Sinhalese Literature.

(B) Officers possessing one of the following qualifications will be exempted from the Grade 1 and Grade 2 Proficiency Tests in Sinhala referred to in this circular:- 20

(i) The Ceylon Senior School Certificate (English) with Lower Sinhalese;

(ii) The Ceylon Senior School Certificate (Tamil) with Sinhalese;

(iii) The Ceylon General Certificate of Education (Ordinary Level)-English Medium - in Lower Sinhalese; or the Ceylon General Certificate of Education (Ordinary Level) - Tamil Medium—in Sinhalese; or the Ceylon General Certificate of Education (Ordinary Level)-in and after December, 1957 - in Practical Sinhalese; 30

(iv) A certificate from a Government or Assisted or Approved School to the effect that the officer has successfully completed the sixth standard course in the Sinhalese medium.

**D9A**  
**Extract from the Ceylon Government Gazette No. 13673**

No. 1/3/7 (G)  
**CENTRAL CLERICAL EXAMINATION - SEPTEMBER, 1962**

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 Extract from  
 the Ceylon  
 Government  
 Gazette  
 No. 13673  
 14.6.63

It is hereby notified that the following candidates have been selected for appointment to the General Clerical Class of the General Clerical Service on the results of the Central Clerical Examination held in September, 1962:-

NAME	ADDRESS.
10 Abayagunaratne, I. D.	Werewella, Indulgodakanda, Kurunegala.
Abeykoon, T. B.	Kobbewela, Gampola.
Abeyratne, E. W.	Galpathutenna, Galagama, Belihuloya.
Abeyratne, P.	Penthenegoda, Narammala.
Abeysinge, A. A.	Piyungalla, Wariapola, Kurunegala.
Abeytiri, V. P.	Dorapane Gedera, Morawaka.
Adihetty, E. J.	No. 8/1, Gnanendran Road, Ratmalana.
Albert, V. P.	Pathirangewatte, Gathera, Kamburupitiya.
Amarasekera, M. T. P.	Walapothuwalawatte, Walpola, Imaduwa.
Amarasena, P. K.	Delgahawatte, Pinikahana, Kahaduwa.
20 Andrayas, K. A. D.	Tawaluwila, Ambalantota.
Ariyapala, H. L.	"Sirinewasa", Nalapitiya Road, Ulapane.
Ariyasena, E.A.	C/o Retired Village Headman, Talarambe, Kamburugamuwa.
Ariyasiri, K. P.	Pellahela, Dekatana
Ariyasinghe, K. D. K.	Stores Section, Irrigation Department Ratmalana.
Bandulasinghe, Y. M. H.	Nilgala, Udispattuwa
Banneyake, R. B.	"Ambasewana" Nindepalla, Gokarella.
Basnayake, J. A.	Sakaradaruwatte, Pahalawitiyala, Thihagoda.
30 Benedict, P. D. S.	Jayasuriya Road, Kandana.
Boman, K. H.	Unagaswela, Watugedera.
Bopearatchy, R. N.	Post Office Bungalow, Colombo 14.
Chandradasa, G.W.	"Punchiduwa" Kudapella, Poddala.
Chandradasa, P. H.	Nelumpokuna, Madampe (N.W.P.)
Chandrasekera L. G. G.	Lelwala, Wanduramba.
Chandrasena, A. A.	Pansala Road, Kahatawila, Koswatta (N.W.P.)
Chandrasena D. K.	A3, Training College, Balapitiya.
Chandrasena, E. M.	Siri Niwasa, Pannala.
Chandrasinghe, A. G. L.	No. 118, Talapitiya Road, Galle.
40 Cheyaratne H. D.	Tharapatha, Pelessa.
Chulasena, K. G.	No. 397, Imbulgahawatte, Kalapaluwawa, Rajagiriya.
Cooray, P. S.	63/1 Galle Road, Alutgama.

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Dabare, P. S. A.	Laboratory Service, Irrigation Department Colombo 5.	
Danadasa, M. K.	Gonahena, Weboda.	
Dasanayake, L.	Money Order Department, Postal Department, Colombo 10.	
Dayaratne, R. A.	Ganangamuwa, Nakkawatte.	
Dayawardene, R.	Omatta, Ganegoda.	
De Silva, D. Udakasiri	“Milton Lodge” Ratgama, Dodanduwa.	
De Silva, H. Somasiri	Railway Station Road, Ahungalla.	
De Silva, H. W.	Enforcement Division, Labour Department, Colombo 3.	10
Dharmasena, H. N.	Kiyanduwa, Akuressa.	
Dharmasena, R. P.	Duvilla, Yatawatte, Matale.	
Dharmasena, W.	No. 50A, Orutota, Gampaha.	
Edirisinghe, S. W.	172/4 Mahamodera, Galle.	
Edward, W. A.	“Sisira” Pahala Keembiya, Poddala.	
Fernando, D. G. Edmund	Mawathtenna, Deraniyagala.	
Fernando, S.R. Leelaputhra	No. 125/1, Lady Mannings Road, Kandy.	
Fonseka C. L. C.	“Milani” Marakkalahawatte, Beruwala.	
Francis, O. V. P.	Pathiranagewatte, Kirimetimulla, Telijjiwila.	20
Francis, P. G.	Dellawa, Galle.	
Gunasundara, K. W.	Watagedera, Nadugala, Matara.	
Gunadasa, G. H. G.	Minirangoda, Maliduwa, Boosa.	
Gunadasa, J. K.	“Jayasewana” Middenigoda, Hakmana.	
Gunaratna K. D. P. T.	“Sisilagara”, Mahapitiya, Kosgoda.	
Gunapala, G. D. C.	Jambughawatte, Battaramulla, Talangama	
Gunasekera, G. A.	Batalawatte, Kalahe, Wanchawela.	
Gunasekera, H. D.	Galketiya, Ahangama.	
Gunasekera, K. K.	No. 12/2 “Gunasewana” Goodshed Road, Ratnapura.	30
Gunasekera, N. G.	“Thamburu” Udagama, Atabage.	
Gunasena, B. L.	“Sisira” Unawatuna.	
Gunasinghe, S. A.	Ihala Katuwella, Pannala.	
Gunawardena, D.	“Gunasewana” Andugoda, Dikkumbura.	
Gunawardena, G. G. L.	Heenatigala Road, Unawatuna.	
Gunawardane, J. A.	Government Farm, Pasyala.	
Gunawardane, L. W.	Kanattawatta, Haburugala.	
Gunawardane, M. N. S.	Ganekanda, Moragollagama.	
Gunawardane, N. P.	“Gracelyn”, Dalupotha, Negombo	
Gunawardane, P. V. A.	“Kalyani” Tiranagama, Hikkaduwa.	40
Gunawardane, W.	Mahagedera, Poththewela, Hakmana.	
Heebert, P. Y.	Katudampe, Dodanduwa.	
Hemapala, L. G.	Pahala Lelwala, Wanduramba.	

- Herath Banda, R. M.  
Jayaratne, T. P.  
Jayasekera, A.  
Jayasiri, W  
Jayasundera, E.  
Jayasundera, H. L. P.  
Jayasundera, W  
Jayatissa, M. G.  
Jayawardene, K. W  
10 Jayawardane, P.  
Jayaweera, A. H. O D.  
Jayaweera, K. P. L.  
Jiffry, M. S. M.  
Jinadasa, W. T. A.  
Kamalanathan, A.  
Karunadasa, M. A.  
Karunadasa, U. G.  
Karunaratne, P.  
Liyanage, C.  
20 Marathenis Singho, W  
Munidasa, M. A.  
Mutukumarana, U. I.  
Nawaratne Banda, M. M.  
Palamakumbura, C. B.  
Pannadasa, D. K.  
Paranamana P.  
Pelkola, D.  
30 Pemadasa, K. H.  
Percy Marcus, W. H. K.  
Perera, A. Pathmasiri  
Perera H. K. Neil  
Perera, I. A. Yasapala  
Perera, M. A. Nanda  
Perera M. Chandrapala  
Perera, W. A. David  
40 Perera, W.W.D.T. Shirly  
Piyadasa, G. L.
- Hettipola, Weuda.  
Thittapajjala, Werellagama.  
Godella Uda, Poramba, Akuressa.  
No. 46/32, Kalyani Road, Colombo 6.  
Ankokkawala, Walahanduwa, Galle  
“Dhamikka”, Hapugala, Wackwella.  
P. O. Box 108, Halgasmulla, Udugama.  
“Susil”, Barigoda, Nakkawatte.  
Ihalakumbura, Bopagama, Urapola.  
Gansabawa Gedera, Weraduwa, Matara.  
“Chandra Stores” Gandara.  
38/1, Dharmapala Place, Rajagiriya.  
73, T.B. Jayah Road, Colombo 10.  
Homadola Junction, Udugama.  
Arasady, Uduvil East, Chunnakam.  
Demalagama, Dekatana.  
“Siriyawasa” Poddiwela, Mattaka.  
Welikala, Pokunuwita.  
“Padmagiri” No. 79/5A. Porambe,  
Ambalangoda.  
Gammeddegoda, Ratgama Dodanduwa.  
Gamawatte, Maragoda, Akuressa.  
“Aluthgedera” Walpola, Matara.  
Pahala Pallewala, Wewagama.  
Palamakumbura, Hurrikaduwa.  
Kudurugalawatte, Wewalwatte, Ratnapura.  
Mawella, Nakulugamuwa.  
Department of Probation and Child Care  
Services, No. 3. Bagatole Road, Colombo 3.  
Ambagahahena, Kirama, Walasmulla.  
No. 6 National Housing Scheme, Wewelduwa,  
Kelaniya.  
No. 135/5, Central Road, Talpitiya, Wadduwa,  
Mahawala, Road, Malamulla, Panadura.  
No. 22, Tantirimulla Road, Panadura.  
No. 10, Kulatunga Road, Panadura.  
No. 25B, Wijaya Road, Kolonnawa,  
Wellampitiya.  
Panape, Millaniya, Horana.  
“Winifred” Horetuduwa, Moratuwa.  
Pathiregewatte, Ihalakeembiya.

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Piyadasa, H. G.	Kiriwawula, Ibbagamuwa.	
Piyadasa, L. A.	No. 7. National Housing Scheme, Katukurunda, Kalutara.	
Piyadasa, W. A.	Welangahawatte, Kottagahawela, Rattota.	
Piyasena, W. R.	Ihalamuruthenge, Nakkawatta.	
Piyatilaka, D. M.	“Sriya Niwasa”, Rupaha, Udapussellawa.	
Podiratne, K. G.	Hamangalla, Narangoda.	
Punchibanda, S. M.	Moragolla, Hettipola.	
Ranasinghe, T. D.	C/o Retired Village Headman, Imaduwa.	
Ranawaka Arachchy, I. D.	Meeruppa, Denepitiya.	01
Ranaweera, R. P.	Kalandurugala, Talwita, Wellawa.	
Ranbanda, S. M.	Dombagolla, Kalugallekotuwa Pihimbuwa.	
Rajapaksa, S. M. W.	“Rajagiri”, Polommaruwa, Tangalla.	
Ratnayake, A. M.	Kollure, Denagamuwa Polgahawela.	
Ratnayako Banda, A. A.	Arambepota, Pothuhera.	
Samaradeera, S.	No. 104/7 Beliatta Road, Tangalla	
Samarasinghe, T. M.	Makandura, Gonawila (N. W. P.)	
Samaraweera, H.	Batuwantudawa, Wackwella.	
Sarnelis, M. N.	Silpagoda, Parapamulla, Daiyandera.	
Sarnelis, P.	Polpitiya, Matikumbura, Polgahawela.	20
Senaratne, H. L. D.	Watakeniya, Udahentenna, Gampola.	
Seneviratne Banda W. G.	Wataraka, Inguruwatte, Mawathagama.	
Silva, O. M.	Karawita, Uda Karawita.	
Simon, W. A.	Henawatte, Wehella, Urugamuwa.	
Siribaddana, D.	No. 61, Jinaratana Road, Colombo 2.	
Sirisena, H. M.	Divulgane, Ehetuwewa.	
Sirisena, P. G.	Huldagedera, Kirinda, Puhulwella.	
Siriwardene, D. W.	Kabagalla, Kamburupitiya.	
Siriwarnasinghe, A. P.	“Srimathie”, Kiwula, Hungama.	
Siyadoris, R. K.	Opposite Rice Mill, Tathuwala, Walasmulla.	30
Siyaneris, R. D.	“Manel” Pahalakottamulla Weuda.	
Somaratne, W. R. K. D. W.	R/Viyalagoda Vidyalaya, Eheliyagoda.	
Somasiri, K. G.	Uswatte, Eluwawala, Denepitiya.	
Somasiri, K. G.	“Jayanthie” Gonapinuwala East, Gonapinuwala.	
Somatilaka, T. M.	Wadurawa, Veyangoda.	
Sundara Banda, S. M.	Wetahepitiya, Anukkane.	
Surasena, W. D.	No. 2. Pamunuwa Road, Maharagama.	
Suraweera, H. A.	“Abeyawasa,” Dummaladeniya West, Wennapuwa.	40
Tennakoon, T. M. U. B.	“Udaya” 207, Nagolla Road, Matale.	
Thusipala, H. L.	No. 43/14, Hewaheta Road, Kandy.	

Ukku Banda B. M.	Dehennegama, Monnekulama.
Upasena, A.	Madupitiya Road, Mahawilla, Panadura.
Vitharanage, S. H.	Malagodawatte, Malimboda, Palatuwa.
Wanninayake, W. M.	Karamhewa, Mahauswewa.
Wijedasa, W.	Thalakoratuwa, Karatota, Hakmana.
Wijesinghe, B. R.	Thawaluwila Walawwa, Thawaluwila, Ambalantota.
Wijesinghe, W.	Wijaya Stores, Wegoda, Bemnulla.
Wolbert, H. M.	Puwakwatte Thittagalla, Ahangama.
10 Wilfred, K. K. S.	Akarawita, Gampaha.
Wilson K. L.	Wettawa, Matugama.
Wimalaratne, R. M.	No. 21, Saranankara Road, Kandy.
Wimalaratne, R. P. D. J.	Keenadeniya, Ambepussa.

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Extract from  
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No. 13673  
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2. The Government does not undertake to provide the candidates with posts immediately but they will be given appointments as vacancies occur. All appointments will be on 3 years' probation. They will be subject to a medical examination and to the conditions of service governing the General Clerical Service.

20  
General Treasury,  
Colombo. June 10, 1963.

C. Balasingham,  
*Acting Deputy Secretary to the Treasury.*

## D9B

**Extract from the Ceylon Government Gazette  
No. 13702**

**EXAMINATIONS, RESULTS OF EXAMINATIONS, &c.**

No. 1/3/7 (G)

**CENTRAL CLERICAL EXAMINATION-SEPTEMBER, 1962.**

Further to the notification dated June 10, 1963, published in the *Government Gazette* No. 13,673, of June 14, 1963, it is hereby notified that the following candidates have been selected for appointment to the General Clerical Class of the General Clerical Service on the result of the Central Clerical Examination held in September, 1962:-

NAME	ADDRESS.	
Abeyasinghe, K.	Elagammillawa, Mahagirilla.	
Abeyasinghe, M. K.	No. 21, Henaratgoda, Mudungoda.	
Abeywardena, R. R.	R/Sudagala Government Buddhist Mixed School, Kuruwita.	
Albert, B. H.	Hathagala, Hungama.	
Albert, N. D.	Diganapara, Pelenwatta, Pannipitiya.	
Amarasena G. D.	Galatara, Iththepana.	20
Amarasena, Y.	"Rajapaksa Nivasa" Hatara-Liyadda.	
Ananda, P. A.	"Lumbini" Dewalegama.	
Andrayas, S.	Dole Koratuwa, Paraudamulle, Deyiyandara.	
Andrayas Appu W.P.K.	Welipatanwila, Ambalantota.	
Ariyadasa, H. M.	Tekewa, Hettipola.	
Ariyadasa, H. M.	Indipitiyawatte, Dematawa, Moragane.	
Ariyaratne, N.H.P.F.	Pelena, Weligama.	
Ariyasinghe, S. G.	Rural Development and Small Industries, District Office, P. O. Box 1501, Colombo.	
Arnolis Appuhamy, H.P.M.D	No. 127 Doranegoda Udugampola.	30
Atapattu, D. B.	Kudagalgamuwa, Maspota.	
Awneris Appuhamy, M. A.	C/o. Mr. G. H. Hinniappuhamy, Elagallawatte, Kandy.	
Banda R. M. N.	Wilbagedera Bandara, Koswatte.	
Bandara, W. M. D.	"Chandrasekera Nivasa" Gomagoda, Kengalla, Kandy.	
Bandaranayake, U. W.	Dullewa, Walawela, Matale.	
Bandusena, K.	"Champa" Araluwagoda, Madawala Bazaar, (via Kandy)	
Bandusena, M. W.	"Sandagiri" Nakiyadeniya.	40
Bandusoma, M.	Boraluwatota, Batapola.	



	Chandradasa, J. G.	Hammeliyagewatte, Maguwana, Keradewela.
	Chandradasa, K. D. T.	No.113, Amuhena, Makalandawa, Walallawita.
	Chandradasa, P. V	“Tausita” Rajamahavihara Road, Pitakotte, Kotte.
	Chandradasa, S. D.	Welimanna, Aranayake
	Chandrasena, K. A.	Maligawatta, Mattamagoda, Kanathtota.
	Danchiya, A.	Bogahena Road, Hakurukumbura, Mirigama.
	Dissanayake, W. M.	Open Prison Camp, Kundasale.
	David, S. W	69, Bellanwila Boralesgamuwa.
10	David Singho, T.M.	Nivunhella, Ruwanwella.
	Dayananda, P. S.	Pilihudugolle, Na-ula.
	Dayaratne, H.	Lower Mapitigama, Malwana
	Dayaratne, K. K.	Yakupitiya, Lathpandura.
	Dayasena, K. R.	Niriella, Upper Niriella, Ratnapura.
	De Mel, W. P. M.	11/10, Malwatta Road, Dehiwala.
	De Silva, V. H. Shelton	“Pem Vilas” Andadola, Watugedera Ambalangoda.
	Devapriya, M. G.	“Pasalasevana” Denipitiya.
	Dhanapala, K. K.	Gulugahagodawatta, Mapalagama, Talgaswala
20	Dhanapala, P. A.	Mahawatte, Dorape, Angulugaha.
	Dhanapala, R.	Uyandana, Rabodagalla Road, Kurunegala.
	Dhanapala W. A. P.	H/Egodabedda Vidyalyaya, Kirama.
	Dhanaratne, S. P.	Walgammulla, Urapola.
	Dharmadasa, P. H.	Kirinuge, Elpitiya.
	Dharmaratne, S. W. A.	No. 150. Polwatte Road, Poramba Ambalangoda.
	Dharmasiri, H. H. A.	“Sisila” 4th Cross Road, Walpola, Matara.
	Dharmasiri, S. M. A.	Sasthrodaya Privena, Sandalankawa.
	Dissanayake, C. J.	P. W. D. Office, Tangalle.
30	Dissanayake, R. S.	Ihalagahawatta, Palatuwa, Matara.
	Edirisinghe, D. H.	Wedagewatta, Lower Ganegama, Telijjawila.
	Fernando, M. G. V	Horakele, Madampe.
	Gajanayake, J. H.	Godauda Senior School, Kottagoda.
	Gnanawansa, W. A.	No. 1, Paluwatte, Kumbiyangoda, Matale.
	Godewitharana, D.	Kananke, Imaduwa.
	Gunadasa, D.	“Landewatte” Motagedera, Kekanadura, Matara.
	Gunadasa, G. A.	Haloluwa, Kotadeniyawa.
	Gunapala, D. D.	Pallegedera, Pehinipedidera, Aranayake.
40	Gunapala, D. W.	Munasinghepura, Kiriella.
	Gunapala, R. P.	Damunupola, Kegalle.
	Gunapala, I. K.	Thoranagoda, Eheliyagoda.
	Gunaratne, S.	C/o Mr. D. H. Gunaratne, Kotapola.
	Gunaratne Banda, H. M.	Education Office, Nuwara Eliya.

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 the Ceylon  
 Government  
 Gazette -  
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Extract from  
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—Continued

Gunasekera H. K. L. D.	“Silvagiri” Udupila, Mirissa.	
Gunasena, A. K.	Tharaperiya, Nihiluwa, Beliatta.	
Gunasena, G. G.	Naranowita, Porawagama.	
Gunasena, L. G.	Welipitimodara, Gintota.	
Gunasena, L. P.	Pahalahena, Kiralawella, Devinuwara.	
Gunasena, W. P.	No. 189, Main Street, Ambalangoda.	
Gunasinghe, E. A.	Maharagama, Mudungoda.	
Gunatillaka, M. D. M.	Weragama Road, Mahawadduwa, Wadduwa.	
Gunatilake, R. A. C.	“Tilaka” Koratota, Hakmana.	
Gunatilake Banda, S. B. M.	Kospillewa, Udugampola.	10
Gunawardena, A. S.	Ranasingoda, Katuwana.	
Gunawardena, J. A.	Kamburugalle, Ruggahawila.	
Gunawardene, K. W.	Godagama, Ellakkala.	
Gunawardane, M. J. P.	“Senani”, Maha Henatiyangala, Kalutara.	
Gunawardane, S.	Kalugalwatta, Deyiyandara.	
Harold, M. D. A.	No. 178, Nedurupitiya, Kandana.	
Hemapala, A. B.	No. 52, Kotuwegoda, Matara.	
Herath, G. B.	No. 90, Buwanekaba Road, Gampola.	
Hettiarachchy, P.	“Sisira” Sri Dharmarama Road, Wehera- gampita, Matara.	20
Hewagama, S.	Potuwila, Paiyagala.	
Hewavissa, T. B.	Hewawissa Government School, Marassana.	
Hulugalla, M. B.	Buduruwakanda Vidyalaya, Galgamuwa.	
Hussain, M. M.	No. 17 Hiriubure Cross Road, Galle.	
Indraratne, H. D.	Palagala, Udahentenna.	
Jamis, W. A.	Udahena, Maragoda, Akuressa	
Jayamaha, D. A. D.	Supreme Court Office, Colombo.	
Jayanath, S. M.	Moragalle, Beruwala.	
Jayarathne, L. L.	No. 471, Mahara Road, Hunupitiya Wattala.	
Jayasekera, L. D. S.	Elakaka, Haburugala.	30
Jayasekera, S. R.	Andaluwa, Bengamuwa (via) Galle.	
Jayasekera, W. A.	Samaranayake Bakery, Rat/Kalawana.	
Jayasena, A. M.	Ihala Kinyama, Weerapokuna Junction.	
Jayasinghe, H. M.	Karagahagedera, Narammala.	
Jayasinghe, L. P.	No. 48, Heli Road, Eththiligoda, Galle.	
Jayasundera, G. K.	Uda Karawita, Karawita.	
Jayatilleke, S. M.	Vedapola, Pothuhera.	
Jayawardene, K. D. K. S.	C/o Mr. D. W. Jayawardane, Halpe, Mirigama.	
Jinadasa, H.	Pathakada, Nivitigala.	
Jinadasa, W. P.	“Jayasree” Kokmaduwa, Weligama.	40
Jumar, B. O.	L/227, New Town, Amparai.	
Karunadasa, W. G.	Yatimurukula, Kekanadura, Matara.	
Karunaratne, H. M.	Kirimetiyana East, Lunuwila.	

- Karunaratne, H. W. D. "Wijitha" Naimbala, Thihagoda.  
 Karunaratne, N. W. 69, Kumaradasa Mawata, Matara.  
 Karunaratne, P. W. No.13/14, Main Street, Arambawatte, Weligama.  
 Karunaratne, R.A.D.S.S.K. Kegalu Vidyalaya, Kegalle.  
 Karunaratne, U. Karanwilawatta, Wijayananda Road,  
 Bataduwa, Galle  
 Karunasena, G. G. Govt. Press, Borella.  
 Kaviratne, A. A. D. P. Supreme Court, Colombo  
 Kodikara, T. H. A. S. "Sirisevana" Halgahawella,  
 Uragasmanhandiya.  
 10 Kudabanda, W. M.H.K. Nawaneliya, Kilobissa.  
 Kularatne, N. P. Weerakcdiyane, Dummalasuriya.  
 Kumaradasa, K. M. Kabagamuwa, Undugoda.  
 Kumarasena, B. G. "Somagiri" Divilhena, Dikkumbura.  
 Kumarasinghe, K.A.D.V. "Sinhasevana" Weboda.  
 Kumudusena, M. D. No. 185, Andangama, Peradeniya.  
 Lellawala, D. W. S. Walakumurewatte, Dorape, Angulugaha.  
 Liyanagama, I. MR/Kumbalgoda School, Hakmana.  
 Madadeniya, H. B. Dunuwila Walawwa, Alagoda, Poojapitiya.  
 20 Mahalekham, R. B. No. 59 Mailapitiya.  
 Mahindadasa, D. G. "Koongahawatte" Telikade, Ginimollagaha.  
 Mahindapala, W. T. D. "Hill House" Bellamadala, Horawala,  
 Welipenna.  
 Mahindasoma, K. W. No. 40 Wijayarama Road, Kaluwadumulla,  
 Ambalangoda.  
 Malalasekera, B. R. "Kalyani" Pannala, Aranayake.  
 Meththananda, W. G. "Piyasewana", Kamburugamuwa.  
 Michel, K. D. Suripaluwa, Kadawata.  
 Milan, J. V. "Dickhena" Henwala, Mirissa.  
 30 Mudalihamy, R. M. Thihamulla, Narammala.  
 Mudalihamy, T. M. Godawalamulla, Demataluwa, Kurunegala.  
 Munasinghe, D. A. Galgodawatte, Bopitiya, Matugama.  
 Munasinghe, D. N. S. Galdola, Kotapola.  
 Nanayakkara, L. W. K. Wewehena, Getamanna.  
 Niyangoda, D. B. Karuwalagahawatta, Maho.  
 Pabilis, L. P. Balagalla, Narangoda.  
 Pabilis, S. H. Weragoda, Pahalagama, Devalegama.  
 Peiris, A. H. No. 30, Delgahawalakada, Hunupitiya  
 Wattala.  
 40 Pelpita P. R. P. B. Tammita School, Uspitiya.  
 Pemadasa, D. D. Madupitiya, Panadura.  
 Pemadasa, G. P. Vidyarathne Vishvavidyalaya, Vidya  
 Phetaya, Horana.

Pemaratne, K. H. G.	"Sri Vijaya" Ronnaduwa, Meetiyyagoda.	
Pemawardane, D. D.	Koskandwila, Hokandera.	
Perera, B. A. B. C.	Pannala Road, Dankotuwa.	
Perera C Menik.	No. 26, Albert Place, Dehiwala.	
Perera D. G. E. Anthoy	Galloluwa, Minuwangoda.	
Perera, G. Ruban	Elegoda, Uduwara (via) Horana.	
Perera J. M. Martheus	Galwalahena, Tambagalla, Panirendawa.	
Perera, J. Simeon	No. 123, Malabe.	
Perera, K. P. E.	Waduwwa, Yatigaloluwa.	
Perera, K. R.,	Kambuka-West, Gonapola Junction.	10
Perera, S. A. Lionel	Makalandana, Dewalapola.	
Perera, T. Hemasiri	No. 158, Kuruppumulla, Panadura.	
Perera, T. Nandasiri	"Srimathi" Horawella, Madampe (NWP)	
Perera, U. K. Chandrapala	Medawatte, Mudungoda.	
Perera, W. O. K. Robiyas	"Anoma", Korambe, Dompe	
Piyadasa, H. G.	"Siriya-wasa" Lunama, Hungama.	
Piyadasa, K. G.	Siyambalagahawatte, Ukuthule, Maturata.	
Piyadasa, R. H. M.	Kirimadugewatta, Owitigamuwa, Puhulwella.	
Piyadasa S. H.	Vijaya Road, Medaketiya, Tangalle.	
Piyasena, K. A. G.	Money Order Department, Postal Department, Colombo.	20
Piyasena, P. M.	Katupotha Road, Medagama, Kanattuwwa.	
Piyasena, W. A.	Pallewela, Helamada.	
Piyasena, W. M.	Banwelgodella, Aluthwala, Hikkaduwa.	
Piyasena, W. M.	Demalamana, Nikadalupotha.	
Piyasiri, A. W.	No. 437, Maligawatte, Jumma Masjeed Road, Colombo. 10	
Piyoris, H. M.	"Somiguna" Kadduwa, Karagoda, Uyangoda.	
Podimahatmaya, D. G.	Paragala, Upper Division, Nawalapitiya.	
Podimahatmaya, W.	Niyangama, Godakawela.	30
Premachandra, A. D.	"Kusumgiri" Kalegana, Galle.	
Premadasa, P.	No. E 40, Habakkala, Induruwa.	
Premaratne, S. A.	Leenawatte, Liyanwela, Padukka.	
Premasiri, W. A.	Halyala, Madugoda, Kandy.	
Prematunga, K. H.	No. 3777, Polhena, Matara.	
Premawardana, W. S.	No. 441/4A, Wackwella, Road, Galle.	
Premlal Chandrasiri, U. M.	No. 129, Tholabogaswatte, Badulla.	
Punchibanda, K. G.	Bogahawela, Punduluoya.	
Punchibanda, P. M.	Katupota Road, Medagama, Kanattuwwa.	
Punchibanda, R. M.	Rekawa, Galagederakade, Wariyapola.	40
Punchinitame, E. M.	Kurundugolla, Polgahawela.	
Punchisingho, A. D.	Hunuwila, Pannala.	
Rauasinghe, S. S.	Kunumade, Welpalla.	

- Ranawaka, S. G. "Hill House", Baddegama, Matugama.  
 Ranaweera, J. H. M. Udakanugala, Amithirigala.  
 Ranbanda, D. M. Hiwland Estate, Wellawa.  
 Ranbanda, J. M. Thalagahahena, Kudagalgamuwa, Maspotha  
 Ratnayake, A. B. E. P. F. Office, P. O. Box No. 1508 Colombo 3.  
 Sadirs, T. W. Borukgamuwa, Halamada, Kegalle.  
 Samarajeewa, P. H. Danduwana Road, Dorape, Angulugaha, Galle  
 Samarapala, M. K. Matthegoda, Angulugaha.  
 Samaraweera, W. M. Rattasela Visva Vidyalayeeeya Pirivena,  
 10 Samarawickrame, E. 98/3 Sri Saranankara Road, Dehiwala.  
 Simeon, H. D. Namaldeniya, Parakaduwa.  
 Simon, P. L. Urapola, Thihagoda.  
 Siripala, M. Andadola, Watugedara.  
 Siripala, T. B. No. 21/3, Madapathala, Galle.  
 Sirisena, P. H. District Agricultural Office, Ratnapura.  
 Sirisena, V. P. Udayala, Hakuruwela.  
 Sirisomaratne, W. A. 74, Dambara, Meewanapalana.  
 Somadasa, M. P. Welletota, Palatuwa, Matara.  
 20 Somaratna, W. A. No. 226, Gampaha Road, Yakkala.  
 Somasiri, K. W. D. No. 580, High Level Road, Gangodawila,  
 Nugegoda.  
 Soysa, W. S. V. E. P. F. Office, Labour Department, Colombo  
 Sugathadasa, A. W. 9/1, Kirahandigoda, Hikkaduwa.  
 Sumanadasa, H. P. G. Malimbada, Palatuwa.  
 Sumanapala, B. No. 25/2, Gunasewana, Kospelawinna,  
 Ratnapura.  
 Sumathipala, G. Polgahawila, Lower Lelwala, Wanduramba.  
 Sumathipala, J. A. Hangaawatte, Banduragoda.  
 30 Suraweera, P. K. B. Bemimgalla, Anukkane.  
 Theberis, K. P. K. G/Eramulla Government School, Kahaduwa.  
 Thevarapperuma, K. "Saketha", Batuwanhena, Nawadagala.  
 Thompson, D. D. 21 Main Street, Matara.  
 Trimanue, D. D. "Somiwasa" Bopitiya, Matugama.  
 Upasena, S. "Roseland" Biyagama Road, Kelaniya.  
 Victoria, J. J. D. R. Coconut Rehabilitation Dept. P. O. Box. 1388,  
 Colombo 1.  
 Wahalawatta, S. "Jayasiri" Balakawala, Akuressa.  
 Weerakoon, S. Nugagahawatte, Dambara, Meewanapalana.  
 40 Weerakoon U. M. B. Owatta, Hingula.  
 Weerasena, A. R. Kelegedera, Kotadeniyawa.  
 Weerasinghe, K. D. R. No. 47, Pansala Road, Divulapitiya,  
 Boralesgamuwa.

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Extract from  
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Weerasinghe, M.	Habakkala, Induruwa.	
Wickramanayake, L.	Pahala Lelwala, Wanduramba.	
Wijayagurusinghe, O.V.D.B.	Lewwanduwa, Welipenna.	
Wijayasena, Y. M.	Kosgahamulawatte, Hewadiwela.	
Wijedasa, R. A.	Pallegama, Kaikawala.	
Wijeratne, G. A.	Bambarenda, Arapattana, Kottegoda.	
Wijeratne Bandara, H. M.	Bimpalahena, Kiriella.	
Wijesinghe, D. S.	“Sethsiri Medura” Gonagala, Induruwa.	
Wijesuriya, D. W. S.	No. 24, Madduwa Road, Ratnapura.	
Wijetunga, W. M. C. J.	“Wijaya” Bandarawatte, Eheliyagoda.	10
Wilbert, G. A.	“Ambasevana” Aralugaswewa, Koboigane.	
	Kurunegala.	
Wilson, G. W.	“Ruwan” Magedera, Yakkalamulla.	
Wimaladasa, N. T.	Karamba Koshena, Wewurukannala, Dickwella.	
Wimalasena, I. P.	No. 149, Koswadiya, Mahawewa.	
Wimalasena, K. G.	“Hewana” Talpawila, Kekunadura.	
Wimalatissa, W. A.	Uda Karavita.	
Wimalaweera, J.	K/Angammana Government School, Gampola.	

2. The Government does not undertake to provide the candidates with posts immediately, but they will be given appointments as vacancies occur. All appointments will be on 3 years' probation. They will be subject to a medical examination and to the conditions of service governing the General Clerical Service. 20

C. BALASINGHAM  
*Acting Deputy Secretary to the Treasury.*

General Treasury,  
Colombo. July, 15, 1963.

## Extract from the Ceylon Government Gazette No. 13736.

## EXAMINATIONS, RESULTS OF EXAMINATIONS, &amp;c

No. 1/37(G)

D9C  
Extract from  
the Ceylon  
Government  
Gazette  
No. 13736-  
23.8.63

## CENTRAL CLERICAL EXAMINATION - SEPTEMBER, 1962.

FURTHER to the notification dated July 15, 1963, published in the *Government Gazette* No. 13,702 of July 19, 1963, it is hereby notified that the following candidates have been selected for appointment to the General Clerical Class of the General Clerical Service on the result of the Central Clerical Examination held in September 1962:-

	NAME	ADDRESS
	Abeydasa, J. P.	Puwakgasara, Kirama.
	Abeysinghe, D. S.	Meegasara Government School, Julampitiya
	Abeysinghe, I. G.	Government Training College, Katukurunda Kalutara.
	Abeysinghe, I. M. R.	"Saman Niwasa" Galhena, Magulagama.
	Abeyweera, H. P.	Godigamuwa, Aranayake.
	Abeywickrema, G. S.	No. 75A, Galagedera, Road, Katugastota.
20	Adikari, P. N.	Government School, Alutgama, Monnekulama
	Alagaratnam, G. B.	Fourth Cross Street, Point Pedro.
	Amarasoma, S.	Magistrate's Court, Ratnapura,
	Ariyadasa, T. M.	Mabodala, Veyangoda.
	Balasanmuganathan, B.	No. 359/5, Gopal Lane, Vannarponnai, Jaffna.
	Banda R. G.	Walahena, Maswela.
	Camilus, J. A. D.	Udadeniya, Welipennagahamulla.
	Chandraprema, W.	Mahaladuwa, Balapitiya.
	Chandraratne, N. P.	Shroff Branch, Kachcheri, Ratnapura.
30	Chandraseela, D. J.	No. 170/2, Negombo Road, Kurunegala.
	Chandrasena, G. L.	No. 38/3, Pirivena Mawata, Ratmalana, Mt. Lavinia.
	Chandrasoma, P.	Paragahatota, Watugedera.
	Chandrasoma, R.	Messagammana, Doratiyawa.
	Dahanayake, K. S.	Talgahahena, Kananke, Imaduwa.
	Dayaratne, K.	Godakagoda, Agalawatte.
	De Silva, A. K. G. A.	Hill House, Heenatiya, Balapitiya.
	De Silva, A. N. Y.	"Padma Nivasa" Kuda Waskaduwa, Waskaduwa.

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De Silva A. P. M.	Etagama, Kalutara.	
De Silva, K. H. N. B.	Guard Inspector's Office. Railway Station, Maradana.	
De Silva R. J.	"Ratnapaya" Usmadalawa, Madampe, Ambalangoda.	
De Silva, R. L.	"Aluthgedera" Yalagama, Induruwa.	
De Silva W. J.	No. 25, Welikadamulla, Balapitiya.	
De Soysa, W. W.	Gadawana. Willigoda, Ambalangoda.	
De Soysa, U. P.	No. 1520, Galle Road, Katukurunda, Kalutara.	
Dhanapala, K. D.	Kudaligama, Neboda	10
Dharmakeerthi, R.	"Elm Court", No. 51, Galle Road, Mt. Lavinia.	
Dharmaratne, K.	Wehigala, Elkaduwa.	
Dharmasena, S. D.	Orutota, Digana, Kengalla, Kandy.	
Dharmaweera, P. A. W.	Information Section. Inland Revenue Department, Colombo I.	
Douglas, J. D.	No. 252 Divulapitiya, Boralesgamuwa.	
Ebert, K. A.	Kadirawatta, Railway Station Cross Road, Richmond Hill, Galle.	
Fayis, A. H. M.	No. 86, Kongtree Road, Galle.	
Fernando, M. U.	No. 9/1, Goodshed Road, Panadura.	20
Fernando, P. F. A. C.	"Mount Villa" Akkaramale, Maggona.	
Ganesalingam, K.	Saravannai West, Velanai.	
Gunadasa, H. P.	No. 18702, Railway Motor Garage C. M. E. Department, Maradana.	
Gunadasa, W. A.	Imadukanda, Imaduwa.	
Gunapala, W. T.	Majuwana Road, Gonapinuwala.	
Gunaratna, M. D. K.	Bondupitiya, Talagasgoda Junction, Dhargah Town.	
Gunaratne P. K.	Navagunapatha, Dekatana.	
Gunatilleke, N. A.	No. 123, Uthuwana Bogahawatte, Veyangoda.	30
Gunatilleke, W. M.	Medabedda, Wahakotte.	
Gunatunga, K. D. N.	Kekiriya, Maha-Edanda.	
Gunawansa, P. G.	Paregederawatte, Pahala Keembiya, Poddala.	
Gunawardena, M. A.	"Sarath" Kananke, Imaduwa.	
Gunaweera, M. R.	Makura, Hottimulla.	
Gurusinghe, K.	Rekadahena, Kahaduwa.	
Herbert, L. A.	Alawatteggedera, Dodangoda.	
Hemachandra, K. M.	Dodampotha, Narangoda, Giriulla.	
Herat, H. W.	Jayanthi Vanija Vidyalaya, Wariyapola.	
Herat M. H. D. L.	Imbulgodayagama, Balalla, Maho.	40
Hettiarachchi, G.	Rest House, Deniyaya	
Jayasekera, D. M.	Murungagasyaya, Middeniya.	
Jayasekera, M. N. de S.	Dharmapala Vidyalaya, Batapola.	



	Jayasekera, S. W.	Malana, Kamburupitiya.
	Jayasena, S. M.	Wanumere, Wellawa, Polgahawela
	Jayasuriya, S.	"Clinta", Kochchikade.
	Jayatileka, P. G.	Dunakadeniya, Welipennagahamula.
	Jayatilake, R. A. L. H. A.	Department of Census & Statistics P. O. Box 563, Colombo.
	Jayawardena, P. D.	C/o. Katupitiya co-operative Stores, Kohilagedera, Kurunegala.
	Jinadasa, P.	Maithriya Mawatha, Welmillahandiya.
10	Julius E. W. P.	Wehelewa, Kanumaldeniya, Walasmulla.
	Kaluarachchi, T.	Deniyawatte, Habaraduwa.
	Karumaratne, K. A.	Wassamulla, Ilukhena.
	Karunaratne, M. D.	Walauwa Road, Homagama.
	Karunaratne, W. K. D. S.	"Wasantha Siri" 180 Thunbowila, Piliyandala.
	Kasturiratne, K. A. P.	"Kasturi", Bonegala, Kalagedihena.
	Kathiravelu, K.	Maravanpulo, Chavakachcheri.
	Khrisneswaran, V.	Sittan, Mavaddy Street, Chavakachcheri
	Kirimudiyanse, M. H. B.	Imbulgodyagama, Balalla, Maho.
	Kulasena, T. G.	Poddiwela, Mattaka.
20	Kulasingham, N.	Malisanthi, Alvai South Alvai.
	Kulasingham, K.	Gnanamyawalavoo, Vaithiry, Karaveddy.
	Liyanage, E. G.	No. 79/5A, Poramba, Ambalangoda.
	Manamperi, D. K.	Tea Factory, Dumbara Estate, Ingiriya.
	Marakandeyapillai, V.	Puloly West, Point Pedro.
	Masakorala, D.	Forest Guard, Maliduwa, Akuressa.
	Milton, R. D.	No 18/1, Courts Road, Gampaha.
	Mitraratne, A. K.	Co-operative Office, Kandy.
	Munidasa, L. A.	Talagala, Gonapola.
	Muthubanda, E. M.	Konwewa, Hulogedera, Maho.
30	Muthubanda, T. M.	No. 138, Dombemada, Rambukkana.
	Nandasa, H. K.	"Mihira", Main Street, Devinuwara.
	Nandasena, U. A.	Dewelwatte, Akurugoda, Sultangoda.
	Nandiratne, K.	Gurubewila, Weligama.
	Navaratnarajah, C.	Division No. 1. Thiruppalukaman, Periyaporativu.
	Nobert, H. L. A. D.	Meddewatte, Howpe, Imaduwa.
	Paskarathas, A.	No. 314, Central Road, Trincomalee.
	Pathmasundaram, G.	Madiullama, Pulooy West, Point Pedro.
	Peiris, P. P.	No. 58, 3rd Canal Road, Kalubowila, Dehiwala.
40	Premadasa, H.	Siddhartha Vidyalaya, Dikkumbura Ahangama.
	Pemadasa, H. P.	Duldeniya, Aranayake.
	Premaratne, V. M.	Baragedera, Ilukhena.

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- Perera, K. L.  
Pererr, M. A. M.  
Perera, P. S.  
Perera, R. B. L.  
Piyadasa, H. G.  
Piyasena, H. T.  
Podimahatmaya, A. K.  
Premaratne, H. B.  
Premawardana, B. K.  
Punchibanda, I. M.  
Ramanayake, B. L.  
Ratnayake, E. A.  
Ratnayake, L. B.  
Ratnayake, R. M. M.  
Razik, T. M.  
Romis, M. H.  
Samarakoon R.  
Samarasinghe, M. G.  
Samarawickrema, L. N.  
Sanmugasarma, R.  
Seevaratnam, K. A.  
Seneviratne, C. W. Y.  
Silva, A. H. E. S.  
Silva, S. K.  
Silva, L. S. J. W.  
Silva, S. K. K.  
Siripala, H. G.  
Sirisena, J. A.  
Sirisena, K. M.  
Sirisena, P. P. D.  
Sirisena, W.  
Siriwardena, M.  
Sivarajah, K.  
Somadasa, M. M.  
Somapala, U. A.  
Somasuntharam, A.  
Somatilaka, H. M.  
Sumanasena, M.  
Sumithra, D. H. N.  
Examination Department, Colombo 2  
Sasthrodaya Pirivena, Hendiyagala,  
Sandalankawa.  
Kalyani, Pradeepa Wishva Vidyalaya Pirivena,  
Delgoda.  
No. 501, Airport Road, Ratmalana.  
No. 30, Mahadewata Road, Matale.  
Bolana, Ridiyagama, Ambalantota.  
“Vijitha”, Club Road, Pelmadulla.  
“Karuwala Kade” Parawahera, Kekunadora. 10  
Pallegama, Haloluwa.  
Padipanchawa, Galgamuwa.  
“Thanihena” Okandayaya, Middeniya.  
Rassapana, Banduragoda.  
Batuwatte, Talatuoya.  
Kade Gedera, Ihala Mudunna, Uhumiya.  
No. 32, Muhandiram Road, Matale.  
Ranepuragoda, Pahala Hewassa.  
“Samaragiri” Ilukgoda, Kalugamuwa. 20  
Sri Wijayaramaya, Unanvitiya, Baddegama.  
No. 35703, C.M.E. Department, C.G.R. Ratmalana  
No. 60/8, Rutnam Road, Colombo. 13  
Pulmoddai, 2 Trincomalee.  
Getamanna, Beliatta.  
c/o. Mr. G. P. H. Hector Silva, Beliatta.  
“Wickrema” Amugoda, Pitigala.  
No. 14, Mendis Road, Willorawatta, Moratuwa  
No. 5, Town Council House, Alutgama.  
Kimbulawala, Elpitiya.  
Vidyakanthi Visvavidyala Pirivena, Heenati- 30  
gala, Talpe.  
“Siri-Nandana”, Pituwala, Elpitiya.  
Eluwapola, Wewagama.  
C/o. Mr. D. C. Ediriweera, seenimodera.  
Drilling Section, Irrigation Department,  
Jawatta, Road, Colombo. 5  
Naranthani East, Kayts.  
“Sisira” Baragama, Makandura.  
Kudewewala, Narigama, Hikkaduwa  
“Unthudai” Alaveddy North, Alaveddy. 40  
Paluwelgala, Koswatte.  
Talgaspitiya, Aranayake.  
Sembukattiya, Madampe (N. W. P.)

	Suntharalingam, K.	“Urikkadu”, Point Pedro Road, Kankesanturai
	Tennakoon, J.	Meegolla, Dombakoto.
	Thahir, M. A.	“Thahir Villa” Kal-Eliya.
	Thangavelauthasamy, S.	Market West Lane, Point Pedro.
	Tikiri Banda, A. A. M.	Godakumbura, Bopana.
	Tilakaratne, T. M.	“MalwewaSevena” Titthapajjala, Werallagama,
	UmaphathyKailayanathan, I.	Chettithtarai, Nelliaddy, Karaveddy.
	Vincent, D. D.	C/o Mr. U. D. Podineris, Meepawita, Dompe,
	Warnasuriya, K. S.	No. 107, Udaya Giri, Kadalana, Moratuwa.
10	Weerasekera, I. G.	Bambaradeniya, Welamboda.
	Weerasinghe B.	Horangalla, Talgaswela.
	Wickremasinghe, W. R. J.	Hapugahagedera, Loluwagoda, Mirigama.
	Wijedasa, D.	Mahawila, Haburugala.
	Wijepala, J. P.	Thippalawatte, Meegasdeniya, Urugamuwa.
	Wijeratne, H. D. S. S.	Yatramulla, Bentota.
	Wijesinghe, K. M. G. S.	Polwatte, Meegahatenna.
	Wijesuriya, N. B. P.	No. 27 Sri Sumangala Road, Kalutara North.
	Wijetunga, D. B. A.	Dummaladeniya, Wennapuwa.
	Wijewardena, U	Welimanna, Aranayake.
20	Wijeratnam, N.	V. M. Road, Point Pedro.
	Wilbert, K.	Melegoda, Wanchawala.
	Wilbert, W. D.	Piyawasa, Mudugamuwa, Weligama.
	Wilson, H. M.	Gorakaoya Colony, Nawalapitiya.
	Wilson, H. S.	Kehelwatte, Ranna.
	Wilson, R. P.	No. 48, Mary Land Estate, Waturugama.
	Wimalasena, P.	“Siriwiman”, Arankahadeniya, Urugamuwa
	Wimalasena, P. G.	“Ratnagiri”, Kataluwa East, Ahangama.
	Yasapala, K. W. J.	Sumana Sewana, Ukwita, Udugama.
	Yogarajah, N.	Kurubasiddy, Telippalai.

- 30 The Government does not undertake to provide the candidates with posts immediately, but they will be given appointments as vacancies occur. All appointments will be on 3 years' probation. They will be subject to a medical examination and to the conditions of service governing the General Clerical Service.

U. BALASINGHAM  
*Acting Deputy Secretary to the Treasury.*

General Treasury,  
August 17, 1963.

## D 9 D

## Extract from the Ceylon Government Gazette No. No. 13757

PART I: SECTION (II) (ADVERTISING) - CEYLON  
GOVERNMENT GAZETTE - SEPT, 13, 1963.

No. 1/3/7/(G)

## CENTRAL CLERICAL EXAMINATION - SEPTEMBER 1962

FURTHER to the notification dated August 17, 1963, published in the *Government Gazette* No. 13,736 of August 23, 1963, it is hereby notified that the following candidates have been selected for appointment to the General Clerical Class of the General Clerical Service on the result of the Central Clerical Examination held in September, 1962:- 10

Name	Address.	
Amirthalingam, T.	44, Seenivasagam Road, Kattady, Jaffna.	
Anantharaja T.	C/o. Mr. K. J. Adaikkalam. 769, Trincomalee Street, Matale.	
Archangel S. P.	V. C. Office, Udappu, Chilaw.	
Arulampalam A. P.	2nd Cross Road, Point Pedro.	
Arulpragasam A.	Ward 9 Delft Centre, Delft.	
Balasubramaniam, N.	Uriyatti, Chunnakam.	
Balasubramaniam, T.	Thondaimanaru.	20
Balthazar, R. C. D.	Shamrock 5, St. Anthony Street, Batticaloa.	
De Silva, M. K. M. H.	Roman Catholic School, Yatiyantota.	
Dingirimahatmaya, M. M.	Cross Road, Goodakawela.	
Ehganathan, E.	59, St. Sebastian Hill, Colombo 12.	
Ekanayake, L. B.	Meraliyawa, Yatigammana, Menikdiwela.	
Gunasiri, H. U.	Walliwala, Weligama.	
Haramanis, I. D.	59, Ambalangoda, Polgasowita.	
Nithgoda, J. B.	Niyangoda, Kumburegama, Kandy.	
Jesuthasan, G.	Beach Road, Manal Olunkai, Point Pedro.	
Jesuthasan, S. R.	55, 4th Cross Road, Point Pedro.	30
Jayarajasingham, N.	76, Pankankulam Road, Ariyalai Jaffna.	
Joseph, R.	Koorampan, Uduvil, Chunnakam	
Kaiyalapillai, A.	Maththanai, Koviladdy, Kokuvil East, Kokuvil.	
Kanagaratnam, S.	300, Mutwal Street, Colombo 15.	
Kanagaratnam, V	20, Brown Road, Neervaviyadi, Jaffna.	
Kanthasamy, N.	Kovil Idaikkadu, Atchuvveli.	
Kathiragamanathan, S.	Nawattikuli, Kaithadi.	
Koerthiratne, K. P.	Kongolla, Talwita, Wellawa.	
Kumarasamy, M. S.	Ward 4, Delft West, Delft.	
Nagenthiran, K. N.	Nunavil East, Chavakachcheri.	40
Panchadcharanathan, S. K.	Senthamilsolai, Alvai South, Alvai	

	Paramanadam, S.	Post Office, Kandy.
	Pathmanathan, T.	Neervely Centre, Neerveli.
	Perera, B. A.	127, Madapatha.
	Premawardena, D. R.	"Manel" Udapola, Polgahawela.
	Rajenthiran, A.	Awarankal, Puttur.
	Ranasinghe, R. A. H.	Poththepitiya, Menikdiwela.
	Rudran, C.	1st Floor, 59I, Rauff Building, Colombo 10.
	Sachithanathan, K.	17/1, Aiyankovilady, Jaffna.
	Sadacharan, M.	29 Tharavaik Kovil Road, 3rd Division, Kalmunai.
10	Samugalingam, M.	Finance Branch, Port Commission Colombo 1.
	Seinulabdeen, M.	Madhya Maha Vidyalaya, Erukkalampiti, Mannar.
	Shanmugam, S.	Pathamenny, Atchuvely.
	Shanmuganathan M.	287, Navalar Road, Anipanthi, Jaffna.
	Sinniah S.	"Ananda View" Bambarapana, Welimada.
	Sinthathurai, P.	Sawatkatthu, Mannar.
	Sivacolundu, W. S. S.	49 Mayfield Road, Colombo 13.
	Sivagnanasundaram, B.	Mappanwalawa, Thumpalai, Point Pedro.
20	Sivananthan, V.	Sivankovil Road, Puloly East, Point Pedro.
	Somasegaram, S.	89, Main Street, Vavuniya Stores, Vavuniya.
	Somapala, N. W.	19/104, Tissapura, Malwatta.
	Sugathadasa, H. W.	Kolambagedera, Eldeniya, Getamanna.
	Thambiah, K.	C/o. Puranam, Konesapuram, Kilinochchi.
	Thambirasa, P.	Neerveli North, Neerveli.
	Thandapany, R. S.	"Pulikitange" Mallakam.
	Thiagarasa, N.	Kulankarai, Karanawai North, Karaveddy.
	Thirulankam, S.	Mill Road, Sanganai.
	Vallipuram, K.	Iyankuttiwalawa, Idaiyakaddu, Atchuvely.
30	Velauthapillai, S.	Mattuviel North, Chavakachcheri.
	Vethanayagam, S. V. R.	178, Sri Gunananda Mawatha, Colombo 13.
	Weerasinghe, N. W.	Pannare, Welipennagahamulla.
	Wijeyasena, Y. K. Y.	Health Inspector, Training Hostel, Kalutara.
	Wijesuriya, M. W. A. D. N.	Udugampola, (W.P.)
	Wimalasena, G. B.	64, Boralankada, Deraniyagala.
	Yogarathnam, V.	Walanthalai, Kacainagar.

2. The Government does not undertake to provide the candidates with posts immediately, but they will be given appointments as vacancies occur. All appointments will be on 3 years' probation. They will be subject to a medical examination and to the conditions of service governing the General Clerical Service.

40

General Treasury,  
Colombo, September 9, 1963.

C. Balasingham,  
*Acting Deputy Secretary to the Treasury*

## D 9 E

## Extract from the Ceylon Government Gazette No. 13813

PART I: SEC (II) - (ADVERTISING) - CEYLON GOVERNMENT  
GAZETTE - NOVEMBER 8, 1963.

## EXAMINATIONS, RESULTS OF EXAMINATIONS, &amp;c.

No. 1/3/7(G)

## CENTRAL CLERICAL EXAMINATION - SEPTEMBER 1962.

FURTHER to the notification dated September 9, 1963 published in the *Government Gazette* No. 13,757 of September 13, 1963, it is hereby notified that the following candidates have been selected for appointment to the General Clerical Class of the General Clerical Service on the result of the Central Clerical Examination held in September, 1962.:-

NAME	ADDRESS	
Abeywickrama, S.	Morawaka Maha Vidyalaya, Morawaka.	
Albert, W. P.	Bandaranaike Road, Veyangoda.	
Amaradiwakara, H. G.	Bangadeniya, Rajakadalawa.	
Amarasena, D. K.	"Amara Gira" Baddegama South, Baddegama	
Arachchige, R. P.	District Court, Tangalle.	
Ariyapala, E.	Indilanda, Galpatha.	20
Ariyawansa, W. D.	46/1, Kumaratunga Mawatha, Gampaha.	
Arunasalam, S.	Kulattadi Lane, Sankanai East, Sankanai.	
Awusadahamy, Y. M.	Chandrasela Visvavidyala Pirivena, Pothuhera.	
Ayuwardhana, B. M.	72/2, Akuressa Road, Isadeen Town, Matara.	
Balasingham P.	Kottamgaladdy, Valvetty, Valvettiturai,	
Bastiansa, H. L. G.	"Station View" Ahangama.	
Bodhipala, H. V.	Bulugahapitiya, Eheliyagoda.	
Chandradasa, K. A.	Department of National Housing, Parsons Road, Colombo 2.	30
Chandradasa, M. G.	Pattiyagama, Deltota.	
Chandrapala, H. H.	C/o. Mr. H. J. Siriwardena, Metikotumulla, Devalpola.	
Chandraratne, A. A.	'Q' Branch, Army Head Quarters, Colombo.	
Chandrasekera, W. A. T.	Madampe, Ambalangoda.	
Charles Singho, E. M.	Pahamune, Narammala.	
Cyril W. C.	Dehipitiya, Gurulubedda.	
Dayaratna, A.	C/o. Mr. G. A. Simeon Singho, Wendala, Ruwanwella.	
De Alwis, A. J. S.	C/o Sudharmaramaya, Udagama Kirindiwela.	40

	De Silva, U. A. W.	Nuwarakalawiya Deaf & Blind School, Bandaranaike Mawatha, Anuradhapura.
	Dharmarajah, A. S.	Silversmith Street, Puloly East, Point Pedro.
	Dharmasena, N. W. J.	"Niwahana" Suduwelipatha, Baddēgama.
	Dingiri Banda, J. M.	Ihala Uswewa, Maha Uswewa, Anamaduwa.
	Ferdinando, D. J. L.	"Dauntless Lodge" 44, Moratumulla, Moratuwa.
	Fernando, M. G.	381, Wattalpola, Panadura.
	Fernando, U. G. H. P.	Kadahapola School, Narammala.
10	Galson E. W. P.	Pallaththara, Nakulugamuwa
	Ganesalingam, A.	Poththalai, Kollankalady, Tellippalai.
	Ganesan, S.	103, Sri Kathiresan Street, Colombo 13.
	Gardias, D.	Palliyapitiya, Rathgama, Dodanduwa.
	Gunasena, H. L.	Pitowila, Kadewatte, Nagoda, Galle.
	Herathhamy, A. H. M.	Govt. Senior School Anamaduwa.
	Hilary, M. D.	Udakanampella, Pugoda.
	Jamis, E.	Elapahala, Galagedera.
	Jamis, K.	Atakekuna, Werahera, Pepiliwela.
	Jayakody, D. C. E.	Molawatto, Weligampitiya, Ja-Ela.
20	Jayapala, T. W.	Galagama, Induruwa.
	Jayaratna, N.	Club Road, Pelmadulla.
	Jayasekera, V. P.	Samanabedda, Tittapattara.
	Jayasinghe, D. S.	Galmatta, KL/Walagedera.
	Jayatillake, W. V.	Parape, Rambukkana.
	Jayawickrama, A.	346, Nupe, Matara.
	Jeyarajah, E. J. A.	Erupalai, Kopay.
	Jinadasa, E. M.	Haloluwa Vidyalaya, Kannaththota.
	Jinadasa, G.	Kachcheri, Polonnaruwa.
	Jinaratana, K. D. L.	387, Imbulgahawatta, Kalapaluwawa, Rajagiriya.
30	Jinawansa, G. D.	Pitipana South, Homagama.
	Jipson W. K.	Jayamaha Vihara Road, Thotamuna Matara.
	Johennes, P. R.	"Anura". Maputugala, Poruwadanda.
	Kanagaratnam, K.	Ward 4, Delft West, Delft.
	Kanagasingam, S.	Thiriyai, Trincomalee.
	Kandappah, A.	39, Esakimuthu Place, Pickering's Road, Colombo. 13
	Karunaratna, A. R.	Dalupathawatta, Baduwatta, Giriulla.
	Karunaratna, R. M.	Divulkele, K/Naramana.
40	Kirupatharan, K.	Thauchitti Valawu, Alveddi North, Alaveddi.
	Kugadas, A. K. K.	Kurunegala Road, Alawwa.
	Madawala, T.	Madawala, Galagedera.
	Mendis, B. C.	594, Kurana, Katunayake.
	Munasinghe, R. D.	Siyambalapitiya, Kegalle.
	Murugāiah, S.	Nilawakaladdy, Idaikkadu, Atchuvely.
	Nalliah, S.	14, Vivekananda Road, Wellawatte.

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Extract from  
the Ceylon  
Government  
Gazette  
No. 13813--  
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--Continued

Nikapitiya, U. A. W.	Welikanda, Kabagamuwa, Undugoda.	
Nomananda, S. A.	320, Kandaliyaddapaluwa, Ganemulla.	
Padidilian, V. J. B.	Pallansena South, Kochchikade.	
Paranavithana, R.	Susimawatta, Unawatuna, Galle.	
Pararajasegaram, M.	182, Uruthirapuram.	
Pathmanathan, R.	Kuppilan, Chunnakam	
Peiris, H. W. P.	73, "Saketha", Egodaunya, Moratuwa.	
Pemadasa, H. G.	Welipatanwila, Ambalantota.	
Perera, H. C. M.	779, Kadalana, Moratuwa.	
Perera, P. K.	"Sriyani", Ketagoda, Millaniya.	10
Perera, P. P. B.	Wewethennawatta, Dodangaslanda.	
Piyadasa, D. A.	Podikade, Kadowatta, Pelawatta.	
Piyadasa, K. G.	99, Richmond Hill Road, Galle.	
Piyadasa, S. L.	"Siri Dana", Pitabeddara.	
Piyasena, W. G.	"Wijaya Siri", Egal-Oya, Bulathsinghala.	
Piyasiri, J.	Wathaya Mulana, Nagoda, Galle.	
Premachandra, R. A.	Morawatta, Ruwanwella.	
Prematillake, W. A.	Panawek, Ebeliyagoda.	
Punchibanda, R. A.	"Kusimsiri", Dummalasuriya.	
Punyapala, R.	173, Alutgama, Bandaragama.	20
Ranasinghe, K.	"Asoka" Galle Road, Paiyagala.	
Rasarathnam, K.	1st Farm, Kanagapuram, Kilinochchi.	
Rasiah, L.	Salvation Army, 16, Dias Place, Colombo. 12.	
Ratnasingham, T.	Vaddukkodai West, Vaddukkodai.	
Ratnasingham, V.	Siruvilan, Ilavalai	
Rajadurai, K.	40/2, Hamden Lane, Wellawatte.	
Roch, D. C. M.	Pallimunai, Mannar.	
Sakthithasan, N.	Vavunaththambai Lane, Kurumbasity, Tellippalai.	
Samarapala, K. G.	Runegewatta, Ihalagoda, Walahanduwa.	30
Samarasinghe, D. S. C.	Employees' Provident Fund Office, P. O. B. 1508, Colombo. 3.	
Samarasinghe, K. M.	Polegoda, KL/Mahagama.	
Samaratunga, K. G.	Lunuketiyamadditta, Hureekaduwa.	
Saththianantharasah, S.	Pirampadi, Kokuvil.	
Sebastianpillai, G.	Camp Road, Kayts.	
Senaratne, D. R.	"Senanie" 11/2, Asgiriya, Kandy.	
Silva, B. A. N.	Saddarmakara Pirivena, Pinwatta, Panadura.	
Sivalingam, M.	Aliyawalai, Chempianpattu.	
Srikanthan, R. S.	747, Trincomalee Street, Mandandawella.	40
Somadasa, W. D.	Matale.	
	3(c) Branch, Department of Inland Revenue, Colombo. 1	



	Somapala, G.	901, "Murugan Nagar" Kandy Road, Kelaniya.
	Somarathna, D.	Pelpitiya, Eheliyagoda.
	Somasiri, T. P. V. E.	97, Senkallagoda Mawatha, Eththiligoda, Galle
	Soysa, T. L.	Marawatta, Nagoda, Kandana.
	Sumanadasa, R. W.	Government Press, Colombo 8
	Sumanapala, G. T.	Ellathanabaddegama, Elpitiya.
	Sumanasiri, K. D.	Bandigoda, Kaikawela, Induruwa.
	Sumanaweera, L.	"Rankoth" Batagalla, Pujapitiya.
	Swaminathan, V.	Delft Centre, Delft.
10	Tennekoon, T. R. P.	Kandalama, Mirigama.
	Thabarajasingham, N.	Chankanai West, Sithankanai.
	Thirimanna, R.	"Lake Side" Wewita, Bandaragama.
	Tillakaratne, K. M.	Yala Road, Wiligoda, Kalutara North.
	Vincent, A. A.	Land Development Office, Chandrikawewa, Padalangala, Kahawatta.
	Wijewardene, F.N.A.	22, Adahanamaluwa Road, Asgiriya Kandy.
	Wijeweera, W.P.S.	277, Bedagiriya Colony, Weligaththa.
	William A.L.	Kahadenigama Road, Udubaddawa.
	Wimalasena, C.	Pallegama, Godakumbura, Papiliyawala.
20	Wimalasena, W.R.A.	476, Kaluwala Road, Kosinna, Ganemulla.
	Wimalasiri, T.G.A.	26, Vihara Mawatha, Galwadugoda, Galle.

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2. The Government does not undertake to provide the candidates with posts immediately, but they will be given appointments as vacancies occur. All appointments will be on 3 years' probation. They will be subject to a medical examination and to the conditions of service governing the General Clerical Service.

C. BALASINGHAM.

Acting Deputy Secretary to the Treasury.

General Treasury,

30 Colombo, November 4, 1963.

Extract from the Ceylon Government  
Gazette No. 13856

GENERAL CLERICAL EXAMINATION - SEPTEMBER, 1962.

No. 1/3/7(G)

FURTHER to notification dated November 4, 1963 published in the Government Gazette No 13,813 of November 8, 1963, it is hereby notified that the following candidates have been selected for appointment to the General Clerical Class of the General Clerical Service on the result of the Central Clerical Examination held in September, 1962. 10

NAME	ADDRESS	
Ariyapala, L. G.	Gagullana, Watawana, Imaduwa.	
Ariyaratna, S. H.	Weeraketiyawa Road, Walasmulla.	
Bogamuwa, M. M. P. M.	"Kusum Sevana" Boyagane, Kurunegala.	
Chandrasekera, A. M. H.	Station Road, Anuradhapura.	
De Silva G. A. C. P.	53A, Horagasmulla, Divulapitiya.	
de Silva, K. G. G. D.	Bataduwa, Batapola.	
de Silva, T. W. D.	52/4, Manimulla, Ambalangoda.	
Edirisuriya, P.	"Kumudini" Kadawedduwa, Yatiyana, Matara.	
Egodadeniya, G. W.	Deiagala, Getabetta.	20
Francis, E.	Delgahagedera, Weerapana, Opatha, Akuressa.	
Gunaratne, W. H. G.	Keppitipola, Beddawela	
Gunasekera, B. D.	Pubbiliya, Kobaigane	
Gunasekera, R. P.	"Ramanie", Watakolakanda, Puhulwella.	
Gunatillake, W. M.	Galpitiyagama, Nikaveratiya.	
Herath Banda, K. M.	Track 35, No. 5, Diyabeduma, Hingurakgoda.	
Jayasena, K. A. D.	"Daya-Gara", Pahayagoda, Ganemulla.	
Jinadasa, W. P.	122. Colony, Aranayake.	
Kuladeva, N. N.	Palamkatta, Rakwana.	
Madduma Banda, H. M.	Medigoda, Petiyagoda, Geliya.	30
Manoratna, K. W.	Nakandala, Eheliyagoda.	
Muthukumarana, P. P.	18, Rangiri Vibara Road, Ambalantota.	
Rapin Singho, N. H.	Siyambalawehera, Kalugamuwa.	
Obeysekera, G.	Glenalpin Hospital, Badulla.	
Paranamana, H.	Dambagasara, Dickwella.	
Premasiri, A. K. A.	Horagodawatta, Balikawala, Akuressa.	
Perera, E. C.	Govt. Tourist Bureau, Marine Drive, Colombo.	
Piyadasa, A. L. P. S.	"Nimalpaya", Seenwatta, Alutgama.	
Piyasena, K. M. G.	Pinikahana, Kahaduwa.	
Premaratne, B. G.	Dept. of Marketing Development, Nuwara- Eliya.	40

Rajadasa, G.	Kananwila, Anguruwatota.
Ratnayake, K.	Katuwanahena, Bambarenda, Kottagoda.
Ratnayake, K. M.	Kirindiwilmada, Nikadalupotha.
Samarasinghe, G. D.	Post Master General's Office, Colombo 1.
Senaviratne, D. P.	"Jayanti", Omatta, Ganegoda,
Silva Stanley, L.	97, Attanagalu Road, Nambadaluwa Nittambuwa.
Sirisena, K. K. D.	Parakahawatta, Elpitiya.
Subasinghe, S. A. R.	100, Hanguranketa.
10 Sugathapala, D. P.	Wattadara, Veyangoda.
Sumanadasa, I. H.	Watuyaya, Kuruwita.
Wilson, G. D.	Paddawala, Walpola, Kirindiwela.

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2. The Government does not undertake to provide the candidates with posts immediately, but they will be given appointments as vacancies occur. All appointments will be on 3 years' probation. They will be subject to a medical examination and to the conditions of service governing the General Clerical Service.

C. Balasingham.

*Acting Deputy Secretary to the Treasury.*

20 General Treasury,  
Colombo, December 9, 1963.

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Gazette  
Notification  
re Examination  
for Promotion  
to Grade II  
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of the General  
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**Gazette Notification re Examination for Promotion to Grade II of the Executive Clerical Class of the General Clerical Service-January 1964.**

Part 1 Sec (II) - (Advertising) - Ceylon Government Gazette, September 20, 1963.

Examinations, Results of Examinations &c. No. 1/23/2/12(G)

**EXAMINATION FOR PROMOTION TO GRADE II OF THE EXECUTIVE CLERICAL CLASS OF THE GENERAL CLERICAL SERVICE - JANUARY 1964.**

10

**Date of Examination:** A competitive examination for promotion to Grade II of the Executive Clerical Class of the General Clerical Service, will be held in all Kachcheri Stations, by the Commissioner of Examinations, on January 25, 1964.

Any Kachcheri Station Centre, for which a sufficient number of candidates does not enter, may be cancelled.

2. **Publication of Results:-** The names of the successful candidates will be published in the Government Gazette.

3. **Salary and conditions of Service.-**Reference is invited to the Minute on the General Clerical Service published in Government Gazette Extrordinary No. 10,844 of October 1, 1955. 20

**Note:** The promotion of officers who are deemed to be Old Entrants for the purpose of the Official Language Policy to the Executive Clerical Class of the General Clerical Service on the results of this examination will be conditional upon their passing by December 31, 1963, the proficiency tests in Sinhala, in terms of Treasury Circular No. 560 of December 4, 1961.

4. **Eligibility:-** This Examination is confined to the following categories of officers :-

(A) Clerks in the General Clerical Class of the General Clerical Service who have been confirmed in their appointments and who complete four years satisfactory service in the General Class on or before October 1, 1963. 30

(B) Clerks in the Government District Clerical Service who complete eight years satisfactory service in the Government District Clerical Service on or before October 1, 1963.

- (c) Clerks in the Quasi-Clerical Service who complete eight years satisfactory service in the Quasi-Clerical Service on or before October 1, 1963.

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*Note:* Clerks in the General Class of the General Clerical Service who were earlier clerks in the Government District Clerical Service or the Quasi Clerical Service and who would have been eligible to sit for this examination had they remained in the District Clerical Service or the Quasi Clerical Service are also eligible to sit for this examination provided they satisfy the other

10 conditions of eligibility.

#### 5. Applications:-

(i) A specimen form of application for admission to this examination is appended to this notification. Applicants should prepare their own application forms on a half sheet of foolscap paper (and not on paper of any other size). Only one sheet of paper should be used for the purpose. Cages 1 to 7 of the form should appear on page 1 and the certificate of Head of Department and Attestation on page 2. The form may be prepared on a typewriter but it should be filled in correctly and legibly in the candidates  
20 own handwriting.

(ii) Applications should be forwarded through the Heads of Departments and should be accompanied by certificates of satisfactory service. Heads of Departments must ensure that each application is complete in every respect and that they have signed the certificate appended to the application form. They will forward the applications of eligible candidates by registered post to reach the Commissioner of Examinations, Colombo 2, on or before November 19, 1963. Applications received after that date will be rejected.

#### 6. Admission to the Examination:-

30 (i) The Commissioner of Examinations will issue admission cards to all candidates whose applications have been approved. Candidates presenting themselves for examination must produce to the officer appointed to supervise the examination their admission cards, without which they will not be admitted to the Examination.

(ii) Time Tables to individual candidates will not be issued. Candidates should note the Time Table appearing in paragraph 9 of this notification.

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(iii) Candidates are bound by the Rules and Regulations prescribed by the Commissioner of Examinations for the conduct of examinations and are liable to any punishment imposed by him for a breach of these Rules and Regulations.

**7. Leave to Government Officers to attend Examination:-**  
Heads of Departments are required to grant to officers of their Departments, whose applications have been approved by the Commissioner of Examinations, leave as on duty to present themselves at the examination. Travelling expenses are not payable.

**8. Scheme of Examination:-**

10

The subjects of the examination and the marks assigned to each subject are given below. In all written papers, marks will be deducted for bad writing and mistakes in spelling. Candidates whose writing is illegible are liable to be disqualified.

	<b>Marks</b>
1. Accounts (one-and-a-half-hour paper). The paper will consist of questions in accounts, totals, &c and will be designed to test accuracy in handling figures and a knowledge of simple fundamental rules of accounts	100

2. Regulations, procedure and office systems, (two-hour paper). The paper will be designed to test an officer's usefulness and competence as a Clerk. He may be required to make a precis of an actual series of official letters to submit a draft letter in terms of an order, to show a knowledge of index system, filing, &c, and have the ability to express himself clearly on paper	200
--	-----

*Note:* (i) These two papers will be set in Sinhala and in English. Candidates who are deemed to be New Entrants for the purpose of the Official Language Policy should answer both papers in *Sinhala*. Candidates who are deemed to be Old Entrants for the purpose of the Official Language Policy may answer each of these two papers and as a whole either in Sinhala or in English.

30

(ii) Though the examination is competitive, candidates will be required to obtain a minimum of 45 per cent of the marks in each of these papers and an aggregate of 50 per cent. of the marks in both papers.

	<b>Marks</b>
(3) Sinhala or Tamil -	
(a) A written paper of one-and-a-half hours	100
(b) Vica Voce Test.	100

The written paper will include exercises on-

- (i) Comprehension of simple prose passages.
- (ii) One or more of the following forms of composition—description, dialogue and letter writing.
- (iii) Translation of (a) sentences into Sinhala/Tamil (b) a simple prose passage into English.
- (iv) Meaning, function and relation of words, phrases and sentences, errors &c

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10 *Note:* (i) The subject No. (3) Sinhala/Tamil should be taken only by candidates who are deemed to be Old Entrants for the purpose of the Official Language Policy. The examination in this subject will be of such a standard as to test whether the candidate has a working knowledge of the language.

(ii) Candidates who obtain above a certain minimum aggregate of marks in subject (1) and (2), taking together, will be summoned for the *Viva Voce* Test in this subject. Such candidates should obtain a minimum of 40 per cent of the aggregate marks allotted for the written paper and the *Viva Voce* Test, to be eligible for selection. The marks obtained in this subject will not, however, be  
20 taken into consideration in determining the order of merit.

**N. B.** Those candidates who have passed the Proficiency Examination in Sinhala or Tamil at either the Advanced Level or the Ordinary Level, will be eligible for exemption from this subject.

**9. The Time Table of the examination will be as follows:-**

- 9 a. m.-11 a. m. Regulations, Procedure and Office Systems
- 1 p. m.-2.30 p. m. Accounts
- 2.45 p.m. -4.15 p. m. Sinhala/Tamil

30 The date, time and place of the *Viva Voce* test in Sinhala/Tamil will be separately notified by the Commissioner of Examinations to all candidates who qualify for it

General Treasury,  
Colombo, September 14, 1963

C. Balasingham  
*Acting Deputy Secretary to the  
Treasury.*

**Specimen Form of Application:-**

*Examination for Promotion to Grade II of the Executive  
Clerical Class, General Clerical Service, January-1964*

Your usual signature: .....

- 40 1. (a) All Names in full:  
(in block capitals)

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- (b) Present appointment .....
- (c) Official address: .....
- 
2. Date of Birth: .....
- 
3. Kachcheri station nearest to your place of work:
- 
4. State whether you are a Ceylonese and whether Sinhalese, Ceylon Tamil, Burgher &c. ....
- 
5. (i) Statement whether you are in the General Clerical Service/Government District Clerical Service/Quasi Clerical Service and date of entry to it: 10
- (ii) Number of years service in the General Clerical Service/Government District Clerical Service/Quasi Clerical Service on October 1, 1963.
- (iii) Are you an Old Entrant or New Entrant for the purpose of the Official Language Policy? If Old Entrant state the Grades and the dates of passing the Proficiency Tests in Sinhala in terms of Treasury Circular 560 of 4. 12. 1961. If exempted that fact must be stated: 20
- 
6. State which subject you are offering under paragraph 8 (3) of the notification-Sinhala or Tamil:-
- 
7. If you have passed the Proficiency Examination in Sinhala/Tamil state:
- (i) Year and month of Examination
- (ii) Medium
- (iii) Index No: 30
- (vi) Whether Advanced Level or Ordinary Level:



CERTIFICATE OF HEAD OF DEPARTMENT:

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I certify-

(i) that this officer is a clerk in the General Clerical Class of the General Clerical Service/District Clerical Service/Quasi Clerical Service and is eligible to sit for the examination in terms of the notification published in the Ceylon Government Gazette of September 20, 1963. His work and conduct are satisfactory.

(ii) that the particulars given in cages 5 and 7 have been verified and found to be correct.

10

.....  
Signature of the Head of Department:  
(Designation)

Date: .. .

ATTESTATION:

Signature of Candidate and Date:-

Note: The candidate should sign in the presence of the Head of his Department or of an officer authorised to sign on behalf of such Head of Department or of his local Head.

20 I certify that ..... who is an officer in my office and who is known to me personally placed his signature in my presence this day .....of 196

Signature of Person Attesting:-  
Name and Designation and Status:  
Address:-

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Identity Card  
issued by the  
Post & Teleco-  
munication  
Department-  
20.9.63

**P22**  
**Identity Card Issued by the Post &  
Telecommunication Department.**

කැපැල් සහ විදුලි සංදේශ දෙපාර්තමේන්තුව  
தபாற் தந்திப் பகுதி  
**POST & TELECOMMUNICATION DEPARTMENT**

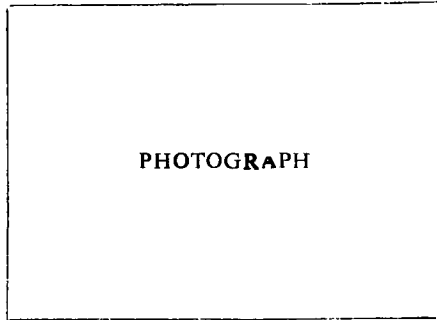
අදහන ගැනීමේ පත්‍රය  
அறிமுக அட்டை  
**IDENTITY CARD**

අදහන ගැනීමේ පත්‍රය  
அறிமுக அட்டை  
Identity Card

NO — A B Q 002125

10

අවලංගු වන දිනය  
செல்லுபடியுக்கால மு. வத் தேதி } 1963 සැප් 19  
Date of Expiry



1. සම්පූර්ණ නම  
முழுப் பெயர் } රජලිංගම් බලසුබ්‍රහ්මණියම්  
Name in full

2. පියාගේ නම  
தந்தையின் பெயர் } න. රජලිංගම්  
Father's Name

3. රක්ෂාව  
தொழில் } ලිපිකරු  
Profession

20

4. ස්ථිර පදිංචිය  
நிரந்தர வசிப்பிடம் } සාපනය  
Permanent Residence

5. ජාතිය  
சாகியம் } ලංකා දුමිඛි  
Nationality

6. උපන් දිනය  
பிறந்த திகதி } 1934.6.18  
Date of Birth

30

7. උස  
உயரம் } 5' 9"  
Height

8. හිසෙහි පිලිබඳ විස්තර  
தலையின் சிபரம் } බැඳි  
Description of Hair

9. ශරීර වර්ණය සහ විශේෂ ලකුණු  
நிறமும் விசேட அடையாளமும் } නලඵලලු  
Complexion and Special Marks

අවිනිකරුවන්ගේ අත්සන  
அவது விருப்பவரின் கையொப்பம் } Sgd. (in English)  
Illegibly

40

දිනය  
திகதி } 23.9.1963.  
Date

සහතික කළ  
உறுதிப்படுத்தியவர் }  
Attested By

Sgd. Illegibly  
සාපනයල හාර කැපැල් ස්ඵට නායික  
தபாற் தந்தித் தலைவர்  
Postmaster in Charge

50



### தமிழ் கிரேம் பிசிடென்டி கார்ட்டின்

1. திகுத் கடு டித சபத் டிபுர்ட்டு சதன் தைவை துரு தை காகி சதய வலுவு.
2. தை காகி சதய வலுவு காலய துடு டிசினிகர்ட்டு கிவர்ட்டய தைகி டுகி சாயர்ட்டயடு டுர் திசினர்ட்டயடு தாயக்ட்டுதெத கை வைகி வுவுதாய் டிதத் டுததாய துகித சதயகி டுலாத துதய.
3. டுததாய துகித சதயகி சர்ட்டய கிரேம் பிசிடென்டி டுலா துகிதடு கத டுததாய சர்ட்டி சாதிதிதி கடு கால்கி டுவுலுவு கிரேம்டு டுர்சுதி டுசுடுசு சேதருசுடு டுலய திதி.
4. காகி சதய துகிதடுதய் துர் டுததிக டுல சாதிதிதி கிரேம்டுதய் துர் டுகிதித சுதிதிடு துத துகிசு டுததாய் துததுடு வடு கிதது துலுடு.

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Identity Card  
issued by the  
Post & Teleco-  
munication  
Department  
20.9.63  
—Continued

10

### வழங்குவதற்கான நிபந்தனைகள்.

1. இத்த அட்டை வழங்கப்பட்ட நாளிலிருந்து ஐந்துவருடங்களுக்குச் செல்லுபடியாகும்.
2. அட்டையின் செல்லுபடிக்காலத்தில் அட்டை வைத்திருப்பவரின் தோற்றம் பிரதிமைப்படத்தினுள்ள தோற்றத்திலிருந்து மாறு படுமாயிற் அல்லது அட்டையிற்குறிக்கப்பட்ட விவரங்கள் பிழையாருமாயின் அட்டை புதுப்பிக்கப்படல் வேண்டும்.
3. இத்த அட்டையைப் பரிசோதனைக்காகத் திருப்பியழைக்கவும் இதைத் துர்ப்பிரயோகம் செய்தாற் திருப்பி எடுக்கவும் தபாற்றந்தி அதிகாரிக்கு அதிகாரமுண்டு.
4. அறிமுக அட்டைகாணுமற் போவதால் அல்லது அதனைத் துர்ப்பிரயோகம் செய்வதால் ஏற்படும் விளைவுகளுக்குத் தபாற்பகுதியார் பொறுப்புடையரல்லர்.

### CONDITIONS OF ISSUE

20

1. This card is valid for five years from the date of issue.
2. If during the period of validity of the card the appearance of the holder is so altered that the photograph or the description is no longer accurate, the card must be renewed.
3. The Postmaster-General reserves the right to recall this card for examination and to withdraw it in case of improper use.
4. The Post Office is not responsible for any consequence arising out of the loss or fraudulent use of the card.

**P 12**  
**Cabinet Conclusion**

(Translation)

No CP. A. 278/60  
Cabinet Office,  
Colombo, September 23, 1963.

TO: All Permanent Secretaries and Heads of Departments not grouped under Ministries.

I send herewith a conclusion reached by the Cabinet at its meeting on September 20, 1963, in order that you may communicate it for necessary action to the officers concerned. 10

D. W de Alwis  
*for Secretary to the Cabinet*

**CONCLUSION****Implementation of the Official Language Act, 33 of 1956.**

The following decisions were reached:-

**Accounts**

(1) Accounts should be kept in the Official Language from 1. 1. 64. The Treasury should take early steps to hold an examination which will be conducted in the Sinhala medium for the Accountants' Service. In the alternative, (if this examination is to be conducted in English) candidates should be required to take a paper in Sinhala of a high standard. A special competency in the Official Language will be required of Accountants selected at this examination in view of the fact that there are at present more Accountants not proficient in Sinhala as against those who are. 20

(2) The Treasury should take necessary steps forthwith to enable the normal examinations for the recruitment of Accountants to be conducted in the Sinhala medium only.

(3) In instances where direct recruitment is made to the Accountants' Service or the Audit Service, candidates should be required to pass a paper in Accounting in Sinhala of a fair standard before confirmation. 30

(4) Departments which have mechanised accounting work will continue as at present until the Report of the Special Committee appointed to examine this subject has issued its report. Suitable adjustments should be made with the approval of the Treasury in regard to departments which have large scale commercial accounting work as they may not be able to switch over completely by 1. 1. 64.

**Records, Minuting and General Correspondence.**

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--Continued

(5) All officers who have passed the Advanced and the Lower Levels of the Proficiency Examination and those exempted from the requirements to pass the Proficiency Examinations, on account of their knowledge of the language, should do all their work in Sinhala. Heads of Departments should determine what particular items of work could be done by those who have acquired proficiency at different levels of the Proficiency Examinations, although they may not have completed all examinations. Officers should be encouraged to use as far as possible the simple spoken Sinhala. The writing of minutes and keeping of records should be in the Official Language.

(6) All inter-departmental correspondence and even those of a demi-official nature should be in the Official Language. The practice of writing letters in English with a note to the effect that the original in Sinhala will follow should be discontinued.

(7) In regard to certain subjects of a scientific or technical nature, where it is not possible to do all work connected therewith in the Official Language, English may continue to be used with a Sinhala translation wherever practicable. But all correspondence in regard to their administrative aspects should be in the Official Language.

(8) All Government correspondence with commercial establishments in Ceylon and the members of the public should be in the Official Language. Where a letter is received from a member of the public in a language other than the Official Language the reply should be in the Official Language. A translation of the reply in the language in which the letter was received or in English should be attached.

**Stenographers' and Typists' Services.**

(9) Heads of Departments should take immediate steps to obtain the necessary number of Sinhala typewriters for which financial provision has already been made. Savings should also be utilized for this purpose.

(10) The Treasury should make an immediate survey of the additional requirements of Sinhala Stenographers and Typists for the full implementation of the Official Language policy and steps should be taken to have them recruited as early as possible.

(11) Heads of Departments should take action to have Sinhala typewriters with the old key board reconditioned with the approved keyboard as it is desirable that there should be typewriters with only the approved keyboard in Government offices.

(12) Departments should allocate work in Sinhala typing to English typists who have been given a training in Sinhala typing so that the quantum and quality of their Sinhala typing work too could improve and a more equitable distribution of work among all the typists in a department could be ensured.

(13) Heads of Departments should encourage old entrants to the Clerical Services to acquire proficiency in Sinhala typing.

**Appointments and Promotions.**

(14) Proficiency in the Official Language should be an essential ingredient in the assessment of efficiency of public officers already in service and such proficiency should be given due weightage in considering such officers for promotions and in the general deployment of staff in key positions. 10

**New Entrants.**

(15) All new entrants to the Government Service, Local Government Service and to State sponsored Corporations and Institutions who had qualified through the Tamil or English medium, should make themselves proficient in the Official Language before confirmation. A basic knowledge of the Official Language should be considered an added qualification at the time of appointment. 20

(16) The Treasury should revise forthwith, in consultation with the appropriate Departments concerned, the scheme of proficiency examinations so as to enable those who pass even at the lowest level to do a considerable amount of work in the Official Language.

(17) The requirements laid down in paragraph (14) of the Cabinet Conclusion of 20.12.1960 that new entrants, whether Sinhala or Tamil should have a minimum knowledge of English for entry into the Government and Local Government Services and State sponsored Corporations and Institutions, is hereby rescinded. If, for special reasons, a knowledge of a language other than the Official Language is indispensable in particular posts, the schemes of recruitment relating to such posts should be so devised as to require new entrants to acquire proficiency in that particular language within a stipulated period after appointment. 30

(18) With regard to appointments, made without a competitive examination, proficiency in the Official Language should be an added qualification. However, after appointment, proficiency in the Official Language should be an essential qualification for appointment of officers already in service to a higher grade or class or to a higher appointment or to the appointment from one post to another. 40

**Old Entrants:**

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—Continued

(19) Every old entrant officer who sat any proficiency examinations held by the Government and who failed to reach the prescribed standard will be allowed a further period of two years from 1. 1. 64; but such officer will be liable to be compulsorily retired on the termination of the said period of two years unless he acquires proficiency of the required standard.

10 (20) Every old entrant officer who did not sit any of the proficiency examinations held by the Government in 1962 and 1963 shall, on or after 1. 1. 64, be liable to be retired on grounds of inefficiency, unless he proves to the satisfaction of the appropriate Permanent Secretary, or in the case of Departments not grouped under Ministries, to the satisfaction of the appropriate Head of Department that, by reason of ill-health, absence from the Island or other valid cause he was unable to present himself at such proficiency examination.

20 (21) Every old entrant officer who is referred to in paragraph (19) and whose increments have been suspended or stopped under the Cabinet Conclusion of 20. 12. 1960 will have his increments restored to him, but further increments will not be paid until he qualifies for proficiency of the required standard.

(22) Every old entrant officer will be required to pass the proficiency tests, set out below, the period in each case commencing on 1. 1. 64.

1st Proficiency Test—Before 1st July, 1964.

2nd Proficiency Test Before 1st January, 1965.

3rd Proficiency Test – Before 1st January, 1966.

30 (23) It shall be in the discretion of the Government to retain the services of old entrants who are professional, scientific and technical officers. *Mutatis mutandis*, the Government in its discretion may vary the requirement regarding the proficiency tests for such officers.

(24) The minimum requirements for extensions of service beyond the age of optional retirement shall be the Third Proficiency Examination standard in Sinhala. This shall not apply to scientific and technical officers who are engaged in non-administrative duties and who are old entrants.

**General.**

40 (25) Provision should be made to teach the Official Language in all schools in the Island.

(26) Normal transfers in the Administrative and Combined Services should not be made without due and adequate consideration being given to the question whether such transfers would adversely affect the smooth working of departments in the Official Language.

(27) It should be the responsibility of Permanent Secretaries and Heads of Departments to ensure that all hand-books, documents etc. now in English, which are required for official work in their respective Ministries, Departments or other Institutions and State sponsored Corporations coming under their control, are translated into the Official Language within a period of two years commencing on 1. 1. 64. 10

(28) In all cases where, under any existing Statute, any form has to be prescribed, or any other declaration, notice or notification has to be made, or any bond or agreement has to be executed, or any record or any register has to be kept, steps should be taken by means of an appropriate Act of Parliament to make it valid in law if such form is prescribed, or such order, declaration, notice or notification is made, or such bond or agreement is executed, or such record or register is kept, in the Sinhala Language. 20

(29) Steps should be taken to complete, as expeditiously as possible, the translation of the Revised Edition of the Legislative Enactments and of all Acts passed since 1956 into the Official Language.

(30) Legislation should be in the Official Language and in English.

(31) The Legal Departments should be instructed to take such measures as are necessary to enable them to examine and approve contracts and other legal instruments drawn in Sinhala and to give advice relating to these matters to Heads of Departments 30

(32) All State sponsored Corporations, State Banks and other Institutions should fall into line with the Official Language policy of the Government and action should be taken to remove any legal impediments in the way of the implementation of the Official Language policy in these Institutions.

(33) Proficiency in the Official Language should be a criterion in the selection of public officers for training or study abroad and for the award of Government Scholarships and Fellowships. Schemes of recruitment should provide that officers acquire proficiency in the Official Language before they become eligible for selection under this paragraph. 40

(34) A Ministerial Committee composed of the Minister of Finance, the Minister of Justice and the Minister of Education shall be set up to advise the Government on any further measures necessary to give effect to these decisions.



**P 13**  
**Treasury Circular No. 620**

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18.10.63

Treasury Circular No. 620

No. 2/9/156/16 (H)  
General Treasury,  
Colombo, October 18, 1963.

TO: All Permanent Secretaries and Heads of Departments.

**PUBLIC OFFICERS AND THE OFFICIAL LANGUAGE-  
PROFICIENCY TESTS IN SINHALA FOR OLD ENTRANTS TO  
THE PUBLIC SERVICE.**

10

REFERENCE is invited to Treasury Circular No. 560 of December 4, 1961, as amended by Treasury Circular No. 577 of June 13, 1962, on the above-mentioned subject. Government has considered the position of old entrant officers in relation to the proficiency tests that they were required to pass before December 31, 1963, and has made the following decisions:-

20

- (i) that increments suspended or stopped under the provisions of paragraph 4 of Treasury Circular No. 560 of December 4, 1961, should be restored to those officers who sat for any of the proficiency tests referred to in paragraph 2 of that circular although they failed to pass such tests.
- (ii) (a) that officers whose increments are restored under the provisions of sub-paragraph (i) above, should be required to pass the proficiency tests as set out below:-  
Grade i Proficiency Test before July 1, 1964.  
Grade ii Proficiency Test before January 1, 1965.  
Grade iii Proficiency Test before January 1, 1966.

Note: Full particulars of these Tests will be notified in due course.

30

- (b) The penalty for failure to pass before the prescribed date the appropriate proficiency test will be the suspension of the increment falling due immediately after the prescribed period. If the proficiency test is not passed at the Examination held immediately after the prescribed period, the suspension will be converted to stoppage, such stoppage operating until the test is passed.
- (iii) that every officer referred to in sub paragraph (i) above who does not pass the Grade III proficiency test within a period of two years from January 1, 1964, will be liable to be compulsorily retired by the Competent authority on the termination of the said period of two years.

40

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(iv) that every old entrant officer who did not sit for at least one of the proficiency tests referred to in paragraph 2 of Treasury Circular No. 560 of December 4, 1961, or who has not been exempted from those proficiency tests will be liable to be compulsorily retired unless he proves to the satisfaction of the competent authority that by reason of ill-health, absence from the Island or other valid cause, he was unable to present himself for such proficiency test. Where the explanation furnished by the officer is considered satisfactory, action may be taken as indicated in sub-paragraphs (i), (ii) and (iii) above. 10

If the explanation is not considered satisfactory, action should be taken to have him compulsorily retired. Further instructions will be issued indicating the procedure to be adopted for this purpose.

2. Officers engaged in professional, scientific or technical work will not be required to pass the proficiency tests in Sinhala referred to above as a prerequisite for the grant of increments. Paragraph 5 (A) (i) (a) of Treasury Circular No. 560 of December 4, 1961, as amended by paragraph 2 of Treasury Circular No. 577 of June 13, 1962, should be amended accordingly by the deletion of the words "50 years of age or over on January 1, 1961." 20

3. This Circular is issued with the concurrence of the Public Service Commission.

Sgd. V. S. M. de Mel  
*Acting Secretary to the Treasury*

**P 14**  
**Treasury Circular No. 621**

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Treasury Circular No. 621

No. 2/9/156/16 (H)  
General Treasury,  
Colombo, October 18, 1963.

TO: All Permanent Secretaries and Heads of Departments.

**IMPLEMENTATION OF THE OFFICIAL LANGUAGE ACT  
FROM JANUARY 1, 1964-EXTENSION OF SERVICE TO OFFICERS  
10 WHO REACH THE AGE OF OPTIONAL RETIREMENT.**

REFERENCE Treasury Circular No. 555 of October 31, 1961, as modified by Treasury Circular No 578 of June 13, 1962, wherein it is stated that special consideration should be given to an officer's knowledge of the Sinhala language when deciding whether he should continue to serve the Government when he reaches the age of optional retirement. It has been decided that, extensions of service beyond January 1, 1964, to Public Officers others than those referred to in paragraph 3 of Treasury Circular No. 555 of October 31, 1961, should be granted only to those who satisfy the following conditions:-

- 20           (a) have passed one or more of the proficiency tests in Sinhala; or
- (b) have sat for any proficiency test in Sinhala held during 1962 and 1963 although they failed to pass such test; or
- (c) have not sat for any proficiency test held during 1962 and 1963 but have satisfactorily explained their inability to present themselves at such proficiency test in the manner provided for in Treasury Circular No. 620 of October 18, 1963

30           Extensions of service beyond January 1, 1966, will depend on the officer passing before that date the Grade III proficiency test referred to in Treasury Circular No. 620 of October 18, 1963.

The provisions of this Circular will not apply to officers who are engaged in professional, scientific or technical work irrespective of age. Paragraph 3(a) of Treasury Circular No. 555 of October 31, 1961, should accordingly be amended by the deletion of the words "who was 50 years of age or over on January 1, 1961."

Sgd. V S. M. de Mel  
*Acting Secretary to the Treasury*

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