No. 14 of 1952.

In the Privy Council.

ON APPEAL

FROM THE COURT OF CRIMINAL APPEAL OF CEYLON.

BETWEEN

THE ATTORNEY-GENERAL OF CEYLON . *Appellant*

AND

KUMARASINGHEGE DON JOHN PERERA . *Respondent.*

CASE FOR THE RESPONDENT.

RECORD.

10 1. This is an Appeal by Special Leave from the judgment and decree of the Court of Criminal Appeal of Ceylon, dated the 29th November 1951, setting aside the Respondent's conviction for murder in the Supreme Court of the Island of Ceylon on the 3rd September 1951, and the sentence of death passed on the Respondent by the trial judge (Gratiaen, J.) on the same day and ordering a new trial.

2. The principal issues for determination in this Appeal are as follows :—

(A) whether Her Majesty in Council or alternatively the Judicial Committee of the Privy Council have jurisdiction to entertain an
20 appeal against the setting aside of a conviction ;

(B) whether, in the alternative, such an appeal should be entertained ;

(C) whether the Court of Criminal Appeal were right in holding that the law regarding provocation in Ceylon differed from the law in England in that the defence of provocation on a charge of murder might be established even though the act of retaliation might be disproportionate to the act of provocation ; and

(D) whether the court of five judges convened in the present case to hear the Respondent's appeal had power to over-rule a
30 previous decision of the Court of Criminal Appeal.

3. The Respondent was indicted on the following charge :—

" That on or about the 29th day of July 1950 at Bogahamaditta, p. 1, l. 17.
in the division of Badulla, within the jurisdiction of this Court, you p. 2.
did commit murder by causing the death of one R. M. Kumarihamy of Bogahamaditta ; and that you have thereby committed an offence punishable under Section 296 of the Penal Code."

4. The facts of the case were summarised in the judgment of the Court of Criminal Appeal (delivered by Nagalingam, S.P.J.) as follows :—

p. 83, l. 10. " Before I set out the passage complained of, it would be well to make a very brief survey of the facts as presented to the Jury insofar as they are material for a proper understanding of the point of law discussed. The case for the prosecution in essence was that the prisoner deliberately aimed at and shot and killed the deceased woman who was the wife of a neighbour of his with a gun. There was evidence that there was enmity between the family of the deceased woman and that of the prisoner over a period. The defence story, stated very compendiously, was that the members of the deceased woman's family consisting of herself, her husband and two sons aged seventeen and eighteen, pelted stones at the house of the Appellant; thereupon the Appellant, who was the owner of a licensed gun, shot gun, with a view to scaring away the aggressors discharged it from the verandah of his house into the air; but far from taking any notice of the firing of the gun, the aggressors intensified the stone throwing, accompanying their action with filthy abuse directed towards him. The prisoner says that at that stage he was suddenly provoked and that he did not know thereafter what happened to him; his surmise was that he had probably lost control over himself and did not remember what happened thereafter."

5. The principal witnesses for the Crown gave evidence (*inter alia*) as follows :—

p. 3, l. 30. (A) *Walter Wijetunge Samaranayake* deposed that he was 18 years of age and that the deceased was his mother. The other members of the household at the material time were Cyril, 17 years of age, Nandawathie, 16 years of age, Quintus, 11 years of age, and Gladwyn, 9 years of age. He had know the Respondent from 1945 and at the time of the incident the Respondent was living " in a separate land at the bottom of our land." There had been litigation between the witness's father and the Respondent, as a result of which his father had had to pay Rs.500/– to the Respondent and his father got possession of the land. His father went into occupation of their house about two years prior to the incident in question. Thereafter there was trouble between his father and the Respondent and there were cases in the Magistrate's Court. On the

p. 4, l. 31. morning of the 29th July 1950 the witness and Cyril went to tether a bull which dragged the witness into the accused's garden, but the witness and Cyril managed to pull it back into their own garden. While they were taking the bull into their premises a boy named Banda, who lived in the Respondent's house, pelted stones

p. 5, l, 16. either at them or at the bull. Thereafter, as he was going home, he heard the report of a gun and felt something on the back of his body and felt benumbed. Then he heard another report of a gun and saw Cyril fall. At this point he saw the Respondent loading the gun with a cartridge. He started to run in the direction of his

house and as he did so he heard another report of a gun. His mother came out of the house and he heard a further report. The witness continued :—

" As a result of that shot mother got thrown away from the foundation. I did not see who fired that shot just before mother fell. That sound of that shot came from a distance. As mother fell I jumped into the house and looked and saw this accused come running up towards our house with a gun." p. 5, l. 29.

The witness ran into the house but shortly afterwards emerged to see what had happened to his mother. As he did so he received another shot in his side. Later on he heard a further report. In cross-examination the witness denied that his party had thrown stones. He admitted that there had been cases between the two families up to 1948 and that he himself had been charged in June 1948 by the Respondent's wife with " criminal intimidation." That case had been compounded. There were several other cases, all of which had been compounded. No case went to trial. He had been charged on the 18th September 1948 together with his father and one William Abeyesekera for committing mischief by throwing stones, and breaking the tiles of the Respondent's house. That case also had been compounded. p. 6, l. 34. p. 7, l. 11.

(B) *Dr. M. L. Corera* deposed that he had conducted a post-mortem examination on the body of the deceased. There were eight pellet wounds on the back and on the left arm. The injuries were necessarily fatal. The deceased must have been fired at from a distance of something over 20 feet. The previous witness had been admitted to hospital suffering from gunshot wounds both in the front and in the back. p. 9, l. 20. p. 10, l. 10. p. 10, l. 22.

(C) *A. M. Kiri Banda*, the keeper of a tea boutique shop about ten chains from the deceased's house, deposed that he had known both parties for a long time. He was passing the deceased's house at about 8 or 8.30 on the 29th July when he heard the report of a gun in the garden and the voice of the deceased say " Oh, my son was shot at." He then saw the deceased going down the garden and the Respondent with a gun in his hand going towards her. When the Respondent was about three fathoms from the deceased he shot at her and she fell immediately. The Respondent then reloaded the gun, continued walking towards the deceased's house, and shot Samaranayake. In cross-examination this witness deposed that he did not know what happened before he heard the shots. His examination also included the following passage :— p. 11, l. i. p. 11, l. 37.

" *Q.* You saw the accused. He looked as if he had run amok ?—*A.* With the gun in hand the accused came directly to the deceased's garden as if he were a lunatic. I did not see any stones being pelted." p. 12, l. 19.

(D) *J. M. Mutu Banda*, a cultivator who lived about a quarter of a mile from the deceased's house, deposed that on the morning in question he heard the report of a gun from the direction of the said house. He saw the deceased coming out of the house and p. 13, l. 18.

going about 2 fathoms saying " Oh my child." The Respondent then shot at the deceased, who fell down. The Respondent went further in the direction of the deceased's house and the witness saw him shoot a male adult who had just stepped out of the house.

p. 14, l. 35. In cross-examination this witness deposed that he did not know what had transpired before the shooting and he could not say whether there was stone-throwing or not.

p. 15, l. 21. (E) *L. B. Warnasooriya*, an Inspector of Police, deposed that he had arrived at the Respondent's house between 9.55 and 10 a.m. He called to the Respondent, who came out unarmed. He asked him to get the gun, which he produced. It smelt of burnt gunpowder. In cross-examination this witness deposed that he had found three tiles on the Respondent's house broken. A person standing in the deceased's garden near the boundary could have

p. 20, l. 10. thrown stones and broken these tiles. In the wall of the front verandah of the Respondent's house he found as if stones had struck the wall. He collected all the stones he found in the front compound and the front verandah and on the zinc roof. The compound was not on stony ground and it looked as if the stones had been thrown there. He collected four stones from the zinc roof and three from the left compound. In the left room he found three stones. A picture had been broken and the glass was on the floor. To damage that picture it would have been necessary

p. 20, l. 40. to come into the compound. He found similar stones in deceased's garden also.

6. The Defence called four witnesses, who gave evidence (*inter alia*) as follows :—

p. 33, l. i. (1) *S. N. K. Agnes Nona*, wife of the Respondent, deposed as to the previous disputes between the families. On the 2nd June 1948 she had filed a case in the local Magistrate's Court against L. C. W. Samaranayake, Walter Samaranayake and William Singho, accusing them of having committed criminal intimidation on her. On the 2nd June 1948 the Police filed a case against L. C. W. Samaranayake for having exposed his person to her in an indecent manner. Both these cases were withdrawn. On the 14th April 1948 the deceased's people came on to the Respondent's land and created trouble. The Respondent sustained a serious injury on the head and some injuries on his back and shoulder and her son received a knife wound on his forehead. The Police instituted further proceedings against L. C. W. Samaranayake and

p. 33, l. 40. p. 34, l. 25. also against the Respondent and one Handy Singho. Those two cases were ultimately settled. On the 18th September 1948 the Police filed a case charging Walter Samaranayake, L. C. W. Samaranayake and another with having pelted stones at the Respondent's house and damaged the tiles. She herself had been injured as a result of the stone throwing. On the 21st March 1949 this case was compounded. On the day of the incident this witness saw Walter and Cyril Samaranayake plucking jak fruit in the Respondent's compound and cutting pepper trees. She asked them why they were cutting the pepper trees and pulling them down and asked them to go away. L. C. W. Samaranayake

came up to the boundary of his land and he and the deceased told their sons to pelt stones at the witness. Walter and Cyril pelted her. She went into the house and remained with her grandchild. They continued to pelt the stones while she was in the house. p. 35, l. 30. Shortly afterwards the Respondent, who had been away from the house, returned. She heard voices saying " There the costaya is coming. He is the fellow we want." They abused in " filthy words " and restarted pelting stones. The children started crying. The Respondent took the gun. The witness asked him not to shoot but the Respondent said he was only going to shoot into the air to frighten them. He fired a shot into the air. The abuse increased. The deceased's party said " We are not going to get afraid of a piece of piping fixed on to a piece of wood. I will eat you." The deceased's party came on to the Respondent's compound and pelted stones. The witness heard the picture frame breaking. She saw Cyril and Walter in the Respondent's compound, the deceased and three others of her household on the boundary, and L. C. W. Samaranayake coming up with a knife and with his sarong tucked up.

(II) *H. M. Kalu Banda*, Village Headman, deposed that the p. 39, l. 15. Respondent had not been implicated in any proceedings other than the cases with the Samaranayake people. He had made several complaints against the Samaranayakes. The last was on the 14th July 1948 and was in regard to the obstruction of a right of way. After that he had not made any complaints.

(III) The Respondent deposed as to the previous disputes p. 41, l. 12. between the parties. He had been twice in hospital—once with a head injury and then with an injury to his cheek as a result of being assaulted by the deceased's people. On the morning of the 29th July he and Banda had been to the river. As they were coming home the deceased's family, seeing him coming, remarked " There Kos-attay—kotta—there that fellow is coming " and threw stones in the direction of his house as he was approaching. He ran into the house to avoid the stones. They were pelting stones in such a way as if they were going to break down the house. Cyril ran into the compound and began to throw stones into the house. He was dodging the stones inside the house. The children were yelling out " Murder—here murder is being committed." This throwing of stones did not stop and he was unable to get out of the house. At that stage he had certain feelings which he could not describe. He had a gun with him. He loaded it with a cartridge and " just fired for fun." The thud of stones increased and he also heard the remark " You son of a whore, we are not frightened with that piece of bamboo fixed on to a piece of wood." He saw Samaranayake with his sarong tucked up and with a knife in his hand and Walter with a sword. Walter said " Take that fellow to eat that fellow." He thought that he would be killed and his two little grandchildren would also be murdered. His evidence continued as follows :— p. 42, l. 42.

" I was suddenly provoked and at the same time I felt serious danger to my life and I do not know what happened to

me. Probably I lost control over myself and I do not know what happened at my hands or what I did I cannot now remember.

What I next remember is my being on a lounger (sic) in my house and waking up as if a man is becoming sober after being drunk. I asked for water."

p. 47, l. 28. (IV) *P. Kathiravellupillai*, Clerk of Assize, Kandy, produced the record in M. C. Badulla Case No. 6109 in which the Respondent and certain others were accused. In the course of these proceedings Dr. C. W. A. de Silva, Judicial Medical Officer, gave evidence that he had examined the Respondent and had found him to be suffering from a number of incised wounds on his head, left arm and left shoulder, which could have been caused by a sharp cutting weapon, and that the Respondent had been in hospital for 24 days. This witness also produced records of two other cases in which members p. 48, l. 19. of the deceased's family had been charged with causing hurt to the Respondent. Dr. R. H. Peiris produced the bed head ticket relating to the admission of the Respondent to Badulla Hospital on the 18th April 1948. On that occasion the Respondent had been suffering from a depressed fracture of the parietal bone of the skull.

7. The Crown re-called in rebuttal L. B. Warnasuriya who had recorded the statement of Agnes Nona on the 29th July 1951. The statement had been read and explained to her, but she did not sign it. In the course of it she said " then my husband chased after Samaranayake with the gun in the direction of Samaranayake's house. I lost signt of them. I then heard the report of a gun." In that statement she did not refer to any jak fruits having been plucked by Cyril.

8. On the 3rd September 1951 the trial judge summed up to the jury. His summing up included the following passages :—

p. 52, l. 10. " When you retire to consider your verdict you must ask yourselves the following question : Did the accused and nobody else shoot Kumarihamy thereby causing her death ? The next question for you to decide is : Did the accused shoot Kumarihamy voluntarily ? Thirdly, if both those earlier questions are answered in the affirmative, did the accused have a murderous intention when he caused the death of Kumarihamy ? If so, the accused would be guilty of murder, unless the defence proves circumstances justifying his act, or circumstances which the law recognises as mitigating the offence, or as a further alternative, if the defence can satisfy you on a balance of probabilities that even if the accused committed the act he was not criminally responsible for what he did at that time.

p 73, l. 9. " Then, you must also ask yourselves gentlemen assuming that you think that the accused's version is probably true, was that provocation sudden and was the provocation grave ? Now, gentlemen, provocation is grave if it is the kind of provocation which would be deeply resented by an ordinary person of the class

of society to which the accused belongs, and, in considering that aspect of the matter, if you think it probable that the head injury from which the accused was suffering since 1948, did, in fact, at any rate, render him more irritable, that is a circumstance which you would be justified in taking into account. Then, gentlemen, you must also ask yourselves whether the manner in which he showed his resentment of the provocation was violently disproportionate to the kind of provocation which you think was probably given.

" You see I can merely indicate to you certain general principles of law which are applicable to this matter, but it is for you, as the judges of fact, to decide for yourselves whether there probably was provocation and, if so, whether the kind of provocation actually given was the kind of provocation which you as reasonable men would regard as sufficiently grave to militate the actual killing of the woman by firing at her with a gun. I cannot help you very much on this matter gentlemen on the facts because you are the judges of fact. You have heard two versions and you must ask yourselves, having considered all the versions, what probably did happen, and whether there was probably any provocation at all. For instance, if a little boy mischievously throws a few stones at a house, I think you will perhaps, as the judges of fact, take the view that to shoot that boy dead would be entirely out of proportion to the kind of provocation given; but you must decide what probably happened and then ask yourselves whether the mode of resentment was violently disproportionate or not to the kind of provocation."

9. By a unanimous verdict the jury found the Respondent guilty of murder with a rider recommending him to mercy. He was sentenced to death as aforesaid. p. 76, l. 32. p. 78, l. 39.

10. The Respondent appealed to the Court of Criminal Appeal of Ceylon. His grounds of appeal included the following :—

" 4. That the learned trial judge misdirected the Jury on the law relating to provocation in Ceylon. p. 80, l. 25.

5. The learned trial judge misdirected the Jury in that he failed to direct them on the law relating to the exception of sudden fight."

11. The appeal was heard by three judges, Nagalingam, J., Gunasekera, J., and de Silva, J. On the 15th October 1951 Nagalingam, J., stated that the point that had arisen in this case, whether under the law of Ceylon the mode of resentment should be regarded as a relevant factor in determining the question of the gravity and suddenness of the provocation given to an accused person, had been decided by the majority of the Court in the affirmative in case No. 58 of 1951 (*Rex* v. *Naide*) but the majority arrived at that decision on different grounds. In the present case the majority of the Court had taken the view that the decision in *Rex* v. *Naide* needed to be reviewed as they entertained doubts as to the correctness of p. 81. p. 81, l. 15.

the decision. They were unanimously of the view that a further hearing of the case should be continued before a fuller Bench. As the matter of the constitution of the Bench was one for the Chief Justice, the case must be submitted to him for his orders.

p. 82. 12. The appeal was accordingly reheard on the 15th, 16th, 19th and 20th November 1951 by five judges, namely, Nagalingam, S.P.J. (President), Gunasekera, J., Pulle, J., Swan, J., and de Silva, J. The Court, whose judgment was delivered by Nagalingam, S.P.J., were unanimously of the view that by his summing up the trial judge in clear and unmistakable terms had invited the Jury to discount the plea of sudden and grave provocation if they thought that the mode of retaliation was so disproportionately outrageous compared with the provocation that might have been given. After reviewing the English authorities, Nagalingam, S.P.J., said :—

p. 86, l. 21. " Although the expression ' the offence of murder is reduced to manslaughter ' is used in English judgments, its use there is in a sense different from that in which we use the expression under our law that the offence of murder is reduced to culpable homicide not amounting to murder. Under English law, the two offences are distinct in the sense that the essential elements necessary to constitute them are different ; in the case of murder, there must be an intention to kill, in the case of manslaughter, no such intention can exist. Under our law, however, an intention to kill is an essential element in both the offences of murder and culpable homicide not amounting to murder."

The learned Judge analysed Exception 1 to Section 294 of the Penal Code
p. 88, l. 38. and arrived at the conclusion that Section 297 expressly contemplated the case where culpable homicide not amounting to murder might be committed with the intention of causing death. This, he held, was a fundamental difference between the law of England and the law of Ceylon. He further
p. 89, l. 15. held that there could be little doubt that the differences had been deliberately introduced because of the differences in the temperament, nature and habits of the two peoples. There were three requisites necessary to be proved by a prisoner who claimed the benefit of Section 1. The first was provocation, which for their purpose must be defined as " anything that ruffles the temper of a man or incites passion or anger in him or causes a disturbance of the equanimity of his mind." It might be caused by any method which would produce any one of the above results, by mere
p. 89, l. 44. words which may not amount to abuse, by a blow with hands or stick or club or by a pelting of stones or by any other more serious methods of doing personal violence. The next requisite was that the provocation
p. 90, l. 8. must be sudden, i.e., that there should be a close approximation in time between the acts of provocation and of retaliation—which was a question
p. 90, l. 15. of fact. The third element was that the provocation should be grave. After considering these three elements the learned Judge arrived at the following conclusion :—

p. 91, l. 38. " It will thus be noticed that there is no room under our law for taking consideration the mode of resentment, or rather the violent disproportionate mode of resentment, in determining the question whether the provocation given was either grave and sudden or whether there has or has not been loss of self-control.

" The majority of us, that is to say, all but one of us, are therefore of the view that the invitation to the Jury to approach their task of determining whether the provocation was sudden and grave by reference to the test whether the mode of retaliation was violently disproportionate to the kind of provocation given cannot be justified under our law and would have tended to direct the Jury to apply their minds to false issues in the case, thereby resulting in serious prejudice to the prisoner.

" The majority of us are also of the view that the appeal against the conviction should be allowed. We therefore set aside the conviction but in terms of Section 5 (2) of the Court of Criminal Appeal Ordinance order a new trial."

The learned Judge next considered whether the Bench was a Full Bench, and, if so, what were its powers. After referring to the English Court of Criminal Appeal in *John William Taylor* (1950), 34 C.A.R. 138, he proceeded as follows :— p. 93, l. 20.

" The principle to be gathered, therefore, would appear to be that where a Bench is constituted of any number of Judges but more than the minimum quorum that is necessary to constitute the Court, a Full Court would be constituted, provided the Judges assembled for the purpose of reviewing or reconsidering a previous decision of the Court. This view has been adopted by this Court as would be apparent from an examination of the *cursus curioe*. In 1947, a Bench of five Judges of the Court which heard the case of *Velaiden* (1947), 48 N.L.R. 401, expressly over-ruled the decision of this Court in the case of *Punchibanda* (1947), 48 N.L.R. 313. The case of *Jinadasa* (1950), 51 N.L.R. 529, was heard in 1950 before a Bench of five Judges of this Court, and that Bench expressly dissented from the judgment in *Haramanis*' case (1944), 45 N.L.R. 532, which was decided in 1944. p. 93, l. 41.

" We are therefore of the view that the present constitution of the Bench constitutes it a Full Bench. A Full Bench of the Court of Criminal Appeal is not bound by a previous decision of the Court delivered by a Bench that cannot be regarded as a Full Bench and has power to disapprove, dissent from or over-rule such a previous decision. The majority of us are of opinion that the case of *Rex* v. *Naide* (*supra*) was wrongly decided and over-rule the majority decision in that case."

13. The Court of Criminal Appeal accordingly adjudged that the application of the Respondent should be allowed. His conviction for murder and the death sentence were set aside and a new trial ordered. p. 95, l. 11.

14. By a Petition dated the 14th February 1952 the Attorney-General of Ceylon prayed for Special Leave to Appeal against the said judgment of the Court of Criminal Appeal of Ceylon. By paragraph 2 of the said Petition it was submitted that, although a Petition for Special Leave to Appeal in a criminal case by or on behalf of the Crown is unusual, the Court of Criminal Appeal in the present case had laid down the law of Ceylon " in respect to provocation in a matter (sic) inconsistent not p. 96, l. 10.

only with authority which the Court ought to have followed, but with the provisions set out in Section 294 of the Penal Code." It was further submitted that Her Majesty in Council had full power to admit an appeal from the Court of Criminal Appeal, "especially in a case where a new trial had been ordered on the ground of a mis-direction of law." Paragraph 3 of the said Petition referred to Section 23 of the Criminal Appeal Ordinance, No. 23 of 1938, which reads as follows :—

p. 96, l. 25. "Section 23. Nothing in this Ordinance contained may or shall take away or abridge the undoubted right and authority of His Majesty to admit or receive any appeal from any Judgment, decree, sentence or order of the Court of Criminal Appeal or the Supreme Court on behalf of His Majesty or of any person aggrieved thereby in any case in which and subject to any conditions or restrictions upon or under which, His Majesty may be graciously pleased to admit or receive any such appeal : "

p. 99, l. 22. By paragraph 8 of the said Petition it was submitted that *Rex* v. *Naide* was rightly decided ; that under the law of Ceylon in order that the crime of murder should be reduced to culpable homicide not amounting to murder, it was requisite that the act of the accused person should not be disproportionate to the provocation under which he acted ; that the conflict between *Rex* v. *Naide*, following as it did upon the English decisions and the Court of Criminal Appeal in the present case, was a conflict upon a principle of great public importance which it was desirable to have finally determined by Her Majesty in Council ; and that the Court of Criminal Appeal had no power to over-rule their previous decision in p. 99, l. 40. *Rex* v. *Naide* which was fully binding on the Court notwithstanding that a court of five judges was convened to hear the Respondent's appeal.

The Respondent was not represented when the said Petition was considered by the Judicial Committee of the Privy Council.

p. 100, l. 15. 15. On the 24th March 1952 an Order in Council was passed, granting Special Leave to Appeal.

16. The Respondent humbly submits that this Appeal should be dismissed for the following among other

REASONS.

(1) BECAUSE the order of the Court of Criminal Appeal setting aside his conviction was tantamount to an acquittal in these proceedings on the charge of murder and, in the absence of express statutory provision, Her Majesty in Council has no jurisdiction to entertain an appeal from such an order.

(2) BECAUSE in the alternative the Judicial Committee of the Privy Council has no jurisdiction to entertain such an appeal.

(3) BECAUSE, even if there is jurisdiction to entertain such an appeal, the Respondent should not again be placed in jeopardy in these proceedings and such an appeal ought not to be entertained

(4) BECAUSE for the aforesaid reasons special leave to appeal ought not to have been granted.

(5) BECAUSE the law of Ceylon on the subject of provocation is contained in Section 294 of the Ceylon Penal Code, which differs in material respects from English law.

(6) BECAUSE the Court of Criminal Appeal of Ceylon rightly held that in order that the crime of murder should be reduced to culpable homicide not amounting to murder it was not requisite that the act of the accused person should not be disproportionate to the provocation under which he acted.

(7) BECAUSE the Court of Criminal Appeal rightly held that their previous decision in *Rex* v. *Naide* was erroneous.

(8) BECAUSE the Court of five judges convened in the present case were entitled to over-rule the previous decision in *Rex* v. *Naide*.

(9) BECAUSE this decision of the Court of Criminal Appeal was right and should be upheld.

DINGLE FOOT.

BIDEN ASHBROOKE.

No. 14 of 1952.

In the Privy Council.

ON APPEAL FROM THE COURT OF CRIMINAL APPEAL OF CEYLON.

BETWEEN

THE ATTORNEY-GENERAL OF CEYLON . . . *Appellant*

and

KUMARASINGHEGE DON JOHN PERERA . . *Respondent*

CASE FOR THE RESPONDENT.

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