

~~FC G.L.G. 2~~

Judgment
12, 1957

.10 1856

Supreme Court of Ceylon
No. 444 (Final) of 1951

District Court, Kurunegala
No. 3705

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

BETWEEN

H. G. MARTIN DIAS of Maharagama, Giriulla *Plaintiff-Respondent*

AND

K. M. PERERA of Morris Street, Kurunegala *Defendant-Appellant.*

RECORD OF PROCEEDINGS

25 FEB 1958

49244

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No. 1
JOURNAL ENTRIES
Journal

No. 1
Journal Entries
30.8.46 to
4.11.54.

(Pages 8 and 9 of the original record are torn)

14.2.47.

Mr. Ihalagama for plaintiff—pt.
Messrs. Perera & Perera for defendant.
Call.

Mr. Ihalagama heard in support.....the
10 application may be renewed with notice to defendant's proctors.

21.2.47.

Mr. I. A. B. Ihalagama moves that the trial in the above case fixed for 10.3.47 be postponed for a later date as Mr. E. G. Wickramanayake, the counsel for the plaintiff, is unable to be present on that date owing to an unexpected and private engagement.

Messrs. Perera & Perera, for defendant, consent.
Allowed.
Call 10 3.

10.3.47.

20 Mr. I. A. B. Ihalagama for plaintiff—pt.
Messrs. Perera & Perera for defendant—pt.
Called.
Trial 27 5.

21.3.47.

Mr. Ihalagama for plaintiff moves under section 90 (c) of Evidence Ordinance No. 14 of 1895 for an order of Court on the Bank of Ceylon, Colombo, to permit him to inspect at the Bank within a specified time to be appointed the cheques issued by the defendant in May, 1944, for Rs. 500, No. B. 220980 in June, 1944, for Rs. 500, B. 974608,
30 another in April for Rs. 500 and the cheque for Rs. 437.62 issued in October, 1943, to H. G. Dias.

Messrs. Perera & Perera, for defendant, object.
I hear both sides.

Order

I allow a notice on the Bank to show cause why they should not issue certified copies of:—

- (1) The cheque B. 220980 of May, 1944, for Rs. 500 ;
- (2) The cheque B. 974608 of June, 1944, for Rs. 500 ;
- (3) The cheque for Rs. 437.62 issued in October, 1943, to H. G. Dias.

40

Postponed 1.5.47.

(Sgd.) T. F. C. ROBERTS.

No. 1
Journal Entries
30.8.46 to
4.11.54—Conti-
nued.

19.4.47.

Notice issued to Fiscal, N.W.P.

1.5.47.

Mr. Ihalagama for plaintiff.

Messrs. Perera & Perera for defendant.

Notice served on the Manager, Bank of Ceylon.

Representative of Bank of Ceylon produces cheques No. B. 220980 for Rs. 500, B. 974608 for Rs. 500 and states that the cheque for Rs. 437.62 cannot be traced as no number is given.

Mr. Ihalagama moves to give particulars. Keep cheques in safe to be produced at trial.

Mr. Ihalagama moves that the Bank be to give a certified copy of the entry of item in October, 1943, in reference to a cheque issued for Rs. 437.62 in favour of H. G. Dias.

I allow notice returnable 22/5.

8.5.47.

Mr. Ihalagama for plaintiff tenders K.R. No. 135 of 2.5.47 for Rs. 160 and 221 of 7.5.47 for Rs. 20 and takes out 1 sup. Notice issued.

13.5.47.

Mr. Ihalagama for plaintiff takes out 5 sup.

20

15.5.47.

Messrs. Perera & Perera for defendant file list of witnesses and take out 9 sup.

19.5.47.

Messrs. Perera & Perera for defendant file amended answer of the defendant with notice to plaintiff's proctor.

Accept.

(Intd.) A. J.

D.J. 19

19.5.47.

30

Mr. Ihalagama for plaintiff files additional list of documents and witnesses and moves for a summons on Income Tax Commissioner to cause to be produced the Income Tax Returns for 1942, 43 and 44 by B. A. John Singho, file No. 43, 24. K.R. 799 of 19.5.47 for Rs. 20 tendered.

Refused *vide* sec. 4 (3) of Income Tax Ord., 1932.

20.5.47.

Messrs. Perera & Perera for defendant files additional list of witnesses and takes out four summons.

22.5.47.

Mr. I. A. B. Ihalagama for plaintiff.
Messrs. Perera & Perera for defendant.
Notice served on the Bank.

Mr. Ihalagama states that the notice has been sent by an error on the Colombo Branch. He moves to reissue the notice on the Kandy Branch.

Reissue notice for 27/5.

No. 1
Journal Entries
30.8.46 to
4.11.54 *Conti-*
nued.

(Intd.) A. J.

10

D.J.

26.5.47.

Mr. Ihalagama files plaintiff's additional list of witnesses. Copy served on Messrs. Perera & Perera, defendant's proctors.

Messrs. Perera & Perera file defendant's additional list of witnesses. Copy served on proctor for plaintiff.

27.5.47.

Mr. I. A. B. Ihalagama for plaintiff.
Messrs. Perera & Perera for defendant.
Notice not issued on the Kandy Branch.

20 Trial. *Vide* proceedings.

Further hearing on 31.7.47.

(Intd.) A. J.

A.D.J.

11.7.47.

The defendant in the above is not well and is not fit to attend the Court on the 31st instant for trial. Messrs. Perera & Perera move that the date of trial in the above case be refixed for some other date down the roll convenient to Court. M.C. submitted. Proctor for plaintiff consents.

30 Call 31/7.

31.7.47.

Mr. I. A. B. Ihalagama for plaintiff.
Messrs. Perera & Perera for defendant.
Called.

Vide J.E. 11/7.

Defendant is said to be very ill, a long date is desired. Proctors want to consult counsel regarding date of trial.

Call 21/8.

(Intd.) A. J.

No. 1
Journal Entries
30.8.46 to
4.11.54—*Continued.*

31.7.47.

Reqn. for Rs. 40 being batta to J. M. Chelladurai (C.M.T.) and Jayasekera, C.I.D., issued.

21.8.47.

Mr. I. A. B. Ihalagama for plaintiff.
Messrs. Perera & Perera for defendant.
Called.
Call 26/8 and fix date of trial.

26.8.47.

Mr. I. A. B. Ihalagama for plaintiff } 10
Messrs. Perera & Perera for defendant } present
Called to fix date of trial.
Case specially fixed to suit counsel appearing.
Trial 25/11. 26/11.

(Intd.) A. J.

A. D. J.

31.10.47.

Plaintiffs summons on witness. T. D. A. Seneviratne is reissued in hand. Plaintiff takes out 5 Ss. K.R. No. 1463 of 31.10.47 for Rs. 140 filed. 20

4.11.47.

Summons to witness issued to Fiscal, N.W.P.

13.11.47.

Mr. E. A. P. Wijeratne, counsel for the defendant, being unable to attend Court on 25th and 26th instant as he will be engaged in State duty as a Senator. Messrs. Perera & Perera moves that the Court be pleased to put off the hearing of the above case for some other date convenient to Court. Mr. Ihalagama objects.

Mr. Amarasinghe submits telegram sent by Mr. Wijeratne and further states that Mr. H. W. Jayawardana, Junior Counsel, is ill. 30

This application is allowed. Call case 25/11 and fix date of trial.
Defendant will pay any costs of plaintiff already incurred.

(Intd.) A. J.

25.11.47.

Mr. I. A. B. Ihalagama for plaintiff — present
Messrs. Perera & Perera for defendant — present
Called.

On the application of proctors this trial is fixed on dates to suit
Counsel from Colombo.

Trial 26/2 and 27/2.

(Intd.).....

6.2.48. S S to witness issued to Fiscal, N. W. P.
S S to witness issued to Fiscal, W. P.

23.2.48.

Mr. I. A. B. Ihalagama moves that the case fixed for trial on
26th and 27th instant be postponed to a later date as the Counsel for
10 the plaintiff is unable to be present on these dates owing to unforeseen
circumstances.

Messrs. Perera & Perera, proctors for defendant, consent.
Allowed. Call on 26/2 to fix trial date.

(Intd.).....

26.2.48.

Mr. I. A. B. Ihalagama for plaintiff.
Messrs. Perera & Perera for defendant.
Called to fix a date of trial.
Trial refixed for 27th and 28th May, 1948.

20 Trial 27.5.48.

5.5.48.

Summons on six witnesses of plaintiff issued and handed to Fiscal,
W.P., Colombo.

7.5.48.

Summons to witnesses issued to Fiscal, N.W.P.

27.5.48.

Mr. I. A. B. Ihalagama for plaintiff.
Messrs. Perera & Perera for defendant.
Trial.

30 *Vide* Proceedings.
F. H. on 25th and 26th August, 1948.

11.6.48.

Requisition for Rs. 40 issued to A. P. de Zoysa.

9.8.48. S S to witness issued to N. W. P.
S S to witness issued to Fiscal, W. P.

23.8.48.

Messrs. Perera & Perera file defendant's list of witnesses.
Copy served on proctor for plaintiff.

23.8.48.

40 Proctor for plaintiff files list of witnesses and takes out summons
on him.

No. 1
Journal Entries
30,846 to
4,11,54--*Conti-*
nued.

25.8.48.

Mr. I. A. B. Ihalagama for plaintiff.
Messrs. Perera & Perera for defendant.
Trial. *Vide* proceedings.

(Intd.).....

D.J.

26.8.48.

Agent, Bank of Ceylon, states that it is not possible to produce the cheque leaf referred to in the summons at such short notice. Further he states it will take them at least one week to trace the cheque leaf. 10

26.8.48.

Mr. Ihalagama for plaintiff.
Messrs. Perera & Perera for defendant.
Further hearing.

16.10.48. S S to witness issued to Fiscal, N. W. P.
S S to Fiscal, W. P.

28.10.48.

Messrs. Perera & Perera for defendant obtains one summons on a witness and deposits batta Rs. 10, *vide* K.R. 1250/27.10.48. 20

1.11.48.

Messrs. Perera & Perera for defendants file defendant's additional list of witnesses and move that the Registrar, S.C., Colombo, to produce or cause to be produced record in S.C. Case No. 11 of 1931 and record in M.C., Gampaha, No. 16524, certified copies have been obtained. They also move for summons on the Registrar, S.C., for the above purpose.

Allowed on deposit of batta.

(Intd.).....

1.11.48.

30

Messrs. Perera & Perera for defendant file defendant's additional list of witnesses and obtain one summons in hand. Batta Rs. 15 deposited, *vide* K.R. 38/1.11.48.

4.11.48.

Mr. I. A. B. Ihalagama for plaintiff. Messrs. Perera & Perera for defendant. Further hearing, *vide* proceedings.

4.11.48. Requisition for Rs. 15/- issued to Mr. H. A. Quyn.

24.1.49.

Mr. I. A. B. Ihalagama for plaintiff moves to file plaintiff's additional list of witnesses in the above case. 40

Messrs. Perera & Perera for defendant have received a copy and object.

No. 1
Journal Entries
30.8.46 to
4.11.54—*Continued.*

Subject to objection of defendant's proctor file list.

(Intd.).....

27.1.49.

S S to witness issued to Fiscal, N. W. P.

S S to witness issued to Fiscal, W. P.

15.2.49.

S S to witness issued to N. W. P.

10 S S to witness issued to Colombo.

S S to witness issued to Kegalle.

K. R. No. 641 for Rs. 118/- filed.

21.2.49

Mr. Ihalagama files K. R. No. 1154 for Rs. 10/- being balance

16. 2. 49

batta to witness Manager & Secretary Sri Lanka Omnibus Co., Ltd.

23.2.49.

Mr. I. A. B. Ihalagama for plaintiff.

Messrs. Perera & Perera for defendant.

20 Further hearing.

Vide Proceedings.

Further hearing on 10th and 11th March, 1949.

23.2.49.

Messrs. Perera & Perera move for a summons on the Registrar, S.C., to produce the minutes book of the Sri Lanka Omnibus Co., Ltd., produced in D.C., Colombo, 15925 now in appeal in the Privy Council.

Allowed.

Issue summons returnable 24.2.49 to be taken in hand.

24.2.49.

30 Further hearing (*contd.*).

25. 2. 49.

S S to witness issued to Fiscal, Kegalle.

S S to witness issued to Fiscal, Colombo.

Kachcheri Receipt for Rs. 65/- filed.

No. 1
Journal Entries
30.8.46 to
4.11.54—Conti-
nued.

9.3.49.

Mr. I. A. B. Ihalagama for plaintiff moves that the trial in the above case fixed for 10th and 11th of this month be postponed as the plaintiff's counsel is unable to be present on this date owing to unavoidable circumstances.

Proctors for defendant consent. Of consent allowed. Mention tomorrow.

(Sgd.).....

10.3.49.

Mr. I. A. B. Ihalagama for plaintiff.

10

Messrs. Perera & Perera for defendant.

Further hearing.

Vide motion of 9.3.49 by plaintiff's proctor, Mr. Amarasinghe states that defendant's counsel is also unable to be present and begs for a postponement. The Court allows a date as both parties are unable to go on with this case today.

Further hearing of this case is specially fixed for 23rd and 24th of June, 1949.

Further hearing 23.6.49.

6.5.49.

20

As the above case has been partly heard after trial *de novo* before Mr. W. G. Spencer, A.D.J. ; Mr. Ihalagama, proctor for plaintiff, with the consent of proctors for defendant moves that he (W. G. Spencer, Esq.) should be specially gazetted to conclude the said case.

Forward record to Mr. Spencer to fix a suitable date.

Call 30/5.

10.5.49.

Record forwarded to Mr. Spencer.

18.5.49.

Record received from Mr. Spencer with an endorsement dated 30 17.5.49. Mention on 30.5.49.

(Sgd.) A.S.P.,

D.J.

30.5.49.

Mr. Ihalagama for plaintiff.

Messrs. Perera & Perera for defendant.

Called to fix trial.

Call 15.6.

(Intd.) A.S.P.

15.6.49.

Mr. Ihalagama for plaintiff.
Messrs. Perera & Perera for defendant.
Called to fix trial.
Call 30 '6.

30.6.49.

Called to fix trial.
Trial before Mr. Spencer.
On 14/7 and 15/7.

10

(Intd.) A.S.P.

6.7.49.

Mr. Ihalagama moves for permission of Court to take summons in hand on witness as there is no time to serve through the Fiscal.
Allowed.

11.7.49.

As there is no time to serve the summons on witnesses through Fiscal, Messrs. Perera & Perera move that the defendant be allowed to take summons on his witnesses in hand for service.
Allowed.

20

(Intd.).....
A.D.J.

14.7.49.

Mr. I. A. B. Ihalagama for plaintiff.
Messrs. Perera & Perera for defendant.
Further hearing.
Vide proceedings.

(Intd.).....

15.7.49.

Further hearing. *Vide* proceedings.

30

Further hearing postponed for 11th, 12th, 13th and 14th October, 1949.

(Intd.).....

13.9.49.

Mr. Ihalagama for plaintiff takes out 1 ss to issues to Fiscal, W.P.

5.10.49.

Messrs. Perera & Perera move to take summons in hand to witnesses of the defendant as there is no time to issue through Fiscal.
Allowed.

No. 1
Journal Entries
30.8.46 to
4.11.54—*Continued.*

11.10.49.

Mr. I. A. B. Ihalagama for plaintiff.
Messrs. Perera & Perera for defendant.
Further hearing, *vide* proceedings.
Further hearing to be continued tomorrow.

12.10.49.

Further hearing.
Vide proceedings.

(Intd.).....

13.10.49.

Further hearing. *Vide* proceedings.

A.D.J. 10

14.10.49.

Further hearing. *Vide* proceedings.

(Intd.).....

24.11.49.

Messrs. Perera & Perera file defendant's additional list of witnesses and move for summons on the Commissioner of Income Tax.
Cite witnesses.

10.12.49.

20

Reference to the summons served on the Commissioner of Income Tax, he forwards a copy of the letter addressed to defendant's proctor and states that an officer of his Department will not be attending Court on 13.12.49. He trusts that this is in order.

Note and file.

13.12.49.

Mr. I. A. B. Ihalagama for plaintiff.
Messrs. Perera & Perera for defendant.
Vide proceedings. Further hearing for 14.12.49.

14.12.49.

30

Further hearing.
Vide proceedings.
Call on 15.12.49.

15.12.49.

Further hearing.
Vide proceedings.

20.3.50.

Mr. I. A. B. Ihalagama for plaintiff.
Messrs. Perera & Perera for defendant.

No. 1
Journal Entries
30.8.46 to
4.11.54 - *Continued.*

Judgment delivered in open Court in the presence of Mr. Ihalagama on the part of plaintiff and of Mr. Amarasinghe of Messrs. Perera & Perera, proctors, on the part of defendant.

29.3.50.

Mr. Ihalagama for plaintiff files petition of appeal of plaintiff-appellant together with the following and moves that the same be
10 accepted and notice of security be issued on the respondent.

29.3.50.

S. C. Judgment form duly stamped Rs. 36/-
Secretary's Certificate duly stamped Rs. 16/-
Notice of Security & Schedule duly stamped Rs. 8/-
Notice of Appeal & Schedule Rs. 8/-
Copy of Petition of Appeal for service on respondent.
Application for typewritten copies and the K. R. for Rs. 50/-.

Accept.

Issue notice of security.

20 29.3.50.

Notice of security issued returnable on 3.4.50.

(Intd.).....

3.4.50.

Mr. I. A. B. Ihalagama for plaintiff-appellant.

Messrs. Perera & Perera for respondent.

Notice of security served on respondent's proctors, Messrs. Perera & Perera.

Mr. Ihalagama files K.R. for Rs. 350 and bond hypothecating this sum. Messrs. Perera & Perera accept security. Issue notice
30 of appeal 25/4.

(Intd.).....

3.4.50.

Notice of appeal issued on Fiscal, N.W.P., copy petition of appeal.

No. 1
Journal Entries
30.8.46 to
4.11.54 *Continued.*

25.4.50.

Notice of appeal served on respondent's proctors, Messrs. Perera & Perera.

Forward record.

(Intd.).....

20.11.50.

Record forwarded to Registrar, S.C.

21.8.54.

Registrar, S.C., forwards record with S.C. order. (Call case on 23.9.54.

10

(Intd.) P.R.G.,
A.D.J.

23.9.54.

Case called to pronounce S.C. order.

S.C. judgment pronounced.

Plaintiff to take necessary steps.

Call on 4.11.54.

(Intd.) P.R.G.,
A.D.J.

4.11.54.

20

Mr. Ihalagama for plaintiff.

Messrs. Perera & Perera for defendant

Case called.

Plaintiff to take necessary steps.

Defendant has filed papers for final leave to appeal to Privy Council.

Call case on 24.2.55.

(Intd.) P.R.G.

No. 2

No. 2
 Plaintiff of the
 Plaintiff
 30.8.46.

Plaint of the Plaintiff

IN THE DISTRICT COURT OF KURUNEGALA

H. G. MARTIN DIAS of Maharagama, Giriulla *Plaintiff*
 No. 3705. *vs.*

K. M. PERERA of Morris Street, Kurunegala *Defendant*.
 The 30th day of August, 1946.

The plaint of the plaintiff abovenamed appearing by I. A. B. Ithalagama, his Proctor, states as follows :—

10 1. The parties to this action reside in and the cause of action hereinafter set out arose within the local limits of the jurisdiction of this Court.

2. The plaintiff and the defendant are registered shareholders of the Sri Lanka Omnibus Company, Limited.

3. The plaintiff was, prior to the 16th day of January, 1943, the owner of the motor omnibus No. X 4361 and a partner of the K.A. Bus Company which was a registered partnership consisting of nine omnibus owners carrying on business of running omnibuses for carrying passengers between Kurunegala and Alawwa. The defendant
 20 was a partner and the manager of the said partnership business.

4. In accordance with a decision of the said partnership taken in December, 1942, the omnibuses belonging to the partners were transferred to the Sri Lanka Omnibus Company, Limited, the plaintiff receiving 25 ordinary shares in the Sri Lanka Omnibus Company, Limited, in exchange for his omnibus No. X 4361 which was valued by the Sri Lanka Omnibus Company, Limited, at Rs. 2,250.

5. The Sri Lanka Omnibus Company, Limited, started a separate organization called the " G " branch to run the omnibuses taken over from the K.A. Bus Company on the Kurunegala-Alawwa routes.

30 6. The plaintiff and the other persons who were partners of the said K.A. Bus Company were invited to meet the Directors of the Sri Lanka Omnibus Company, Limited, on 12th March, 1943.

7. At the said meeting the Chairman of the Board of Directors of the Sri Lanka Omnibus Company, Limited, speaking on behalf of the said Board informed the plaintiff and the said other persons that :—

(a) the Board of Directors had decided to offer to contract with the said persons, from whom the buses in the " G " branch had been taken over, viz., the former partners of the

K.A. Bus Company, for the running of the said omnibuses by them for the Sri Lanka Omnibus Company, Limited, on a payment to the said persons of 90% of the gross takings of the said omnibuses less the sum of Re. 1 per omnibus per diem.

(b) that, as it was not possible for the Sri Lanka Omnibus Company, Limited, to enter into separate contracts for the said purpose with each of the said persons the said persons should nominate one from among them to represent them and to act for them in the matter of the said contract 10 and its execution.

8. The plaintiff and the said other persons accepted the said offer of the Board of Directors and nominated the defendant, who undertook to represent them and act on their behalf, to contract with Sri Lanka Omnibus Company, Limited, for the said purpose.

9. Thereupon the said Sri Lanka Omnibus Company, Limited, appointed the defendant who was the agent and representative of the plaintiff and the other said persons, to be the manager of the said "G" branch of the Sri Lanka Omnibus Company. As manager the defendant was to be responsible to the Sri Lanka Omnibus Company, 20 Limited, for the running of the said omnibuses and for the payment to the Sri Lanka Omnibus Company, Limited, 10% of the gross takings of the said omnibuses plus a further sum of Re. 1 per omnibus.

10. The defendant has since March, 1943, collected the gross takings of all the said omnibuses and paid to the Sri Lanka Omnibus Company, Limited, the amounts due to it.

11. At a meeting of the plaintiff the defendant and the other said persons held at Kurunegala on the 8th of April, 1943, it was decided that 2/3rd of the net profits from the working of the omni- 30 buses of the said "G" branch were to be distributed monthly among the said persons in proportion to the valuation of their omnibuses by the Sri Lanka Omnibus Company, Limited, and that the remaining 1/3rd of the net profits was to be reserved for distribution in a similar manner at the end of each financial year after deducting therefrom any capital or exceptional expenditure that the said persons might specially authorise. The defendant, at the same meeting promised and undertook to distribute the said profits among the said persons at meetings to be convened by him for the purpose.

12. The defendant duly accounted for and distributed the pro- 40 fits among the said persons at monthly meetings convened by him until November, 1943.

13. Since November, 1943, the defendant has wrongfully and unlawfully failed to account to the plaintiff and withheld from the

plaintiff the plaintiff's share of the said profits and has wrongfully and unlawfully appropriated the moneys to himself. The plaintiff assesses the amount so due and payable to the plaintiff by the defendant at Rs. 22,088·56 up to date hereof.

No. 2
Plaint of the
Plaintiff
30.8.46
Conti-
med.

14. A cause of action has accrued to the plaintiff to sue the defendant for an accounting and for the recovery of the amount found due to the plaintiff and in default of a proper accounting for the recovery of Rs. 22,088·56 due up to date hereof.

Wherefore the plaintiff prays :—

- 10 (a) that the defendant be directed to account to the plaintiff for the moneys collected by him as manager of the “G” branch of the Sri Lanka Omnibus Company, Limited, and to pay to the plaintiff the sum found to be due on such accounting.
- (b) in default of proper accounting, for judgment against the defendant in the sum of Rs. 22,088·56 with legal interest thereon from date hereof till the date of decree and thereafter on the aggregate amount of the decree until payment in full.
- 20 (c) For costs and for such other and further relief as to this Court shall seem meet.

(Sgd.) I. A. B. IHALAGAMA,
Proctor for Plaintiff.

No. 3

Answer of the Defendant

No. 3
Answer of the
Defendant
12.12.46.

On this 12th day of December, 1946.

The answer of the defendant abovenamed appearing by C. L. W. Perera, K. C. C. W. Perera, K. A. C. Amerasinghe and K. I. G. L. W. Perera, Proctors, practising in partnership under the name, style
30 and firm of Perera & Perera states as follows :—

1. The defendant admits that he resides within the jurisdiction of this Court but denies that any cause of action hath accrued to plaintiff.

2. The defendant denies all and singular the rest of the averments in the plaint which are inconsistent with what is hereinafter stated and puts the plaintiff to the proof of the several averments in the plaint.

No. 3
Answer of the
Defendant
12.12.46—*Con-
tinued.*

3. The defendant specially denies the averments contained in paragraphs 7, 8, 9, 11, 12 and 13 of the plaint and avers that the Sri Lanka Bus Company, Ltd., appointed the defendant as local branch manager of the "G" branch of the said Company independent of any nomination by the plaintiff or any of the other persons mentioned in the plaint.

4. The defendant has collected monies and made disbursements as branch manager in terms of his appointment by the Sri Lanka Bus Company and denies that he was liable to account for any monies collected by him in such capacity to plaintiff or any of the other 10 persons mentioned in the plaint.

5. The defendant denies that he is liable in law to make any accounting unto the plaintiff or to pay any monies to plaintiff.

6. The plaintiff's cause of action, if any, is prescribed in law.

Wherefore the defendant prays that plaintiff's action be dismissed with costs and for such other and further relief as to this Court shall seem meet.

(Sgd.) PERERA & PERERA,

Proctors for Defendant.

No. 4
Amended an-
swer of the
Defendant
22.5.47.

No. 4

20

Amended Answer of the Defendant

On this 22nd day of May, 1947.

The amended answer of the defendant abovenamed appearing by C. L. W. Perera, K. C. C. W. Perera, K. A. C. Amerasinghe and K. I. G. L. W. Perera, Proctors, practising in partnership under the name, style and firm of Perera & Perera state as follows:—

1. Answering paragraph 1 of the plaint, the defendant admits that he resides within the jurisdiction of this Court but denies that a cause of action has accrued to the plaintiff to sue the defendant.

2. The defendant puts the plaintiff to the proof of the averments 30 contained in paragraphs 3 and 4 of the plaint.

3. The defendant denies all and singular the rest of the averments contained in the plaint and puts the plaintiff to the proof thereof.

4. Answering paragraph 5 of the plaint the defendant admits that a separate "G" branch of the Sri Lanka Omnibus Co. was started and states that the defendant was appointed the local

branch manager of the said branch by the said company and the said appointment was independent of any nomination by the plaintiff or any other persons referred to in the plaint.

No. 4
Amended answer of the
defendant
22.5.47—Continued

5. Further answering the defendant states that he collected monies and made disbursements as branch manager in accordance with the terms of his employment by the Sri Lanka Omnibus Co. and specially denies that he was liable to account for monies collected by him in such capacity to the plaintiff or to any other persons mentioned in the plaint.

10 6. Further answering the defendant whilst denying that agreement referred to in paragraphs 7 and 8 of the plaint was ever entered into, states that even if such an agreement is proved to have been arrived at no rights should have accrued to the plaintiff from the alleged agreement in as much as such agreement would have been calculated to deprive the shareholders of the Company of their legitimate share of the profits of the Company and as such contrary to law and public policy and therefore unenforceable in law.

7. The defendant denies that he is liable in law to make any accounting to the plaintiff or to pay any money to the plaintiff.

20 8. The defendant pleads that plaintiff's cause of action if any is prescribed in law.

Wherefore the defendant prays that plaintiff's action be dismissed with costs and for such other and further relief as to this Court shall seem meet.

(Sgd.) PERERA & PERERA,

Proctors for Defendant.

No. 5

Issues Framed

No. 5
Issues framed.

Plaintiff present.

30 Defendant present.

Mr. Adv. E. G. WICKREMANAYAKE with Mr. Adv. CHITTY
Mr. Adv. SAMARAWICKREMA instructed by Mr. IHALAGAMA
for plaintiff.

Mr. Adv. E. A. P. WIJERATNE with Mr. Adv. H. W. JAYAWARDENA instructed by Messrs. PERERA & PERERA for defendant.

Issues

Mr. Wickramanayake suggests :

(1) Was the plaintiff prior to 16.1.43 (a) owner of Bus X4361, (b) partner of K.A.B. Bus Company ?

(2) Was K.A.B. Bus Co. a partnership registered for the plying of buses between Kurunegala and Alawwa ?

(3) Was defendant a partner and manager of the said business ?

(4) Were the buses belonging to the said partnership business transferred to the Sri Lanka Omnibus Co., Ltd. ?

(5) Was the said transfer in accordance with the decision of the 10 partners taken in December, 1942 ?

(6) Was plaintiff allotted shares to the value of Rs. 2,250 in the Sri Lanka Bus Co., Ltd., in exchange for his bus X 4361 ?

(7) Were the plaintiff and others who were partners of the K.A.B. Bus Co. invited to meet the Directors of the Sri Lanka Omnibus Co., Ltd., on 12.3.1943 ?

(a) At the said meeting did the Directors offer to contract with the said persons for the running of the said buses by them for the Sri Lanka Bus Co., Ltd., on a payment to the said persons of 90% of gross takings less a sum of Re. 1 per 20 bus per day ?

(b) Suggest to the said persons that they should nominate one from among them to represent them and act for them in the matter of the said contract and its execution ?

(9) Did plaintiff and the other said persons accept the said offer ?

(10) Did plaintiff and other said persons nominate defendant to represent them to act on their behalf and to contract with the Sri Lanka Omnibus Co., Ltd. for the said purpose ?

(11) Did Sri Lanka Omnibus Co., Ltd. appoint the defendant to be the manager of " G " branch of the said Company ? 30

(12) As such manager was defendant (a) responsible to the Sri Lanka Bus Co. for the running of the said business and for the payment of the said dues, and (b) the agent and representative of the other said persons for the distribution to them of the balance income ?

(13) Was it decided, at a meeting of the plaintiff and defendant and other said persons held on 8.4.43 that $\frac{2}{3}$ of the net profits of the 90% of gross takings of the " G " branch were to be distributed monthly by the defendant to the said persons in proportion to their shares and that the remaining $\frac{1}{3}$ was to be distributed at the end of the financial year ? 40

(14) Did defendant at the said meeting promise and undertake to distribute the gross profits in the said manner at meetings to be convened by him for the said purpose ?

No. 5
Issues framed.--
Continued

(15) Did defendant duly account for and distribute profits in the said manner at monthly meetings convened by him until November, 1943 ?

(16) Has defendant since November, 1943, wrongfully, unlawfully fail to account to the plaintiff and withheld from plaintiff, plaintiff's share of the said profits ?

10 (17) Is plaintiff entitled to an accounting from the defendant in respect of the said profits ?

(18) What sum is due from defendant to plaintiff in respect of the said profits ?

Mr. Adv. WIJERATNE suggests another issue :—

(11a) If issue No. 10 is answered in the affirmative, did Sri Lanka Bus Co. appoint the defendant as such representative and as manager of "G" branch of the said Company ?

(13a) Was there a meeting of the plaintiff, defendant and other said persons on 18.4.43 ? This issue to precede 13 which is to be 20 renumbered 13b.

(15a) Were monthly meetings held and convened by defendant as suggested in issue No. 15 ?

He further suggests :—

(19) Was defendant appointed local manager of branch "G" by the Sri Lanka Bus Co. ?

(20) If so, was said appointment independent of any nomination by the plaintiff and other said persons mentioned in the plaint ?

(21) Did defendant collect monies and make disbursements as branch manager in accordance with the terms of his employment by 30 the Sri Lanka Bus Co. ?

(22) If so, is he liable in law to account for such monies collected by him to the plaintiff and other said persons referred to ?

(23) Even if an agreement as set out in paras 7 and 8 of the plaint was entered into is such an agreement enforceable for the reasons set out in para 6 of Answer ?

(24) Is defendant liable in law to account to and or to make any payment to the plaintiff ?

(25) Is plaintiff's claim, if any, prescribed ?

Mr. Adv. WICKREMANAYAKE agrees to these issues.

40 All issues accepted.

Plaintiff's Evidence

Plaintiff's case.

Mr. Adv. WICKREMANAYAKE calls.

H. G. MARTIN DIAS, affirmed, 42 years, cultivator, Giriulla.

I am the plaintiff in this case. The Ordinance came into operation regarding the running of buses. This Ordinance came into force in January, 1943. Prior to 1943, I owned bus No. X 4361. As a bus owner, I was invited to conferences held by Mr. Nelson for formation of companies. They started in April, 1942. I was running my 10 bus along Kurunegala-Pattalagedera road. There were other buses running along Kurunegala-Alawwa. I entered into a company called K.A.B. Bus Co. I produce the certificate of registration P. 1. There were nine partners in the company. They were persons running buses along Kurunegala, Alawwa and branch roads. That registration was in July, 1942. Defendant said that we have to make applications for route licences and otherwise we had to join a company; our manager was the defendant. Defendant made an application for a route licence. That was on 12.12.42. He said he was sending the application. It was decided at the meeting to do so. By letter of 31.12.42 defendant 20 invited me and other partners to a special meeting to be held on 2.1.43. I produce the defendant's letter P. 2. I went to that meeting. Defendant told me that though a route licence is asked for and that we should join the Sri Lanka Bus Co. and that there was no harm in joining it and carrying on our work.

(Signature on P. 2 is admitted by defendant).

He asked me not to fight over the matter and asked me to join that company. That company had more route licences and had asked for these routes also. I agreed. I don't know why defendant made that suggestion. We did not ask him to withdraw our application 30 for route licences. We decided to join the Sri Lanka Bus Co. Ltd. On 13.12.42 that company was inaugurated. I gave up my bus to them on 15.1.43. My bus was assessed. All our buses were assessed on the same day and taken over on 15.1.43. I produced one of the acknowledgments given by the manager of Sri Lanka Bus Co. P. 3. Donald Perera is dead. I received a receipt for my bus in February, 1943. I produce it P. 4. When the K.A.B. Bus Co. was operating, defendant used to keep 1/3 of the profits in reserve and divide 2/3 among the shareholders. Such division was made once a month. Sri Lanka Bus Co. took over the buses and we did not receive our 40 dividend in the first month. I questioned defendant, I received this letter P. 5 from the Sri Lanka Bus Co. calling me to a meeting at their office on 6.3.43. My brother too was a member of our company.

He is dead. I produce the letter sent to him. I found this letter among my brother's letters.

No. 6
Plaintiff's
Evidence.
H. G. Martin
Dias.
Examination
—Continued

Mr. WIJERATNE objects. I uphold the objection. I reject it.

I received a letter myself. I attended the meeting. It was held on 12.3.43. Dr. Soysa, M. Jayasena, B. J. Fernando and four others represented Sri Lanka Bus Co. One was the proprietor of the Tarsan Garage. Defendant was there. I went with him. John Mudalaly, B. A. John Singho was not there. Out of the members of our company Dr. Soysa told us. . . . Mr. Wijeratne objects to this evidence unless
10 Dr. Soysa is called.

Mr. WICKREMANAYAKE states that he is seeking to prove that a statement was made which influenced the conduct of the parties. He is not seeking to lead what Mr. Soysa said to the witness.

What was the statement made ?

Mr. Wijeratne objects.

Order

Mr. WICKREMANAYAKE moves to only bring out a fact that a statement was made and he is not going to prove the truth of it.

I allow the question.

20 I was at the meeting held on 12.3.43. Dr. Soysa made a statement. He said that he wanted to establish a branch and give over the branch 10% of profits should be taken by the main Company and Re. 1 per bus should be given to the Company and the balance to be divided among the shareholders. We partners did not agree or disagree. We were asked to consider. We came out of the meeting, I and defendant too came out and considered. Mr. Jayasena also said certain things. We went back. We agreed to the proposition. He asked us to get together and make an agreement. Defendant was present. We selected defendant as he
30 was Manager of the K.A. Bus Company. We nominated him and left the meeting. Thereafter I received letter P. 5 of 26.3.43 asking us to be present on 28th at 10 a.m. or earlier. That meeting was not held. I produce letter P. 6 of 5.4.43 informing me that the meeting would be held on 8th. I went to the meeting. All members of K.A.B. Bus Company were there. It was decided how to divide the 90% profit. Defendant agreed to be manager. John Mudalaly and Dias agreed to pay a salary. It was decided to keep 1/3 in reserve and divide 2/3 among shareholders. The reserve 1/3 was for the purpose of buying lands for a garage and other improvements.
40 The balance if any out of the 1/3 was to be divided at the end of the year. The 2/3 was to be divided monthly. Defendant agreed to do so. We decided in that manner. Defendant accordingly for 8 months divided the income monthly. Meetings were held for the distribution of the profits. We were invited by letter. I produce letter P. 7 of 21.6.43 sent to me.

No. 6
Plaintiff's
Evidence.
H. G. Martin
Dias.
Examination
—Continued

Mr. Wijeratne objects to it unless the writer is called.

It is not signed by the defendant. I reject it as the person who signed the letter is not called and witness cannot say who has signed it.

Intd.....

I went to the meeting. Defendant was present on 23.6.43 at the meeting. The accounts of May were looked into. I was paid my share of the profits. We eight of us granted receipts to defendant. All the signatures were in one sheet and we signed on separate stamps.

(Mr. Wickremanayake has noticed defendant to produce same.)

Defendant states that he has no such receipts. It bore the names 10 of all the shareholders and the amount of proportionate shares of profits given to each partner. In July, 1943, I received letter P. 7 of 12.7.43. It bears the seal of Sri Lanka Bus Co. and is signed by the defendant K. M. Perera. This refers to the distribution of the profits.

(Defendant admits the signature in this letter).

I received this letter P. 8 of 14.8.43 bearing the seal of the " G " branch of Sri Lanka Bus Co. and signed by manager of " G " branch and by K. M. Perera defendant.

(Defendant admits the letter and signature).

20

I move to produce a letter dated 3.10.43 signed by me for manager.

Mr. Wijeratne objects on the same grounds as in case of P. 7. I reject it.

I also seek to produce letter of 4.11.43 also signed for manager by me.

Mr. Wijeratne objects on same grounds.

I reject it.

In October or November, 1943, I received letters and went to the meetings. Defendant was present. Accounts were looked into 30 on each occasion. I received my share of the profits, so did the other shareholders of our bus company. Receipts were taken. It was a receipt similar to the one I referred to earlier.

(Mr. Wijeratne states that defendant never took such receipts and that no such receipts were ever written).

After November, the profits were not distributed as previously. Defendant said that he wants to get married and that he is buying a petrol shed and therefore take money little by little. From time to time, defendant put us off by giving various excuses. I got Rs. 750 on various occasions from the clerk in charge. After that, we 40 asked them to look into accounts. The clerk said that he is going

to get married and put us off. I and three others sent a letter to the defendant as manager "G" branch asking him to convene a meeting.

(Mr. Wickremanayake has noticed defendant to produce the original).

I produce a copy of the letter P. 9. I received this reply signed by the defendant P. 10. It is signed by K. M. Perera. He asks us to request the manager of Sri Lanka Bus Company to convene a meeting of the "G" branch. I sent a letter to the Sri Lanka Bus Co., Ltd. I produce a copy P. 11.

(It is allowed subject to proof).

I received a reply P. 12 asking me to come over to the office of the Company.

(Allowed subject to proof).

I went. I did not go anywhere else or to see anybody else. I met Mr. Jayasena and Donald Perera the Manager. I sent another letter to the Manager Sri Lanka Bus Co. We discussed the matter among ourselves the shareholders. We were 9 including defendant. Five of us only were not being paid. Three were being paid, Nachelis, Mendis and another were paid their shares. The other is from Malpitiya, Nachelis, Mendis were up to now in this Court, they were asked to go out into the shed. We five of us discussed the affairs. At the request of Mr. Jayasena, we wrote a letter. Either I or one of us wrote it on behalf of all of us. I produce copy of letter P. 13 of 5.7.44. (Allowed subject to proof as Mr. Wijeratne objects). I received queries from the Income Tax Department. I produce a copy of letter P. 14 sent by me to the Commissioner of Income Tax.

Mr. Wijeratne objects as the original is not forthcoming. The Commissioner has not been summoned to produce the original. I reject the letter P. 14.

I was called by the defendant to furnish a return of my income. I made a return. No further queries were sent to me. I received a dividend of 10% for one year, viz. Rs. 19.22, I received the amount with a letter of November, 1944. P. 14. (Allowed subject to proof as original being produced). In November, 1944, I tried to inspect the books of the Company of Sri Lanka Bus Company through my Proctor. I produce a letter P. 15 sent to my Proctor dated 29.11.44. It was sent by the Sri Lanka Bus Co. I wanted to see the books so that I might sue the Company and recover my shares. I charged defendant criminally first. The case was referred by Court to the C.I.D. and is still pending. I filed this action for the recovery of the moneys due to me. I ask for an accounting as regards my shares since November, 1943. In default of an accounting, I pray for judgment in Rs. 22,088.56. I base that figure on income received to

No. 6
Plaintiff's
Evidence.
H. G. Martin
Dias.
Examination
--Continued

my knowledge. This company is run on the same basis with branch manager. Mr. Jayasena is manager of one branch. There is only one shareholder in that branch. Mr. Jayasena has 48 buses and the other has one bus. B. J. Fernando is Manager of one branch. He is the only owner of the buses in that branch. "Little Service" had only one owner. In "G" branch there were 9 shareholders, Dr. de Soysa Obeysekera, Donald Perera were persons who had no buses at all but they were shareholders. I produce letter P. 16 of 1.7.46 written by Donald Perera, manager of Sri Lanka Bus Co. Donald Perera is dead now. I also produce the copy of the balance 10 sheet of Sri Lanka Bus Co. for the year 1943-1944. The gross takings are Rs. 1,676,647.38 for that year. Agency fees come to Rs. 1,580,938.77, leaving a lakh of rupees for other things. The surplus was Rs. 20,000 odd. I produce a copy of auditors' report P. 18 sent to the shareholders on 1.4.46. It shows the agency fees paid to defendant K. M. Perera as Rs. 142,565.69. I gave my bus on 15.1.1943. I was treated as shareholder since that date, viz. share certificate was given on December, 1943. It is filed of record in District Court of Colombo.

Further hearing on 31/7 on the application of the Counsels for 20 the parties.

(Sgd).....

27.5.48.

D. J.

The plaintiff and defendant present.

Mr. Adv. CHITTY with Mr. Adv. SAMARAWEERA instructed by Mr. IHALAGAMA for the plaintiff.

Mr. Adv. E. A. P. WIJERATNE with Mr. Adv. JAYEWARDENE instructed by Messrs. PERERA & PERERA for the defendant.

It is agreed by both parties to adopt the issues already framed 30 and to go to trial.

Mr. CHITTY reads the issues.

Mr. Adv. WICKREMANAYAKE suggests :—

(1) Was the plaintiff prior to 16.1.43 (a) owner of bus X 4361 (b) partner of K.A.B. Bus Company ?

(2) Was K.A.B. Bus Company a partnership registered for plying of buses between Kurunegala and Alawwa ?

(3) Was defendant a partner and manager of the said business ?

(4) Were the buses belonging to the said partnership business transferred to the Sri Lanka Omnibus Co. Ltd.?

40

(5) Was the said transfer in accordance with the decision of the partners taken in December, 1942 ?

(6) Was plaintiff allotted shares to the value of Rs. 2,250 in the Sri Lanka Bus Co. Ltd. in exchange for his bus X 4361 ?

(7) Were the plaintiff and others who were partners of K.A.B. Bus Co. invited to meet the Directors of the Sri Lanka Omnibus Co. Ltd. on 12.3.43 ?

No. 6
Plaintiff's
Evidence.
H. G. Martin
Dias.
Examination
---Continued

(8) At the said meeting (a) did the Directors offer to contract with the said persons for the running of the said buses by them for the Sri Lanka Bus Co. Ltd. on payment to the said persons of 90% of gross takings less a sum of Re. 1 per bus per day ?

(b) Suggest to the said persons that they should nominate one from among them and represent them and act for them in the matter
10 of the said contract and its executions ?

(9) Did plaintiff and the other said persons accept the said offer ?

(10) Did plaintiff and the other said persons nominate the defendant to represent them to act on their behalf and to contract with the Sri Lanka Omnibus Co. Ltd. for the said purpose ?

(11) Did Sri Lanka Bus Co. Ltd. appoint the defendant to be the manager of " G " branch of the said Company ?

(11a) If issue No. 10 is answered in the affirmative did Sri Lanka Bus Co. appoint the defendant as such representative as manager of " G " branch of the said Company ?

20 (12) As such manager was defendant (a) responsible to the Sri Lanka Bus Co. for the running of the said buses and for the payment of the said dues, and (b) the agent and representatives of the other said persons for the distribution to them of the balance income ?

(13) Was it decided at a meeting of the plaintiff and defendant and other said persons held on 8.4.43 that 2/3 of the net profits of the 90% of gross takings of the " G " branch were to be distributed monthly by the defendant and the said persons in proportion to their shares and that the remaining 1/3 was to be distributed at the end of the financial year ?

30 (13a) Was there a meeting of the plaintiff, defendant and other said persons on 8.4.43 ?

(14) Did defendant at the said meeting promise and undertake to distribute the gross profits in the said manner at meetings to be convened by him for the said purpose ?

(15) Did defendant duly account for and distribute profits in the said manner at monthly meetings convened by him until November, 1943 ?

(15a) Were monthly meetings held and convened by defendant as suggested in issue No. 15 ?

40 (16) Has defendant since November, 1943, wrongfully, unlawfully fail to account to the plaintiff and withheld from plaintiff, plaintiff's share of the said profits ?

No. 6
 Plaintiff's
 Evidence.
 H. G. Martin
 Dias.
 Examination
 —Continued

(17) Is plaintiff entitled to an accounting from the defendant in respect of the said profits ?

(18) What sum is due from defendant to plaintiff in respect of the said profits ?

Mr. WIJERATNA suggests :—

(19) Was defendant appointed local manager of branch " G " by the Sri Lanka Bus Company ?

(20) If so, was the said appointment independent of any nomination by the plaintiff and other said persons mentioned in the plaint ?

(21) Did defendant collect monies and make disbursements as branch manager in accordance with the terms of his employment by the Sri Lanka Bus Co.?

(22) If so, is he liable in law to account for such moneys collected by him to the plaintiff and other said persons referred to ?

(23) Even if an agreement as set out in paras 7 and 8 of plaint was entered into is such an agreement enforceable for the reasons set out in para 6 of answer ?

(24) Is defendant liable in law to account for and or to make any payments to the plaintiff ?

(25) Is plaintiff's claim, if any, prescribed ? 20

Mr. CHITTY calls :—

H. G. MARTIN DIAS affirmed, 44, cultivator, Giriulla.

I am the plaintiff in this case. I was the owner of a bus in 1942. The number of that bus is X 4361. I drove it myself. That bus was registered in my name. I was plying that bus between Kurunegala and Patalagedera—a distance of 40 miles. I remember that in 1942, Mr. Nelson summoned a meeting in the Kurunegala Kachcheri for the purpose of amalgamating the various bus owners into a company. Besides myself, there were 9 others who owned buses. There were 11 buses belonging to 9 owners. The defendant was one of the owners. He had two buses. I cannot remember the number of those buses. Then all of us formed a company under the name of K.A. Bus Co. I produce certificate of registration of that company (P. 1). This company was registered on 20.7.42. The defendant made a suggestion with regard to applying for a route licence in 1942. We appointed the defendant as manager of this company. I have known this defendant from his childhood. In fact I trusted him. To some extent all of us looked upon him as an educated man and all of us agreed that the defendant should be appointed manager and he was unanimously elected manager of this company. 40

Q. In December, 1942, did you request the defendant to apply licence to Colombo ?

A. The defendant called a meeting and said that Sri Lanka Omnibus Co. had taken the route to Colombo and we also should make an application for the same route on which we were running.

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Then all of us approved the course suggested by him and we unanimously agreed to make an application.

The letter P. 2 which I am producing now is a letter inviting the other partners to come to the meeting. P. 2 is signed by the defendant.

Q. Did you or any others request the defendant to withdraw the application for a route licence ?

10 A. No.

Q. You came to know later that he had withdrawn the application in January, 1943 ?

A. The defendant at a meeting at Pothuhera told us about this. That meeting was held in April, 1943.

Q. Did he make a suggestion that you should join the Sri Lanka Bus Co. to avoid all litigations ?

By Court :

Q. When was that suggestion made—was it after the Pothuhera meeting ?

20 A. This was in about the 4th month of 1943.

That was the first time that he made this suggestion.

Q. That is a period which is earlier than the meeting at Pothuhera ?

A. Yes.

I gave my bus to the Sri Lanka Bus Co. from the K.A. Bus Co. on 15.1.43.

Q. How long before that was the suggestion made that you should join the Sri Lanka Bus Co.?

A. It was about a month before that. I remember my bus 30 being assessed by Mr. Donald Perera, who is now dead. The bus was assessed at Rs. 2,250. I produce P. 3, which is an acknowledgment given on behalf of the Sri Lanka Omnibus Co. assessing my bus at Rs. 2,250. I also obtained a receipt at the time I handed over the bus, which I produce (P. 4). I got this receipt from the Sri Lanka Bus Co.

Q. During the time K.A. Bus Co. was operating and before you handed over your bus, how did you receive your shares ?

A. 1/3rd was kept as a reserve in the hands of the defendant and the balance 2/3rd was divided among the shareholders. This 40 was so done every month.

Q. After the Sri Lanka Bus Co. took over your bus in the first month you did not receive your profits ?

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—Continued

A. For one month and 15 days no money was paid by the Sri Lanka Bus Co. as profits to me.

Then I made inquiries and questioned them. Then I received the letter P. 5 from the defendant asking me to attend the meeting. P. 5 is signed by the defendant.

(The defendant admits the signature on P. 5 as his).

The meeting was summoned for the 28th of March, 1943. All the nine members who were at one time partners of K.A. Bus Co. attended this meeting. There was another meeting at Colombo about 2 weeks prior to 28.3.43. At that meeting Dr. A. P. de Soysa 10 was present. He is a Director of the Sri Lanka Bus Co.

By Court :

Q. At the meeting in Colombo who were the members of the K.A. Bus Co. who were present ?

A. One was not there and 8 persons were present there. John Mudalaly was absent at that meeting.

Q. Were there others, besides those 8 persons, present at that meeting ?

A. Yes.

John Mudalaly means P. A. John Singho. 6 or 7 others were 20 present at the Colombo meeting apart from the 8 persons of the K.A.B. Co. Mr. M. Jayasena, Mr. B. J. Fernando Muhandiram, Dr. A. P. de Soysa and one from Attangalla whose name I do not know, were present. The defendant was also present. This defendant was one of the 8 persons present at that meeting.

Q. At that meeting certain suggestions were made ?

A. One proposal was made by Dr. A. P. de Soysa. Dr. A. P. de Soysa spoke at that meeting.

(Sgd). W. G. SPENCER,

A.D.J. 30

27.5.48.

After Lunch :

H. G. MARTIN DIAS (recalled), affirmed.

Q. Dr. A. P. de Soysa made certain statements in consequence of which you and the other partners of the " G " branch agreed to do certain things ?

A. Yes.

Q. Your conduct was influenced by the statement made by Dr. de Soysa ?

A. Not at once. We were asked to think over the matter 40 for about 10 minutes and after some deliberations we decided to do certain things.

Q. Dr. A. P. de Soysa put forward certain proposals ?

A. Yes.

Q. What was the proposal to which you agreed ?

(Objected to. Mr. Jayewardene objects to this question on the ground that it is hearsay).

Both sides heard.

Order

The answer to the question need not necessarily be the truth. The statement in itself has to be weighed by Court. It will not prejudice the case of the defendant. On the other hand, under section 7 of the Evidence Ordinance it would operate to be relevant to a fact which constitutes the state of things under which they happen. I overrule the objection, and allow the question.

(Intd.) W. G. S.

A. He said " We summoned this meeting to give your own buses to you " and said that we should pay 10% out of the profits to the Sri Lanka Bus Co. and Re. 1 per bus per day to the Sri Lanka Bus Co. He did not tell in details whether 10% out of gross profit or net profit. He said " 10% of the profits " and out of the 90% after deducting for the cost of repairs the balance to be divided among the 9 partners.

The defendant was also present when he said this. The defendant was aware of this proposal. He himself acquiesced and agreed to this proposal after deliberation. All the other 8 partners also agreed to this. It was also suggested that a manager should be appointed to represent the 9 partners and we were asked to appoint a manager. Then we selected the defendant as our manager to represent our interests. We decided this before we left that meeting. The 8 partners who were there agreed to elect the defendant as manager.

30 B. A. John Singho did not attend that meeting and the defendant represented B. A. John Singho at that meeting. About 2 weeks after this meeting, I received the letter P. 5 from the defendant.

(P. 5 read).

I attended the meeting held on 28.3.43. The meeting at which Dr. A. P. de Soysa addressed was held on 12.3.43. After the appointment of defendant as manager he paid my share of the profits from month to month for about 8 months.

(Shown letter P. 6 sent by the defendant).

By Court :

40 Q. Was the meeting of the 28th of March held or not ?

A. The meeting fixed for the 28th of March was not held.

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--Continued

I received the letter P. 6 from the defendant, which is dated 5.4.43 by which he apologised for not holding the meeting on the 28th. A meeting was subsequently held.

According to P. 6 the next meeting was to be held but I cannot remember the date. Another meeting was held in April. I cannot say whether it was on the 8th or 12th. I was present at that meeting. At that meeting all the 9 partners of the K.A. Bus Co. were present. At that meeting we ratified once again the terms on which the "G" branch was to be opened and the terms on which the defendant was to be employed as manager. The defendant assented to all these 10 terms. The defendant acquiesced to all the proposals and decisions arrived at that meeting.

Q. What were the terms of remuneration to be paid to the defendant, what profits you were to get and what profits to be divided ?

A. It was decided to give to defendant Rs. 100 per month as salary and Rs. 75 to the clerk Mr. Perera.

That clerk Perera is now dead. Out of the 90% gross taking for the month 1/3rd was to be kept as a reserve.

Q. The expenses to be paid how ?

A. After deducting all the expenses for oil, etc., 1/3rd of the 20 balance was to be kept as a reserve and the other 2/3rd to be divided among the 9 partners according to the value of shares allotted to them based on the value of buses surrendered to the company.

Q. Of that reserve of 1/3rd what was to be done with it at the end of the year if there was anything left?

A. We decided on that date that out of the 1/3rd we to buy a land for the garage.

Q. If any part of it was left unexpended how to spend it at the end of the year ?

A. Any unexpended part of the reserve was to be utilised for 30 any other business by the 9 partners and the profit of the business to be divided equally.

Q. The 2/3rd was to be paid monthly ?

A. Yes.

Accordingly the defendant paid me my shares of the profits for 8 months. The meetings were held for the distribution of profits. I gave receipts to the defendant for the share of the money I got. Those receipts are with the defendant.

Q. What was the form of the receipt ?

A. It was a joint receipt in a tabular form giving the numbers 40 of the buses, value of shares amounts and names of partners and the amounts paid.

Q. Can you recall the amounts you were paid in various months ?

A. I have been paid Rs. 350, 275, 145, 200·20.

These were the amounts paid to me as my monthly shares. In July, 1943, I received this letter P. 7 dated 12.7.43 signed by the defendant.

(P. 7 read).

This refers to the monthly distribution of profits of " G " branch under the existing arrangements. I also received P. 8 dated 14.8.43 sent by the defendant with a rubber-stamp heading.

10 (P. 8 read).

Q. Have you been able to trace the other letters which you received during those 8 months ?

A. Some of the letters written during those 8 months have been misplaced and not available.

But full meetings were held for the distribution of profits and on each occasion accounts were looked into and on each occasion receipts were given after receiving moneys to the defendant by all the partners of " G " branch. After 9 months the defendant said that his marriage was coming and that he had no time to look into accounts and asked us to accept in a lump sum payment of 50/- 75/- pending the looking into accounts. He said this after the 8th month. After the marriage he said that he was buying a petrol shed and that we would also get a profit of 5 cents on a gallon if he purchased one. After that the clerk fell ill and that was also one of the reasons for postponing the distribution of profits.

At the time I believed what he said. The total amount received by me after the 8 months without looking into accounts was Rs. 750 and for each of the constituent amount a receipt was given to the defendant by me as well as by the other partners.

30 The other partners and I wrote to defendant to summon a meeting on account of the long delay in convening a meeting. I have noticed the defendant to produce that letter. I produce copy of that letter dated 13.6.44 (P. 9). (P. 9 read).

The letter P. 9 was sent by 4 of the partners including myself. In reply to this letter of 13.6.44 I received the letter P. 10 in which the defendant asked me to apply to the Sri Lanka Bus Co. to convene a meeting. When I received this letter I was not satisfied and after that we wrote to the Sri Lanka Bus Co. After I wrote to Sri Lanka Bus Co. Mr. Donald Perera wrote to me to come to the office at Colombo. I went there and met Mr. Donald Perera and Mr. M. Jayasena. I spoke to them. We told them about the trouble that we were having with the " G " branch. After that we all (partners) met together and discussed matters.

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—Continued

Q. How many of you were being paid by the defendant out of the shares ?

A. We found out that 3 of the partners were being paid in full by the defendant.

John Singho, Romiel Dias, Publis, Ram Menika and I were not paid. Three of them were being paid. 9th man is the defendant.

All these five people have filed action against the defendant for the recovery of their shares. One of three who is being paid is a woman by the name of Nachia. She is a Muslim woman married to a Sinhalese man. I remember that she was present in Court while I was giving evidence on the last date. She was ordered to go out of Court by the Judge. She is a witness for the defendant in this case. She has not come to Court today. Her husband was present in Court today.

In this case I have asked for accounting in respect of my shares from November, 1943. In default of that accounting I ask for a sum of Rs. 22,088.56 as being the principal amount of profits I would have derived on the basis of profits which I have already been paid.

Q. How did you arrive at this figure ?

A. The present income of the buses is much more than what I received before.

I have calculated at the rate of Rs. 750 per month. Mr. Jayasena is a manager of one branch of the Sri Lanka Bus Co. In that branch there are only two partners—one from Kegalle and the other from Kandy. Mr. Jayasena had 40 buses those days. Now he has got very much more.

Mr. B. J. Fernando is a manager of one branch. There are no shareholders in that Branch. He is the only shareholder.

I know Little Service Co. That is also a branch of the Sri Lanka Bus Co. There is only one shareholder in that branch. 30

My share certificate was produced in a case in the Colombo District Court. I produce certified copy of it (P. 11).

(Sgd.) W. S. SPENCER,

A.D.J.

27.5.48.

Examination-in-chief closed.

At this stage Mr. Wijeratna says that this case instead of being continued tomorrow, might be put off for a further date for 2 consecutive days to finish the cross-examination of this witness.

Mr. CHITTY consents to this. 40

Trial postponed for 25th and 26th of August, 1948.

(Sgd.) W. S. SPENCER,

A.D.J.

17.5.48.

Trial Continued

25th August, 1948.

Case No. 3705. D.C. Kurunegala.

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Plaintiff's
Evidence.—
*Continued.**Present* : Plaintiff and defendant.*Appearances* : Mr. Adv. E. G. WICKREMANAYAKA instructed by Mr. IHALAGAMA for plaintiff.

Mr. Adv. THIAGALINGAM with Mr. Adv. JAYAWARDANA instructed by Messrs. PERERA & PERERA for defendant.

H. G. MARTIN DIAS, affirmed, 44 years, cultivator, Giriulla (re-called).

10 *Cross-examined by Mr. THIAGALINGAM* :

I owned omnibus No. X 4361, which was registered in my name. My bus was a 1930 model Willy's Knight. I cannot say that during the time the war commenced that the Agency for Willy's Knight vehicles was determined. I bought this bus No. X 4361 second-hand. I was driving this vehicle myself. I drove my bus, and from its income I maintained myself. I think that this bus was bought by me 2 years prior to 1942. I bought this bus from Peduru Mudalali of Damplessa without the route right. This bus X 4361 was in my name in the books of the Registrar of Motor Cars in the years 1940, 20 1941 and 1942.

H. G. Martin
Dias
Cross-
examination.

A few of us formed ourselves into a company known as the K.A. Bus Co., including the defendant himself. Even after the K.A.B. Co. was formed my bus X 4361 still remained registered in my name. I was the registered owner of that bus. Although I was the legal owner of that bus, the benefits and income collectively went to the partnership. Whatever the benefits that derived from this bus had accrued to other partners of this company. There was a partnership agreement when we formed the K.A.B. Co. I have no copy of that agreement, and it is with the defendant. I have not
30 got one. We registered the partnership in the name of nine members, and there are minutes to that effect. I did not sign any partnership agreement. I have signed in some minutes books only. I did not sign along with the other 8 partners any partnership agreement. I was not asked to give my bus to the partnership. I did not agree to transfer the ownership of my vehicle to the K.A.B. Co. at any time, even if the partners desired so. Myself and the other partners signed the minute book and appointed the defendant as the managing partner of the K.A.B. Co. At that time I did not agree to transfer the ownership of my vehicle to the partnership whenever the
40 defendant requested me to do so. I was keen that my vehicle should right through remain my property.

While the partnership was running I did not at any time transfer my vehicle to the partnership ; that is the K.A.B. Co. At no time this bus was registered under the name of the partnership. In the year

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Continued

1941 my bus X 4361 was plying between Kurunegala and Pattalagedera. There were no other buses running on this route during that time. There were other buses running from Warakapola to Kurunegala. In 1941 I did not pay any income tax, but I paid income tax in 1942. Before the partnership of the K.A. Bus Co. was formed, I did not keep accounts over the running of my bus. Before the partnership was formed I did not pay any income tax. I have paid income tax on the amounts I have received as dividends from the Sri Lanka Omnibus Co. As a partner of the K.A.B. Co. I paid income tax.

10

I continued to drive my bus X 4361 during the time the K.A.B. Co. was formed, and I was paid a salary by the partnership for driving my own vehicle. Once a month I was paid the profits of the partnership. I had to pay a very small amount as income tax, as the income I got was very small. The partnership of the K.A.B. Co. was formed as there was a rumour to the effect that the Government was going to control bus traffic. Mr. Nelson himself came to Kurunegala and summoned a meeting of the bus owners and suggested the idea to form ourselves into bus companies.

I have signed in the books of the partnership for its formation. 20 I never signed any agreement for the partnership. M.J. Bus Co. buses were plying between Colombo and Kurunegala in 1942. I cannot say if the majority of the buses on Colombo-Kurunegala road belongs to the M.J. Bus Co. The buses belong to Mr. M.J. I cannot say whether those buses were belonging to Mr. M.J. or to anyone else. I know Mr. M.J. He is in Court today. I have served summons on him as a witness for me. I am not aware of his being known as Mudaliyar Madanayaka now.

There were buses under the name of B.J. running on the Colombo-Kandy road in 1942. I did not know who the owner of those buses 30 were. There were some other buses running under the name as Little Service on the Colombo-Kandy route. I do not know to whom those buses belong.

Q. Those were the three important groups of buses that run on the Colombo-Kandy road?

A. There were other buses also.

As far as names were concerned those three names were in the majority. I cannot say the distance from Colombo to Kandy. They say that it is 72 to 75 miles. They say that it is about 40 miles from Colombo to Ambepussa. I know of the Motor Omnibus Ordinance. 40 We wanted to get an exclusive right for the use of the route, and we formed the K.A.B. Co. so that we may have the exclusive use of that route that we used before.

At the end of 1942 I was told by this defendant that Messrs. M. J. Jayasena and B. J. Fernando with some others had formed themselves

into a company known as Sri Lanka Omnibus Co., Ltd. What the defendant told was true. When the Sri Lanka Bus Co. was formed in 1942, the partnership of the K.A.B. Co. had nothing to do with it. We made applications against the Sri Lanka Bus Co., so that we should have the exclusive use of the route, which we had been using. In 1942 I was not a shareholder of the Sri Lanka Bus Co. My bus No. X 4361 was not on the Colombo-Kandy route in 1942. Other buses of the K.A.B. Co. were plying on the Colombo-Kurunegala road, but, not to Kandy. I mean the route from Colombo to
 10 Ambepussa, and then turn off through Alawwa to Kurunegala. There was a bus running from Kurunegala to Colombo, which belonged to Malawana Mudalali of Pothuhera.

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 Evidence.
 H. G. Martin
 Dias
 Cross-
 examination.-
 Continued

I cannot say whether the Sri Lanka Bus Co. asked for the exclusive route from Colombo to Kandy. In 1942 M.J. and B.J. buses used to ply from Colombo to Ambepussa *via* Alawwa to Kurunegala. The number of buses belonging to M.J. and B.J. together formed the major part of the buses plying between Kurunegala and Colombo. It was so on the Colombo-Kandy road as well.

(Sgd.) W. S. SPENCER,

20

A. D. J.

28.8.1948.

After Lunch Interval.

Witness re-called. Affirmed.

Cross-Examination.

I was told by K. M. Perera, the defendant that the Sri Lanka Bus Co. had applied to obtain in an exclusive licence to run their buses on the Colombo-Kandy Road. After 3 months I came to know that, that was true. Similarly the defendant told me that the Sri Lanka Bus Co. had applied for an exclusive right for the use
 30 of Colombo-Kurunegala route. I came to know later that it was true. Before I became a shareholder of the Sri Lanka Bus Co., the Sri Lanka Bus Co. had the exclusive use of those two routes, Colombo to Kandy, and from Colombo *via* Alawwa to Kurunegala. From 1.1.43 they were running exclusively on these two routes.

In the 1st week of January, 1943, I was running my bus No. X 4361 from Pattalagedera to Kurunegala *via* Alawwa and Giriulla. Even in January, 1943, my bus X 4361 was still registered in my name. I did not know that anyone else except the Sri Lanka Bus Co. could have the exclusive use of this route from Kurunegala to
 40 Pattalagedera *via* Alawwa and Giriulla. I came to know of it on 12.3.43. I went for a meeting of the Sri Lanka Bus Co. on the 12th March, 1943, and at that time I came to know and learnt from them that I could not get exclusive rights to run on this route. Now I

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examination.—
Continued

know that the Licensing Authority could not have given the route Kurunegala to Pattalagedera to anyone else other than the Sri Lanka Bus Co.

On the 15th January, 1943, the defendant told me that unless we join the Sri Lanka Bus Co., we could not run our buses on these two routes. In December, 1942, the defendant did not tell me that we could not ply our buses on the Kurunegala Pattalagedera route, after the inauguration of the Sri Lanka Bus Co. and the granting of the route licence to the Sri Lanka Bus Co. either on the Colombo-Kandy or Colombo-Kurunegala routes. I deny that the defendant 10 made me understand that we could not ply our buses on the route from Kurunegala to Pattalagedera, after the formation of the Sri Lanka Bus Co. and after the granting of the route licence to them for the Colombo-Kandy and Colombo-Kurunegala routes. I did not know that I could not use the Kurunegala-Pattalagedera route as the Sri Lanka Bus Co. had got their exclusive right to use the Colombo-Kandy and Colombo-Kurunegala, till the defendant told me so. The defendant told me that the Petrol Controller had informed him that he would not issue petrol for our buses after the 15th January, 1943, to run the Kurunegala-Pattalagedera route. If I was not given 20 petrol to run my bus, I knew that it was a loss to me. The defendant told me that if we do not join the Sri Lanka Bus Co. that we would not get our petrol to run our buses. It is true. I had a brother called H. G. Romiel Dias living at that time. He is since dead. He was not driving his bus. He had two buses. He was not a bus driver at that time. He was a bus driver before. He had two paid drivers to drive his buses. He had bought some property at Giriulla. He had two drivers to drive his buses. He had appointed another brother of mine to act as ticket inspector of those buses.

In 1941 the profits in running the bus was negligible. It was 30 not a paying route in 1941. My salary was paid as the driver of my bus from the income derived from the bus. Romiel Dias also paid my other brother and he took the surplus, if any, which was negligible. The buses that belonged to my other brother Romiel Dias were numbered Z 4295, a 1935 model Dodge, and X 9764, a 1932 model Chevrolet. The conditions as regards profits were concerned in 1941, I had a better income in 1942, because, I was working up that route. For the year 1941, after deducting my salary and expenses, the nett income may have been about Rs. 750. At the end of 1941 I had to incur expenses in reconditioning the bus in order to obtain a certificate of 40 roadworthiness, and I had to apply to the Local Authorities (Urban Council) for permission to use the road, and having got that permission I had to get permission from the Licencing Authority to ply the vehicle for 1942. I got to pay for the route licence. All that meant expenditure. We had to pay at the rate of Rs. 10 per passenger for 19 passengers, and as such, I had to pay Rs. 190. Bus licence fee

to the Urban Council was Rs. 10. In all I had to spend about Rs. 500, inclusive of the licence fee to renew the licence for the next year (1942). About Rs. 500 out of the nett profit of Rs. 750 in 1941 would have been spent on reconditioning the bus and to put it again on the road for 1942, if I work the bus myself. I myself worked the bus in January, 1942. If I had a paid driver in 1941, I could not have made even the profit of Rs. 750 that year. I was left with a nett profit of Rs. 750 after taking Rs. 1.50 per day towards my salary.

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Evidence.
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examination.
Continued

By Court :

10 Q. Out of your nett income have you spent on any other repairs during the year 1941?

A. Out of this Rs. 750 I would have spent small sums on the maintenance of the tyres and tubes.

Q. Did you have any major repairs to the bus during the course of 1941?

A. I cannot remember the major repairs I did to the bus in 1941, or of any major expenditure incurred in 1941.

My brother Romiel Dias was also a partner of the K.A.B. Co. Ran Menika was also another partner, and she owned an old Bedford bus 1933 model No. X 6742. Ran Menika's husband was not the driver of that vehicle. It was driven by one Junda. At no time Ran Menika's husband was a driver, and I do not know whether he had a driving licence. In 1941, Junda was driving Ran Menika's bus. I cannot say whether he was not a relative of Ran Menika. I know a man called Yehonis Perera. He was a relative of Ran Menika. He was ticket collector of Ran Menika's bus. I have not seen Ran Menika's son driving buses, and he was not working on Ran Menika's bus. Another member of the partnership was Nachchiya, owner of bus No. W 500, a 1925 model Stewart bus. Her husband was Beling Fernando, and he was driving that bus. B. A. John Singho was another partner, and he owned a bus No. Q 1042, a 1932 model Stewart bus. John Singho's bus was driven by a paid driver, and I do not know whether the man who drove that bus was a relative of John Singho. Pabilis Appuhamy was another partner, and he owned bus No. X 1340, a 1929 Dodge driven by himself. M. Nicholas Appuhamy owned bus No. X 925, a 1929 model Dodge; and that was driven by his brother, and he himself was the conductor. P. Mendis Appuhamy owned bus No. Q 738, a 1925 model Stewart driven by himself. The other partner of the K.A.B. Co. was the defendant. He owned two buses Nos. X 8434 and X 3797. Both these buses are still running under the Sri Lanka Bus Co.

40 The defendant was the only trousered gentleman in partnership of the K.A.B. Co. The defendant's father had some lands. A part was sold for debt, and a part was retrieved by the defendant after he

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examination.—
Continued

became the manager of the K.A.B. Co. At that time of 1942 when we made the defendant the manager of the K.A.B. Co. the defendant was not a bus driver. As he was an educated man we made him manager of our partnership.

At the end of 1942, I did not realise that if we do not join the Sri Lanka Bus Co. that we would not get petrol or even I would not get my salary of Rs. 1.50 per day. The defendant did not tell me that we could claim compensation from the Sri Lanka Bus Co. under Motor Omnibus Ordinance, as our buses were old. I did not think that my bus was old at the end of 1942. In June, 1942, my bus 10 No. X 4361 was valued at Rs. 1,500 for the formation of the partnership of the K.A.B. Co. I am not exact on this figure, it is about Rs. 1,200. At the end of 1942 the bus was repaired by the K.A.B. Co. Repairs became necessary after my bus was included among the buses in the K.A.B. Co. I was the driver of my bus even at that time. Four months after it was given to the company, some repairs were needed. At the end of 1942 about the 15th January, 1943, my bus needed some repairs to the rims of the wheel.

I did not know that Mr. Nelson had the idea to scrap all old buses and to put in the new Nelson type buses on the roads. I cannot 20 say whether I counted the route value to be of a higher value than the value of my bus.

The repairs that were needed to the bus in January, 1943, were for the brake drum. The rear wheel of the brake drum was cracked. At the end of 1942, I was not aware of what amount the K.A.B. Co. had spent on my bus No. X 4361. I had a nett profit after the formation of the K. A. Bus Co. and I had hardly any income before the partnership was formed. The K.A.B. partnership gave me more income for 6 months in 1942 than what I had got from my bus earlier.

The defendant did not tell me that he wanted to break off the 30 partnership of the K.A.B. Co. and claim compensation from the Sri Lanka Bus Co. under the Motor Omnibus Ordinance. In December, 1942, the defendant did not tell me that he wanted to break off the partnership and that he is going to claim compensation from the Sri Lanka Bus Co. I told the defendant to try and conserve our interests in this matter.

On the 31st December, 1942, a letter was sent summoning a special meeting of the partners of the K.A.B. Co. for the 2nd January, 1943. That meeting was called by the defendant.

Q. You knew that special meeting was convened for the 2nd 40 January, 1943, to determine the future policy of the K.A.B. Co.?

A. The defendant summoned us and told us that we must work to protect our interests, and it was summoned for this purpose.

I knew that it was an important meeting. I attended that meeting. Before I went to this meeting I did not think that we

have joined the Sri Lanka Bus Co. to save ourselves. I gave no thought to this matter, as everything was left in the hands of the defendant. Before I went to the meeting I knew that from the 15th January, 1943, that I was not going to get petrol for my bus. I was told so by the defendant. At this meeting the defendant did not tell us that he was going to dissolve the partnership. The K.A.B. partnership was dissolved on the 15th January, 1943. There was a talk of dissolving the partnership of the K.A.B. Co. at the meeting held on the 2nd January, 1943, but I cannot remember what actually was
 10 discussed at the meeting. I cannot remember what exactly was stated, but I remember that the defendant saying at the meeting that on the 13th January, 1943, the Sri Lanka Bus Co. would come to assess the value of our buses.

No. 6.
 Plaintiff's
 Evidence.
 H. G. Martin
 Dias
 Cross-
 examination.—
Continued

Q. Can you remember whether the defendant or anybody else saying that they would not join the Sri Lanka Bus Co. or claim compensation from the Sri Lanka Bus Co.?

A. I cannot remember.

I cannot say how long this meeting was held. I cannot remember the length of time the meeting was held. It may be that the meeting
 20 was started at 10 a.m. and ended at 1 p.m.

(Shown P. 2 to witness).

I do not know Beling Fernando's handwriting, and I cannot say if P. 2 is in his handwriting. I cannot say who wrote P. 2. I cannot say whether Beling Fernando or his wife Nachchiya attended the meeting. I remember Beling Fernando spoke at the meeting. I cannot remember whether Nachchiya spoke at the meeting. Beling Fernando came to the meeting later. Now I remember, and he spoke at the meeting. Nachchiya is not a talkative woman. I do not remember, anyone who attended that meeting saying in my presence
 30 that let us claim compensation for our vehicles. We were very ready to take up any suggestion that was thrown to us by the defendant.

I was not charged in the Supreme Court of Kandy for driving under the influence of drinks. I was not charged in any Supreme Court. I have not been to gaol for 2 years or for any period of time. I have got my driving license. I have not brought it today. I have been fined Rs. 40 for obstruction, and for a case in connection with obstruction I was fined again. I was not sent to gaol at any time. I have been fined for fast driving, obstruction, etc., only.

(Sgd.) W. SPENCER,

40

A.D.J.

25th August, 1948.

Further hearing for tomorrow, the 26th August, 1948.

(Intd.) S. S.

A.D.J.

25.8.1948.

No. 6.
Plaintiff's
Evidence.
H. G. Martin
Dias
Cross-
examination.—
Continued

Trial continued.

26th August, 1948. Case No. 3705 D.C. Kurunegala.

Present : Plaintiff and defendant.

Appearances : Mr. Advocate E. G. WICKRAMANAYAKA with Mr. Adv. G. E. CHITTY instructed by Mr. IHALAGAMA for plaintiff.

Mr. Adv. THIAGALINGAM with Mr. Adv. JAYAWARDENA instructed by Messrs. PERERA & PERERA for defendant.

H. G. MARTIN DIAS (Re-called) affirmed.

Cross-Examination—continued.

At the meeting of the K.A.B. Co. held on 2.1.43 the defendant 10 proposed a resolution. I now know that it is necessary to second a resolution at a meeting. Eight of us accepted the defendant's resolution. We all accepted that resolution. We all also spoke on that meeting and told that we will accept the resolution of the defendant. Four resolutions were arrived at that meeting. Apart from the 4 resolutions arrived at that meeting nothing else happened at the meeting. We accepted all the four proposals. That is : application has been made for route licenses from Kurunegala to Muttaragama, from Kurunegala to Alawwa, from Kurunegala to Pattalagedera and from Kurunegala to Maharambe, and also from Kurunegala to Katu- 20 pitiya and from Kurunegala to Polgahawela, and in the same way for the routes that we have been using. We signed and gave the applications to the defendant to be forwarded to the Licensing Authority before the 2nd January, 1943. The defendant told us that he had already made application to the Licensing Authority to get our routes.

Before the 2nd January I did not join the Sri Lanka Bus Co. as a shareholder. Prior to our becoming members of the Sri Lanka Bus Co., we had made application to the Licensing Authority on behalf of the K.A.B. Co., for our route licence. One of the proposals was that we accepted the statement of the defendant that he had sent the 30 application for the routes mentioned above before this meeting. This is one of the resolutions passed at the meeting held on 2.1.43. The other resolution was that no use of litigating with the Sri Lanka Bus Co., as we are to get 90% of the profits earned by our buses and 10% to be given to the Sri Lanka Bus Co. We accepted that statement of the defendant. The defendant said that there should be no litigation with the Sri Lanka Bus Co. We accepted that statement of the defendant. The defendant said that there should be no litigation with the Sri Lanka Bus Co., and we accepted that. I understood that litigation with the Sri Lanka Bus Co. was necessary, if we do 40 not join them. If we were not allowed to use our routes that we had applied for we had the intention of suing the Sri Lanka Bus Co., not for compensation against them, but to obtain our routes we had applied for. Even now I do not believe that any litigation with the Sri Lanka Bus Co. would be against us.

Q. Did you realise on 12.3.43 that the exclusive rights that you have applied for in regard to your old routes had to be refused by the Commissioner of Motor Transport ?

A. Mr. M.J. gave us buses with 90% of their earnings.

Q. Did you come to know or learn at least on the 12.3.43 that you could not get the exclusive rights you had asked for in respect of the routes you had run prior to December, 1942 ?

A. No. I did not.

Q. Do you now know that the Licensing Authority could not have given the route ; Kurunegala to Pattalagedera to anyone else except the Sri Lanka Bus Co. ?

A. After 12.3.43 I knew that the Licensing Authority could not give us the route from Kurunegala to Pattalagedera and that it had been given to the Sri Lanka Bus Co.

I came to know that after the 12th March, 1943. At the time of the division of the profits I came to know about this. One month after 12.3.43 I received a letter signed by the defendant asking me to come to look into the profits and losses of the Company. I came to know about the fact that the route has been given to the Sri Lanka Bus Co. in the year 1943. I cannot remember the month. I think it was prior to the month of March. I cannot say whether it was before the New Year or after the New Year of 1943.

Q. Did the defendant not make it clear at the meeting on 2.1.43 that you would not get the routes you had applied for, as the Sri Lanka Bus Co. had got those routes already ?

A. The defendant said so. He said that we must go for litigation, and he further said in order to conserve our rights we must go to litigation.

Q. Did the defendant tell you that he has the only right to claim compensation from the Sri Lanka Bus Co. ?

A. The defendant did not tell us at this meeting that he has the right to claim compensation from the Sri Lanka Bus Co.

Another resolution arrived at that meeting was that the defendant would write to the Sri Lanka Bus Co. asking them to come to assess the value of our buses. That was the 3rd resolution, and we all accepted it. In accepting this statement we agreed on the fact, that we were to become shareholders of the Sri Lanka Co. At that meeting held on 2.1.43 we agreed to ask the defendant to write to the Sri Lanka Bus Co.

Q. On 2.1.43 in connection with the 3rd resolution did you agree or resolve or direct or accept that the defendant might write to the Sri Lanka Bus Co. offering to become shareholders of that company ?

A. It was decided to ask them to assess the value of the buses. (Answer to the question) No.

No. 6.
Plaintiff's
Evidence.
H. G. Martin
Dias
Cross-
examination.--
Continued

No. 6.
Plaintiff's
Evidence.
H. G. Martin
Dias
Cross-
examination.—
Continued

We wanted to find out first what assessment they will place on our buses before we joined the Sri Lanka Bus Co. as shareholders.

Q. Did you know that it would be advisable to join the Sri Lanka Bus Co. ?

A. No. I did not.

Q. The 3rd resolution was to direct the defendant to write to the Sri Lanka Bus Co. asking them to come to assess the value of the buses ?

A. Yes.

The 4th resolution that we agreed upon was that we must allow 10 our buses to be assessed on 13.1.43.

Q. Were those the only resolutions passed at that meeting ?

A. No. There was one more resolution.

By the 5th resolution we accepted the position that if the registration of our buses had not been handed over to the Sri Lanka Bus Co. by the 15th January, 1943, that we would not be able to obtain petrol for our buses.

These were the only 5 resolutions we arrived at, and then the meeting adjourned. From the 2nd to 15th January, 1943, we ran our buses on our former routes. Till 15.1.43 I did not become a 20 member of the Sri Lanka Bus Co., but we ran our own buses, and we did not become shareholders of the Sri Lanka Bus Co.

On 13.1.43 one Donald Perera came to assess the value of my bus No. X 4361. He did not assess the value of my bus at Rs. 1,750 nor the route value of my bus was valued at Rs. 500. He did not tell me of it.

Q. Do you now know that your route value was assessed at any figure ?

A. Now I know that the route value of my bus was assessed at Rs. 500. 30

Q. Do you now know that Donald Perera assessed your bus at the old value ?

A. Yes. Now I know that my bus was assessed at Rs. 1,750. On the evening of the 13th January, 1943, the defendant told me of the assessed value of both my bus and the route.

On the evening of the 13th when the defendant told me about the assessed value of my bus, there were other people in the office at that time. But I cannot say whether those people heard the defendant telling me about the assessed value of my bus. I did not tell the defendant that evening that it would be a bad thing to litigate 40 against the Sri Lanka Bus Co. and claim compensation. On 13.1.43 evening I had made up my mind to become a shareholder of the Sri Lanka Bus Co. after the defendant had given me the valuation of

both my bus No. X 4361 and the route valuation. I did not speak to any of the other partners of the K.A.B. Co. on 13.1.43. I had the intention to join the Sri Lanka Bus Co. from 2.1.43. On the 2nd itself I had decided to join as a shareholder of the Sri Lanka Bus Co., but I made it final on the 13th January, 1943.

No. 6.
Plaintiff's
Evidence.
H. G. Martin
Dias,
Cross-
examination.—
Continued

Although on 13.1.43 my bus had been assessed by Donald Perera, yet, the bus was in my custody. I did not tell Donald Perera on the 13th January, 1943, that I would become a shareholder of the Sri Lanka Bus Co. After 15.1.43 I continued to run my bus as before, and I was driving the bus on the same route on behalf of the Sri Lanka Bus Co. After the 15th I was paying the daily earnings to the defendant. We were asked to hand over the daily earnings of our buses to the defendant. It was the defendant who asked us to pay him the daily earnings of the buses on behalf of the Sri Lanka Bus Co. The conductors of the buses did so. I was paid my daily wage by the defendant. On 2.1.43 the defendant told us that on or after the 15th the partnership of the K.A.B. Co. would stand dissolved. All of us accepted it. I knew that the partnership of the K.A.B. Co. was dissolved on the 15th January, 1943. The last meeting of the partners of the K.A.B. Co. was held on 2.1.43 because on the 15th we have become members of the Sri Lanka Bus Co.

Q. You asked or applied for and became a shareholder of the Sri Lanka Bus Co. on or after the 15.1.43. ?

A. Yes. I became a shareholder of the Sri Lanka Bus Co. with effect from 15.1.43.

I do not know what the Authorised Capital of the Sri Lanka Bus Co. was. I do not know if the capital of that company is 10 lakhs of rupees.

Q. Do you know that Mr. M.J. and Mr. B.J. own 75% of the shares of the Sri Lanka Bus Co. ?

A. At the meeting I attended I heard Mr. M.J. said that he had the greater voting strength, and I did not know what it meant.

Q. On 22.1.43 you were a shareholder of the Sri Lanka Bus Co.?

A. Yes. I was a shareholder of the company and my allotment was 25 ordinary shares.

I do not know what the total number of shares in the company was. I had not intimation to attend a meeting of the shareholders of the Sri Lanka Bus Co. held on 22.1.43. On 12.3.43 I received a letter summoning me for a meeting of the shareholders of the Sri Lanka Bus Co.

I know what a notice convening a meeting of the Sri Lanka Bus Co. is. I do not know the number of shareholders of the Sri Lanka Bus Co. At any time I attended a meeting I did not see 15 members present. There must have been at least 15 shareholders. I did

No. 6.
Plaintiff's
Evidence.
H. G. Martin
Dias
Cross-
examination.—
Continued

not know whether the shareholders of the Sri Lanka Bus Co. assembled once a year. I have heard of the annual general meeting, and that it is held once a year. To my knowledge no meeting of all the shareholders of the Sri Lanka Bus Co. was called in the year 1943. Once a year I go when I am invited. In 1944, I received a notice convening a general meeting of the shareholders.

After January, 1943, I did not get anything more than my daily wage for driving the bus from the Sri Lanka Bus Co. So I was paid in February, 1943. I was paid only my daily wage for driving my bus. 10

I told my proctor to call for the minutes of the general meeting of the Sri Lanka Bus Co. held in 1943 and 1944. I do not know whether my proctor had received a copy of the minutes. I asked my proctor, and he said that he had received a copy of the minutes. My proctor told me the contents of the meeting of 1943 and 1944, but I do not remember them now.

D. I certified minutes of a special general meeting held on 22.1.43. Mr. Adv. Thiagalingam undertook to prove the document and question witness on its contents.

I did not know that on 22.1.43 Mr. Jayasena was appointed 20 managing director of the 'A' branch of the company. I came to know about it on 12.3.43 that Mr. Jayasena (M.J.) was elected managing director of branch 'A,' but I did not know that he was elected as managing director of branch 'A' at the meeting held on 22.1.43. I also came to know on 12.3.43 that B. J. Fernando was elected managing director of branch 'B,' but I did not know that W. K. Fernando and P. D. M. Alwis were appointed managing directors of the branch 'C', but I knew that their buses were handed over to them.

After 12.3.43 the defendant told me that L. R. Perera has been 30 appointed managing director of branch 'D.'

Q. Did the defendant not say on 12.3.43 that W. K. Fernando and P. D. M. Alwis have been appointed managing directors of branch 'C'?

A. The defendant told me the names of the different branches mentioning the names of the different managers.

At a meeting of the members of the 'C' branch held one month after 12.3.43 I came to know of the various managers of the branches. I do not even now know the terms and conditions on which the various branch managers were appointed by the Sri Lanka Bus Co. according 40 to its resolution of the general meeting held on 22.1.43.

Q. Did the defendant at the end of February, 1943, tell you that he had been invited by the directors of the Sri Lanka Bus Co. to take over the management of the 11 buses that at one time belonged to the partnership of the K.A.B. Co.?

A. No. The defendant did not tell me about it. Before 12.3.43 neither I nor the defendant spoke to the defendant taking charge of the 11 buses which belonged to the K.A.B. partnership at one time. On 12.3.43 I came to know that the K.A.B. partnership had been cancelled on 6.2.43 by the Registrar of Business Names. Under the partnership of the K.A.B. Co. the defendant was the managing director. Two-thirds of the profits were paid to me monthly by the defendant, and one-third was held back by the defendant to be distributed at the end of the year, or to be made available for the purchase of buses. I knew that the agreement of the K.A.B. Co. had been cancelled after 15.1.43. Prior to 12.3.43 I do not think I received a letter from the Sri Lanka Bus Co. asking me to come for a conference of the Sri Lanka Bus Co. I went to Colombo on 12.3.43. I went to Colombo in connection with the letter received by me from the Sri Lanka Bus Co. I cannot say whether a similar letter was sent to the defendant or received by the defendant. I know that a similar letter was sent to my brother Romiel Dias. I did not see the letter received by Ran Menika, but I met her at the meeting. I inferred that she must have received a similar letter from the Sri Lanka Bus Co. I saw the defendant also at that meeting, and I inferred that the defendant also must have received a similar letter. I showed my letter to the defendant. All of us travelled together. I showed my letter to the defendant on 6.3.43. The defendant told me that he had also received a similar letter on 6.3.43.

No. 6.
Plaintiff's
Evidence.
H. G. Martin
Dias
Cross-
examination.—
Continued

(Sgd.) W. S. SPENCER,

A.D.J.

26th August, 1948.

Further hearing for 4th and 5th November, 1948.

(Intd.) S. S.

A.D.J.

30

Trial Continued

4th November, 1948. Case No. 3,705, D. C. Kurunegala.

Plaintiff and defendant present.

Appearances as on last date.

Cross-Examination Continued

H. G. MARTIN DIAS, affirmed, recalled.

In 1931, I was driving my brother's bus bearing No. S 399 for sometime. In 1930 too I drove his bus. I know that bus very well.

40 Q. Do you know Esalin Nona ?

A. Which Esalin Nona—of what place ?

No. 6.
Plaintiff's
Evidence.
H. G. Martin
Dias
Cross-
examination.—
Continued

Q. The woman whom you killed ?

A. You mean the girl who was run over by my bus. I do not know her name well. I know that a 7-year-old child was run over by my bus and she died. I was questioned whether I went to gaol in Kandy for 2 years. I said no.

Q. Did you tell the Court in your evidence on 25.8.48 that you have never been to gaol ?

A. I was questioned whether I went to gaol for 2 years in Kandy. I said no.

I made the statement in my previous evidence that I had not 10 been to gaol for 2 years or for any period of time, because, I was shy to make that statement. Yes, I realise that I gave evidence on the previous occasion on oath. After evidence on the last date, I went home and considered the matter and decided to come out with the truth today, if I am asked about it. This is the perfect truth I am now telling. I went to gaol for 1 year for driving my bus in a rash and negligent manner, and killing a child of 7-year-old. I have been noticed to produce my driving license today.

I did not know that summons have been issued to the Supreme Court, Colombo, to produce the record of the case in which I was 20 charged. My Proctor told me about numbers of 2 cases, and he questioned me as to what those cases were. One was the Magistrate's Court case at Gampaha, and the other was the case in the Supreme Court, Colombo. The number of M.C. case Gampaha is 16,524, and the number of the Supreme Court case is 45. The M.C. Gampaha case was a non-summary proceedings case, which was later committed to the Supreme Court, Colombo. I did not know what the Counsel meant when he cross-examined me with the certified copies of these 2 cases in his hand. At the time I gave my previous evidence regarding my having been to gaol I knew that I had been speaking the untruth. 30 I know that my brother Romiel Dias died in 1944. In the District Court my mother filed Testamentary Case over the estate of my late brother. My mother asked for Letters of Administration, and I opposed to it. My mother entrusted all the papers to Mr. Ratnayake to file a case. Then I told that I was not willing to allow my mother to take Letters of Administration. After that my mother filed papers in Court. Then I filed papers of objections.

The defendant was present at the meeting held on 12.3.43. The defendant did not tell me that he was keen on looking after the Sri Lanka Bus Co. When I went to the meeting I came to know that 40 the Sri Lanka Bus Co. was going to open a branch called 'G' branch. After I reached the Sri Lanka Bus Co. office there I learnt that the Sri Lanka Bus Co. had decided to open a 'G' branch. The defendant did not mention to me about the Sri Lanka Bus Co. opening a new branch called 'G' branch at any time before this. Between 15.1.43

and 12.3.43 I did not receive any moneys other than my wages for driving the bus. I received moneys other than my salary after 12.3.43. I have not claimed any moneys as due to me between the periods 15.1.43 and 12.3.43. Up to this day the defendant has not paid me any money, which is due to me other than my salary, from 15.1.43 up to 12.3.43. But, the defendant has told me that those moneys are with the Sri Lanka Bus Co. On 12.3.43 the defendant told me that this money was with the Sri Lanka Bus Co. When we were giving over the buses to the defendant he told that he would give us 10 money monthly. Later the defendant said that he could not pay without orders from the Sri Lanka Bus Co. The defendant said that he was expecting a letter, and after 3 days a letter came. I accepted that when the defendant told me that he has no authority to pay us moneys without the orders from the Sri Lanka Bus Co. At that time, in spite of the defendant telling me that he had to wait the orders of the Sri Lanka Bus Co., I felt that it was the defendant who had to pay me that money. I was expecting to get my dues between 15.1.43 and 12.3.43 from the defendant. When I asked the moneys due to me from the defendant, he said, I am expecting a letter within 2 or 20 3 days' time and when the letter comes I shall let you know.

On 12.3.43 there was a meeting in Colombo. Before 12.3.43 the defendant did not tell me that he was unable to pay me my dues other than my wages as from 15.1.43 and 12.3.43. Before 12.3.43 I had asked the defendant about the moneys that are due to me other than my wages after 15.1.43.

Q. How many times did you ask the defendant about the moneys that are due to you other than your wages?

A. I asked the defendant only once before 12.3.43. I asked this question from the defendant sometime at the end of January, 1943. 30 The defendant even then did tell me that he could not pay me my dues other than my wages without instructions from the Sri Lanka Bus Co.

Q. What did the defendant tell you?

A. The defendant told that a letter will come from the Sri Lanka Bus Co. as to how this money is to be paid and then the money will be paid.

Q. Did you get such a letter?

A. I received a letter from the Sri Lanka Bus Co. asking me to come to the Colombo office on 12.3.43.

40 I did not receive any letter with regard to the payment of moneys due from 15.1.43 and how it was to be paid from the Sri Lanka Bus Co.

(At this stage Mr. Advocate Thiagalingam states that witness H. A. Quyn from the Supreme Court Registry is here as witness summoned by the defendant, but, as it is now not necessary to call

No. 6.
Plaintiff's
Evidence.
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Continued

No. 6.
Plaintiff's
Evidence.
H. G. Martin
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Cross-
examination.—
Continued

that witness he may be permitted to leave Court. Mr. Advocate Wickramanayaka has no objection. The Court grants permission to that witness to leave Court).

Cross-Examination Continued. I believed the defendant's statement that he was expecting a letter, and I did not at that time regard the defendant as having any desire or intention to break his agreement. During the month of February, 1943, also I spoke to the defendant about the moneys due to me other than wages from 15.1.43. I did speak to the defendant about the moneys due other than my salary also between 1st and 12th March, 1943. I asked this from the defend- 10
ant in January once. Whenever I go to the defendant's office after that, I used to ask the defendant whether there were any moneys, and the defendant used to simply smile at me. I also smiled in return and go away. One day when I questioned the defendant he told me that he was expecting a letter and then he would pay me the money.

(Sgd.) W. S. SPENCER.

Resumed after lunch interval.

Cross-Examination Continued

H. G. MARTIN DIAS, recalled, affirmed.

After 12.3.43, the defendant has paid me moneys due to me 20
other than wages from 15.1.43 to 12.3.43.

Q. How much did the defendant pay you for the period 15.1.43 to 12.3.43 ?

A. Not a single cent has been paid to me by the defendant.

The defendant paid me Rs. 100 odd as moneys due to me from 15.1.43 to 12.3.43.

On 15.1.43 the buses were handed over to the defendant. From that day onwards up to 12.3.43 the defendant did not pay us any moneys, other than my driving salary. On 12.3.43 there was a meeting of the Sri Lanka Bus Co. Mudaliyar Madanayaka also known as M. 30
Jayasena was there, and Dr. A. P. de Soysa was also there at the meeting. Both of them are in my list of witnesses. Mudaliyar Mudanayaka and Dr. Soysa are directors of the Sri Lanka Bus Co. There were other directors, besides these two; namely Mr. B. J. Fernando, Tarzan of Kadugannawa and the Bus Mudalali of Attanagalla were present at that meeting. On these Dr. A. P. de Zoysa is a witness for me. Mr. Jayasena is also in the list of my witnesses. The other three are not on the list of my witnesses. I did not speak to the defendant inside the room where the meeting was held. I went out of the room. The meeting was started and certain suggestions 40
were made and then I went outside the room where the meeting was held. Then I went out and the defendant also came outside the room. At that time I spoke to the defendant. The defendant and 7 of us, who were the members of the K.A.B. Co. came out and

talked together. We talked to the defendant. Then the defendant and all of us went back again into the room. The defendant did not tell the meeting that he was prepared to take over the management of the "G" branch of the Sri Lanka Bus Co. I did not hear the defendant telling the directors of the Sri Lanka Bus Co. that he was prepared to take up the management of the "G" branch. I do not know whether the defendant entered into an agreement with the directors of the Sri Lanka Bus Co. I do not know of any agreement that was entered into between the defendant and the directors of the Sri Lanka Bus Co.

No. 6.
Plaintiff's
Evidence.
H. G. Martin
Dias
Cross-
examination.
Continued

10 Q. Do you know whether the directors of the Sri Lanka Bus Co. appointed the defendant to be the manager of the "G" branch of the Sri Lanka Bus Co. at that meeting ?

A. At that meeting the directors of the Sri Lanka Bus Co. did not appoint the defendant as manager of the "G" branch, but, according to our wish ; we, partners of the K.A.B. Co., appointed the defendant the manager of the "G" branch. We proposed his name and the others all unanimously supported.

Q. The meeting was then over ?

20 A. Yes.

Q. Then you went back home ?

A. Yes.

Q. Did the directors go back home ?

A. When we came down stairs they were there. Then we went away.

Q. At the end of March, 1943, you had no payment made to you by the defendant.

A. No.

The defendant did not promise to pay me any money other than
30 my wages before the end of March, but he told me we will carry on as we had carried on before in the K.A.B. Co. This statement the defendant made to me was before we joined the Sri Lanka Bus Co. There was a meeting held on 2.1.43. I cannot remember what I stated at that meeting. At that meeting on 2.1.43 certain matters were talked over, but I cannot remember what they were. Before 12.3.43 all daily collections made by our buses were handed over to the defendant. From 15.1.43 I gave all our daily collections to the defendant. I do not know whether the defendant handed over these collections to the Sri Lanka Bus Co. after 15.1.43 up to 12.3.43, but
40 the defendant said that there was Rs. 3,000. I had not asked the defendant where the money was. Some asked the defendant where this money was in my presence. The defendant did not answer to that question, but, the defendant gave some other answer. The defendant said that he had to buy a typewriter for the "G" branch and to get ticket books printed, and also he has to buy tyres and

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also get Way Bills printed. The defendant stated these to us on 12.3.43 at the Head Office of the Sri Lanka Bus Co. in Colombo in the presence of the directors of the Sri Lanka Bus Co. I was under the impression that this sum of Rs. 3,000 referred to was with the defendant. The directors of the Sri Lanka Bus Co. who were present would have heard the question put by some of us to the defendant about where this Rs. 3,000 was. Mr. M. Jayasena, one of the directors, wanted this money to be deposited by the defendant in a bank. I do not know to whom M.J. directed these remarks when he asked that the moneys may be deposited in a bank. After the meeting on 10 12.3.43 I used to meet the defendant daily for 7 months, as I was driving my bus.

During the time of the K.A.B. partnership I was paid certain moneys monthly as my share. According to the value of the buses, I got less under the K.A.B. Co. partnership agreement. The distribution of profits according to the value of the buses was suspended for 1½ months. After 12.3.43 the original partnership of the K.A.B. Co., all of us met on the 8th of a month. I cannot give the name of the month. I have a letter which I have produced and which gives the name of the month. I am unable to give the name of the month 20 unless I look at that letter. From 12.3.43 I drove my own bus. After 12.3.43 I did not drive my bus, as it was broken down. Then I drove another bus of the "G" branch, but, I cannot remember which bus I drove. The bus that I drove belonged to Peduru Mudalali. I took Peduru Mudalali's lorry and converted it to a bus. I cannot remember whether my bus, which I was driving was on the road on 13.3.43. I cannot say whether my bus was on the road or not on the road after 12.3.43. I cannot say whether my bus was again put on the road at any time in the year 1943, 1944 or in 1945.

I was not dismissed from the service in May, 1944. My brother 30 fell ill and I went away, but I did not return for work up to this date. I cannot remember in which bus I worked in May, 1944, at the time I left the services. I cannot remember whether I worked on my own bus at that time. At the meeting held on the 8th of a month to which I referred to, the defendant did not tell us that we all should try and make the maximum collections and bring them daily to him. But, at a later time he mentioned something like that. At that meeting, at the closing stages, the defendant told us that we must make an effort to bring in as much money as we could collect daily. The defendant did not tell us that more money we 40 brought in the more we would be benefited. At the end of the meeting the defendant said the more money we brought in it is better for each one of us. After the meeting we went away. All the moneys that were collected from the buses daily were given to the defendant after that meeting.

Q. Did the defendant remit 10 per cent of the gross collections every fortnight to the Sri Lanka Bus Co.?

A. That was not so. The defendant said that he was sending the money—10% gross collections to the Sri Lanka Bus Co., but, we did not see him sending.

Q. Did you believe the defendant when the defendant said that he was remitting 10% to the Sri Lanka Bus Co.?

A. It is wholly true that the defendant had remitted 10% of the gross collections to the Sri Lanka Bus Co., and we believed it.

10 The defendant also paid the Sri Lanka Bus Co. Re. 1 for each bus per day. I did not know whether the defendant would have been sued by the Sri Lanka Bus Co., if he failed to remit the 10% of the daily collection or pay Re. 1 per bus daily.

Q. Whether the defendant paid 10% gross collections to the company or not it did not matter to you?

A. If he gave that money to the Sri Lanka Bus Co., we would have also got a share as shareholders of the Sri Lanka Bus Co.

The shareholders of the Sri Lanka Bus Co. are the original partners of the K.A.B. Co., and several others including M. Jayasena
20 and B. J. Fernando. Besides the 10% collection paid by the defendant to the Sri Lanka Bus Co., the defendant paid moneys for petrol and oil for the use of the buses. I cannot say how many gallons of petrol or oil were used daily for the buses to run. I did not ask the defendant, but, the defendant showed an account. The defendant showed us his accounts once a month. Alfred Perera who is now dead kept the accounts of the "G" branch in a big book. It was a leather-bound book. I cannot read or write Sinhalese well. I can sign my name in Sinhalese. That is all I can do. (Shown a document marked D. 2 to witness). I cannot read this. The letter D. 2, seems
30 to be addressed to one Jinadasa. But, I cannot say who has written it.

(Mr. Advocate Wickramanayaka mentions that he is allowing D. 2 purely as a letter to test the knowledge of the witness in the reading and writing of Sinhalese. Mr. Advocate Thiagalingam states that the present purpose for which he has shown D. 2 to witness is for that purpose and that purpose alone. If D. 2 has other purposes he would take necessary steps to produce in its proper form.)

Cross-Examination Continued.

I do not use glasses. I cannot read this writing. I cannot read
40 what is written in D. 2. My name is Martin Dias.

(Mr. Advocate Thiagalingam underlines two words in D. 2, and the witness is asked to read same. Witness states that he is unable to give the letters underlined, can make out his signature anywhere. Shown Proxy filed in this case. Witness identified the signature in the proxy as his signature).

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Cross-Examination Continued.

I can read the words "Maharagama, Giriulla" in the 2nd and 3rd lines in letter D. 2. The words "Maharagama, Giriulla" are in big letters, and therefore, I am able to read them. Other letters are smaller, and therefore, I cannot read them. I am unable to read this letter in full.

I remember telling that I left my employment in May, 1944. At that time the defendant sent me two letters; one letter was an invitation for his wedding and the other letter was in respect of the Town Bus Service. The defendant did not send me a letter with 10 regard to my leaving his employment.

Q. Did you send a letter to the defendant in May, 1944, just before you discontinued your services ?

A. Four of us signed a letter and sent to the defendant. I do not know the year.

I have sent a letter to the defendant before I left his employment, in May, 1944. The defendant did not send me a letter over my discontinuance from his services. No letter was sent to me at all by the defendant in this respect. I remember having received a Notice to produce a letter written by the defendant to me on 31.5.44. 20 I told my proctor about it. I did not receive any letter of that kind.

(Sgd.) W. G. SPENCER,
Addl. District Judge,
4.11.48.

It is now 4.15 p.m. Further hearing postponed for 23rd, 24th and 25th February, 1949, and 10th and 11th March, 1949.

(Intd.) W. G. S.
Addl. District Judge,
4th November, 1948.

Trial Continued

30

23rd February, 1949.

Case No. 3705, D. C. Kurunegala.

Plaintiff and defendant present.

Mr. Adv. E. G. WICKREMANAYAKA instructed by Mr. I. A. B. THALAGAMA for plaintiff.

Mr. Adv. THIAGALINGAM with Mr. Adv. H. W. JAYAWARDANA instructed by Messrs. PERERA & PERERA for defendant.

H. G. MARTIN DIAS recalled, affirmed.

Q. You were paid your wages for the period 15.1.43 to about 18.3.43 ?

40

A. I was paid about Rs. 100.

Q. You were paid nothing outside that ?

A. After the 12th of March I received other moneys.

Q. In between 15.1.43 and 12.3.43 you received only Rs. 100.

A. I received only Rs. 100.

Q. Were you paid at the rate of Rs. 1.50 per day ?

A. Yes. That is not the total amount I received as Rs. 100.

Q. How much did you receive at Rs. 1.50 per day between 15.1.43 and 12.3.43 ?

10 A. For the days that I worked in the bus I received at the rate of Rs. 1.50 per day, and when the bus is out of order and under repairs I did not work, and I was not paid. Then I had to bring money from home for my expenses. So I cannot say exactly what amount I received during that period ; viz. 15.1.43 to 12.3.43.

Between 15.1.43 and 12.3.43 my bus was not on the road every day.

After an year the Sri Lanka Bus Co. sends a balance sheet. I received a balance sheet for the previous year in January, 1944. I asked that such copy of the balance sheet should be sent to me
20 certified by the directors of the company. It was after an year I learnt that I had the right to get such copy of the balance sheet from the Sri Lanka Bus Co.

Q. At that time in January, 1944, you knew that the Sri Lanka Bus Co. was running its affairs through the various branches ?

A. On 12.3.43 I first became aware of the fact that the affairs of the Sri Lanka Bus Co. were managed through the branches.

Since March, 1943, I knew that the affairs of the Sri Lanka Bus Co. were run through the branches. Even in January, 1944, I was aware that the business of the Sri Lanka Bus Co. was being run
30 through its various branches.

Q. In January, 1944, did you know personally as a fact that Mr. M.J. was running branch " A " of the Sri Lanka Bus Co. as its manager ?

A. In January, 1944, I had verified and found that Mr. M.J. was running branch " A " for the Sri Lanka Bus Co., and they are running it even to this day.

In January, 1944, I found for myself that B.J. was running branch " B " for the Sri Lanka Bus Co., that branch " C " was run by W. K. Fernando and P. D. I. Alwis and that branch " D " was
40 run by L. R. Perera, and that branch " E " was run by Pabilis Appuhamy and that branch " F " by Samarasinghe *alias* Tarzan,

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for the Sri Lanka Bus Co. I knew that they were accounting for 10% and at the rate of Re. 1 per day from all these branches "A" to "F" from the balance sheet I received in January, 1944.

Q. You knew in January, 1944, that you would get a dividend from the Sri Lanka Bus Co. out of the pool, which came into the Sri Lanka Bus Co. from its various branches ?

A. Yes. From that pool I would get a dividend.

I knew that this dividend was from the contributions of 10% made by the various branches, namely, "A" to "F." I did no work for the "A" branch. From "A" to "F" branches I did not do 10 any work. I had nothing to do with "A" to "F" branches of the Sri Lanka Bus Co. I could not attend the general meeting of the Sri Lanka Bus Co. held in 1944 in Colombo. I could not attend that meeting and I sent my brother to that meeting. The general meeting in 1944 must have been held after I received the balance sheet for the previous year. But, I did not attend that meeting.

(Shown D 3, a certified copy purported to be issued by the Sri Lanka Bus Co. containing the record of the proceedings of the general meeting of the company held on 1.2.44 at the Victoria Buildings, Norris Road, Colombo, the original of which is stated to be signed by 20 the witness. This document is allowed, subject to proof).

I was not present at the meeting nor did I place my signature to the minutes of the meeting held in February, 1944. I have placed my signature to the minutes of the meeting held in 1946 or 1947. From the other shareholders I came to know that at the meeting held on 1.2.44 that the managers of the different branches for the ensuing year were elected by poll.

The other shareholders did not mention to me that the branch managers had entered into Agreements with the Sri Lanka Bus Co. I have not come to know that the branch managers had entered into 30 any Agreement individually with the Sri Lanka Bus Co. I know that the defendant in this case signed an agreement with the Sri Lanka Bus Co. as manager of branch "G" in my presence and in the presence of the other shareholders of the branch "G" on 12.3.43.

Q. Who signed that agreement on behalf of the Sri Lanka Bus Co. ?

A. I do not know whether anyone signed it on behalf of the Sri Lanka Bus Co.

I authorised my brother to represent me at the general meeting held on 1.2.44. I sent a letter of authority by post to Dr. A. P. de 40 Soysa, the chairman of the Board of Directors of the Sri Lanka Co. signed on a 6 cts. stamp. It was my brother Samanadasa, whom I

sent to that meeting to represent me at the meeting. He is now dead. I authorised him to act on my behalf at that meeting. He came after the meeting to Giriulla and told me what happened at that meeting.

(Sgd.) W. G. SPENCER,

Addl. District Judge.

23rd February, 1949.

Adjourned for lunch.

(Intd.) W. G. S.,

A.D.J.

10 *Resumed after lunch interval.*

H. G. MARTIN DIAS recalled, affirmed.

My brother came to me after the meeting and told me what happened at the meeting. My brother did not tell me that K. A. M. Perera was proposed the manager of the "G" branch of the Sri Lanka Bus Co. by Mr. L. Robert Perera. My brother did not tell me that the defendant was elected manager of the "G" branch for the ensuing year. My brother did not tell me that the managers of the other branches had been elected at the meeting held on 1.2.44. My brother told me that the Sri Lanka Bus Co. would look into the
20 accounts and pay me the money. He said that the defendant told him at the Sri Lanka Bus Co. Office in Colombo that the defendant would look into the accounts and then pay the moneys due to me. My brother did not tell me of anything that transpired at the meeting, but, only about moneys due to me. My brother did not tell me of anything that transpired at the meeting even with regard to pay-
30 ments to me of moneys due to me. I did not question my brother over what transpired at the meeting. I asked him only about my money. I sent my brother to the meeting to find out about the money due to me. I did not ask my brother whether there was any
30 resolution passed at the meeting with regard to any moneys payable to me. I sent my brother to the meeting to ask for the moneys due to me, but, I did not again ask him whether he raised the question of moneys due to me at that meeting. My brother did not tell me that at the general meeting held on 1.2.44 that they had declared a dividend to be paid to the shareholders. I now know that at that meeting held on 1.2.44 a dividend of 10% was declared. I do not know even to this day what amount of money was declared as dividend to be paid to me. The last dividend I got from the Sri Lanka Bus Co. was Rs. 19.12 by post in 1944.

40 The last dividend I received was in 1948 in a sum of Rs. 360. I cannot state the month when I received that amount of Rs. 360 as dividend. I have received in 1947 also a dividend of Rs. 360.

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My bus is No. X 4361 and 1930 model Willy's Night, and I cannot say where that bus is for the last 6 years. I worked in the Sri Lanka Bus Co., but, I don't remember when I ceased to work there. I know S. Alfred Perera, who is now dead. He was a clerk under the defendant. I did not have any quarrel with him. The defendant never accused me of having had a quarrel with that Alfred Perera. The defendant did not discontinue me from work, but, I discontinued myself. My discontinuance might have been after my brother's illness by the end of 1943 or 1944. (Shown D. 4, subject to proof). The signature on D. 4 is mine. I cannot say by whom I got this letter D. 4 10 written. Since the signature on D. 4 is mine it must be a letter sent by me. I cannot read or write. I can read my signature only.

Shown D. 2. I am unable to read the contents of D. 2. I do not know Sinhalese characters. I can only write my name. On 23.6.44 I may have got this letter D. 4 written to the Sri Lanka Bus Co. I cannot remember whether I have in that letter D. 4 stated that no meeting had been held for the last 1½ years since the inception of the company, and that no report had been sent to the shareholders. If anything what is stated in a letter signed by me is correct. I cannot remember whether I signed this letter D. 4 after I had dis- 20 continued myself as a bus driver. During the period I was working as a bus driver under the defendant I did not sign any such letter. The letter was sent after I had discontinued myself as a bus driver under the defendant, Jinadasa is my step-brother. He also discontinued working in the bus after I discontinued myself. I do not know whether the defendant discontinued Jinadasa from work. I do not know when Jinadasa stopped work. Jinadasa ceased to work about a month after I ceased to work in the company.

I cannot remember whether a general meeting of the Sri Lanka Bus Co. was held in July, 1944. Shown D. 5. The signature on D. 5 30 is mine. D. 5 is a letter dated 11.7.44. Shown D. 5a. I cannot say if D. 5a is the cover in which letter D. 5 was sent. By that letter D. 5 I appointed Jinadasa and Samanadasa to represent me at the general meeting to be held on 11.7.44. At the time this letter D. 5 was written neither I nor my step-brother Jinadasa were in the employ as bus drivers of the defendant. Shown D. 6. D. 6 is a letter dated 25.8.44, and the signature on D. 6 is mine. D. 6 is a letter signed by me and sent to the Sri Lanka Bus Co. I cannot remember whether I attended a meeting held by the Sri Lanka Bus Co. in Colombo on 23.3.45. 40

Q. Do you remember a resolution you moved that a new Agent be elected in place of K. A. M. Perera ?

A. I did not move any resolution to the effect that the defendant should be removed from office and another appointed in his place. But, someone else—another member of our branch moved such a resolution.

It was Pabilis Appuhamy who moved that resolution I cannot remember the date or the year of the meeting but, I was present at the meeting at which this resolution was moved. It was Pabilis Appuhamy who moved that resolution, and it was I who seconded it. At that meeting Muhandiram B. J. Fernando presided. There were about 12 persons present at that meeting. K. A. M. Perera (defendant) Tarzan, Pabilis Appuhamy, Natchchia were present. I do not know whether Paulis Appuhamy, Hendrick, W. K. Fernando, Mendis and Obeysekera were present at that meeting. The minutes of this meeting were written out and we were asked to sign it. We were asked to sign the attendance sheet. I remember that I did not sign the attendance sheet. I was asked to sign it, but, I refused to sign the attendance sheet. I refused to sign the attendance sheet, because, as things were not done the way we wanted it to be one. By "we" I mean the 5 persons of the branch "G." Those 5 of us are those who have filed actions against this defendant. I cannot remember whether all these 5 persons of the "G" branch were present at that meeting. It may be that myself, Pabilis Appuhamy and B. A. John Singho were the 3 people out of the 5 persons of the "G" branch present at that meeting. B. A. John Singho was not employed by the defendant at any time as stand supervisor. At no time was B. A. John Singho employed by the defendant to my knowledge. Pabilis Appuhamy was employed as a Ticket Inspector by the defendant, and he was dismissed by the defendant. I do not know if Pabilis Appuhamy sued the defendant for wages and damages.

At the meeting referred to above Nachchiya moved that all managers of the branches should be re-elected for the ensuing year. Nachchia was a member of the Sri Lanka Bus Co. in 1942. That resolution moved by Nachchiya, all except the 3 of us, was supported and that resolution was carried.

Q. Did you tell the Court that you had an Agreement or Contract with the defendant?

A. We did not have anything in writing, but, we trusted the defendant and handed over all our buses to the defendant.

I charged the defendant in the Magistrate's Court for criminal breach of trust. I instituted that action, but, I do not remember the year when I did so. That case may have been filed on 18.1.45. I was told that the case was sent to the C.I.D. That criminal case was pending at the time the resolution was moved to remove the defendant from the managership of the "G" branch of the Sri Lanka Bus Co. I charged the defendant in that criminal case with criminal breach of trust of moneys entrusted to the defendant in his capacity as our agent.

Q. At that time you knew that the defendant had been elected an agent of the Sri Lanka Bus Co. by a resolution duly passed at a

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general meeting of the shareholders of the Sri Lanka Bus Co., at the time you charged the defendant with criminal breach of trust ?

A. I did not know at that time that the defendant was an agent of the Sri Lanka Bus Co. at that time I filed the criminal action against the defendant.

Q. If you knew that the defendant was not an agent of the Sri Lanka Bus Co., why did you move in March, 1945, that he be removed from the office of agent ?

A. We wanted to remove him from office, as we found out that he was not carrying out the work as we wanted to. 10

I do not know what happened with regard to the agent appointed by the Sri Lanka Bus Co., but, for our branch we appointed as the agent.

Q. You take up the position that you did not know that the defendant had been appointed by the Sri Lanka Bus Co. at its general meeting assembled as manager of the " G " branch ?

A. It was we who appointed the defendant the manager of the " G " branch.

On 12.3.1943 or 1944 we appointed the defendant as manager of the " G " branch at a general meeting of the Sri Lanka Bus Co. I 20 cannot say whether it was a general meeting. Except the 8 members of the " G " branch 5 or 6 other persons were also present at this meeting at which the defendant was elected manager of the " G " branch.

Q. You know that those 5 or 6 persons, who were present at that meeting were the directors of the company ?

A. On 12.3.43 when the meeting was held I did not know. But later I came to know that these 5 or 6 persons present were the directors of the company.

Q. That meeting held on 12.3.43 was not a meeting of all the 30 shareholders of the Sri Lanka Bus Co., but it was a conference of the directors of the Sri Lanka Bus Co. and you 9 people were also present at that meeting ?

A. The meeting held on 12.3.43 was a conference between the directors of the Sri Lanka Bus Co., with the 9 of us who were the original shareholders of the K.A.B. partnership. It was not a general meeting of the shareholders of the Sri Lanka Bus Co.

All the shareholders of the Sri Lanka Bus Co. did not appoint the defendant as manager of the " G " branch. Only 8 of us who were originally the members of the K.A.B. Co. appointed the defendant ; 40 who was one of the 9 members, as manager of the " G " branch of the Sri Lanka Bus Co.

Q. If it be the position that this defendant was the agent appointed by you 8 persons, why did you go to the Sri Lanka Bus Co. general meeting in 1945 and move that this defendant be removed from office ?

A. Out of the 8 persons, 4 persons were on the side of the defendant, because, he was paying those 4 persons, and when we go to the Sri Lanka Bus Co., Mr. M. J. is on the side of the defendant, and Mr. M. J.'s vote turned us out. Mr. M. J. gives his vote for the side of the 4 men who are on the side of the defendant. M. J.'s vote was a very heavy vote and we were helpless.

(Sgd.) W. G. SPENCER,

Addl. District Judge.

23rd February, 1949.

It is now 4 p.m. Further hearing put off for tomorrow, 24th February, 1949.

(Intd.) W. G. S.,

Addl. D.J.

23.2.49.

Trial Continued

20 24th February, 1949. (Case No. 3705 M., D.C. Kurunegala.
Plaintiff and defendant present.
Appearances as on last date.
H. G. MARTIN DIAS recalled, affirmed.

Shown original of D. 3 produced from the custody of the Supreme Court, Colombo. The signature on the original of D. 3 is my signature. If my signature to the minutes of a meeting of the Sri Lanka Bus Co. is there I must have been present at that meeting. (D. 3 is a certified copy of the minutes of the annual general meeting of the Sri Lanka Bus Co. held on 1.2.44). I cannot remember whether I was in the employ of the defendant on 1.2.44. At that meeting on 1.2.44 I seconded the appointment of W. K. Fernando as manager of the "G" branch of the Sri Lanka Bus Co. I had nothing to do with the "G" branch. The defendant asked me to second that resolution saying that W. K. Fernando was a good man for that job. So I seconded that motion. I cannot say whether it was Muhandiram B. J. Fernando or Mr. M. J. who proposed that resolution. I do not know L. Robert Perera. I do not know the man called Delgoda Mudalali. A man with a grey haired konde attended that meeting. I do not know whether he is called Delgoda Mudalali. That grey haired konde man was at no time a member of the K.A.B. Co. or a member of the "G" branch.

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Q. Did that silver haired man propose the name of the defendant as manager of the " G " branch ?

A. He proposed the name of the defendant as a director of the Co.

On that day directors were appointed. On that day managers of the branches were neither proposed nor elected. I seconded the name of W. K. Fernando as a director of the company and not as manager of " C " branch. If it is so recorded in the minutes that I seconded the name of W. K. Fernando as manager of " C " branch and that silver haired konde man proposed the name of the defendant as manager of " G " branch at that meeting in D. 3, 10 I state that it is incorrect.

I cannot remember well, but, if I have signed a letter to the effect that I requested the Sri Lanka Bus Co. to give over the management of the " G " branch to me and that I would be able to pay them 20% than the 10% the defendant was able to pay them. I will admit the writing of that letter. I did not verbally at any time requested the directors of the Sri Lanka Bus Co. to give me the management of the " G " branch, but I have written to them on it. At no time did I have the intention of becoming the manager of the " G " branch of the Sri Lanka Bus Co. I cannot remember whether I have written 20 a letter on this subject to the directors of the Sri Lanka Bus Co. Shown D. 8 a letter produced from the custody of the Sri Lanka Omnibus Co. The signature on D. 8 is not mine. It is in English. I sign my name in Sinhalese. My correct postal address is Martin Dias, Maharagama, Giriulla. I do not remember to have received a letter from the Sri Lanka Bus Co., asking me to have my correspondence with them in Sinhalese.

I claim in this action at the rate of Rs. 700 odd per month from the defendant. I cannot remember whether I thought of claiming Rs. 582 for a quarter as moneys due to me from the defendant, when 30 I filed the criminal case against the defendant in the Magistrate's Court, Kurunegala, in 1945. I charged the defendant with misappropriation in the Magistrate's Court. I did not charge the defendant in the Magistrate's Court with dishonestly disposing of any sum of money in violation of the agreement to pay me that money. I cannot remember whether I made any complaint to the police or to any person in authority on any criminal offence committed by the defendant against me. In the criminal action I charged the defendant for taking moneys due to me. I cannot say what that amount is. I do not remember whether I told my proctor the amount that the 40 defendant had deprived me of. In that criminal case Mr. A. E. P. Wijesinghe was my proctor. I must have made mention of the amount to my proctor in the criminal case, but I have forgotten the actual amount. I was informed by Court that the case was referred to the C.I.D. I did not withdraw that criminal case.

Q. Did you instruct your lawyers that you were unable to proceed with the criminal case ?

A. No. I did not instruct so.

I was told by my lawyers that the Court had referred the matter to the C.I.D. and that the matter ended. Up to the date nothing has happened by the reference of that case to the C.I.D. Thereafter the C.I.D. questioned me and my step-brother T. V. Jindasa. My statement was recorded by the C.I.D. I do not know whether C.I.D. made any further investigations. I do not know whether
 10 anything has been done or not by the C.I.D. with regard to that case. I questioned Mr. Jayasekera of the C.I.D., as to what action the C.I.D. were taking on the matter. He said that there was a shortage of Rs. 30,000 or 40,000. He did not say whether that shortage was in the "G" branch or in the Head Office of the Sri Lanka Bus Co. He did not tell me who was responsible for that shortage of Rs. 30,000 or 40,000 and whether it was the "G" branch or the Head Office. I did not tell Mr. Jayasekera that I was not concerned about that shortage but, to try and find out the amount due to me from the
 defendant. He further said that he would further inquire as to
 20 what could be done in the matter. This was all before this civil action was filed by me. I went several times to Mr. Jayasekera and he told me that he was still investigating. I have not asked him recently about this matter. The last reply Mr. Jayasekera gave me before I filed this civil action was that he was inquiring into the matter. I have not talked to Mr. Jayasekera after I filed this civil action. It is not correct to say that I filed this action, because, the C.I.D. has not taken any action in the matter.

I own shares in the Green Line Omnibus Co. also. Lairis Appu is the managing director of the Green Line Omnibus Co., and B. A.
 30 John Singho is a director of that company. Lairis Appu is not a friend of mine. It was only after I surrendered my bus to the Green Line Omnibus Co. that I came to know him. It was my brother's bus that I surrendered to the Green Line Omnibus Co. I do not know whether that company has many paying routes. I have not received any moneys as dividends from the Green Line Omnibus Co., but, I have received moneys which have not gone into accounts.

Q. They have not paid any dividends to any of their shareholders?

(Mr. Advocate Wickramanayaka objects. Court allows).

A. Other shareholders have been paid their dividends, but,
 40 I have not been paid my dividends, because, the bus that I gave them belongs to my brother.

I do not know what dividends the others are paid. This year I got the first report from the Green Line Omnibus Co. That report

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 Plaintiff's
 Evidence.
 H. G. Martin
 Dias
 Cross-
 examination.—
Continued

is in English and I have not gone through it. Green Line Bus Co. has route licences to and from Kurunegala-Chilaw, Kurunegala-Puttalam and Kurunegala-Anuradhapura.

Q. Do you know that Lairis Appu and this defendant were very rival applicants for the license to run the town bus service ?

A. I do not know about Lairis Appu, but the defendant got our signatures saying that he wanted to introduce the town bus service.

I do not know whether Lairis Appu applied for licence for the town bus service. I know that the defendant is running the town bus service. The defendant first said that he would pay us out of the town bus service as well, but, now he says, no. I have no claim against the town bus service run by the defendant, nor any of the original shareholders of the K.A.B. Co. The defendant by word of mouth promised to give us shares from the town bus service. Now he cannot claim anything from the defendant, because, he has registered the buses in his brother's name, and he has entertained us on the opening day of the town bus service. Some of the buses in the town bus service are in the name of the defendant. There is a shell petrol shed near the 'bus stand. I do not know who is running that petrol service station now, but, one or two years ago the defendant was running it. At the time I filed this action the defendant was running that petrol service station. I do not know whether Lairis Appu was an applicant for the agency of this petrol service station. I have no claim against the defendant on account of this petrol service station. At first the defendant borrowed Rs. 3,000 from us for the petrol service station, and later he refunded that amount to us. The petrol service station now belongs to the defendant. It was Jinadasa, my step-brother who brought that money to the defendant. That money belonged to my deceased brother Romiel Dias. The defendant had had repaid that money to Jinadasa. We have not shown that amount in the inventory of the estate of my deceased brother Romiel Dias. I am administering the estate of my deceased brother Romiel Dias.

I know B. A. John Singho very well. He has come to Court today as a witness for me, and Lairis Appu has been summoned by me as a witness. I do not know whether Lairis Appu is here today or not. He was summoned by me as a witness as he was present at the original agreement made between the defendant, and myself and other shareholders of the K.A.B. Co. in 1942. I cannot now give the date of that agreement.

40

(Sgd.) W. G. SPENCER,

Addl. District Judge.

24th February, 1949.

Adjourned for lunch.

Resumed after lunch interval.

H. G. MARTIN DIAS recalled, affirmed.

No. 6.
Plaintiff's
Evidence.
H. G. Martin
Dias
Cross-
examination.—
Continued

I remember I asked for certified copies of the minutes of the general meetings of the Sri Lanka Bus Co., but, I cannot remember in which year I asked for them. I got the certified copies, Sri Lanka Bus Co. said that they cannot give certified copies of the minutes to me, but, I was asked to send my proctor to get them. My proctor got the copies of the minutes of the general meetings. My proctor did not explain to me the contents of those copies. Shown D. 9. The signature on D. 9 is mine. I admit having written the letter D. 9. I cannot remember whether I had gone to a proctor or not in 1944. I cannot give the expenses incurred in running the company for the months for which the defendant gave us accounts. I cannot say for any particular month. The defendant kept books of accounts, and I do not know whether the defendant sent returns to the Income Tax Department. I know that the defendant kept a separate account folio in his account books for petrol and oil. I do not know about a separate folio for the various accounts, but, all were added up and the amounts were entered. I have seen the account books. I was not shown separate folios. The defendant showed accounts for petrol, oil, wages, tyres, etc. All those were entered in 1 book. He did not separately show me the pages on which the different items were entered. We did not ask for such examination from the defendant. The defendant never gave me a written statement of account at any time. I cannot say whether he gave any of the other shareholders, but, to me he did not. He showed the balance for the month to me from the account book. I do not remember whether I wrote to the Sri Lanka Bus Co. calling for accounts of the "G" branch. I cannot say whether I received any written statement of account from the Sri Lanka Bus Co. in respect of the "G" branch. I did not receive any written statement of account of the "G" branch from the Sri Lanka Bus Co.

Re-examined. The defendant was paying our shares for some time, but, later he put us off by giving various excuses. Then I had to seek my legal remedy. Then I first went to proctor Ihalagama with my brother Jinadasa. We consulted him and then Mr. Ihalagama, myself and my brother went to a counsel. First I went to counsel, Mr. M. T. de S. Amarasekera. Thereafter on the advice of the counsel I filed the action for breach of trust, against the defendant in the Magistrate's Court, Kurunegala. I placed all the facts that I have placed before the Court before my counsel and proctor. After that Mr. Amarasekera fell ill, and I went and consulted Mr. Gratiaen, Advocate. My present counsel, Mr. E. G. Wickramanayaka advised me to file this civil action. I gave him the instructions and the facts

H. G. Martin
Dias
Re-examina-
tion.

No. 6.
Plaintiff's
Evidence.
H. G. Martin
Dias
Re-examination
—Continued

I have stated to Court. I cannot remember the year when I went and saw the present counsel. It was after the criminal case that I had filed against the defendant was referred to the C.I.D. I consulted my present counsel with my proctor. Lairis Appu did not accompany me when I went to consult either my proctor or my counsel. I have summoned Lairis Appu as my witness to speak to the fact that the defendant withdrew his applications for the route licences for which he had applied for.

I cannot say the number of general meetings of the Sri Lanka Bus Co. that were held in the year 1944. I can say that for one 10 general meeting, which I did not attend, I gave a letter of authority to another to represent me. That letter of authority was in writing. Shown D. 5. The signature on D. 5 is mine. This letter D. 5 dated 11.7.44 authorising T. V. Jinadasa and Sumanadasa to represent me at the meeting to be held on 14.7.44, was given by me. There was no meeting in 1944, which I failed to attend, other than the one for which I sent my brothers to represent me with the letter D. 5. Romiel Dias is my full brother. After the death of my father, my mother married again. My mother has children by the second bed. Jinadasa is the only son by the second bed of my mother. Samanadasa is 20 my mother's sister's son. My mother has adopted 2 children of her sister. My mother applied for Letters of Administration of the estate of my deceased brother, Romiel Dias. I opposed the grant of Letters to my mother, as stated to Court because she was very old and on the other hand thinking that she might give more to her second bed child. Then the Court granted Letters of Administration of the estate of my deceased brother, Romiel Dias, to me.

(Sgd.) W. G. SPENCER,

Addl. District Judge.

24th February, 1949. 30

B. D. Chandra-
dasa
Examination.

B. D. CHANDRADASA, affirmed, clerk, Bank of Ceylon, Fort, Colombo.

I am producing cheque No. Z 015828 dated 5.10.43 drawn on the Bank of Ceylon, Pettah branch, in favour of cash or bearer in a sum of Rs. 437.62 by K. A. M. Perera, the defendant, marked P. 12. The signature of the endorsee on it reads as "T. V. Jinadasa" in Sinhalese.

B. D. Chandra-
dasa
Cross-
examination.

Cross-examined.

On the reverse of the cheque P. 12 the first endorsement reads as "K. A. M. Perera" in English. That is the name of 40 the drawer of the cheque also. The 2nd endorsement is the one that I referred to as the one in Sinhalese. The 3rd endorsement is "Please credit my account—S. A. Silva." This cheque P. 12 came in for clearing through the Hongkong and Shanghai Bank.

Re-examined.

This cheque P. 12 bears a crossing on the face of it.

(Sgd.) W. G. SPENCER,

Addl. District Judge.

24th February, 1949.

No. 6.
Plaintiff's
Evidence.
B. D. Chandru-
dasa
Re-examination

W. R. MENDIS, affirmed, clerk, Office of the Commissioner of Motor Transport, Colombo. W. R. Mendis
Examination.

I have in my file the application for route licences made by K. A. M. Perera on behalf of the K.A.B. Co. and received in the office on 31.12.42. I produce a certified copy of that application marked P. 13. There is an endorsement on the application signed by K. A. M. Perera to the effect that the application for time tables, fare tables and plan of route taken away for re-submission through the Sri Lanka Bus Co. The date of that endorsement is in ink while the rest is typed and has not been initialled. The date on which this application was received, viz. 31.12.42 is also in ink. That date is in the original of the application. I now produce the original of that application marked P. 13 to take the place of the certified copy already produced as P. 13. I produce the original of another application marked P. 14 for route licences made by K. A. M. Perera as managing director of the K.A.B. Co. There is an endorsement on it withdrawing the application for resubmission through the Sri Lanka Bus Co. I produce the original of another application marked P. 15 made by K. A. M. Perera as managing director of the K.A.B. Co. and withdrawn by him by an endorsement on it for resubmission through the Sri Lanka Bus Co. I produce a fourth application marked P. 16 for route licence made by K. A. M. Perera, managing director of the K.A.B. Co. and also withdrawn by an endorsement on it signed by K. A. M. Perera for submission through the Sri Lanka Bus Co. I also produce marked P. 17 another application for route licence signed by K. A. M. Perera as managing director of the K.A.B. Co. and withdrawn by him for submission by S.L.B. Co. P. 18 is another application by the same person and withdrawn by an endorsement on it and signed by K. A. M. Perera for submission through the Sri Lanka Bus Co. P. 19 is another application made by the same K. A. M. Perera and withdrawn by an endorsement signed by the same K. A. M. Perera for submission through the Sri Lanka Bus Co.

The endorsements on applications P. 13 to P. 18a have not been dated by K. A. M. Perera. But, on P. 19 the endorsement is dated 5.1.43. There is nothing in the files to show any other date of the withdrawal of these applications P. 13 to P. 19 other than the endorsement dated 5.1.43 made on P. 19. None of the applications P. 13 to P. 19 bears the date of the application filed by the applicant,

No. 6.
Plaintiff's
Evidence.
W. R. Mendis
Examination.
—Continued

but, they all bear the date stamp of the Office of the Commissioner of Motor Transport. As documents or letters come in they are stamped with the date of the day in the office. There are 2 franks on each of these applications P. 13 to P. 19. The circular frank is the one that is used by the Assistant Commissioner of Motor Transport. From there papers are sent to the office of the Director of Transport, and the other frank is that of the Office of the Director of Transport. Both these franks bear the same date 31.12.42.

W. R. Mendis
Cross-examination.

Cross-examined. I do not know Mr. K. A. M. Perera personally. I do not know the applicant in these applications P. 13 to P. 19. 10 The evidence I have given is what is on the documents. Applications were received by the office of the Commissioner of Motor Transport and they are forwarded to the Office of the Director of Transport. Beyond that I do not know how the applications for route licences are dealt with. As far as I know it is in the Ordinance. I know nothing beyond that.

Re-examined. Nil.

(Sgd.) W. G. SPENCER,
Addl. District Judge.

It is now 4 p.m. At this stage Mr. Advocate Thiagalingam makes 20 an application that although this case is fixed for further hearing tomorrow 25.2.49 he is unable to be here tomorrow on personal grounds, and moves that further hearing of this case be fixed for another date.

Mr. Advocate Wickramanayake has no objection.

Court allows.

Further hearing is fixed for 10th and 11th of March, 1949.

(Intd.) W. G. S.,
Addl. District Judge,
24th February, 1949. 30

14th July, 1949.

Plaintiff and defendant present.

Mr. Adv. E. G. WICKRAMANAYAKA instructed by Mr. I. A. B. IHALAGAMA for plaintiff.

Mr. Adv. C. THIAGALINGAM instructed by Mr. A. C. AMERASINGHE of Messrs. PERERA & PERERA for defendant.

Mr. Adv. WICKRAMANAYAKA calls.

L. A. PABILIS APPUHAMY, affirmed, 40 years, omnibus driver, Potuhera.

No. 6.
Plaintiff's
Evidence.
L. A. Pabilis
Appuhamy,
Examination.

I was a partner of the K.A. Bus Co. in July, 1942. Prior to the formation of the K.A. Bus Co. I owned two buses and I ran those buses between Kurunegala and Polgahawela. I drove those buses. I became a partner of the K.A. Bus Co. on the suggestion of Mr. Nelson. The reason why Mr. Nelson suggested that we should form ourselves into companies, I think, was to prevent friction between the rival buses that were running. Nine of us formed into
10 the K.A. Bus Co., of whom the plaintiff in this case is one of them. I was the third partner of that partnership; namely the K.A. Bus Co. Our partnership was registered as a company: *Vide P. 1.* We appointed K. M. Perera, the defendant in this case, as manager of the K.A. Bus Co., to manage the affairs of the company and to distribute the profits among us, the partners. The defendant knew English and was most suitable to the post of manager, out of us, and as such, we appointed him the manager of the company.

I was a bus driver and I drove my own bus. Some of the other partners of the K.A. Bus Co. were also driving their own buses.
20 There was no educated person in the partnership other than the defendant. When the K.A. Bus Co. was formed it was agreed that 1/3rd of the gross income from the buses were to be set aside for the maintenance and running of the buses, and the balance 2/3rd to be divided as profits among the partners. Since I became a partner of the K.A. Bus Co. I did not drive my bus. I handed over my bus, as a partner, to the company, and I did not drive my bus after that. Before I joined the company as a partner the daily takings of my bus were utilised by me to pay the amount due on the bus, which I had taken on credit on instalment system, and also for the
30 repairs and maintenance of the bus. When the bus was on the road I drove it and the entire collection was taken by me. After I became a partner of the K.A.B. Co. I got my share in respect of my bus. After I joined this company as a partner the takings in the buses were handed over to the manager of the K.A. Bus Co. Once a month there was a division of the 2/3rd of the profits of the K.A. Bus Co. distributed among the partners. The entire collections from all the buses were to be taken together and the 2/3rd of the gross collection was to be distributed among the partners. This 2/3rd share of the entire takings was divided in proportion to the shares
40 held by each partner. If my contribution was Rs. 2,000 and another's was Rs. 3,000 the amount I would receive as my share is in proportion to my contribution. When I became a partner of the K.A. Bus Co. I did not pay any money to that concern. The share that was due to me was based on the value of my bus at the time we formed the K.A. Bus Co. At the time of the formation of the K. A. Bus Co. I think, the value of my bus, which I handed over to the Co. was

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Plaintiff's
Evidence.
L. A. Pabilis
Appuhamy
Examination—
Continued

assessed at Rs. 1,250. For the division of the respective shares of the partners of the company of the 2/3rd gross taking for each month a meeting of the partners was held each month. To attend these meetings I was sent written notices requesting my presence. I produce marked P. 20 a letter received by me from the K.A.B. Bus Co. dated 8.11.42 summoning me for a meeting. I know Beling Fernando's signature and the signature on P. 20 is that of Beling Fernando, who was a clerk of the K.A.B. Bus Co.

Adv. Thiagalingam objects to this document being put in, unless the writer of the letter is called. 10

Mr. Adv. Wickramanayaka submits that the witness is in a position to identify the signature of Beling Fernando, and that he does not propose to rely on the contents of the letter or as to the truth of the contents of the letter, but, for the mere fact that the witness was summoned by that letter for that meeting.

Mr. Adv. Thiagalingam submits that if the Counsel for the plaintiff does not rely on the contents of the letter, then the document is of no evidenciary value, and it need not be marked. If he relies on the contents of the letter for any purpose whatsoever the writer of the document must be called. 20

Mr. Wickramanayaka states that he is not calling the writer of that document.

Order

I allow document P. 20 so long as it purports to be what Mr. Wickramanayaka says that it is merely a letter sent and would only serve that purpose that it was merely sent by a person summoning the witness to the meeting. As to the contents of the letter no evidence should be led.

(Sgd.)

Addl. District Judge. 30

14th July, 1949.

After receiving the letter P. 20 I attended a meeting of the K.A.B. Bus Co. This defendant was also present at the meeting. At that meeting the income and expenditure was discussed and the money was distributed among the partners.

I produce marked P. 21 a letter dated 11.12.42 signed by K. M. Perera, the defendant, as managing director of the K.A.B. Bus Co. The K.A.B. Bus Co. functioned in this way and the profits were divided in this manner monthly. After sometime the Motor Ordinance came into operation and specific routes to run buses were allotted to individuals or bus companies in order to ply buses. The meeting convened by letter P. 21 discussed this question. 40

I produce marked P. 22 a letter dated 22.10.42 signed by the defendant summoning me to attend a meeting of the K.A.B. Bus Co. to discuss the question of the K.A.B. Bus Co. forming into a limited liability company. This matter was discussed at that meeting and also the need for the formation into a limited liability company. The reason why we wanted to form into a limited liability company was, because, Mr. Nelson had instructed us to form ourselves into a company to run the buses. There was no need for the shareholders of the K.A.B. Bus Co. to form themselves into another company.

10 The defendant said that we must join the Sri Lanka Bus Co. This was not discussed at that meeting. The meeting convened by P. 22 was summoned in order to discuss matters with regard to the formation of the new company under the new Motor Ordinance that had come into effect. I did not understand why our K.A.B. Bus Co. had to be reformed into a limited liability company. I do not remember what transpired at the meeting convened by P. 22.

I know that this defendant made application to the Commissioner of Motor Transport for bus route licences for the K.A.B. Bus Co. on behalf of its partners. He made such application with the authority

20 of we nine partners of the K.A.B. Bus Co. We all gave authority to the defendant to make applications for bus route licences for the K.A.B. Bus Co. On 12.12.42 a meeting was held for the purpose of dividing the money belonging to the company, and in that meeting this matter came up for discussion and we partners authorised the defendant to make applications for route licences for the K.A.B. Bus Co. Accordingly the defendant made applications to the Commissioner of Motor Transport. (Productions P. 13 to P. 19 refer to these applications). The K.A.B. Bus Co. did not authorise Mr. K. M. Perera, the defendant to withdraw those applications he had made on

30 behalf of the company for route licences. I did not come to know that the defendant had at any time withdrawn those applications. On 2.1.43 the defendant said that although we have made applications for route licences on behalf of the K.A.B. Bus Co., we have to join the Sri Lanka Omnibus Co. The defendant said that route licences have been granted to the Sri Lanka Omnibus Co. and as such we would have to join the Sri Lanka Bus Co., if we were to make use of those route licences. The defendant further said that the route licences held by the Sri Lanka Bus Co. are large in number, and that Mr. Malawana was also going to hand over his buses to the Sri Lanka

40 Bus Co., and that we can litigate, if necessary, against the Sri Lanka Bus Co., and also the defendant said that there was no need to litigate and spend money in that manner and that if we join the Sri Lanka Bus Co. we could continue to carry on this business as at present. The defendant also told us that the quantity of petrol coupons allotted to us will last only till 15.1.43. In view of all what the defendant told us we all decided to join the Sri Lanka Bus Co.

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Plaintiff's
Evidence.
L. A. Pabilis
Appuhamy
Examination.—
Continued

The defendant said that 10% of the collections would be given to the Sri Lanka Bus Co. and the balance 90% would be distributed in the same manner as we were doing on that day. So we all gave our consent to join the Sri Lanka Bus Co. After that, on a subsequent day, our buses were taken over by the Sri Lanka Bus Co. placing respective valuations on the buses by Mr. Donald Perera and Mr. T. C. Fernando. At that time Donald Perera was the Secretary of the Sri Lanka Bus Co. I do not know what T. C. Fernando was in the Sri Lanka Bus Co. These two gentlemen placed a valuation of Rs. 1,500 on my bus and Rs. 500 for the goodwill, and I was allotted 10 shares in the Sri Lanka Bus Co. to the value of Rs. 2,000. I transferred my bus to the Sri Lanka Bus Co. I am not sure. It may be that this transfer was effected on 15th January, 1943. After I transferred my bus to the Sri Lanka Bus Co. there was no division of profits for a few months.

I produce marked P. 23 the document sent to me by the Sri Lanka Bus Co., signed by Donald Perera, taking possession of the bus and giving the value placed on it, by the Sri Lanka Bus Co. Dodge Bus No. X 1340 was my bus. I questioned the defendant as to the share of my money. The defendant said that money has been 20 remitted to the Mother Company (Sri Lanka Bus Co.) and that we would get a letter from the Sri Lanka Bus Co. giving us directions to how the money should be distributed. I received a letter asking me to attend a meeting on 12.3.43, which I produce marked P. 24. Accordingly I attended that meeting, and Dr. A. P. de Soysa, Muhandiram B. J. Fernando, Mr. M. J., the proprietor of the Tarzan Bus Co., L. R. Perera and the proprietor of the Attanagalla Bus Co. were present at that meeting. All the nine partners of the K.A. Bus Co., including the defendant, were present at that meeting. At that meeting Dr. Soysa said something. When he said that we decided 30 to join the Sri Lanka Bus Co. We accepted the suggestion of Dr. De Soysa. At that meeting we were allotted a branch called "G" branch of the Sri Lanka Bus Co., which was to give 10% of its takings to the Sri Lanka Bus Co. and divide the balance 90% of its takings among the partners of the "G" branch. The division of the 90% among the members of the "G" branch was to be done by the defendant. All nine of us, who are members of the "G" branch selected the defendant as manager of the "G" branch of the Sri Lanka Bus Co. We selected the defendant as manager of the "G" branch for the purpose of running the buses and distributing the 90% of its 40 takings among its members and to give 10% of the takings to the Sri Lanka Bus Co.

Q. Was this basis on which the defendant was selected as manager of the "G" branch?

A. Yes.

At that meeting Mr. K. M. Perera, the defendant, was present and all of us eight members of the former K.A.B. Bus Co. It was at that meeting the defendant was appointed manager of the "G" branch. At that meeting a woman member called Nachchiya proposed that the defendant be selected manager. On her suggestion we appointed the defendant as manager of the "G" branch of the Sri Lanka Bus Co. It was in the presence of the directors of the Sri Lanka Bus Co. we nominated the defendant as manager of the "G" branch, and the directors accepted our nomination. Thereafter
 10 the defendant continued to function as the manager of the "G" branch of the Sri Lanka Bus Co.

No. 6
 Plaintiff's
 Evidence.
 L. A. Pabilis
 Appuhamy
 Examination.—
 Continued

On 8.4.43 the defendant divided the moneys among us—the shares due to us from the buses from the "G" branch. The collections were deposited with the defendant, and once a month the defendant was to distribute the money. On 8.4.43 was the first time, after the defendant was appointed manager of the "G" branch, he distributed the moneys among the shareholders of the "G" branch. After setting apart the expenditure incurred by the company 1/3rd of the amount was reserved for the maintenance and running of the
 20 company and the balance 2/3rd was divided by the defendant amongst the shareholders, according to the value of the buses each shareholder has given. According to the value of the buses we had been allotted shares in the Sri Lanka Bus Co. Ten per cent out of the takings was remitted to the Sri Lanka Bus Co. by the "G" branch and the balance was divided among us. Thereafter the division was done in this manner till October, 1943. For the division of the money monthly we were summoned to attend meetings up to October, 1943.

(Sgd.)

30

Addl. District Judge.

14.7.49.

At this stage Court adjourned for lunch.

Resumed after lunch interval.

L. A. PABILIS APPUHAMY, recalled, affirmed.

I produce marked P. 25 a letter dated 5.4.43 signed by the defendant, summoning me to come for a meeting to be held on 8.4.43 of the "G" branch of the Sri Lanka Bus Co. At the meeting held on 8.4.43 there was a discussion with regard to the payment of salary to the manager and the secretary. It was decided at that meeting
 40 that the manager should be paid a salary of Rs. 100 per month and Rs. 75 per month to the secretary as his salary. The manager was the defendant and the secretary was D. B. Perera. It was also discussed that the baas in charge of the garage, namely, Victor Perera be paid a salary of Rs. 90 per month, and that the Inspectors who were in the employ of the company be continued in service. The secretary,

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Plaintiff's
Evidence.
L. A. Pabilis
Appuhamy
Examination.—
Continued

D. B. Perera was under the nine members of the "G" branch. The secretary D. B. Perera worked under the directions of the manager of the "G" branch of the Sri Lanka Bus Co. That person called D. B. Perera is now dead.

I produce marked P. 26 a letter dated 21.6.43 inviting me to a meeting to be held on 23.6.43 for checking up accounts and sharing the profits in the month of May that year. P. 26 is signed by D. B. Perera, for the manager. I recognise the signature on P. 26 as that of D. B. Perera.

Mr. Adv. Thiagalingam objects to P. 26 being put in because, 10
D. B. Perera is dead and that he cannot be called. Also his evidence is not admissible under Section 32 of the Evidence Ordinance.

Order

I allow it.

I produce marked P. 27 a letter dated 12.7.43 sent to me summoning a meeting to be held on 17.5.43 in order to go into the profits for the month of June, 1943, signed by the defendant himself, I produce marked P. 28 a letter dated 3.10.43 to the same effect summoning me to a meeting to be held on 5.10.43 to consider the division of profits ; signed by D. B. Perera. 20

Mr. Adv. Thiagalingam objects to P. 28 being put in, as D. B. Perera is now dead and he cannot be called. Also because his evidence is not admissible under Section 32.

Order

I allow document P. 28.

I produce marked P. 29 a letter dated 4.11.43 summoning me for a meeting to be held on 7.11.43 signed by D. B. Perera. I identify the signature on P. 29 as that of D. B. Perera.

Mr. Adv. Thiagalingam objects to document P. 29 being put in, as D. B. Perera is now dead and he cannot be called. Also because 30
his evidence is not admissible under Section 32.

Order

I allow the document P. 29.

After the month of October, 1943, the defendant stopped dividing the profits and no payments were made by him to the shareholders of the "G" branch of the Sri Lanka Bus Co. Then four of us got together and sent a letter to the defendant. I asked the defendant why the accounts are not looked into, and the defendant told me that he was going to buy a petrol shed and that he was in financial difficulties, and if I wanted money that I may get it from the office. The 40
defendant further said that there was a delay in looking into the accounts, and if I needed any money for my expenses that I may get

from the clerk in the office. The defendant asked me to get money from the "G" branch. I asked the defendant on several occasions for the money. On one such occasion the defendant said that he was going to get married and that he had no money. On 8.6.43—No. on 8.6.44 four of us got together and wrote a letter to the defendant. In spite of our various requests since October, 1943, no moneys were paid to us by the defendant. I had gone and asked from the clerk at the "G" branch for money, and the clerk had given me money whenever I had asked for money. I have asked the defendant several
 10 times for accounts to be looked into and it was not done. At last I filed this action against the defendant. After October, 1943, the defendant himself has paid me once Rs. 200 and on another occasion Rs. 100. The sum of Rs. 200 was paid to me in the office, and other Rs. 100 was also paid to me in the office after October, 1943. A sum of Rs. 50 each on two occasions were given to me by the defendant after October, 1943. I have not gone through the accounts of the payments made by the defendant to me in the office.

No. 6
 Plaintiff's
 Evidence.
 L. A. Pabilis
 Appuhamy
 Examination. —
Continued

Cross-examined.

I am the plaintiff in connected case No. D.C. 3708,
 20 where I am making a claim similar to that of the plaintiff's claim in this action, against the defendant. D. 10 is the plaint in my action No. D.C. 3708 against the defendant. It is not true to say that the defendant has withheld from the plaintiff the entire share of the profits as stated in the plaint. I have been paid Rs. 400 in or after November, 1943. I gave my proctor instructions to the effect that a sum of Rs. 400 had been paid to me by the defendant out of my profits, and that has been deducted from my claim.

L. A. Pabilis
 Appuhamy
 Cross-
 examination.

I do not know English. Shown P. 24. I can identify my name and that of Donald Perera on P. 24. I cannot identify anything else
 30 written on P. 24. I sign my name in English, and I know to write all the letters of the English alphabet. I can write the letters of the alphabet which come in my name. I can spell my name Pabilis Appuhamy. (Witness spells the word "Pabilis" correctly). (Witness also spells the Appuhamy as "Appuy." Witness is shown the word "Appuhamy" and he gives all the letters of the word Appuhamy correctly). I do not understand the meaning of the word "Dear Sir." I also do not know how to write the words "Dear Sir." When I receive a letter written in English I use to get someone to read it for me, and as such, I have heard the words "Dear Sir." But,
 40 I do not know the meaning of it. When I receive letters in English I use to get someone to explain the contents. And on such occasions I have heard the words "Dear Sir." But I have not got the words "Dear Sir" explained to me by those people who reads out my English letters, for me. I do not know for what reason or sense the words "Dear Sir" are used in a letter. When a letter is explained to me the meaning of the words "Dear Sir" is not explained to me. Only the gist of the letter is explained to me.

No. 6
Plaintiff's
Evidence.
L. A. Pabilis
Appuhamy
Cross-
examination.—
Continued

Shown a writing. Q. Whose signature is that ?

A. I do not know.

Shown a writing. Q. What are these letters.

A. I can recognise only three letters in this writing.

(Witness identifies the letters " A," " L " and " P " in the writing shown to me, and he underlines them). The letter after the letter " P " is scribbled and therefore, I cannot identify it.

Shown P. 24. (Witness is asked to read the word " Kurunegala "). I cannot read or identify anything that is written on P. 24, shown letter "S" to witness on P. 24, and he identifies that letter. 10 He also identified the letter (" I "). P. 24 is written on a note-head of the Sri Lanka Omnibus Co. I can identify this letter-head, because, in all the letters I have received from the company the same heading is there, and also others have told me that they belong to the Sri Lanka Bus Co. I do not know the letter between " S " and " I." (This refers to the word " Sri " and the witness could not identify the letter " R ").

Shown only the signature on P. 26. This is the signature of our clerk of the " G " branch of the Sri Lanka Bus Co.

Shown Translation of P. 27. I cannot say who has signed this. 20 I cannot see K. M. Perera's name on the translation of P. 27.

I am a driver in the Green Line Omnibus Co. Ltd., where B. A. John Singho is a director, and there is also another director. I know that B. A. John Singho is a director of the Green Line Omnibus Co. Ltd. and plaintiff Martin Dias, in this case is a shareholder of that company. I am a temporary driver of the Green Line Omnibus Co. and I am paid Rs. 5.35 per day as my salary, for the last six months I have been employed under this bus company as a temporary driver. I do not have any other means of income, except the salary I get from the Green Line Omnibus Co. as temporary driver. 30 Even before the last 6 months I was doing temporary work as a driver in the Green Line Bus Co. About 1½ years ago I started working as a temporary driver in the Green Line Bus Co. Before that I have not worked in the Green Line Bus Co. During the last 1½ years all my services has been with the Green Line Bus Co. and no one else. For about six to eight months I have been paid by the Green Line Bus Co. for the services rendered to them as temporary driver. I did not depend either on John Singho or Martin Dias for my livelihood. I was not helped at all by John Singho in regard to the costs of litigation in this case. I cannot say whether any of the 40 other plaintiffs in the connected cases against this defendant are helping the plaintiff in this case, financially. My action against the defendant has not been set for trial. I am told that the decision in this case would be binding on my case as well as the other similar cases filed against this defendant. Five of us have filed actions against this defendant, and if in one case the plaintiff loses his action and in the other cases also the plaintiffs will lose their actions filed against

this defendant. We all are combinedly fighting this action, because, the result of this case will be helpful in other actions against this defendant. All the five of us are spending to fight out this case. If I stated that I was not spending for this case, it was because, I did not understand the question put to me earlier. For a date on which this case is heard I contribute about Rs. 100 as I have no money. John Singho may be having lot of money, and he is a much richer man than myself. He spend his share for this case. John Singho is spending more on this case. He has contributed more money, as his interests are more. John Singho has about Rs. 2,500 worth of shares in the Sri Lanka Bus Co. I have Rs. 200 worth of shares in the Sri Lanka Bus Co.

No. 6
Plaintiff's
Evidence.
L. A. Pabilis
Appuhamy
Cross-
examination.—
Continued

I was not doing any work in 1947. I was at one time employed as the driver under Dr. Waidyasekera. After that I got employment under the defendant as driver in 1935 to 1936. I was paid a salary of Rs. 1.50 per day without any meals being provided. In the year 1935, the defendant did not have two buses. During the time I worked under the defendant he did not have two buses. I may have worked for about one year under the defendant. Even after I left the employment of the defendant, he did not have two buses. After the "G" branch of the Sri Lanka Bus Co. was formed the defendant owned two buses. Those two buses belonged to the Sri Lanka Bus Co. I do not remember whether the defendant had two buses in 1941. What I think is that he did not have. One bus was mine and the other bus belonged to the defendant. The defendant took the income both from my bus and from his bus for the K.A.B. Bus Co. Before the K.A.B. Bus Co. was formed the defendant had a bus, but I do not know whether that bus was registered in his name. I owned two buses before the K.A.B. Bus Co. was formed. The defendant did not take any income out of any of my buses before the K.A.B. Bus Co. was formed. I took the income from my two buses.

I know the bus bearing No. U 916. I was the registered owner of that bus. I did not transfer the route right of that bus for Rs. 200 to the defendant. I transferred its route right to the defendant free and not for Rs. 200.

The defendant ran bus No. E 397 in my name on the route right I had transferred to him on bus No. U 916.

Q. The route right which you had for the bus No. U 916 and which you gave free of charge to the defendant was affixed by K. M. Perera, the defendant, to bus No. E 397 ?

A. Yes.

The defendant did not drive buses. He was not in the driver class. I did not take money when I gave over the route right to the defendant. I had borrowed some money from the defendant. I have re-paid that debt to the defendant. I told the Court about

No. 6
Plaintiff's
Evidence.
L. A. Pabilis
Appuhamy
Cross-
examination. ---
Continued

my debt to the defendant on my own without being asked or questioned from me. The defendant took an agreement from me in regard to both buses of mine. That writing was to the effect that in the event I am paying the money one bus would be returned to me and the other bus would be taken by the defendant. The defendant did not advance me money to buy buses from Dr. Waidyasekera. The defendant did not advance me any money to buy two buses from anybody. He gave me Rs. 300 odd on condition that I would pay it back without interest within a specific time, and if I should fail to pay that money back both buses that were in my name were to be the 10 property of the defendant, and if I paid back the money within the stipulated time, the defendant was still to have one of my buses for him. It is, because, of these considerations I transferred the route right of my bus U 916 to the defendant without any payment, and that route right the defendant affixed on to bus No. E 397.

Bus No. E 397 was the defendant's bus, and he got that bus registered in my name. Though that bus was registered in my name the defendant was in fact the owner of that bus. Apart from the bus No. E 397 of the defendant, which was registered in my name the defendant had another bus registered in my name, the defendant had 20 another bus registered in his name. In 1942 the defendant had 1 bus, which was registered in my name and another bus which was registered in his name. In fact, both those buses belonged to the defendant. The defendant had one bus of his registered in my name before the last war started in 1939. Before the last war started the defendant had another bus bearing No. A 1004, and also another bus No. A 989. The defendant was the owner of those buses, but, I cannot say whether they were registered in his name. I am not quite sure whether the bus No. E 397 belonging to the defendant was registered in my name before the war. In 1942 bus No. E 397 belonging 30 to the defendant was registered in my name. In 1942, I had my bus bearing No. X 1340 registered in my name. It was a 1929 model Dodge.

After the "G" branch of the Sri Lanka Bus Co. was formed my bus No. X 1340 was scrapped in 1945, after this action was filed. My bus No. X 1340 was running in 1945. In 1942 I was running the defendant's bus and my bus. The defendant did not allow me to use his bus in order to earn my livelihood. I did not pay the defendant anything for my running his bus in 1942. I did not use a bus belonging to the defendant in 1942. In the year 1942, 40 I was not driving bus No. E 397 belonging to the defendant though registered in my name. I have never driven that bus (No. E 397)

at any time. That bus No. E 397 was on the road in 1942—it was running. I do not know who took the income from the bus No. E 397 in 1942.

No. 6
Plaintiff's
Evidence.
L. A. Pabilis
Appuhamy
Cross-
examination.—
Continued

(Sgd.).....

Addl. District Judge.

14th July, 1949.

It is now 4.10 p.m. Further hearing postponed for tomorrow, the 15th July, 1949.

(Sgd.).....

A. D. J.

14th July, 1949.

10

Trial Continued

15th July, 1949.

Case No. 3705 M. D.C. Kurunegala.

Plaintiff and defendant present.

Mr. Adv. E. G. WICKREMANAYAKE with Adv. Mr. G. E. CHITTY instructed by Mr. I. A. B. IHALAGAMA for plaintiff.

Mr. Adv. C. THIAGALINGAM instructed by Mr. A. C. AMERASINGHE of Messrs. PERERA & PERERA for defendant.

L. A. PABILIS APPUHAMY, recalled, affirmed.

20

The K.A.B. Bus Co. was formed in July, 1942. Before the K.A.B. Bus Co. was formed I was driving my bus between Kurunegala and Alawwa. All the partners of the K.A.B. Bus Co. were driving buses, except this defendant at that time. In the early part of 1942 there was a cut-throat bus competition. From the running of the buses there was an income at that time. One reason for the formation of the K.A.B. Bus Co. was to prevent friction and rivalry between the bus drivers, and also to enable all of us drivers, except the defendant, to enjoy a respectable living. The defendant was prevailed upon by all of us to be the manager of the partnership.

30

We told the defendant to be the manager of the partnership (K.A.B. Bus Co.). All of us drivers gave the daily takings to the defendant. The bus fares were fixed by the partnership, and the buses continued to be in the name of the individual owners when the K.A.B. Bus Co. was formed by us. We were running our buses between Kurunegala and Alawwa. We did not ask for route licences for Colombo to Kurunegala. In 1942 all of us asked the defendant to apply to the Commissioner of Motor Transport for exclusive route licences for the routes on which we were plying. The defendant accordingly applied to the Commissioner of Motor Transport. Shortly

40

after that the defendant told us that Mr. M. J. and Mr. B. J. have

No. 6
Plaintiff's
Evidence.
L. A. Pabilis
Appuhamy
Cross-
examination.—
Continued

formed themselves into a company called the Sri Lanka Omnibus Co. And the defendant told us that we could not get the exclusive rights to the routes that we were using. This was told to us by the defendant on 2.1.43.

There were old as well as new buses belonging to the K.A.B. Bus Co. when it was formed. My bus was over 10 years old at the time the K.A.B. Bus Co. was formed. There were no new buses in 1943 belonging to the K.A.B. Bus Co. The Dodge bus that belonged to H. G. Romiel Dias, the plaintiff's brother was less than 5 years in January, 1943. That is the bus bearing No. Z 4295. I cannot say 10 whether that vehicle was a car before it was converted into a bus. All the other buses were at least 10 years old in January, 1943. The route licences for January, 1943, had more value than the value of the buses themselves. The plaintiff, Martin Dias, was only an employee under the K.A.B. I was not a driver under the K.A.B. partnership and none of the members of the K.A.B. Bus Co. were drivers of the partnership. I was working as a bus inspector in the K.A.B. Bus Co. and one Mendis also worked as a bus inspector. No other partners of the K.A.B. Bus Co. worked under it. Nachchiya's husband was a driver and he did not drive any buses under the K.A.B. 20 Bus Co. He was not employed by the K.A.B. Bus Co. in the capacity of a bus driver, but, he was working as an inspector, under the K.A.B. Bus Co. Nachchiya's husband was Beling Fernando.

I know Jinadasa. He is a step-brother of Romiel Dias. Jinadasa was working as a driver in the K.A.B. Bus Co. I know Ran Menika's son, and he was working in the K.A.B. Bus Co. John Singho was not employed as the time-keeper or in any other capacity under the K.A.B. Bus Co. But, he was a director of the K.A.B. Bus Co. B. A. John Singho, Romiel Dias and K. M. Perera, the defendant, acted as directors of the company. K. M. Perera was 30 the managing director and the other two were the directors of the K.A.B. Bus Co. John Singho was at no time working as a time-keeper under the K.A.B. Bus Co. John Singho used to go to the office of the K.A.B. Bus Co. once in two or three days and used to talk with the defendant as to how the buses should be run. I did not appoint John Singho as a director. I call him a director, because he was one of the chief men among us partners, who took part in the management of the company. I do not know the man who is referred to as Nicholas Appuhamy. I do not know a man by the name of Nicholas Appuhamy. I know the bus bearing the No. Q 295. We call 40 the owner of the bus (Q 295) as Wimala Mahathmaya. That Wimala Mahathmaya was working under the K.A.B. Bus Co. I do not know Nicholas Appuhamy, and therefore, I cannot say that Wimala Mahathmaya was a brother of Nicholas Appuhamy.

P. 1 referred to :—

Q. Who is this Makawitage Nikulas Appuhamy referred to in P. 17 ?

A. We call a person who is a brother of Wimala Mahathmaya Dorai. This name may be in reference to that Dorai.

A person called Dorai also worked in the K.A.B. Bus Co. I know all the nine partners of the K.A.B. Bus Co. They are : myself, plaintiff, defendant, Romiel Dias, Ran Menika, Wimala Dorai *alias* Wimala Mahathmaya, John Singho, Nachchiya and Mendis Appuhamy. All 10 these persons whom I have stated earlier, who were working in 1942 in the K.A.B. Bus Co., continued to work in January, 1943, except two or three of them. I cannot remember the names of the two or three persons who did not work in January, 1943, in the K.A.B. Bus Co.

On 2.1.43 at the meeting held of the K.A.B. Bus Co. the defendant did not tell us that we could either join the Sri Lanka Bus Co. or claim compensation from the Sri Lanka Bus Co. The defendant said that route licences have been granted to the Sri Lanka Bus Co. instead of the K.A.B. Bus Co. and that we have right to litigate with the 20 Sri Lanka Bus Co. We did not either agree to litigate or disagree to litigate. It did not strike me that if we went into litigation everyone of us would have to be without work. No one of us either agreed or disagreed to go into litigation with the Sri Lanka Bus Co. The defendant told us his view in regard to litigation, but, none of us commented on it at the meeting. That meeting lasted two or three hours, during which time the defendant spoke. Mendis Appuhamy, Romiel Dias and I also spoke at that meeting during that two or three hours of its session. I cannot remember the others who spoke at that meeting. I said that as we were not getting petrol also and if they 30 allow us to carry on as we were continuing the K.A.B. Bus Co. we should join the Sri Lanka Bus Co. As we were unable to run the buses as petrol was not issued, I made the comment that we should join the Sri Lanka Bus Co. I expressed that view because I thought of the unemployment that might follow if our buses were not running. Now I know that under the new Motor Ordinance one could either join the company or claim compensation from the company by litigation. In 1943, I knew that under the Motor Ordinance we have to form ourselves into a company and run the buses.

Q. When did you know about the right to claim compensation ?

40 A. I did not know about it. Now I know it.

We came to know of the fact that we could claim compensation, only after the defendant ceased to give us the profits and when we wanted to file these actions. The defendant ceased to give us profits

No. 6
Plaintiff's
Evidence.
L. A. Pabilis
Appuhamy
Cross-
examination.—
Continued

No. 6
Plaintiff's
Evidence.
L. A. Pabilis
Appuhamy
Cross-
examination.—
Continued

at the end of 1943. At the end of 1943 or even before the end of 1943 I knew that we could claim compensation from the Sri Lanka Bus Co. At the meeting held on 2.1.43 the defendant told us that we could claim compensation from the Sri Lanka Bus Co. Then I knew of it. At the meeting I expressed the view that we should join the Sri Lanka Bus Co. So did the other partners.

Q. Now can you remember that all of you told the defendant not to litigate with the Sri Lanka Bus Co., but to join the Sri Lanka Bus Co. ?

A. We did not ask him not to litigate. 10

Q. Did you all tell the defendant let us join the Sri Lanka Bus Co. ?

A. Yes.

Q. Did you tell the defendant to withdraw the applications that he had made for the route licences at the meeting held on 2.1.43 ?

A. We did not tell the defendant to withdraw the application made.

At the meeting held on 2.1.43 we knew that the defendant had made applications for route licences, and that the route licences for our routes had been given to the Sri Lanka Bus Co. Because the 20 defendant asked us to join the Sri Lanka Bus Co. we agreed to it. At that meeting we agreed to join the Sri Lanka Bus Co.

Q. Did the defendant tell you at that meeting since we are agreed to join the Sri Lanka Bus Co. am I to withdraw the application made for the route licences ?

A. The defendant did not tell us about this at the meeting held on 2.1.43.

Q. Do you know that the defendant after the meeting on 2.1.43 had withdrawn the applications made by him for the route licences on behalf of the K.A.B. Bus Co. ? 30

A. Now I know of it.

Q. When did you come to know it ?

A. I cannot remember the date.

I came to know of it sometime shortly after the meeting on 2.1.43. When I came to know that the defendant had withdrawn the applications made for the route licences I did not approve of his conduct. I did not approve of the defendant withdrawing the applications made for route licences, as we did not ask him to do so. The defendant withdrew the applications without our asking him to do so. It is an incorrect thing the defendant did in withdrawing the applications 40 without obtaining our authority. I thought he was wrong in withdrawing the application because, he withdrew them without our consent or authority. That is all what I can say about his withdrawing the applications without our authority.

Our buses were valued before the K.A.B. Co. was formed. I have no document to prove the date or the time at which these buses were valued for the formation of the K.A.B. Bus Co. I have not made a record of the valuation of the buses in any of my books or anywhere. My bus was valued by the Sri Lanka Bus Co. about the 15th or 16th of January, 1943. I have not made a record of that in writing anywhere. But I have received a document from the Sri Lanka Bus Co. stating the value placed of my bus. I was satisfied with the valuation placed on my bus by the Sri Lanka Bus Co.

No. 6
Plaintiff's
Evidence.
L. A. Pabilis
Appuhamy
Cross-
examination.---
Continued

10 Q. Did you receive any communication yourself from the Sri Lanka Bus Co. in regard to the valuation of your bus ?

A. Yes. I received a communication.

I got that communication not on the very day my bus was valued. On 16.1.43 the valuation of the bus was not done, but, it was done on 13.1.43. It was after that I received the letter dated 16.1.43. On 13.1.43 itself I knew the valuation they had placed on my bus, and I accepted the valuation placed on my bus by Mr. Donald Perera on 13.1.43. Donald Perera had first valued my bus at Rs. 1,250 and then increased its value to Rs. 1,500. If I had not accepted
20 the valuation placed on my bus, I perhaps might not have joined the Sri Lanka Bus Co. At the meeting on 2.1.43 we did not say that we would consider the question of joining the Sri Lanka Bus Co. after the valuation of our buses by them. At the meeting no question was raised with regard to the valuation that would be placed on our buses by the Sri Lanka Bus Co. At the meeting we did not stipulate that we would agree to join the Sri Lanka Bus Co. only if we were satisfied with the valuation placed on our buses. At the meeting held on 2.1.43 we did not know that the K.A.B. partnership was at
30 an end. On 15.1.43 after we joined the Sri Lanka Bus Co. we knew that our K.A.B. partnership was dissolved. I do not know whether the Registrar of Companies was informed that the K.A.B. partnership had been dissolved. On 16.1.43 the buses that had been driven before by those employed as drivers by the K.A.B. Bus Co. continued to drive the buses. After 16.1.43 I know that the defendant sent all the takings of the buses to the Sri Lanka Bus Co. The defendant paid his salary, salary of the clerk, salary of the drivers, etc., cost of petrol and other running expenses from the takings of these buses and remitted the balance to the Sri Lanka Bus Co., after 16.1.43. During the whole of January, 1943, I worked and continued to work
40 till I was discontinued on the 8th or 9th of November, 1946. I was discontinued on the 8th or 9th August, 1946, and not in November, 1946. I was working as an inspector and I was discontinued. On 16.1.43 I did not work as a driver. After we formed ourselves into the K.A.B. Bus Co. till I was discontinued in August, 1946, I worked as an inspector in the bus. I cannot exactly say ; I think, I got Rs. 65 as salary for the month of July, 1946. At that time I was

No. 6
Plaintiff's
Evidence.
L. A. Pabilis
Appuhamy
Cross-
examination.—
Continued

an employee under the defendant, and he had the right to dismiss me. I was discontinued from service because I went to the proctor to entrust this action in August, 1946. When I was returning from the proctor's office, one driver called Peter gave me a letter asking me to come to the office. That letter may be with me at home. I have to look for it. I think my action was filed at the end of August, 1946. All of us filed our cases against this defendant on the same day. I do not know even now that Martin Dias was discontinued in May, 1944. I cannot say whether Martin Dias worked under the defendant in 1945. Martin Dias was not working at the time I was 10 discontinued by the defendant I cannot say how long before my discontinuance Martin Dias ceased to work. All of us who have filed actions against the defendant went together to see our proctor. That was the first time I went to my proctor to give my instructions, and it was about the time I received the letter of discontinuance from the defendant. I was not summoned by the defendant to produce that letter of discontinuance of my services.

Q. I put it to you that all these actions filed against the defendant were filed at your instigation ?

A. No.

20

Q. You thought of filing these actions only after you were served with your notice of discontinuance ?

A. No.

Shown D. 13. Letter dated typed 16.8.46. 16th is scored off and 21st substituted in its place on top and initialled by the proctor for the plaintiff—Mr. Thalagama. D. 13 is a letter written by the proctor for plaintiff to the defendant. I have gone and seen my proctor about the middle of August, 1946, in regard to the action filed against the defendant. It was the first occasion I went to see my proctor in connection with the filing of this action. It was about 30 the middle of August, 1946, that I first went to see my proctor to file my action against the defendant, which is pending now.

Referred to D. 14.

A certified copy of the plaint filed by this witness against the defendant in this action in A.C.R. Kurunegala 13950. In that plaint I admit I have stated that I was dismissed from service on 9.8.46 by the defendant. I did not go to see my proctor to file this action, which is pending against the defendant, after my dismissal by the defendant I was asked to go and see the defendant in his office, before I was dismissed. It was not two weeks before my dismissal that 40 I was asked to go and see the defendant. On the very day that I was dismissed from service I was asked to go and see the defendant in his office. The defendant did not give me any warning of my dismissal earlier. I was a ticket inspector in the company. The

No. 6
Plaintiff's
Evidence.
L. A. Pabilis
Appuhamy
Cross-
examination.—
Continued

11th October, 1949.

Plaintiff and defendant are present. Mr. Adv. E. G. WICKRAMANAYAKE with Mr. Adv. J. PATHIRANA instructed by Mr. I. A. B. IHALAGAMA for plaintiff.

Mr. Adv. C. THIAGALINGAM instructed by Mr. A. C. AMERASINGHE of Messrs. PERERA & PERERA for defendant.

L. A. PABILIS APPUHAMY, recalled, affirmed.

To my plaint D. 14 filed in the Court of Requests, Kurunegala, the defendant K. M. Perera filed his answer D. 15. In his answer D. 15 the defendant took up the same position as he took in replying 10 my Letter of Demand D. 13. together with D. 15. I accepted Rs. 80 deposited by the defendant and the action was dismissed without costs.

Q. In 1942 was there a proposal to convert the partnership of K. A. B. Bus Co. into a Limited Liability Company ?

A. Yes.

Q. Did that proposal materialise ?

A. It was in 1942 that the K. A. B. Bus Co. was formed.

K. A. B. Bus Co. was a company. I do not know the difference between a partnership company and limited liability company. 20

Shown P. 20, P. 21, and P. 22. All these letters were transmitted while the K.A.B. Bus Co. was in existence in 1942. At the time these letters were received none of the partners of the K. A. B. Bus Co. had become shareholders of the Sri Lanka Omnibus Co. I can remember a meeting held among the partners of the K. A. B. Bus Co. At that meeting the defendant in this case was asked to obtain route licenses for buses to ply between Kurunegala and Alawwa. Accordingly the defendant made application for route licences. Shown P. 13 to P. 19. I do not know what P. 13 to P. 19 denote. I know that the defendant made applications to the Commissioner of Motor Transport 30 for route licences. On 31.12.43 the defendant did not tell that the route applied for by us will not be given to us and that they will be given to the Sri Lanka Bus Co. On 2.1.43 at a meeting of the partners of the K. A. B. Bus Co. the defendant told us that the route licences applied for have been given over to the Sri Lanka Bus Co. by the Commissioner of Motor Transport. The defendant did not tell us anything about his claiming compensation from the Sri Lanka Bus Co. for himself. He said that he can file an action against the Sri Lanka Bus Co. in regard to the routes. By that statement I did not understand that the defendant was going to litigate with the Sri 40 Lanka Bus Co. If we were able to fight against the Sri Lanka Bus Co., we were willing that we should fight. On the instructions given

by Mr. Nelson we formed the company. If we were able to fight a case we wanted the defendant to fight it out. I did not know that over the route licence the Ordinance empowered us to file an action against the Sri Lanka Bus Co.

No. 6
Plaintiff's
Evidence.
L. A. Pabilis
Appuhamy
Cross-
examination.—
Continued

Q. Did you know that you could claim compensation from the Sri Lanka Omnibus Co. without becoming a shareholder of the Sri Lanka Omnibus Co. in respect of route licences ?

A. I know that I could litigate in respect of the routes.

I know that I had a right to join the Sri Lanka Bus Co. as a
10 shareholder. I did not know that I could claim compensation from
the Sri Lanka Omnibus Co. without becoming a shareholder of that
Company, but we thought that we would fight for our route licences. I
told the defendant and the partners of the K.A.B. Bus Co. that the
defendant should fight for the route licences. No. I asked him to
make applications for route licences and not to fight. On 2.1.43
we wanted the defendant to litigate with the Sri Lanka Bus Co., but
the defendant told us that there were no need to litigate as we could
go on in the same way as at present. On 2.1.43 all the partners of
the K.A.B. Bus Co. told the defendant that we would like to join
20 the Sri Lanka Bus Co. and the defendant told us that there was nothing
wrong for us to join that company, and we had petrol coupons to run
only up to 15.1.43, and also as we could go on in the same way. It
was decided at the meeting held on 2.1.43 that we should join the
Sri Lanka Bus Co. as the defendant asked us to join it. I told the
defendant let us join the Sri Lanka Bus Co. The defendant was
the person to take the necessary steps to join the Sri Lanka Bus Co.

Q. Did you require the defendant to withdraw the applications made by the K. A. B. Bus Co. for route licences in favour of the Sri Lanka Bus Co.?

30 A. We did not ask the defendant to withdraw the applications
already made to the Commissioner of Motor Transport for the route
licences in favour of the Sri Lanka Bus Co.?

When we met on 2.1.43 the applications already made for route
licences were with the Commissioner of Motor Transport. Also we
knew that the routes applied for by us have been already given to
the Sri Lanka Bus Co. At the meeting held on 2.1.43 I knew that
the route licences applied for by us have been given over to
the Sri Lanka Bus Co. as I was so informed by this defendant.
We considered the question of litigating with the Sri Lanka
40 Bus Co. in regard to the routes, but we did not want to and we
decided to join the Sri Lanka Bus Co.

Q. Did you want the defendant to do anything about the applications he had made on your behalf for route licences to the Commissioner of Motor Transport ?

No. 6
Plaintiff's
Evidence.
L. A. Pabils
Appuhamy
Cross-
examination.—
Continued

A. We said nothing to the defendant. We did not ask the defendant to do anything in regard to the route licences we had already applied for.

We did not ask the defendant to withdraw the applications made for the route licences or not to withdraw them. Later I came to know that the defendant had withdrawn the applications made by the K. A. B. Bus Co. for route licences on 5.1.43. Within the month of January, 1943, I did not come to know about this. As a matter of fact, before we joined the Sri Lanka Bus Co. as shareholders I came to know that the defendant had withdrawn the applications already made for route licences on behalf of the K. A. B. Bus Co. I became a shareholder of the Sri Lanka Bus Co. on 16.1.1943. When I came to learn that the defendant had withdrawn the applications for route licences already made on behalf of the K. A. B. Bus Co. I had no grievance or protest against the defendant over it. In my presence, Martin Dias the plaintiff in this case did not tell the defendant that he would join the Sri Lanka Bus Co. as a shareholder only if their valuation of his bus was acceptable to him.

(At this state the evidence given by Martin Dias (plaintiff on 26.8.1948) at page 4 is put to the witness). 20

If Martin Dias had told " We wanted to find out first what assessment they will place on our buses before we joined the Sri Lanka Bus Co. as shareholders " it must have been stated in my absence. I was not present right through at the meeting held on 2.1.43. At intervals I got out to have a chew of betel and to answer a call of nature. We decided to join the Sri Lanka Bus Co. after the meeting held on 2.1.43, but, there was no discussion about the valuation to be placed on buses by the Sri Lanka Bus Co. According to what I understood the partners of the K. A. B. Bus Co. at the meeting held on 2.1.43 decided to join the Sri Lanka Bus Co. at any cost, as the defendant told us to join the company. On 13.1.43 all our buses were assessed by the Sri Lanka Bus Co. After our buses were assessed by the Sri Lanka Bus Co. on 13.1.43 there was no meeting held among the partners of the K.A.B. Bus Co. in the month of January, 1943. At that time I did not know that the registration of the partnership of the K. A. B. Bus Co. was cancelled in March, 1943. It was only after this action that I knew that the registration of the partnership of the K. A. B. Bus Co. had been cancelled. There was a criminal case filed by the plaintiff in this case against the defendant, and it was during the pendency of that criminal action that I came to know about the fact that the Registration of the K. A. Bus Co. partnership had been cancelled. 30

I agreed to join the Sri Lanka Bus Co. because the defendant wanted me to join it. All of us partners of the K. A. B. Bus Co. agreed to join the Sri Lanka Bus Co. at the request of the defendant,

at the meeting held on 2.1.43. After 2.1.43 whenever we members of the K. A. Bus Co. partnership met we used to discuss the question of joining or not joining the Sri Lanka Bus Co. At those discussions among ourselves, where the defendant was absent we felt that we must join the Sri Lanka Bus Co. because we were more or less forced to join the Sri Lanka Bus Co. At the time of the K. A. B. Bus Co. all drivers were paid at the rate of Rs. 1.50 per day. I cannot remember what a driver was paid per day before 16.1.43.

No. 6
Plaintiff's
Evidence.
L. A. Pabils
Appuhamy
Cross-
examination. --
Continued

Q. I put it to you that the drivers continued to work in the Sri Lanka Bus Co. on the same pay as they were used to be paid by the K. A. B. Bus Co.?

A. I cannot say whether they were paid on 16.1.43. the same pay as they were paid earlier.

Although shares were not allotted to me on 6.3.43 I knew that I was a shareholder of the Sri Lanka Bus Co. On 13.1.43 I knew that I would get shares to the value of my bus. The allotment of my shares had not been made on 6.3.43.

Shown P. 24. I know that this is a letter sent to me, but I do not know its contents. P. 24 was sent to me by Donald Perera. (Witness looks into P. 24 and makes this statement). Donald Perera was a clerk in the Sri Lanka Bus Co. I had received several letters from Donald Perera, and as such, I am not in a position to say what the contents of this letter (P. 24) is, and also because it is written in English. I do not know the date on P. 24. I cannot read the date on P. 24. But I sign my name in English.

Q. Do you remember that at the time you got this letter P. 24 that a number of other people including the defendant, plaintiff Ran Menika, Natchchiya, John Singho, Nicholas Appuhamy and Mendis Appuhamy had got letters of a similar nature ?

Mr. Adv. Wickremanayake objects to this question being put to the witness on two grounds. Firstly, because it is utterly unfair by the witness to put the question in the form, because the witness says that he does not know the contents of the letter P. 24, and secondly, it is unfair by this witness to put this question without giving him the date or the contents of this letter.

I uphold the objection.

Cross-examination continued

Q. Do you remember that about the 6th of March, 1943 you were written to by the Sri Lanka Bus Co. to go to Colombo to their office ?

A. I received a letter on 6th March, 1943, signed by Donald Perera of Sri Lanka Bus Co. inviting me to attend a meeting of the Sri Lanka Bus Co. on 12.3.43.

No. 6
 Plaintiff's
 Evidence
 L. A. Pabilis
 Appuhamy
 Cross-
 examination.—
Continued

Shown P. 24. In this letter P. 24 bears the figure " 6 " and " 43 " in the date column, and I can say that this letter (P. 24) may be that letter by Donald Perera inviting me to attend a meeting on the 12th March, 1943. The others including the plaintiff, defendant, Natchchiya, Ran Menika must have received a similar letter, because, they attended the meeting that was held on 12.3.43. I knew that they had received a similar letter because they had told me about it. I can say that they had also received similar letters in terms of P. 24 received by me. The defendant did not ask us to attend the meeting held on 12.3.43, nor did the defendant send us any letters to attend 10 that meeting. We attended that conference in Colombo. Mudaliyar Madanayake also called M.J. was present at that meeting. He is the biggest shareholder in the Sri Lanka Bus Co. There was also one Samarasinghe called Tarzan present at the conference held in Colombo on 12.3.43. I did not know that prior to 12.3.43 for the year 1943 the Sri Lanka Bus Co. had held two meetings. Prior to my attending the conference on 12.3.43, I did not know that the Sri Lanka Bus Co. had established branches in other places nor that they had appointed branch managers for such branches. At that conference Mudaliyar Madanayake did not tell us that branches of the Sri Lanka Bus Co. have 20 been established. I learnt at the conference that the Sri Lanka Bus Co. had established branches and that Sri Lanka Bus Co. had appointed managers for their branches, namely : A, B, C, D, E, and F. All the directors of the Sri Lanka Bus Co. were present at the conference held on 12.3.43. It was a conference between the directors of The Sri Lanka Bus Co. on the one hand and the nine of the persons whose buses ran on the Kurunegala-Alawwa route. These nine persons were also partners of the former K.A.B. Bus Co.

Q. Did the directors of the Sri Lanka Bus Co. at that conference held on 12.3.43 say that they were going to establish a " G " 30 branch ?

A. They did not speak about a " G " branch at that conference.

At that conference held on 12.3.43 there was no talk with regard to any " G " branch of the Sri Lanka Bus Co. nor was there any talk in regard to our joining the Sri Lanka Bus Co. as we had already joined the Sri Lanka Bus Co. and become shareholders.

Q. With reference to the evidence you gave on 14.7.49 at page 7, is it not the fact that you knew and you were informed by the directors at the conference on 12.3.43 that they had established a " G " branch of the Sri Lanka Bus Co. and they mentioned to you the term " G " 40 branch ?

A. At the conference held on 12.3.43 no mention of the formation of the " G " branch was made.

Now I know that there is a " G " branch of the Sri Lanka Bus Co. It was established by the main Sri Lanka Bus Co. At the

conference held on 12.3.43 a branch was allotted to us by the Sri Lanka Bus Co., but, it was not mentioned that it was the " G " branch.

No. 6
Plaintiff's
Evidence.
L. A. Pabilis
Appuhamy
Cross-
examination.—
Continued

Q. Did not the directors tell you at the meeting on 12.3.43 that they had resolved to establish a " G " branch for Kurunegala-Allawwa on 30.1.43 ?

A. No.

The branch was given to us on that day.

Q. Did the directors tell you that they were going to appoint
10 a branch manager ?

A. Dr. Soysa told us that we were invited to hand over our buses back to us. He further said that it would take about two or three years for the company to look into the accounts and that it would be a source of inconvenience to poor people and that they were handing us this as a branch and that we should send 10% of the income and Re. 1 per bus per day to the head office, and that the balance 90% of the income was to be distributed among us. To that statement made by Dr. Soysa we did not agree or disagree.

(At this stage this witness is not allowed to continue with his
20 story, and Mr. Adv. Thiagalingam does not want this witness to narrate any further of his story).

Q. Did the directors tell you that they were going to appoint a branch manager for the " G " branch at the conference held on 12.3.43 ?

A. No.

Q. Did the directors at that conference appoint a manager of the " G " branch ?

A. A manager for a branch was appointed by us.

Q. That is not my question. Did the directors at that meeting
30 appoint a manager for the " G " branch or not ?

A. No. The directors did not appoint a manager.

(Sgd.).....

Additional District Judge.

At this stage Court adjourns for lunch.

Resumed after lunch interval.

L. A. PABILIS APPUHAMY. Recalled, affirmed.

Q. Is it not the truth that the directors of the Sri Lanka Bus Co. said that they were going to appoint branch managers and will any one of you take up a post ?

40 A. No.

No. 6
Plaintiff's
Evidence.
L. A. Pabilis
Appuhamy
Cross-
examination.—
Continued

We did not appoint the defendant as manager by a writing. I do not know that the directors of the Sri Lanka Bus Co. appointed the defendant as manager of the "G" branch by a writing. Now I know that it is the directors who appointed the defendant as manager of the "G" branch of the Sri Lanka Bus Co. All eight of us unanimously wanted the defendant to accept the post of manager of the "G" branch.

Q. Did the defendant tell the directors at the very first that he did not want to accept office as manager of the "G" branch?

A. No. 10

Q. Is it not the fact that later all of you nine people went out of the room where the conference was held leaving the directors alone in the room?

A. All of us nine people went out of the conference leaving the directors alone.

Q. Was it not the fact that when all of you nine people returned to the room where the directors were still remaining that the directors appointed K. M. Perera, the defendant, as manager?

(Mr. Adv. Wickremanayake objects to this question, as it assumes that the directors appointed the defendant as manager, which the witness has not said at all. Mr. Adv. Thiagalingam withdraws his question). 20

Q. Was it not the fact that when all of you nine people returned to the room where the directors were still remaining that the directors told the defendant that he was appointed manager of the "G" branch?

A. No.

Q. After that conference was over what happened to the buses?

A. After the conference was over I did not get back my bus nor did any one of us get the buses back. 30

Q. The buses still remained the property of the Sri Lanka Bus Co.?

A. Yes.

Sometime later I knew that we were allotted shares by the Sri Lanka Bus Co. I was allotted 22 shares. K. M. Perera, the defendant, was allotted 61 shares, H. G. Romiel Dias was allotted 88 shares, Martin Dias, the plaintiff, was allotted 25 shares, Ran Menika was allotted 27 shares, Natchchiya 23 shares, B. A. John Singho 27 shares, Nicholas Appuhamy 22 shares and Mendis Appuhamy 22 shares. After the meeting held in March, 1943, I know that defendant functioned as the manager of the "G" branch. After 12th March, 1943, 40

I was not a driver under the branch manager, the defendant. I was a ticket inspector and I was paid by K. M. Perera, the defendant. The defendant dismissed me from service. In addition to my salary paid by K. M. Perera, the defendant, I was paid dividends by the Sri Lanka Bus Co. on my shares. For the year 1946-1947 I was paid a sum of Rs. 316 odd as dividends by the Sri Lanka Bus Co. For the year 1945-1946 I was paid Rs. 300 odd as dividends by the Sri Lanka Bus Co. For the two years 1947-1948 and 1948-1949 I have not been paid my dividends by the Sri Lanka Bus Co.

No. 6
Plaintiff's
Evidence.
L. A. Pabilis
Appuhamy
Cross-
examination.—
Continued

10 In 1943 all bus drivers as a class were agitating for higher wages. In 1945 or 1946 by legislation the salaries of bus drivers were fixed by Government. I do not remember whether the drivers employed by the defendant as branch manager agitated for higher wages and they were given an increase of salary. I know that the salaries of drivers were increased by K. M. Perera, the defendant. I cannot say on what basis the increase was effected to the drivers by the defendant, but, I know that they were given an increase of salary. At the end of March, or beginning of April the salary of the drivers from Rs. 1.50 per day was increased to Rs. 2.50 per day by K. M. Perera.

20 Q. That increase of salary was communicated to the drivers at a meeting held on 8.4.43 ?

A. It may be.

I can remember the meeting held on 8.4.43. At that meeting the drivers' salaries were not increased.

Q. Although the drivers' salaries had been increased at the end of March or beginning of April, 1943, did not the drivers ask for a further increase of salary from K. M. Perera, the defendant, at the end of April ?

A. No.

30 Q. Was not the salaries of drivers increased up to Rs. 3 from Rs. 2.50 by K. M. Perera at the end of April, 1943 ?

A. Gradually the salaries of drivers were increased from time to time, but, not on applications made by the drivers.

Shown P. 26. In P. 26 there is a reference to the division of profits and losses.

Q. Did you ever agree to answer for losses ?

A. I did not agree. If there were losses I must accept it in the same way as profits.

Q. At the time P. 26 was written no word had been said about
40 losses ?

A. No. Before P. 26 was written no question of losses was mentioned.

No. 6
Plaintiff's
Evidence.
L. A. Pabilis
Appuhamy
Cross-
examination.—
Continued

Q. I put it to you that K. M. Perera at the end of April, said I am not going to increase the salaries a cent more if there are losses ?

A. He did not say so.

He did not say that he was not going to increase the salaries of the employees of the " G " branch.

Q. Did he say that he would give the profits on a certain percentage of the gross takings provided there were no losses ?

A. He did not say any such thing.

Q. You cannot understand why in P. 26 there is a reference to losses ?

10

A. No.

Q. Did K. M. Perera tell the employees working in different buses that more money each bus brings the better it is for the people who work in those buses ?

A. No.

He did not tell the drivers or employees working in the buses to bring as much as money as it would be better for them. He told us if you work hard it is only then that we can divide more profits.

Q. Did he tell that the man who works more will get more profits ?

20

A. He did not tell that the man who works more will get more profits and that the man who works less would get less profits.

Q. Have you got any letters written to you prior to P. 26 in regard to losses ?

A. Prior to 8.4.43 no letter was received by me in regard to the division of profits and losses.

During the month of April I received a letter and it may be with my proctor. There is a letter with my proctor bearing the date 5.4.43 asking me to attend a meeting on the 8th April, 1943. I have handed over that letter to my proctor.

30

Shown P. 25. This letter P. 25 does not refer to anything about the division of profits and losses. This letter P. 25 does not refer to anything about the division of profits and losses. This letter P. 25 has reference to a meeting called for by P. 5, but there is no reference to division of profits or losses. It was the duty of K. M. Perera, the defendant, to pay the salaries of the drivers and other employees working in the buses. The drivers of buses hand over the daily takings to the defendant. He has to supply the buses with petrol, tyres and tubes, etc. Sri Lanka Bus Co. has nothing to do with these things. If my wages were not paid I should have sued K. M. Perera. In fact, that is what I did on one occasion.

Q. You did not look for payment from anybody else other than K. M. Perera ?

A. Yes.

40

I would not have sued anybody else other than K. M. Perera for my wages.

I can remember going to attend the meeting of the Sri Lanka Bus Co. on 1.2.44 when I attended that meeting the defendant had not paid me any money for about two or three months.

No. 6
Plaintiff's
Evidence.
L. A. Pablis
Appuhamy
Cross-
examination.
Continued

Q. Perera had told you before that meeting that he would not pay anything other than the salaries ?

A. He did not tell me at any time before that meeting that he was not going to pay anything other than the salaries of the employees.

10 *At that meeting held on 1.2.44 in Colombo the directors were appointed, and managers of various branches were appointed at that meeting.*

Q. On that day Nachchiya proposed and D. M. Weerasinghe seconded that branch system be carried on for the ensuing year ?

A. I do not remember about it.

I cannot remember whether at that meeting it was proposed by Nachchiya and seconded by L. R. Perera that Jayasena be appointed manager of " A " branch.

20 *Q.* At the meeting held on 1.2.44 did Romiel Dias propose and seconded by Muhandiram B. J. Fernando the election of K. M. Perera as manager of " G " branch ?

A. Not on that day.

On 1.2.44 K. M. Perera, the defendant, was appointed a director only, and nothing other than that happened. The minutes' book was not written on that day. On a piece of blank paper folded into two all of us put our signatures down. I signed it myself.

Q. I put it to you that the proceedings of that meeting on that day were then and there put into writing in the minutes' book and you signed the proceedings as having accepted ?

30 *A.* I did not sign the minutes' book.

Dr. A. P. de Zoysa was the chairman of that meeting held on 1.2.44.

Q. I put it to you that you signed the minutes of the meeting held on 1.2.44 that very day ?

A. I signed on a piece of paper which was folded into two.

I did not put my signature to a book. I signed the minutes of the meeting held on 1.2.44. No. I signed a blank sheet of paper. I signed a paper on which nothing was written.

No. 6
Plaintiff's
Evidence.
L. A. Pabilis
Appuhamy
Cross-
examination.—
Continued

To Court.

I signed the sheet of paper as it was meant for signatures of those who attended that meeting. I was asked to sign my name on that sheet of paper.

Q. Was it done at every meeting ?

A. Yes.

Cross-examination continued.

There were meetings at which I refused to sign my name on a paper. When proposals were brought forward by us at the meetings they were not approved by them. So I refused to sign my name to indicate my attendance. We had come to know that we were made to sign our names on pieces of paper in respect of the proposals that were brought up. I was not asked to put my signature to what happened at the meetings. For the first three meetings I may have signed my name on a blank paper. After that I did not sign my name. I came to know that the signatures I put at the first three meetings in a blank sheet of paper were misused for a document to that of something written above my signature. I had not seen that my signature had been misused. I refused to sign, because the proposals that were brought by me were not approved by the Sri Lanka Bus Co. I proposed that K. M. Perera should not be the managing director of the "G" branch and it was seconded by Martin Dias, at the general meeting of the shareholders of the Sri Lanka Bus Co. It was on 23.3.45. The supporters to my resolution were myself, the plaintiff and the three plaintiffs in the other connected cases against the defendant. The rest of the shareholders of the Sri Lanka Bus Co. voted against my resolution; including the defendant, Nachchiya, Nicholas Appuhamy, Mendis Appuhamy and Mudaliyar Madanayake and all the other major shareholders.

Shown D. 16. The minutes' book of the annual general meeting of the Sri Lanka Bus Co. 30

(Mr. Adv. Thiagalingam undertakes to prove D. 16, D. 16 is accepted subject to proof).

Q. If in the minutes' book of the meeting of the 23.3.45 which you attended, it is recorded that B. J. Fernando presided, is it true or not ?

A. It is true.

Q. I put it to you that at the meeting the proposal that a new agent in place of K. M. Perera be appointed for the "G" branch was not made by you, but by Martin Dias, the plaintiff, in this case and seconded by you ? 40

A. If on the minutes it is stated that a new agent in place of K. M. Perera be appointed was proposed by the plaintiff and seconded by me, it is all false.

To Court.

Q. Was there such a resolution proposed at that meeting ?

A. Yes.

I cannot say who proposed that resolution. I also cannot say as to who seconded that resolution. Either the plaintiff or myself was the proposer of that resolution or either I or the plaintiff was the seconder of that resolution. Both of us are responsible for that resolution.

No. 6
Plaintiff's
Evidence.
L. A. Pabilis
Appuhamy
Cross-
examination.—
Continued

Cross-examination continued.

10 Q. You know that managers of the various branches were elected at every annual general meeting of the shareholders of the Sri Lanka Bus Co. ?

A. At the meeting held on 23.3.45 the defendant was appointed manager of the " G " branch.

I do not remember the name of the proposer of that resolution. I do not remember whether it was Muhandiram B. J. Fernando who proposed the name of the defendant at that meeting. I do not remember the names of the proposer or the seconder of the name of Mr. K. M. Perera at that meeting as manager of the " G " branch.
20 The previous annual general meeting of the Sri Lanka Bus Co. was held on 1st February, 1944. On 23.3.45 at the meeting I was asked to sign a blank sheet of paper. I did not sign it, which was sent round as an attendance sheet. Ran Menika did not sign the attendance sheet. Martin Dias and John Singho also did not sign the attendance sheet. At the annual general meeting held on 1.2.44 Mr. K. M. Perera was elected manager of the " G " branch.

Q. At that meeting who was elected the manager of the " A " branch ?

A. I cannot say. I cannot remember who was elected manager
30 of the " A " branch.

The managers of the various branches were not elected at the meeting held on 1.2.44 it was only the manager of the " G " branch that was appointed at the meeting held on 1.2.44 and not the managers for the other branches.

(Sgd.).....

Addl. District Judge.

11th October, 1949.

It is now 4 p.m. Further trial postponed for tomorrow, the 12th October, 1949.

40

(Intd.).....

A. D. J.

11.10.1949.

Trial Continued

No. 6
Plaintiff's
Evidence.
L. A. Pabilis
Appuhamy
Cross-
examination—
Continued

12th October, 1949.

Plaintiff and defendant are present. Appearances as on yesterday.

L. A. PABILIS APPUHAMY, recalled, affirmed.

The appointment of K. M. Perera, the defendant, as manager of the "G" branch was made at the meeting held on 1.2.44, by all the shareholders of the Sri Lanka Bus Co., and not by the former partners of the K. A. B. Bus Co. alone. I was under the employment of the defendant. I wanted to remove him from the post of manager of the "G" branch at a meeting of the Sri Lanka Bus Co. held on 10 March, 1945, but I failed in my attempt to do so, even after that I continued to work under the defendant. There was an annual general meeting of the Sri Lanka Bus Co. on 4.6.1946. I was not present at that meeting. I do not remember whether I was present at that meeting, I am not quite sure whether I attended that meeting, and as such, I am unable to say what transpired at that meeting. I did not attend the annual general meeting of the Sri Lanka Bus Co. held on 27.6.1947. I remember that well.

I did not personally go and inform the Registrar of Business Names that the K. A. B. Bus Co. had been dissolved. I cannot 20 remember having put my signature to any document giving my consent to the dissolution of the K. A. B. Bus Co.

Q. I put it to you that you yourself knew that the registration of the K. A. B. Bus Co. was cancelled long before you went to the conference of the directors of the Sri Lanka Bus Co.?

A. In February, 1943, I knew that the Sri Lanka Bus Co. had been dissolved.

(Shown original of the Notice of Cessation of Business a certified copy of which is marked D. 17 obtained from the custody of the Registrar of Business Names). 30

I admit that the signature on the original of this certified copy D. 17 is mine.

(The Registrar of Business Names is allowed to remove the original of D. 17 with the consent of Counsel on both sides).

Re-examined.

Q. When the defendant was manager of the K. A. Bus Co. did you leave the management of the business and routine work in his hands?

A. Yes.

Q. Do you people understand business?

A. No.

L. A. Pabilis
Appuhamy
Re-examina-
tion.

I cannot read English. The defendant asked us to sign documents when he was manager of the K. A. B. Bus Co. and we did sign documents.

No. 6
Plaintiff's
Evidence.
L. A. Pabils
Appubamy
Re-examination
Continued

Shown D. 16. I drew the attention of the Court to D. 16 where in all the minutes the members present have not signed the minutes as members present and accepting the minutes. When we did not either agree or disagree to the suggestion made by Dr. Zoysa at the meeting of the Sri Lanka Bus Co. presided over by him on 12.3.42 he asked us to go out of the meeting room for ten minutes and discuss
10 the matter and come back to the meeting. Then we all partners of the K. A. B. Bus Co. went out of the conference and discussed over that matter. The defendant said that as in the K. A. B. Bus Co. the money could be divided monthly and after sending 10% to the main company and also after deducting Re. 1 per bus per day we can go on as had been done previously in the K. A. B. Bus Co., and wanted us to join the Sri Lanka Bus Co. At that time Mr. M. J. also came to us. We then went back to the meeting room and all of us were willing to accept the suggestion put to us by Dr. Zoysa. When we went back to the conference we were questioned as to what our decision
20 was. All of us expressed our decision that we were willing to accept the suggestion made by Dr. Zoysa. Dr. Zoysa said that he could not write nine individual letters to all of us, and he asked us to nominate one person to whom they should write letters. So we selected the defendant, as he had been our previous manager.

(This portion of the evidence though hearsay is allowed as the counsel for the plaintiff does not object to its going in).

On our behalf the defendant should supervise the work of the company and distribute the profits and losses of the company. He was to supervise the work of the "G" branch and divide the profits
30 and losses of the income from our buses. Our buses were attached to the "G" branch of the Sri Lanka Omnibus Co. This is how the defendant came to be the manager of the "G" branch.

The meeting at which we asked the defendant to apply to the Commissioner of Motor Transport for route licences was held on 12.12.42. There was no reason for me to raise objections over the withdrawal of the applications for route licences by the defendant, because he said that he would continue to work and to go on as in the K. A. B. Bus Co. When the defendant failed to give us the monthly distributions of the profits for the first time four of us signed
40 a letter and sent it to the defendant.

Q. What was the legal action you took ?

A. I filed an action against the defendant for the recovery of my salary due to me.

No. 6
Plaintiff's
Evidence.
L. A. Pabilis
Appubamy
Re-examination
Continued

In regard to the failure of the defendant to pay the monthly distributions Martin Dias, the plaintiff in this case, filed a criminal action against the defendant. I was a witness for the plaintiff in that case. I did not give evidence in that criminal action filed by Martin Dias against this defendant. That criminal action was filed by Martin Dias in 1945. It may be in 1945. I produce a certified copy of the Plaintiff and Journal Entry of the first date in M.C. 22667 Kurunegala marked P. 30. The first day's proceedings in that case were on 18.4.45. In that criminal action filed by Martin Dias against the defendant, I used to go and see the lawyers in that connection. 10 When I was returning from the office of the proctor a driver called Peter called me and gave a letter to me. I produce that letter marked P. 31. In P. 31 I was directed to come to the office on the following morning. That is to the office of the "G" branch of the Sri Lanka Bus Co. On the very day that I got the letter P. 31 I went to the office. That letter is signed by the chief clerk of the "G" branch of the Sri Lanka Bus Co.

(Mr. Thiagalingam objects to the production of P. 31).

I allow subject to proof.

I know the signature of the chief clerk Amerasinghe of the "G" 20 branch. I have received previous letters signed by him from the office. I know that the signature on P. 31 is that of Amerasinghe, the chief clerk of the "G" branch. On receipt of this letter P. 31. I went to the office and met the chief clerk of the office, later I met K. M. Perera, the defendant. I went to meet the defendant in order to inquire why I had been asked to come there by this letter P. 31. I asked him why he had asked me to come to the office by this letter P. 31, The defendant told me that I could not litigate and yet be under his employment. He asked me to give up the job and to litigate. I told him that I was not prepared to give up my job. When I was 30 attending to my duties as ticket inspector between Alawwa and Polgahawela I was sent for by the Alawwa Police. Alawwa Police had sent for me on an information from the defendant.

I filed an action against the defendant for the arrears of salary and damages in a sum of Rs. 130. The defendant brought into Court Rs. 80. Before that action was finally disposed of I do not remember the number of dates it took. It took about an year. Approximately about five dates it had gone to. At that time I was unemployed. I accepted that Rs. 80 tendered by the defendant and had my action dismissed without costs because I had no money for litigation. This 40 case for recovery of my salary was in 1946. The other cases connected with this action were filed on 30.8.46.

At no time was there a debit balance of the K. A. B. Bus partnership. There were no losses as far as the K. A. B. Bus partnership was concerned. There was a distribution of monthly profits made

by the K. A. B. Bus Co. If there had been losses in the K. A. B. Bus Co. the partners would have to bear such losses. We did not give any express agreement in writing or otherwise to the defendant that we would bear any losses sustained by the K. A. B. Bus Co. But, we know that the partners had to bear if there was any loss. If there had been any losses in the "G" branch of the Sri Lanka Bus Co. I was under the impression that we nine partners had to bear such loss. What I meant by "us" in my evidence given yesterday is the proprietors of the buses in the "G" branch.

No. 6
Plaintiff's
Evidence.
L. A. Pabilis
Appuhamy
Re-examination
Continued

10 Shown a letter. This is a letter that was sent to me from the clerk of the "G" branch of the Sri Lanka Bus Co. I am unable to say who has signed this letter. After the formation of the "G" branch the rate of bus fare was higher than the previous rate of fares.

Q. What was the rate of fare between Kurunegala and Alawwa under the K. A. B. Bus Co.?

A. I am not quite sure. It was about 50 cents.

I cannot say what is the bus fare today between Kurunegala and Alawwa.

Q. Why did Nachchiya, Nicholas, Mendis Appuhamy vote
20 against the resolution brought forward by you and the plaintiff to oust the defendant from the managership of the "G" branch of the Sri Lanka Bus Co.?

A. It was because the defendant was continuing to pay them their profits and losses monthly.

At the meeting held on 2.1.43 we first discussed the question of bus routes and then we decided to join the Sri Lanka Bus Co. as the defendant told us that we could yet carry on as before though we join the Sri Lanka Bus Co. I produce a certified extract from the Registrar of Motor Cars marked P. 32 showing that registration of the vehicle
30 No. Z 4295 being effected for the first time in the name of Romiel Dias on 13.9.37.

(With the permission of Court and consent of the counsel for the plaintiff Mr. Thiagalingam is permitted to cross-examine this witness at this stage with reference to D. 3).

Shown a document marked D. 18 purporting to be the minutes book of the Sri Lanka Bus Co. from 21.12.1942 to 26.1.1945.

(This book D. 18 is produced from the custody of the Supreme Court, Colombo, and is being shown to the witness. Court allows this document to be shown to the witness subject to proof).

40 I have seen books like this. I cannot say whether I have signed a book like this. I have signed this book. I do not know what this book is. The defendant obtained my signature to this book at the

No. 6
Plaintiff's
Evidence.
L. A. Pabilis
Appuhamy
Re-examination
Continued

Potuhera junction one day. That was the only time I had seen this book. I cannot say whether I have seen this book before that or after I cannot give the date. I am able to give the year and the month. I signed this book some day in the beginning of February, 1944. No. I signed this book about the middle of February, 1944. I put my signature only in one place in this book on that day. I cannot say whether I have signed this book on any other occasion. I remember having signed this book only once at Potuhera.

To Court.

Q. Have you signed a similar book at any other time ? 10

A. In the " G " branch of the Sri Lanka Bus Co. I have put my signature to similar books, but nowhere else.

Q. How many times ?

A. More than two or three times.

Without knowing for what I was asked to sign I signed at the Potuhera junction. I placed my signature to this book D. 18 at Potuhera junction without knowing for what purpose I was putting my signature to. I placed my signature to D. 18 at the Potuhera junction without being told for what my signature was being obtained.

Cross-examination continued.

20

When the defendant asked me to sign this book at the Potuhera junction in February, 1944, there was no other person interested in me or Mr. Perera present at that time. It was signed by me on the main road at the Potuhera junction. Romiel Dias, Martin Dias, Ran Menika, Nachchiya were not present at the time I signed this book at the Potuhera junction at the request of the defendant.

Shown page 32 in D. 18. I admit that one of the signatures at the bottom of page 32 is mine. I have signed it in English. I can recognise the signatures of Dr. A. P. de Zoysa, of Martin Dias, of E. A. Ran Menika, of K. M. Perera only on page 32 of D. 18. Dr. Zoysa 30 was the chairman who presided at the annual general meeting of the Sri Lanka Bus Co. held on 1.2.44. The signature of Dr. Zoysa was not placed in my presence. None of these people signed in my presence when I signed this book. There were 3 or 4 signatures only at the time I signed this book. I do not remember who had signed it. I remember putting my signature below that of the signature of K. M. Perera. I could recognise the signature of Dr. Zoysa, which was there at the time I signed it. I cannot remember the other signatures. I can remember that the signature of K. M. Perera was already there in the book when I signed it. When I signed D. 18 at the bottom of 40 page 32, page 31 had something written on its entire page, and on page 32 up to a certain point something had been written. (Witness makes a mark up to the point where on page 32 he found the writing). There were few letters on page 32 at the time I signed D. 18.

On 1.2.44 I signed an attendance sheet at the meeting of the Sri Lanka Bus Co.

No. 6
Plaintiff's
Evidence.
L. A. Pabils
Appuhamy
Re-examination
Continued

Q. Could it be that it was page 32 that you signed at that meeting ?

A. No.

It was not on page 32 that I signed on 1.2.44 at the meeting of the Sri Lanka Bus Co.

Shown page 40 in D. 18.

(Witness examines the signature of this page).

10 On page 40 in D. 18 my signature is there. I am the tenth signatory on it. I cannot say on that day or date I put my signature to page 40 in D. 18. I cannot say the circumstances under which I was made to place my signature on page 40 nor the place or time, in D. 18. I attended the meeting of the shareholders of the Sri Lanka Bus Co. held on 14.7.44 at which a dividend was declared for the shareholders. I did not sign this book at page 40 at that meeting held on 14.7.44.

To Court.

My signature is there. At the time I signed page 40 of D. 18
20 there were no other signatures on it and nothing was written on top of my signature. There was nothing written on page 40 and my signature was the only one that was placed on a blank sheet of paper. Now I find that there are 15 signatures on page 40 and that my signature is the tenth one. I can recognise the signature, the first signature as that of Dr. Zoysa, the ninth signature as that of K. M. Perera. The 15th signature is similar to the signature of Mr. Obeysekera, who was the secretary of the Sri Lanka Bus Co. at that time. I know definitely that the last signature on page 40 is that of Mr. Obeysekera, the secretary of the company.

30 *Cross-examination continued.*

At the meeting held on 14.7.44 the chair was taken by Dr. Zoysa. Nothing was written in any book after the meeting was concluded on 14.7.44. I placed my signature on a blank sheet. I cannot say whether it was a ruled or unruled sheet of paper.

Re-examined on above.

The meeting held on 1.2.44 was over in about one hour's time. After the meeting signed a blank sheet and went away home. The meeting held on 14.7.44 lasted for about one hour. At the close of that meeting I signed a blank sheet and left the place.

No. 6
Plaintiff's
Evidence.—
Continued.

To Court.

I do not remember my Proctor inspecting this book at any time on my instructions.

(Sgd.)

Addl. District Judge.

12th October, 1949.

Mr. Adv. Wickremanayake closes the plaintiff's case reading in evidence P. 1 to P. 32.

(Intd.)

A.D.J. 10

No. 7
Defendant's
Evidence.

No. 7.

Defendant's Evidence.

Defendant's Case.

P. A. W. Wick-
ramasinghe
Examination.

Mr. THIAGALINGAM calls.

P. A. W. WICKREMASINGHE, affirmed, clerk, Supreme Court Registry, Colombo.

I am a clerk attached to the Registry of the Supreme Court, Colombo. This morning a summon was served on the Registrar of the Supreme Court to produce or cause to be produced this book D. 18. This book is a production in D.C. Colombo, Case No. 15925 M. 20 I know nothing about this book. I produce this book marked D. 18.
Cross-examined. Nil.

(Sgd.).....

Addl. District Judge.

12th October, 1949.

At this stage Court adjourns for lunch.

Resumed after lunch interval.

V. L. A. Perera
Examination.

VICTOR L. A. PERERA, sworn, 43 years, general manager, and secretary of the Sri Lanka Omnibus Co., Colombo.

I cannot say whether the Sri Lanka Bus Co. was floated at the 30 end of 1942, as I was not attached to the company at that time. I joined the company as its secretary in August, 1946. This book D. 16 was in the company when I became its secretary, which contains minutes of the annual general meetings of the Sri Lanka Bus Co. from 23.3.45 to 10.12.48. This is the book that is in use now. The last record of the minutes is on 10.12.48. I produce this book of minutes of the annual general meetings of the company from 23.3.45 up to 10.12.48 marked D. 16. At the time

I joined the company there was a separate book kept of the records of the minutes of meetings of the board of directors of the Sri Lanka Bus Co. That book is now in Court with the counsel for the defendant. Before I became secretary of this company Mr. D. J. F. Obeysekera was the secretary of the company. I know him and I know his signature. I know his handwriting as well. In D. 16 are entered the minutes of a meeting of the Sri Lanka Bus Co. held on 23.3.45. In the very first proceedings in D. 16 are the proceedings of the meeting held on 23.3.45, which I marked D. 16 A. Those proceedings are signed by Muhandiram B. J. Fernando who is a director of the company. I know his signature. I testify to the fact that at the end of the proceedings recorded of the meeting on 23.3.45 is the signature of Muhandiram B. J. Fernando. In D. 16 I find the record of the proceedings of the meeting held on 4.6.44, which I mark D. 16 B. In D. 16 I find the record of the proceedings of the meeting on 27.6.1947, which I mark D. 16 C. That record is signed by Dr. A. P. de Zoysa, who was the chairman of the board of directors at that time. The record of the meeting of 4.6.46 (D. 16 B.) is signed by Muhandiram B. J. Fernando, who is a director of the company.

No. 7
Defendant's
Evidence.
V. L. A. Perera
Examination —
Continued.

20 Q. At the meeting of which there is a record in D. 16 A. and at the meeting of which there is a record in D. 16 B was Dr. Zoysa present on either occasion ?

Mr. Adv. Wickramanayake objects to this witness answering this question unless he speaks from his personal knowledge.

This witness informs Court that he cannot answer this question from his personal knowledge, except by reading the contents of the record of those meetings.

I disallow the question.

Examination continued.

30 D. 16 is a book which is kept in the regular course of business in the Sri Lanka Bus Co. and it contains the minutes of the annual general meetings of the company. According to the record of the minutes of the meetings held on 23.3.45 and 4.6.46 Dr. A. P. de Zoysa was not present on either of those meetings. When the chairman of the board of directors is absent one of the directors can be voted to the chair. D. 16 C is a record of the meeting held on 27.6.47 made by myself. The proceedings of that meeting were recorded by me and have been signed by Dr. Zoysa, who presided and it was confirmed at a subsequent meeting at which Dr. Zoysa
40 presided. The minutes of the company are not signed by the secretary. That has not been the practice. At the meeting held on 27.6.47 branch managers were elected. After the annual general meeting held on 27.6.47 we got the branch managers to sign an agreement to work under us and run the various branches at different

No. 7
Defendant's
Evidence.
V. L. A. Perera
Examination—
Continued

stations, on terms and conditions agreed upon. I do not know what practice was there before that time. After that meeting held on 27.6.47 no branch managers were appointed at an annual general meeting. The branch managers who were appointed on 27.6.47 continued to function as branch managers in terms of the contract year after year.

Shown a document. I know what this document is. I produce this document marked D. 19, which is a duplicate of the agreement entered into between the directors of the Sri Lanka Bus Co. and the defendant as branch manager of "G" branch. Similar agreements 10 were entered into by branch managers of the other branches with the directors of the company.

Shown page 40 in D. 18. The last signatory on page 40 in D. 18 is Mr. D. J. F. Obeysekera, who was the secretary of the company before me. I myself have not seen this book D. 18 before, as this book has been filed as a production in a case. I know that that case is in the D.C. Colombo. That case is now pending in appeal to the Privy Council.

Shown D. 3. The document marked D. 3 is a certified copy of the record of the proceedings of the meeting held on 1.2.44 purport- 20 ing to be the minutes of that meeting and certified by the then secretary of the Sri Lanka Bus Co. The signature on D. 3 certifying it as a true copy of the original is the signature of Mr. D. J. E. Obeysekera, who was at that time the secretary of the Sri Lanka Bus Co.

(D. 3. refers to this document and to no other, though a reference has been made to a certified copy of the same document obtained from the Supreme Court Registry as the original that was in the custody of that Court).

Shown D. 8 and D. 9. These two letters D. 8 and D. 9 were in the files in the office at the time I assumed duties as the secretary 30 of the company. I was summoned to produce these letters and I handed them to the proctor of the defendant when the plaintiff was giving his evidence. D. 20 is the carbon copy of the reply which was sent to the letter D. 8 to Martin Dias from the office.

V. L. A. Perera *Cross-examined.*
Cross-
examination.

I have produced D. 20 as the carbon copy of the letter sent by the office to Martin Dias.

Shown P. 33. This is the original of the carbon copy D. 20. I have been summoned to produce the correspondence between the plaintiff and the Sri Lanka Bus Co. P. 33 is dated 1.7.46. It refers 40 to a letter of the 11th June, 1946, which the letter D. 8 is.

Q. Have you got a letter dated 22.6.44 ?

A. I have a record of having a letter dated 23.6.44.

Q. Where is that letter ?

A. That letter has been produced already in this case marked D. 4.

Mr. Obeysekera was my immediate predecessor as secretary of the Sri Lanka Bus Co., and Mr. Donald Perera was the manager. I joined the company after the death of Donald Perera.

Shown P. 34. I cannot say whether the signature on P. 34 is that of Mr. Donald Perera. Donald Perera has been manager from the inception of the company. I have only seen his initials on 10 copies of letters. I have not seen his signature and I cannot say that the signature on P. 34 is that of Mr. Donald Perera. In the summons to me I have summoned to produce the correspondence and in particular to a letter dated 23.6.44 by Donald Perera and the reply thereto.

Shown P. 34. This is a letter dated 26.4.44 purported to be signed by Donald Perera.

Mr. Adv. Thiagalingam objects to this document being received in evidence at all.

I allow the document subject to proof.

30 *Cross-examination continued*

This is a letter purported to be signed by Donald Perera of the Sri Lanka Bus Co. purporting to act as the manager of the company. This letter is written on a note-head of the company and is dated 26.4.44.

Shown P. 35. The signature on P. 35 is that of Dr. A. P. de Zoysa. This letter is dated 5.10.45.

Mr. Adv. Thiagalingam objects to the document P. 35 on the ground that the plaintiff's case is closed and Dr. Zoysa has not been called to prove his signature on P. 35 and also as the contents of the 30 document is not in evidence as the writer is not being called.

I allow this document.

Cross-examination continued.

I have the balance sheets of the company from time to time. I produce the balance sheet of the company for the year 1948 to 1949 marked P. 36. In that balance sheet (P. 36) I find that the gross takings of the " G " branch is Rs.....

Shown a document. This is a document sent out by me as secretary of the Sri Lanka Bus Co. I produce this document marked P. 37. It is a report sent by me on behalf of the company as secretary, which 40 shows the gross takings of the " G " branch for the two years 1947-1948 and 1948-1949. For the year 1947-1948 the takings are

No. 7
Defendant's
Evidence:
V. L. A. Perera
Cross-examina-
tion.—
Continued

No. 7
Defendant's
Evidence.
V. L. A. Perera
Cross-examina-
tion—
Continued.

Rs. 140,441·35, and for the year 1948-1949 the takings are Rs. 228,251·54. By takings I mean the gross takings from the buses. A 10% of this figure is sent to the company and Re. 1 per day per bus is also sent to the company as rent for each bus. I have given the number of buses in the "G" branch in my report P. 37. From 1943-1944 there were 11 buses in the "G" branch, and from 1946-1947 nine buses, from 1947-1948 11 buses and from 1948-1949 15 buses were in the "G" branch.

According to P. 36 the agency fees paid to K. M. Perera for the year 1948-1949 amounts to Rs. 162,276·43, I have got the balance 10 sheet for the year 1947-1948 which I produce marked P. 38. According to P. 38 the amount paid to K. M. Perera as agency fees is Rs. 126,377·27 for that year. I produce the balance sheet for the year 1946-1947 marked P. 39. According to P. 39 the agency fees paid to K. M. Perera is Rs. 129,677·56 for that year. I produce the balance sheet for the year 1945-1946 marked P. 40. According to P. 40 the amount paid to K. M. Perera as agency fees is Rs. 140,094·37. I produce the balance sheet for the year 1944-1945 marked P. 41. According to P. 41 the amount paid to K. M. Perera as agency fees is Rs. 142,165·69 for that year. I produce the balance 20 sheet for the year 1943-1944 from 1.4.43 to 31.3.44 marked P. 42. According to P. 42 the amount paid to K. M. Perera as agency fees is not recorded there. The total of the agency fees of all the branches of the Sri Lanka Bus Co. is given as Rs. 1,536,451·99. From the time I became the secretary of the company the practice has been that I note down the names of the members who attend any meeting in a separate register. Prior to my time I did not find any such register kept. According to D. 16A I find reference is made to a refusal to sign the attendance sheet. I have not found any such attendance sheet in my files in the office. In the whole of D. 16 there is no in- 30 stance where people have signed the minutes to show their attendance. My practice since I became the secretary is to note down the proceedings of the meetings and thereafter write out the minutes and then to send copies of such minutes to members and have the minutes confirmed at a later meeting. The way in which the meetings of this company are conducted there is time for the secretary to record the minutes of the meeting while the meeting is in progress and by the time the meeting is over the minutes also could be made available and ready.

V. L. A. Perera
Re-examination

Re-examined.

40

I do not know personally what practice my predecessor in office, Mr. Obeysekera, adopted in regard to the recording of minutes. But, I have heard of it.

Q. Was it the same as yours ?

A. From what I have heard it is not the same.

Shown D. 21. Letter dated 16.3.43 by the Sri Lanka Bus Co. to K. M. Perera. This letter is signed by Dr. Zoysa. D. 21 gives the terms by which K. M. Perera is appointed manager of the "G" branch of the Sri Lanka Bus Co., by its directors on certain conditions. The branch managers are working under the terms and conditions to which they have subscribed to, by the latest agreement they have entered into with the directors of the company. That is by the terms of the Agreement D. 19.

No. 7
Defendant's
Evidence.
V. L. A. Perera
Re-examination
—Continued.

Shown D. 21. The terms contained in D. 21 are substantially
10 the same as the terms in D. 19. According to the agreement the buses running in all routes and all branches belong to the Sri Lanka Bus Co. The branch managers are entrusted with a certain number of buses. They are expected to pay the company Re. 1 per bus per day as hire. The branch managers are to incur all the expenses in connection with the running of the buses on the various routes entrusted to them, including repairs, replacements and purchase of additional buses, if necessary. Replacements in buses as well as additional buses should be attended to and supplied by the branch managers if the directors think that more buses should be necessary for the efficient service.
20 It is the duty of the branch managers to pay the salaries of the employees, supply petrol to vehicles, supply tyres and tubes to the vehicles. Even the question of payment of damages to third parties or passengers has got to be done by the branch managers. The vehicles are insured up to Rs. 2,000 per passenger. Anything over that has to be met by the branch managers out of the agency fees. The branch managers are expected to incur the abovementioned expenses by the agency fees. The directors of the company deal with the branch managers as principals and not as agents of third parties.

30 Q. In your dealings with K. M. Perera have regarded him as representing either the plaintiff or anybody else ?

A. No.

For any breach of contract of the agreement we hold him responsible for it. We hold K. M. Perera personally liable to the company not as Agent. Under the agreement the various branch managers have to remit 10% of the gross collections to the company. If the balance in the hands of the branch managers is not sufficient to meet the expenses for running that branch, the branch managers has got to meet such deficit, with the 90% agency fees that he receives.
40 there is such deficit he has to meet such deficit from the 90% of the agency fees. The dividends to the shareholders are declared on the 10% and the Re. 1 per bus per day given to the main company by the various branches. I cannot say whether that procedure is in any way a method to ensure the declarations of dividends. In that way the Sri Lanka Bus Co. declares dividends to the shareholders. Licensing fees for the vehicles, insurance of the buses up to Rs. 2,000 per

No. 7
Defendant's
Evidence.
V. L. A. Perera
Re-examination
—Continued.

passenger and the payment of income tax on the 10% and also the cost and charges of running the head office are paid by the Sri Lanka Bus Co. I am not aware of the nett income of the branches or the branch managers, and as such, I am not in a position to say whether they pay income tax or not. If there should be taxable income as nett profit the different branch managers are expected to pay income tax.

Shown P. 41. The agency fees paid to K. M. Perera amounting to Rs. 142,565·69 is for the year 1944-1945. Our auditors are Messrs. Terrence Perera & Co. 10

Shown D. 22. This is allowed subject to proof).

In that statement the figure I gave as agency fees paid to K. M. Perera is the same amount as the amount paid as agency fees to K. M. Perera in P. 41.

Shown P. 40. The gross takings of the "G" branch of the company for the year ended 31.3.46 is not given in P. 40. The 90% of the gross takings is given as Rs. 140,094·37. 10% is taken out of the gross takings and out of the 90% of the gross takings paid as agency fees the branch manager is to pay the hire of Re. 1 on each bus per day. 20

Shown P. 34. I do not know anything personally about P. 34. In P. 34 there is a request to Martin Dias to call over at Donald Perera. There is nothing in the files in the office indicating that any such interview took place. I have to come across a communication in connection with the contents of this letter P. 34 in the files of the company.

Shown D. 23. This contains the terms of the agreement entered into between the Sri Lanka Bus Co. and K. M. Perera dated 28.12.43. The terms contained in D. 23 are similar to the terms in D. 19 and D. 21.

To Court. 30

The profits of the various branches of the company goes to the individual agent. He does not account for the profits to the Sri Lanka Bus Co. There are no members who are members of any particular branch. All members are shareholders of the Sri Lanka Bus Co. The directors of the company are not paid. They only draw the dividends on the shares.

(Sgd.).....

Addl. District Judge.

12th October, 1949.

It is now 4 p.m. Further hearing for 13th October, 1949. 40

(Intd.).....

A.D.J.

12.10.49.

To Court.

Trial Continued

No. 7
Defendant's
Evidence.
J. Madanayake
Examination

13th October, 1949. Case No. 3705M. D.C. Kurunegala.

Plaintiff and defendant are present.

Appearances as on yesterday.

MUDALIYAR J. MADANAYAKE, affirmed, 50 years, director, Sri Lanka Omnibus Co., Ltd., Colombo.

I am one of the major shareholders of the Sri Lanka Bus Co. Before I received the rank of Mudaliyar I was known as M. Jayasena.
10 I am one of the original directors and shareholders of the Sri Lanka Bus Co., and continuously I have been a director of the company. I am a well-to-do man worth about 10 to 12 lakhs of rupees. Sri Lanka Bus Co. was incorporated at the end of 1942, and from the inception of the company we had exclusive route licences to ply buses from Colombo to Kandy, and also Colombo to Kurunegala, including Kurunegala-Alawwa and subsidiary routes.

Q. Could anybody else run buses on those routes that had been given to you ?

A. No other bus company could utilise those routes.

20 Before the Nelson scheme came into operation in 1943 running of buses was not a paying proposition. Buses were run by the individual owners with great difficulty.

Q. Before the Nelson scheme came into being did the owners of buses know that they will be making more money by having exclusive use of routes to ply buses ?

A. The conditions of that time were bad and they were war days.

After the Sri Lanka Bus Co. was floated Martin Dias, the plaintiff, Pabilis Appuhamy and others offered to become shareholders of the
30 Sri Lanka Bus Co. At the beginning of January, 1943, when they offered to become shareholders of the Sri Lanka Bus Co. we had meetings of the directors of the company and we maintained a book where the record of minutes of both annual general meetings and directors' meetings. There was a book in the company in which the minutes of the annual general meetings and the directors' meetings were kept. Shown D. 18. D. 18 is the original minutes book of the Sri Lanka Bus Co. The secretary used to write the minutes and the directors who were present at the meetings signed it at that time. If
40 there was an annual general meeting all the directors as well as the members present signed the minutes, which was recorded by the secretary at the meeting itself, before the meeting dispersed. If it was a meeting of the board of directors the directors signed it before they retire from the meeting. Both directors' meetings as well as annual general meetings were conducted in the Sinhalese language.

No. 7
 Defendant's
 Evidence.
 J. Madanayake
 Examination
 —Continued.

The minutes book D. 18 is written in English. Minutes of the meeting were read and explained to those present before it was signed by all those present at the meeting ; whether directors meetings or general meetings. That procedure was followed for about two years since the inception of the Sri Lanka Bus Co. After that the procedure was changed, and two minutes books were kept ; one for the directors' meetings and the other for the general meetings.

Shown D. 16. D. 16 which I produce is the minutes book of the general meetings and D. 24 is the minutes book of the directors' meetings. D. 16, D. 18 and D. 24 are the minutes books of the 10 Sri Lanka Bus Co., which have been kept in the regular course of its business and duly signed by the directors and members present at the meetings.

Shown D. 18. I have put my signature to the minutes of every meeting that has been held and recorded in D. 18. Page 31 of D. 18 contains a record of the proceedings of the general meeting held on 1.2.44. The entire minutes found on pages 31 and 32 were recorded at the meeting before it was signed by the members present. The minutes were read and explained to all persons before their signatures were taken on it. The signature found on these minutes of that 20 meeting is mine. I identify the plaintiff's signature on page 32 as the eighth signature and that Pabilis Appuhamy the twelfth signature on page 32. The defendant's signature on page 32 is the eleventh signature. All the signatories to page 32 of D. 18 signed the minutes in my presence. In D. 18 the minutes of the meeting held on 5.1.43 are recorded on page 4.

(As marked D. 25 is the certified copy of the minutes of the meeting of 5.1.43 issued by the Supreme Court Registry, Colombo).

At the meeting held on 5.1.43 we decided to establish the branches A. B. C. D and E only. At the time the plaintiff Pabilis and others 30 applied to become shareholders of the Sri Lanka Bus Co. Donald Perera was the manager of the company. He was authorised by the Sri Lanka Bus Co. to go and value vehicles belonging to those applicants. In 1942 plaintiff, Pabilis Appuhamy and others were plying buses mainly between Polgahawela and Kurunegala. There were one or two of their buses running to Colombo also. The buses of those applicants were in their individual names at the time they offered to become shareholders of the company. I am not sure, but perhaps one or two months after the formation of the Sri Lanka Bus Co. they transferred their buses to the company. The time they 40 made their applications to become shareholders of the company they never transferred their buses to the company. At times the transfer of the buses of the applicants were effected we had not decided to open a branch for buses plying in the Kurunegala-Polgahawela-Alawwa route. It may be that the transfers of the buses were made

in January, 1943. I have signed the original minutes of the meeting held on 5.1.43, of which D. 25 is a certified copy in D. 18. In page 11 of D. 18 the minutes of the directors' meeting held on 30.1.43. are recorded. I have signed those minutes as well, and the other directors also have signed it. D. 26 is a certified copy issued by the Supreme Court Register of the minutes of this meeting held on 30.1.45. It was at this meeting held on 30.1.43 that we decided to form the " G " branch of the Sri Lanka Bus Co. for the routes Kurunegala-Alawwa. Until a decision was arrived at to select the managers of
 10 the " G " branch, Mr. K. M. Perera, the defendant was asked to run the buses on that route.

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The company took steps to invite those persons who were running their buses on the Kurunegala-Alawwa route to attend a meeting for them to elect one of them as branch manager for that route. I asked the manager of the Sri Lanka Bus Co. to inquire from the defendant whether he would carry on as manager of the branch. The defendant said that it was difficult for him to work but he was prepared to accept the office as manager of the branch on payment of salary. But, the company was not willing to pay him a salary. The terms on which
 20 the Sri Lanka Bus Co. offered the defendant to take up office as branch manager were the same terms offered to other managers. The terms were that he was to collect the entire income and out of the gross income ten per cent. to be paid to the Sri Lanka Bus Co., and with the balance ninety per cent. he was to pay the drivers and employees, to buy new buses, and all what was necessary to run the branch inclusive of purchase of new vehicles, repairs to vehicles, supply of petrol, tyres and tubes, etc.

Profit or loss that might have accrued in the management of the branch was to go to the benefit or debit of the branch manager.
 20 If there was a profit he was to avail himself of such profit, and if there was any loss he had to bear the loss. When this offer was made to the defendant to accept the post of manager of the " G " branch, he first got frightened and refused to take it up on those terms thinking that he perhaps might not be able to bear the expenses incurred.

To Court.

He wanted the responsibility for the profit and the loss to lie with the Sri Lanka Bus Co., and was willing to work as a paid manager.

Examination continued.

The company was not willing to accept that position and make
 40 the defendant a paid manager, as the company had fears that by taking it up the company might lose. Then we called all the shareholders who had previously been running their buses in that area for a conference. At that conference all the directors of the company were present. The conference was presided over by Dr. A. P. de Zoysa, one of the directors of the company. He is the elected chairman

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 —Continued.

of the company. He was a minor shareholder. At the conference I explained to those present the purpose of calling that conference, not as a chief director, but it was I who explained the conference the purpose of convening it. Martin Dias, Pabilis Appuhamy, K. M. Perera, Romiel Dias, Ran Menika, Nachchia, John Singho, Nicholas Appuhamy and others were present at that conference. The others who were present at it were directors of the company.

I told them that they have been summoned to the conference so that we may entrust the buses that were to be run on the Kurunegala-Alawwa route and which we had decided as the "G" branch to 10 one of them. I told the conference that I had asked K. M. Perera to take up this work and he had refused. I told them that all of them were invited to entrust the work to one of them or if they were not willing to entrust the work to any other person. I told them that someone of them should be appointed as manager, and if anyone of them is refusing to accept the post that the company would appoint another person. I also explained to them at the conference that if any outsider is appointed the shareholders who had run the buses as drivers and other types of employees would lose their jobs. When I explained it to the conference the reply given by them was in the 30 negative, but they made the request that each one of them should be allowed to run their buses individually. Then the directors unanimously did not agree to that suggestion. I asked them to consider the matter a little more carefully and some of them went out of the room to consider it. K. M. Perera, the defendant and two or three others went out of the conference room. After about half an hour's discussion all of them came back to the conference and K. M. Perera said that he was willing to accept the post as manager of the "G" branch on the original terms offered by the Sri Lanka Bus Co. to him. Soon after that meeting the defendant assumed 30 duties as manager of the "G" branch.

As a matter of fact, he was running that branch even before that and he continued to be the manager. Later his appointment was made in writing, and he had signed certain agreements and the usual formalities were gone through. The intention of the company was to elect a man from one of those men in preference to an outsider. The defendant's election as manager of the "G" branch was not as an agent to represent the others and himself who had been running buses on that route before, but his appointment was an agent of the company.

40

To Court.

Perera was appointed as manager of the "G" branch not for the reason that he was one of those owners who ran buses on that route, but, preference was given to his appointment over an outsider, because, he was one of the owners of the buses which run in that

area and for the reason that if an outsider was appointed to that post that might result in the discontinuance of the owners of buses who had been working as drivers already.

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Examination continued.

Shown D. 21. D. 21 was the letter of appointment of K. M. Perera dated 16.3.43. The signature on it is that of Dr. Zoysa. After K. M. Perera was appointed manager of the "G" branch he used to come to the head office of the company in Colombo on business. One day he came to see me at my garage at Peliyagoda towards the
10 end of 1943. I cannot give the exact date or month. I told him on that day that the Commissioner of Motor Transport has allotted us some chasis and that the "G" branch would also have to buy some of them. Then the defendant said that he had no money at that time with him. I asked what he was doing and what was happening to the collections of the branch.

He told me that who were former drivers of those buses and those bringing in more income were paid some part of the profits and that he had to repair the old buses and as such at that time he had no money to buy new chasis. At that time the price of a new chasis
20 would be about 12,000 and to convert that chasis into a bus it would have required another Rs. 5,000 or more. So I asked him to work very carefully and also said that if new buses cannot be put on the line the agency would have to be cancelled. If no new buses were put on the road he as the agent of the company would have to cease to operate as branch manager. I told the defendant that there was no harm in his being lavish with the profits or in his giving money to those men who are bringing in more money, but, there must be money for the purchase of new buses for the running of the branch. Sri Lanka Bus Co. was not concerned in regard to the payment or
30 dismissal of drivers or in any other employee by the defendant. Or the term on which they were appointed or employed by the defendant.

An annual general meeting of the company was held on 1.2.44. The minutes of that meeting are recorded in D. 18 on page 31 (witness goes through the minutes). That minutes consists of a record of what transpired at that meeting. I was elected the manager of the "A" branch at that meeting, as I was functioning as the manager of that branch before. Formerly the election of branch managers was done annually. As manager of the "A" branch a number of motor buses have been entrusted to me by the Sri Lanka Bus Co.
40 to be run on the routes entrusted to my branch.

The buses that are running in the "A" branch included the buses which belonged to me at one time and buses which belonged to others who had subsequently become shareholders of the Sri Lanka Bus Co. I am running the "A" branch on the same terms as the defendant is running the "G" branch. In my branch there had been profits.

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Q. Do you pay shares of your profits to anybody ?

A. I do not pay any share of my profits to anyone. I take it myself.

Muhandiram B. J. Fernando was appointed the manager of the " B " branch. At the meeting held on 1.2.44. the appointment of the manager of the " G " branch was proposed by one L. Robert Perera and seconded by Muhandiram B. J. Fernando. The proposer of that resolution had no interests in the buses running in the routes entrusted to the " G " branch at any time. But, the seconder of that resolution at one time had several buses 10 running from Kurunegala to Colombo. His buses were not entrusted to the " G " branch. They were entrusted to the " B " branch and not to the " G " branch. Another annual general meeting may have been held on 23.3.45.

Shown D. 16. (Witness looks into this book and answers the question in the affirmative, *i.e.*, an annual general meeting was held on 23.3.45). I know that there was a change in the system of recording minutes. Formerly all directors and shareholders present signed the minutes at the meeting itself. But, after this change came into being those directors and shareholders present at a meeting were to sign the 20 attendance register and the minutes were confirmed at the subsequent meeting and in the interval the copy of the minutes was posted to the directors as well as shareholders ; as the case may be, for their information. D. 16 has been kept under the new system of recording the minutes of the company. At the meeting held on 23.3.45 Martin Dias, the plaintiff and Pabilis Appuhamy sought to have the defendant removed from his office as manager of the " G " branch. I was present at that meeting. There was a proposal that K. M. Perera, the defendant, should be removed from the office of manager of " G " 30 branch. They proposed that another be appointed in place of the defendant. It was not carried, I also voted against that resolution. Four or five of the shareholders of the branch " G "—I mean those persons whose buses were entrusted to the " G " branch voted in favour of the removal of the defendant from the office of the manager, " G " branch. All others voted against it. At the moment the defendant continues to work as manager of the " G " branch according to D. 19. The Sri Lanka Bus Co. is now paying dividends. For this year—1948 to 1949—we have not declared a dividend yet. Dividend has been declared last year. The previous year 20% was declared as dividend. This year we could not declare a dividend, because 40 we have to pay Excess Profits Duty. At the inception of the company I cannot say how much was its worth.

Cross-examined.

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tion.

I have given evidence in cases where the Sri Lanka Bus Co. has been involved. Before 1943, any person could run any bus on any route on his licence. In 1943 by legislation the right to buses on routes was given to individuals or companies. Before such exclusive route licences were granted, I do not know whether the Government required people to make their applications for such route licences. Sri Lanka Bus Co. made applications to the Commissioner of Motor Transport for exclusive route licences. It was the manager of the
 10 company who attended to that work. I also may have attended to some work in connection with it, but, it was the manager who attended to it—mainly. Under the new Ordinance applications were called for by the Commissioner of Motor Transport. Under the new Ordinance route licences were granted to the person or company that claimed to have the largest number of buses on that route. There was a great scramble for these exclusive route licences by the rival bus owners and companies. There was considerable litigation in respect of those route licences. In connection with route licences the Sri Lanka Bus Co. did not take an appeal to the Privy Council.
 20 The case which went up in appeal to the Privy Council is in regard to a share transaction of the Colombo-Ratnapura Bus Co. Sri Lanka Bus Co. had no cases in regard to route licences. As against the applications made by the Sri Lanka Bus Co. for exclusive route licences there were no other applications from other companies. After a licence was issued in regard to a particular route in favour of the Sri Lanka Bus Co. there were subsequent applications, but with regard to the main applications, there was no competition. The applications made by the Sri Lanka Bus Co. for exclusive route licences were all granted. There were applications by rival companies for
 30 subsidiary routes only.

There were four original shareholders of the Sri Lanka Bus Co. They owned 85% of the buses plying between Kandy and Colombo and Kurunegala and within that area. At the time the company was formed I handed over certain buses to the company. It may be that 41 buses were allotted to the "A" branch. Apart from the buses that were owned by me there were one or two buses in the "A" branch, which belonged to others. They were people who handed over their buses to the company and received compensation. There may have been persons who might have handed over their
 40 buses and received cash payment from the company without taking shares in the company. Those extra one or two buses allotted to the "A" branch were not buses taken from their owners by paying compensation. In the buses entrusted to the "A" branch, of which I am the manager, have been transferred by the original owners to the company, but the original owners are still shareholders of the company and continue to be shareholders. I do not remember

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 tion.—
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their names. There are several shareholders. The bus belonging to Malawana whose bus ran from Kurunegala to Colombo has been given to the "A" branch. Malawana was refused shares in the company. In respect of his bus there was litigation. He claimed shares in the company to the value of his bus in an action. The company then took up the position that Malawana was not entitled to shares to the value of that bus and that he was entitled to only to the cash value placed on that bus, and offered him that amount. That is one of the extra buses that is allotted to the "A" branch. There were number of persons who brought actions against the com- 10
 pany in the same manner. In all those cases the buses have been taken by the company and were running them. The company took up the position in those cases that they were not entitled to shares in the company but they were entitled to the value placed on those buses. The other extra buses taken to the "A" branch are not buses of that nature. Only two buses belonging to Malawana were handed over to the "A" branch. I do not know whether my evidence in that case was accepted.

The Court did not make any remark that it was not accepting my evidence. I may have said in that case that I gave 41 buses to 20
 the "A" branch. I may have given the number of buses allotted to the "A" branch. I cannot give the number of the buses now. The manager of the "B" branch is Muhandiram B. J. Fernando. The buses that were allotted to the "B" branch were buses belonging to himself (B. J. Fernando). No bus belonging to any other person and taken over by the company was handed over to the "B" branch. W. K. Fernando is the manager of the "C" branch. That branch operates from Colombo to Kandy, Kadugannawa and Kegalle. It was called the Little Service. There was a company known as the Little Service Bus Co. Of that company W. K. Fernando and Francis 30
 Alwis were the partners. W. K. Fernando was the manager. The buses that were allotted to the "C" branch were the buses that originally belonged to the Little Service Bus Co., along with several other buses, which originally belonged to other persons. Those buses that ran in the various routes were handed over to the "C" branch. Those other buses belonged to Gunasekera and others. In the "C" branch there are one or two persons to whom the company refused to allot shares, and they filed actions against the Sri Lanka Bus Co. There are persons to whom shares have been allotted by the company by reason of the fact that they handed over their buses to the "C" 40
 branch. I cannot give their names. I do not remember.

Q. Can you give a single name ?

A. I cannot remember.

L. Robert Perera is the manager of the "D" branch. The buses that are in the "D" branch do not consist of buses belonging to him and his brothers. It is the Delgoda Bus Co. that ran along

Kelaniya. There was a Delgoda Bus Service before. It belonged to L. Robert Perera and his brothers. There are other owners who have handed their buses to the Sri Lanka Bus Co. whose buses are in the "D" branch and those owners are shareholders in the Sri Lanka Bus Co. I can give the name of Jayasinghe as one of them. In the Attanagalla Service, which is the "E" branch, there was a service before the Sri Lanka Bus Co. took it over, known as Siri Medura Co. Those buses were owned by a group of brothers. I think the youngest of those brothers is W. D. M. A. Paulis Appuhamy. I do not know whether he is the most educated man among the brothers. He was the manager of that Service. He was appointed the manager of the "E" branch of the Sri Lanka Bus Co. Samarasinghe also called Tarzan Mudalali is the manager of the "F" branch. He was running a few buses. He had few buses of his own. Apart from the fact that buses run by Samarasinghe there were many other buses running on that route before the formation of the Sri Lanka Bus Co. The Sri Lanka Bus Co. did not refuse to allot shares to those individuals who owned buses as they wanted cash to be paid to them for their buses. Some of the buses that ran in that route belonged to Samarasinghe. I think that some of those individual bus owners were allotted shares in the company. A small number of buses running on that route belonged to Samarasinghe. The other buses which were more in number belonged to different individuals. Some of them took cash and did not want to be shareholders of the company. Others were allotted shares according to the value placed on their buses.

When the new Ordinance came into operation we formed into a company to apply for route licences. Four of us joined together, who were owning a large number of buses. When we joined no other person could compete for the exclusive route licence, because, we had the larger number of the buses. When we joined together out of the four, three were prepared to manage the company. We formed into a company and decided to run the buses under the branch system under the company. The company was floated after discussing as to how it should be formed. We decided to run the company with 3 managers among the four of us, B. J. Fernando, myself, W. K. Fernando and Francis Alwis. We decided to have three branches: one to be looked after by me, the other to be looked after by B. J. Fernando and the third to be looked after by W. K. Fernando. At that time the buses were not paying on the one hand and on the other hand owing to the War the materials required for the buses were very expensive. In spite of that there was no scramble for exclusive route licences. Persons who were engaged in the bus service before that would have attempted to secure the route licences for themselves. Most of them wanted to get the route licences or join a company. The people who were owners of buses on routes formed themselves into two groups and fought for the route licences. Those people who

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could not get the route licences accepted compensation on the valuation placed on their buses and left. Before accepting compensation some people took appeals to the Supreme Court, against the decision of the Tribunal to grant them their route licences. In one instance an appeal has been made to the Privy Council.

I gave evidence in a case in the District Court of Colombo in 1946. In that evidence I told that I was worth about 10 to 12 lakhs of rupees. When I started my life I was a poor man. In 1942 I was worth about 10 or 12 lakhs of rupees. It may have been more.

Q. Are you worth about 40 to 50 lakhs of rupees. 10

A. I have not assessed my worth. I may be worth about that much.

After 1942, I have not purchased about 1,500 acres of land in this area. I have purchased about 600 or 650 acres of land after 1942. I have also bought an oil mill at Peliyagoda. According to the energy and labour spend as branch manager the profits are not adequate.

(Sgd).....

Addl. District Judge.

13th October, 1949. 20

At this stage Court adjourns for lunch.

Resumed after lunch interval.

MUDALIYAR J. MADANAYAKE, recalled, affirmed.

Cross-examination continued.

On the profits I make in running the "A" branch I pay Income Tax. For that purpose the Income Tax Department assess the income derived from the branch. The Income Tax authorities accept the gross income. There are some cases of the branches where the expenditure has not been accepted by the Income Tax Department. There may be a method by which the Income Tax Department, 30 arrives at the profits earned by the branches. I have not sent my figures of expenditure for one or two years in regard to the "A" branch. I do not know how the Income Tax Department assess the profits for these one or two years, but, I have taken appeals. I appealed on the ground that some of the figures have not been taken into account by the Department. I did not send figures because they were not accepted. They have decided on the profits on a percentage on the gross takings. They have accepted the gross income. The expenditure items—some of them—have not been accepted. But, they have gauged the profit on a percentage of the 40 gross takings. I do not know whether they have assessed the profits on a percentage basis or on anything else. I cannot say the percentage they have taken for the profits. I did not send my returns to the Income Tax Department for 1946-1947.

In 1946-1947 my agency fees was 1,000,000 odd rupees of the " A " branch. As far as I can remember they had assessed the nett income of the " A " branch at about Rs. 480,000. In 1945-1946 my agency fees for the " A " branch was Rs. 867,000 odd. I do not remember what they assessed as the nett income of the " A " branch for that year. It was some figure close upon Rs. 480,000. I do not know whether they assessed them on a certain basis. In assessing there is a difficulty with regard to the general expenditure. The Department may be having a standard basis of assessing general expenditure. I
 10 have appealed on the ground that they did not accept certain items of expenditure, which had shown in my return. I did not send up any items of expenditure.

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 tion.
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Then they assessed my nett income on a basis of a general standard of expenditure. I stated in the appeal about a general standard of expenditure I have incurred, and that those items should be added to the general standard of expenditure. I know only the amount assessed. I do not know in what manner or on what basis they assess the general expenditure. I did not produce the books of accounts of the " A " branch relating to the actual expenditure, but,
 20 I have only stated that over and above the general expenditure certain particular items I have spent and gave them the details of those items. I gave them proofs of those items.

I know the several plaintiffs in the group of cases in the District Court of Colombo where they claimed shares against the Sri Lanka Bus Co. Their buses were valued by Donald Perera on behalf of the Sri Lanka Bus Co. He was the person authorised to go and assess their buses as well as other buses. When I was director Donald Perera worked as manager of the Sri Lanka Bus Co. As manager of the Sri Lanka he used to attend to correspondence. I have seen
 30 him writing letters. I have seen him signing letters. I know his signature. Shown P. 34. The signature on P. 34 is that of Donald Perera. P. 34 is a Sinhalese letter signed in English. I know that Donald Perera does not know Sinhalese, but he has signed it on behalf of the Sri Lanka Bus Co. P. 34 is written on the note-head of the Sri Lanka Bus Co.

The buses were valued and taken over by the company. The registration of the buses were transferred to the company. Then the buses were run by the company. In the cases of the buses valued by Donald Perera some of the owners accepted shares from the company
 40 on the value placed on their buses and some accepted payment in cash of the value placed on their buses.

Q. In the case of the nine plaintiffs who claimed shares for the value of their buses, they contended that they had given over their buses to the company for shares, but that shares have not been allotted to them ?

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A. Mr. Advocate Thiagalingam objects to this question on the ground of irrelevancy, and as it is 'res inter alios acta' as it relates to contents of documents and that these are statements made by some third party who are not witnesses in this case. I allow the question.

(The question is put to the witness and he answers).

A. Yes.

I was a director of the company at the time of that case. I was not responsible for giving instructions in those cases to the proctor who filed answer. I must have given instructions to the proctor on points he may have asked from me. The company took up the 10 position that the buses had been valued and handed over to the company, that the people who handed over the buses asked for shares in the company, and also for a dividend on the 90% of the gross takings of the company, and therefore the company had refused to give them shares, but, had offered to pay them the value of the buses only. I may have said in my evidence in case No. 15925 of the District Court of Colombo that I may have given instructions to my proctor to file answer.

Q. I am putting it to you specifically. Do you deny it ?

A. I won't deny it. If it is recorded in that case that I stated 20 that I gave instructions to my proctor.

I did lot of work for the company and I may have given instructions to the proctor to file answer in those cases.

Q. The position taken up by the company was that those nine persons at a meeting held on 17.11.43 had refused to accept the shares when you offered to give them shares.

Was it so ?

A. Those nine plaintiffs in that case did refuse to accept shares in the company if dividends out of the agency fees were not paid to them. 30

Q. They contended that they did not refuse under any circumstances to accept shares ?

A. They contended in that case that they did not refuse to take shares.

The position taken up by the plaintiffs in that case was that they did not refuse to take shares at all, and that they had been prepared to take shares with the dividends of 90% or not. Once they refused to accept shares they were not entitled to any shares in the company. Evidence was led in that case by the plaintiffs that at the meeting held on 17.11.43 they did not refuse to accept the shares 40 and as such they were entitled to have the shares. That was what they wanted in that case. I gave evidence in that case in support of the story that the plaintiffs had refused to take shares. I do not

know what evidence Dr. Zoysa gave in that case. He was the chairman of the meeting held on 17.11.43. I was also one of the directors who attended that meeting. I do not know for what purpose D. 18 was produced in that case. D. 18 contains the minutes of the meeting held on 17.11.43, and it may be containing a record that Malawana refused to accept shares. (Witness refers to minutes book and says). In the minutes book of the meeting held on 17.11.43 in D. 18 I find that Mr. G. D. Malawana refused to join the company as a shareholder. Malawana was one of the plaintiffs who claimed shares from the
 10 company. These minutes are signed by me. It was a meeting of the board of directors of the company. It is signed by Dr. Zoysa, M. Jayasena (myself), Francis Alwis, W. K. Fernando, and D. F. J. Obeysekera in his capacity as Secretary.

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 tion.
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For the purpose of allotting shares Malawana and others who had given buses to the company were asked to be present at the meeting of the board of directors held on 17.11.43. My evidence in that case (D.C. Colombo 15925) was that they asked for their shares along with a dividend of 90% and therefore we refused to allot them shares. I said in my evidence that when the company refused to give a dividend
 20 out of the 90% Malawana and the others refused to take shares in the company. Malawana refused then and there. The others said they will consider the matter and they later refused. Court gave them judgment allotting shares to them in the company. Then the company appealed against that order. I did not read that judgment in that case. No one has read that judgment. The plaintiffs in that case were awarded 50% of the value of the shares as damages. But the Supreme Court reduced the damages from 50% to 20% in appeal and the allotment of shares was confirmed in appeal. We have appealed from that judgment of the Supreme Court to the
 30 Privy Council and it is still pending.

The company had paid one per cent dividend for the year 1943 to 1944. I do not know whether the company produced a balance sheet for the year 1943 to 1944 in that case. It may have been produced in that case, but I am not aware of it. I may have given evidence before a Trade Dispute Board. I gave evidence in the District Court of Colombo in a case rising out of a dispute between Lanka Motor Workers' Union and the Sri Lanka Bus Co.

That case was referred to a Special Tribunal presided over by the District Judge, Colombo. After I gave evidence in that case the
 40 plaintiff's action was dismissed. The drivers of the buses at the said Tribunal testified the circumstances under which I had dismissed them. I may have given evidence against them, but I do not know what evidence I gave. After hearing my evidence the Tribunal dismissed the petition of the drivers. In drivers, Wilson and Andrew's case I do not know who presided over that Tribunal. That was an inquiry held outside the Court by a Special Tribunal into a petition

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tion.
—Continued.

sent by drivers, Wilson and Andrew. They had in their petition stated that I had dismissed them as they sent a petition against me to the Controller of Labour. I gave evidence, but I do not know what I stated in my evidence there. I did not accept the allegations made by the two drivers for the cause of the dismissal. I may have said that I dismissed them for misconduct. I was ordered to take them back into service by the Tribunal. I was ordered to pay the Union Rs. 75 as costs.

Between 1943 and 1947 "A" branch had 27 new buses, and the "G" branch had only one new bus. I do not know about the exist-¹⁰ence of the K. A. B. Bus Co. I have not heard of a K. A. B. Bus Co. nor have I known of the existence of the K. A. B. Bus Co. Up to this date I do not know of the existence of a company known as the K. A. B. Bus Co. The Sri Lanka Bus Co. asked those who had been running buses on the Kurunegala-Alawwa to be present at a meeting held on 12.3.43. They were the only persons who were asked to be present at that meeting, besides the directors. Even at that time I did not come to know that there had been a K. A. B. Bus Co. I do not know about the K. A. B. Bus Co. even now. Nothing transpired at that meeting regarding the K. A. B. Bus Co.²⁰ Even at that meeting I was not aware of the fact that the defendant was the manager of a bus partnership known as the K.A.B. Bus Co. Each of those owners was prepared to run his own bus and to give 90% to the Sri Lanka Bus Co. and run the buses on the conditions on which the manager of that branch was to be appointed. K. M. Perera was also willing to do that. It was cumbersome for the company to have nine separate branches for those nine people. They failed to arrive at a decision. All nine of them went out, and had a discussion outside. I was not present at their discussion outside nor was any director of the company present at their discussion. After³⁰ that discussion they came back and K. M. Perera, the defendant, accepted the nomination as "G" branch manager. Prior to the discussion K. M. Perera was afraid to accept the responsibility, but after the discussion he said that he was prepared to accept office of branch manager. I do not know whether at that time K. M. Perera had no bus registered in his name. It may be that he was allotted 66 shares in the company. All the buses that were given over to the "G" branch were buses which had been handed over by those nine people to the Sri Lanka Bus Co. The arrangement made by the Sri Lanka Bus Co. earlier was to work with the help of⁴⁰ the branches. It was decided later to have a separate branch in respect of the Kurunegala-Alawwa route, but not at the earlier stage. The buses that work in the Kurunegala-Alawwa route were not under the management of any other branch except the "G" branch. The buses running from Kurunegala to Colombo have to run through Alawwa. I am manager of the "A" branch which runs buses entirely over the route of the "G"

branch. These buses belonging to the " G " branch were not placed under my branch or taken on to the " A " branch. B. J. Fernando's buses also run between Colombo and Kurunegala. In the morning the " B " branch buses come from Colombo to Kurunegala. In the morning " A " branch buses come from Kurunegala to Colombo, *vice versa* in the afternoon. In the same way B. J. Fernando and I run our buses before we joined the Sri Lanka Bus Co. as individual owners of buses. Before the formation of the company by a mutual arrangement between B. J. Fernando we ran our buses in that manner.

10 The buses that were being run by the " G " branch were not even taken over by the " B " branch. On 12.3.43 that meeting was held for the purpose of appointing a manager. Dr. A. P. de Zoysa was the chairman of that meeting.

No. 7
Defendant's
Evidence.
J. Madanayake
Cross-examina-
tion—
Continued.

Q. I put it to you that at that meeting Dr. Zoysa said that he had sent for them to hand over their buses to them to be run as the " G " branch ?

A. It is because of that, each person asked permission to run his own bus individually.

Dr. Zoysa said that the person taking charge of the branch had to pay 10% of the gross collections and Re. 1 per bus per day to the company. As to the rest of the money the company was not concerned so long as the adequate transport was given to the public by the " G " branch and 10% of the collections was remitted to the company.

(Shown page 15 of D. 18. Mr. Adv. Wickremanayake marks it now and undertakes to produce a certified copy of page 15 in D. 18, which is to be marked P. 43, and puts the original of P. 43 to the witness).

Page 15 in D. 18 has a record of the minutes of the meeting of the directors of the Sri Lanka Bus Co. held on 12.3.43. There is no record in the minutes of 12.3.43 that any matter pertaining to K. M. Perera was discussed. On the page 14 are the minutes of a meeting of the directors held on 5.3.43 and on page 16 are the minutes of the directors' meeting held on 30.3.43.

When K. M. Perera met me at my garage at Peliyagoda and told me about his distributing the profits of the branch to those people who worked hard and bring in more money, he did not tell me about the nine persons and that he used to summon those nine persons to his office for the distribution of profits monthly. He did not tell me that at any time he summoned meetings for the purpose of distribution of profits among those nine persons. I told him that if he had no money to replace buses he would have to lose agency. It was incumbent

No. 7
Defendant's
Evidence.
J. Madanayake
Cross-examina-
tion.—
Continued.

on any branch manager to maintain a satisfactory transport service to the public. The branch system is more profitable and that is why we continue that system. It is more profitable to the company. It is not so much profitable to the branch manager as they are not getting enough for the energy spent and work they do for the branch. Prior to my joining the Sri Lanka Bus Co. I had suffered losses in running buses owing to competition. That was one of the reasons that urged me to join the company. If there is no competition it is a profitable business.

J. Madanayake
Re-examina-
tion.
Re-examined.

10

At the meetings of the directors only those invited by the directors can be present. No other person is allowed to be present at directors' meetings. At the meetings of the board of directors we invite those whom we require at such meetings to be present.

Q. Do the buses allotted to the different branches run overlapping each other sometimes ?

A. Sometimes they do.

The gross takings of the " A " branch is the highest. The 10% of the gross takings of all the branches go to form the dividends declared to the shareholders of the Sri Lanka Bus Co.

20

Malawana has not signed the minutes of the 17th November, 1943. At that time he was not a director or a shareholder of the Sri Lanka Bus Co. I send accounts to the Income Tax Department. They accept the figures I send them in regard to my return. The directors of our company are not paid. The directors of the company are Dr. A.P. de Zoysa, myself, Mudaliyar B.J.Fernando, and W.K.Fernando. In all there are nine directors of the company. All the branch managers are directors of the company and in addition Dr. A. P. de Zoysa is also a director. He is the chairman of the board of directors and he is paid a fee as the chairman of the board of directors. None 30 of the other directors of our company draw any remuneration from the company. Managers of the various branches are not paid any remuneration by the company. Samarasinghe is the manager of the " F " branch. Before he joined the company he had not more than 3 or 4 buses. After the company was floated he was appointed manager of the " F " branch. For the running of the " F " branch he was entrusted with 15 or 16 buses on his route. Before he was appointed manager of the " F " branch that post was not offered to anyone else.

Q. Does Samarasinghe pay any money to anybody whose 40 onetime buses have now been allotted as manager of the " F " branch?

Mr. Adv. Wickremanayake objects to the question.

I disallow the question, because the answer will be purely on hearsay.

No. 7
Defendant's
Evidence.
J. Madanayaka
Re-examination
—Continued.

(Sgd.).....

Additional District Judge.

13th October, 1949.

P. THIAGARAJAH, sworn, 32 years, accountant, Sri Lanka Omnibus Co., Colombo. P. Thiagarajah Examination.

Shown D. 18. I know this book D. 18. It is the book which
10 contains the minutes of the annual general meetings and that of the
board of directors of the Sri Lanka Bus Co. I have been attending
the annual general meetings and the meetings of the board of directors
of the company, as accountant of the company. During the time
this book D. 18 was kept as a book for the purpose of recording the
minutes, the minutes were recorded then and there at the meeting
itself, and the minutes were read and explained in Sinhalese to those
present by the chairman and their signatures were obtained to the
minutes then and there. After about two or three years from the
inception of the company I asked Mr. Obeysekera, the then Secretary,
20 to have two separate books for recording minutes; one for annual
general meetings and another for directors' meetings. After these
books were started the minutes of meetings were recorded in the book
and they were confirmed, at a subsequent meeting and signed by the
chairman. After the new system came into being the copy of the
minutes to be confirmed at the subsequent meeting was forwarded
to all the members for their information, before it was confirmed at
the next meeting.

I can remember the defendant asking me to prepare certain
accounts for him in 1944. It was somewhere at the end of 1944 he
30 wanted me to prepare the accounts from 16.1.44 to 31.3.44. Some-
where in the middle of 1944 his clerk who was keeping his accounts
died suddenly and as such, I was called upon by Mr. Perera to prepare
his accounts for that period. I prepared the accounts and sent a statement
of accounts to the defendant to be signed and sent to the Income
Tax Department. I prepared the statement of income and expendi-
ture account for that period. I had a cash book and ledger with me
for that purpose. I got to take all ledger balances and prepared
the income and expenditure account. After I prepared my statement
of accounts at the request of Mr. Perera I forwarded those books to
40 Messrs. Terrence Perera & Co. for the purpose of auditing accounts
for the year 1944 to 1945. As they needed those books for reference
purposes. Messrs. Terrence Perera & Co. are present in Court today.

No. 7
Defendant's
Evidence.
P. Thiagarajah
Examination
—Continued.

Although I forwarded them those books they have not been received by them. Messrs. Terrence Perera & Co. stated that they have not received those books. That particular book is not available now, but the Income Tax Return is available.

P. Thiagarajah
Cross-examina-
tion.

Cross-examined.

I was the book-keeper of the Sri Lanka Bus Co. for the year 1945, I was paid a salary of Rs. 1,945 odd. At present I am paid a salary of Rs. 200 plus Rs. 70 as living allowance. Though I had no status as an accountant I was called to be present at meetings. I attend meetings every now and then. I attend meetings of the Sri Lanka Bus Co. The secretary's name appears at the end of the minutes of the company. My name is not among those who attended the meeting. The secretary attends in his official capacity. When the directors want me to be present at the meetings I attend such meetings and I have been present at almost every meeting.

At those meetings the minutes were read and explained then and there. The meetings of this company normally last about two to three hours. The secretary writes the minutes during the progress of the meeting. At the end of the meeting the minutes of the meeting were read and explained by the chairman to those present. Sometimes meetings are held at about 11 o'clock in the forenoon and they go on till two or three in the afternoon. Everyone of those present at such meetings wait till the chairman reads and explains such minutes, in Sinhalese and signs it. The books sent to me by K. M. Perera contained the account from 16.1.43 to 31.3.43. Those books contained the agency fees received by the defendant from 16.1.43. He has been maintaining a statement of accounts of income and expenditure of the " G " branch as from 16.1.43.

Re-examined. Nil.

(Sgd.)..... 30

Additional District Judge.

13th October, 1949.

It is now 4.15 p.m. Further trial postponed for tomorrow the 14th instant.

(Sgd.).....

Trial Continued

No. 7
Defendant's
Evidence.—
Continued.

14th October, 1949. Case No. 3705M. D.C. Kurunegala.

Plaintiff and defendant present.

Appearances as on yesterday.

S. A. SAMARASINGHE, affirmed, 45 years, transport agent, Kegalle. S. A. Samarasinghe
Examination.

I am a present director of the Sri Lanka Bus Co. I became a director of the company from February, 1944, from the date of the general meeting in that year. I am the manager of the "F" branch
10 of the Sri Lanka Bus Co. I was appointed manager of the "F" branch in January, 1943. At the time I was appointed manager of the "F" branch I was a shareholder of the Sri Lanka Bus Co. Before the formation of the Sri Lanka Bus Co., I had four buses running the name Tarzan Service in the Kandy-Kadugannawa area. People used to call me as Tarzan Mudalali. I had to hand over those four buses to the Sri Lanka Bus Co. After I was appointed the manager of the "F" branch I was entrusted with fourteen buses by the Sri Lanka Bus Co. to be run on that branch. All those fourteen buses were the property of the Sri Lanka Bus Co. on that day. The four buses
20 which belonged to me earlier had also been transferred to the Sri Lanka Bus Co. when I became a shareholder of the company. I do not know to whom the ten buses belonged to out of the fourteen buses and which did not originally belong to me. Those ten buses belonged to the persons who prior to joining the Sri Lanka Bus Co. were running those buses on that route. I cannot say whether all the owners of those ten buses were shareholders or became shareholders of the Sri Lanka Bus Co. In running this branch I got my agency fees, and I incurred all expenses in running "F" branch in terms of my employment by the Sri Lanka Bus Co. as branch manager. Any
30 profits that accrued in the running of the "F" branch I took them as my money. I kept that money separately as my private money with the idea of making use of them if need arose in running the "F" branch. If I sustained a loss in running the "F" branch I had to make good such loss and that was the reason why I keep the profits to me personally and put them in my private account. I had no connection with the original owners of the buses that were entrusted to me by the Sri Lanka Bus Co. to run the "F" branch and I am not liable to pay any portion of the profits to all or any of them. There was no expressed condition with the Sri Lanka Bus Co. that I
40 should take the profits or bear the loss incurred in running the "F" branch. The terms on which I took up the management of the "F" branch were :—

- (1) that I should pay 10% of the gross takings in running the buses to the company ;

No. 7
Defendant's
Evidence.
S. A. Samara-
singhe
Examination.
—Continued.

- (2) out of the balance 90% that I should pay at the rate of Re. 1 per bus per day as hire to the company ; and
- (3) that I should run the buses, incur all expenditure in running the buses and that I should purchase new buses if needed, repair old buses, etc., and maintain an adequate service to the public.

Any balance that was left over out of the 90% of the gross takings after the Re. 1 due on each bus to the Sri Lanka Bus Co., and incurring all expenditure in replacing buses and purchasing new buses and running the service, etc., I was entitled to such profits in 10 running the " F " branch. If there had been a loss I had to bear it personally.

S. A. Samara-
singhe
Cross-examina-
tion.

Cross-examined.

I know the person called E. Don Francis Alwis. He was a director of the Sri Lanka Bus Co. I attended the meetings of the board of directors of the Sri Lanka Bus Co. Only from the date I was made a director.

I have seen Alwis at the meetings as a director from the time I attended meetings of the board of directors and he is continuing to be a director still. Alwis is not a branch manager of the Sri Lanka 20 Bus Co. W. K. Fernando is the manager of the " (" branch, which has been entrusted with the buses and the route on which W. K. Fernando and Alwis originally ran buses jointly. Their buses formed the Little Service. It was not a company but a partnership. The directors of the Sri Lanka Bus Co. were not paid a salary at any time. Alwis was also one of the directors of the company and he was also not paid any salary. I became a director of the Sri Lanka Bus Co. in 1944, but before that I was manager of the " F " branch. In 1943 I was entitled to the profits of the " F " branch, in as much as I was entitled to the profits and losses from 1944 after I became a director 30 of the Sri Lanka Bus Co. I do not know the licence numbers of the buses that belonged to me before I joined the Sri Lanka Bus Co. I did not know that I would call upon to give the number of my buses today. My buses were fairly old buses—they were about 8 or 9 years old at the time I handed them over to the Sri Lanka Bus Co. I am not quite sure of the valuation placed on my buses, but one of my buses was valued at Rs. 1,000, another at about Rs. 1,200 and still another at Rs. 1,200 and the fourth bus also at about Rs. 1,200. My four buses were valued between Rs. 4,000 and Rs. 5,000. Generally the buses that plied on the Kadugannawa road were not valued much more 40 than Rs. 1,000 each. There were other buses besides mine that were running between Kadugannawa and Kandy. I do not remember if Arnolis Appuhamy ran a bus on that route. I remember one Gunasekera running buses between Kadugannawa and Kandy. I do not know if Gunasekera's buses were taken over by the Sri Lanka Bus Co.

He was not an owner even among one of the fourteen buses that were handed over to me by the Sri Lanka Bus Co. for the "F" branch. Nobody individually handed over buses to me. It was the Sri Lanka Bus Co. that handed over buses to me. I had a knowledge of the original owners of all the buses that were handed over to me by the Sri Lanka Bus Co. at one time, but, now I have forgotten it.

No. 7
Defendant's
Evidence.
S. A. Samara-
singhe
Cross-examina-
tion.
Continued

I deny that a bus which originally belonged to Gunasekera was handed over to me by the Sri Lanka Bus Co. among the 14 buses given to me to run the "F" branch. I cannot say whether a bus bearing
10 number D 2848 was handed to me by the company as it was seven or eight years ago that the company did give me buses to run the "F" branch. I have a record of the licence number of the buses that were handed to me by the company in 1943. I cannot remember whether a bus having the number D 3181 was given to me by the company in 1943. I may be knowing Arnolis Appuhamy if I see him, but, I do not know him by that name.

I do not know that the company wanted to pay money for the value of the buses that were given to the company and not allot
20 14 buses that were given to the "F" branch was allotted shares in the company.

I had only four buses running on the Kadugannawa-Kandy road. I did not buy any buses other than those four buses. I have handed over to the Sri Lanka Bus Co. more than the four buses I owned prior to my joining the company. The company placed a value on those buses and allotted shares to me to the value placed on them. Those buses belonged to me long before I joined the company. For about eight years those buses were mine before I joined the company. I gave four buses only to the company which I had been plying between
30 Kadugannawa and Kandy. The other buses that I handed over to the Sri Lanka Bus Co. were buses that I used for running between Kandy and Colombo and Rambukkana-Kegalle.

Q. How many buses in all did you give to the Sri Lanka Bus Co.?

A. In all nine buses were given by me to the Sri Lanka Bus Co.

These nine buses included the four buses that were used in plying between Kadugannawa and Kandy. The "F" branch operates between Kandy and Kadugannawa, Kandy and Colombo, and now between Kandy and Pottapitiya and also between Kandy and Menik-
40 diwela in addition. The route from Kandy to Kegalle is not in the "F" branch now. Four big buses which ran between Kandy and Colombo and which belonged to me were valued over Rs. 2,000 each. Each of my buses that had been plying between Kandy and Colombo

No. 7
 Defendant's
 Evidence.
 S. A. Samara-
 singhe
 Cross-examina-
 tion.
Continued

was valued at Rs. 5,000 by the Sri Lanka Bus Co. I ran only one bus between Rambukkana and Warakapola. I was allotted 277 shares in the Sri Lanka Bus Co. to the value of Rs. 2,770.

Buses that belong to "A," "B," "C" and "F" branches run from Kandy and Colombo. My buses which had been plying between Kandy and Colombo and which I handed over to the Sri Lanka Bus Co. were allotted to the "F" branch, of which I am the manager. My buses which ran between Kadugannawa and Kandy were also allotted to the "F" branch. My bus which ran from Rambukkana to Warakapola was also allotted to the "F" branch. All my nine 10 buses were allotted to the "F" branch by the Sri Lanka Bus Co.

Q. I put it to you that out of the other five buses handed over to you by the company three belonged to Gunasekera and two belonged to Arnolis Appuhamy?

A. I deny that out of the five other buses handed to me by the company three of them belonged to Gunasekera and two belonged to Arnolis Appuhamy.

I cannot say whether in fact two of them belonged to Arnolis Appuhamy as I do not know who Arnolis Appuhamy referred to is. I know that cases were filed against the Sri Lanka Bus Co. by people, but, 20 I do not know their names. My appointment as manager of the "F" branch was made in 1943 by the Sri Lanka Bus Co. I was telephoned to go to the office of the Sri Lanka Bus Co. and I went accordingly before I was appointed manager of the "F" branch. Then the manager of the Sri Lanka Bus Co. asked me to accept the managership of the "F" branch and to carry on the work. I agreed to accept the post and I took up the job. At the time of my appointment as manager of the "F" branch I did not know to whom the other buses that were allotted to the "F" branch belonged prior to the formation of the Sri Lanka Bus Co. nor did I have any conversation with the previous 30 owners of those buses before I accepted office as manager of the "F" branch. I did not come to any terms or arrangement with them before I accepted office as manager of the "F" branch. They may have come to know of my appointment later. I cannot say whether they were aware at the time of my appointment that I was to be appointed manager of the "F" branch.

S. A. Samara-
 singhe
 Re-examination

Re-examined.

I accepted office as manager of the "F" branch directly it was offered to me by the manager of the Sri Lanka Bus Co. Originally the routes allotted to the "F" branch were Kadugannawa-Kandy, 40 Kandy-Colombo. About two years later the other two routes I had referred to earlier in my evidence were allotted to the "F" branch. Four of my buses which I handed over to the company were buses which ran on the Colombo-Kandy route and they have been allotted

to run on the Colombo-Kandy road under the " F " branch. My bus which originally ran between Rambukkana and Warakapola, when it was mine, was also allotted by the Sri Lanka Bus Co. to the " F " branch to run on Kadugannawa-Kandy road.

No. 7
Defendant's
Evidence.
S. A. Samaras-
singhe
Re-examination
Continued.

Q. Did you when you gave evidence in chief state that four buses belonged to you and the other ten buses belonged to others when you took charge of the " F " branch with 14 buses ?

A. What I meant was that four of my buses ran between Kadugannawa and Kandy were given to the company with ten others.

10 *To Court :*

I was questioned at that time over the Kadugannawa-Kandy route, and therefore, I mentioned about the four buses on the Kadugannawa route as mine.

Re-examination continued.

I was elected branch manager in 1944 and thereafter I am continuing to be the manager of the " F " branch. After I was selected by the manager of the Sri Lanka Bus Co., in 1943 I was elected by the board of directors as branch manager of the " F " branch. My name was put to the board of directors and I was elected
20 at general meeting.

At the general meeting held in 1944 my name was proposed by someone there and all agreed to it. So I was unanimously elected manager of the " F " branch.

To Court :

In 1945 at the annual general meeting my name was proposed and I was unanimously elected. In 1946 also at the annual general meeting my name was proposed and I was elected manager of the " F " branch. Right through I was elected as manager of the " F " branch at the annual general meetings. My name was proposed and
30 I was elected by votes.

Re-examination continued.

Q. Were you doing any other business apart from being manager of the " F " branch in your personal capacity ?

Mr. Wickremanayake objects to this question.

This does not arise out of cross-examination.

I uphold the objection.

(Intd.)
Addl. District Judge.

14th October, 1949.

No. 7
Defendant's
Evidence.
K. M. Perera
Examination

K. M. PERERA, sworn, 36 years, landed proprietor, Malpitiya.

I am the defendant in this case. I am a married man with three children. I am worth about Rs. 70 to Rs. 80,000. In this action the claim against me is for a sum of about Rs. 22,000. In Case No. D.C. 3706 the plaintiff Ran Menika has claimed from me a sum of Rs. 26,000. I produce a certified copy of the plaint in D.C. 3706 marked D. 27. D. 28 and D. 29 are the certified copies of plaints in Cases Nos. D.C. 3707 and D.C. 3709 respectively where the plaintiffs are H. G. Martin Dias and B. A. Johnsingho respectively, and the claims are for Rs. 80,000 and Rs. 26,000 respectively. In Case 10 No. D.C. 3707 the plaintiff in this case (Martin Dias) is the plaintiff in his representative capacity as legal representative and administrator of the estate of his deceased brother Romiel Dias. I am also producing marked D. 30 a certified copy of the plaint in D.C. 3708 wherein Pabilis Appuhamy is the plaintiff and his claim against me is for Rs. 18,000 odd. In all the total claims in these cases made against me by the plaintiffs amount to Rs. 174,000.

I am now a director of the Sri Lanka Bus Co. I was appointed a director of the company on 1.2.44, and I am still continuing as a director. I do not draw any fees as director. I am the manager of 20 the "G" branch of the Sri Lanka Bus Co. I have been manager of the "G" branch from 16.1.43, and I continue to be its manager up to date. I have kept regular accounts in the running of the "G" branch. The account books for the period 16.1.43 to 31.3.44 are not available. They have been lost between the person who prepared my accounts; namely one P. Thiagarajah, and the Auditors Messrs. Terrence Perera & Co., Colombo. I had sent my income tax return for the period 16.1.43 to 31.3.44 in regard to the work of the "G" branch to the Income Tax Department. I instructed Messrs. Terrence Perera & Co. to take a true copy of the income and expenditure 30 account as found as submitted by me to the Income Tax Department, in my return for the period 16.1.43 to 31.3.44. One Mr. Ford was sent along with me by Messrs. Terrence Perera & Co. to the Income Tax Office. I was given my file at the Income Tax Office and from that file Mr. Ford made a copy of my return for the period 16.1.43 to 31.3.44 in my presence, and I have a certified copy duly signed by Messrs. Terrence Perera & Co. as a true copy furnished by me to the Income Tax Department in my return for the year ended 31.3.44.

I sent my income tax return for the year ended 31.3.45 also. I had my books audited by Messrs. Terrence Perera & Co. and D. 22 40 (subject to proof) is a true copy of the income and expenditure account of the "G" branch for the year ended 31.3.45 and certified by Messrs. Terrence Perera & Co. According to D. 22 my agency fees is Rs. 142,565.69. Shown P. 41. This is an account of the Sri Lanka Bus Co. certified by Terrence Perera & Co. In P. 41 the

agency fees given to me is shown as Rs. 142,565·69. In D. 22 it is shown the receipt of the agency fees and how it has been disbursed. Profit is shown in D. 22 as Rs. 23,619·57.

No. 7
Defendant's
Evidence.
K. M. Perera
Examination
Continued

(Shown D. 30. Mr. Adv. Wickremanayaka objects. D. 30 is allowed subject to proof). I also produce marked D. 30 the income and expenditure account of the "G" branch for the year ended 31.3.46 prepared by the same Auditors Messrs. Terrence Perera & Co., wherein it shows that the profit of the "G" branch for that year is Rs. 24,874·73.

10 (Shown D. 31 Mr. Advocate Wickremanayaka objects. D. 31 is allowed subject to proof).

I also produce marked D. 31 the profit and loss account for the year ended 31.3.43 of the "G" branch where the nett profit of the "G" branch for that year is shown as Rs. 19,572·68.

(Shown D. 32. Mr. Adv. Wickramanayaka objects. D. 32 is allowed subject to proof). D. 32 is the profit and loss account of the "G" branch for the year ended 31.3.48 where it shows the nett profit of the "G" branch as Rs. 8,292·15.

20 My father died in 1931 and my mother administered the estate of my late father. Before 1943 I had two buses, but they were not registered in my name. One bus was registered in the name of my step-brother Victor Perera and the other bus was registered in the name of Pabilis Appuhamy, who was at that time my driver, and who is the plaintiff in Case No. D.C. 3708. The numbers of those two buses were E 397 and X 8434. In 1942 those two buses were running on the Kurunegala-Alawwa route. In 1942 there were other people who were running buses on that road as well. The plaintiff in this case, L. A. Pabilis Appuhamy, H. Romiel Dias, Mendis Appuhamy, Nachchiya, Ran Menika, B. A. John Singho and Nicholas Appuhamy
20 and other people were running buses on the Kurunegala-Alawwa route. In 1942 these people came and spoke to me and wanted to have a bus partnership between them and myself, to run these buses without competition. I agreed to that suggestion and we formed the K. A. B. Bus partnership and the registration of the partnership was effected on 20.7.42 (P. 1). There was no writing with regard to that bus partnership. Buses remained in individual names of the partners. When we were running the buses without competition in 1942 I had the total collections for the month with me, and after deducting the expenses incurred for the month in running the buses,
40 the balance was distributed in proportion to the takings of each bus. I looked into the accounts monthly and paid them their money.

At the end of 1942 I came to know the Nelson Scheme and also with regard to the system of issuing exclusive route licences. In December, 1942, we had a meeting of the partners of the K. A. B. Bus Co. I can remember calling a meeting of the K. A. B. Bus partnership on 12.12.42 by P. 21. That meeting was held on 12.12.42

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and the members of the K. A. B. Bus partnership wanted me to apply for route licences. Accordingly I made applications to the Commissioner of Motor Transport on behalf of the K.A. B. Bus partnership. I made application to the Commissioner of Motor Transport on behalf of the K.A.B. Bus partnership. P 13 to P. 19 are the various applications made by me as Managing Director of the K. A. B. Bus partnership to the Commissioner of Motor Transport. I handed over these applications to the office of the Commissioner of Motor Transport on 31.12.42, when I handed over the applications to the office of the Commissioner of Motor Transport I came to know that the routes applied for by me have already been 10 allotted to the Sri Lanka Omnibus Co. On that day neither I nor the other partners of the K. A. B. Bus Co. were shareholders of the Sri Lanka Bus Co. Then I summoned a meeting of the partners of the K. A. B. Bus Co. and conveyed to them the information I received over the route licences applied for by the partnership. I wrote letters similar to P. 2 to every partner of the K. A. Bus partnership and a meeting was held on 2.1.43. At that meeting I told them the situation as to what I learnt at the office of the Commissioner of Motor Transport in regard to the licences we had applied for and that route licences had been issued to the Sri Lanka Bus Co. for the 20 routes we had applied for the K. A. B. Bus partnership and that there was no hope of obtaining those routes for us. I also told them that I was not willing to litigate with the Sri Lanka Bus Co. and that I wanted to claim compensation from the Sri Lanka Bus Co. for my two buses. At that time I had no idea of becoming a shareholder of the Sri Lanka Bus Co.

(Sgd.).....

Addl. District Judge.

14th October, 1949.

At this stage Court adjourns for lunch.

30

Resumed after lunch interval.

K. M. PERERA, recalled, sworn. At that time I was not willing to become a shareholder of the Sri Lanka Bus Co., but, I wanted to claim compensation from them. I was doing some other work and I thought I would carry on with that work rather than do this bus business. I told my other partners that they can, if they wanted to, join the Sri Lanka Bus Co., and carry on. Pabilis first told me that he wanted to join the Sri Lanka Bus Co. as otherwise he would be loosing his job as a driver. The plaintiff also said the same thing to me. Eventually the other partners asked me to withdraw the applications 40 I had made to the Commissioner of Motor Transport for route licences. During January, 1943, petrol was under ration and we had to get petrol coupons from the Petrol Controller to run the buses under the K. A. B. Bus partnership. The Petrol Controller had sent me coupons to run the buses up to the 15th January, 1943. The Petrol Controller had written to the various bus owners of our partnership that petrol coupons had been issued only up to the 15.1.43 and that no further

coupons will be issued to them after that date. This matter was discussed at the meeting of the partners of the K. A. B. Bus partnership held on 2.1.43. We discussed the question of the partnership first as to what was to happen to it after 15.1.43. I told the partners that we would not be able to carry on after 15.1.43. After the 15th January, 1943, the K. A. B. Bus partnership was not continued. Till that day 15.1.43—the owners of the various buses in the partnership continued to pay me the collection for the day.

Somewhere in the month of February, 1943, after deducting the
 10 expenses I had incurred in running the buses I distributed the balance to the partners of the K. A. B. Bus Co., of the collection made to the end of 15.1.43. After 15.1.43 the K. A. B. Bus partnership automatically got dissolved. The notice of cessation of the K. A. B. Bus partnership was signed by all the partners. I got them to sign it. They all agreed to close up the partnership and as such I made them to sign the notice of cessation of the K. A. B. Bus partnership. They knew what they were signing. I sent the notice of cessation of partnership of the K. A. B. Bus Co. signed by all the partners to the Registrar of Business Names on 6.2.43. I produce a certified copy of that
 20 notice marked D. 17. After 2.1.43 each of the partners of the K. A. B. Bus Co. was free to do anything they pleased. I asked them to do anything they pleased, and the partners had the buses in their own individual names. On 13.1.43 Donald Perera the manager of the Sri Lanka Bus Co. and one Fernando came to Kurunegala to value the buses belonging to the individuals who were at one time partners of the K. A. B. Bus Co. I do not know who got them to Kurunegala to value the buses. Pabilis's bus was also valued by them. Pabilis did not accept the valuation placed on his bus at first. Later he got the value increased by Rs. 250 and accepted the increased valuation.
 30 I do not know if the plaintiff accepted the valuation placed on his bus or not; he must have accepted it. After 13.1.43 and after the buses were valued the former partners of the K. A. B. Bus Co. acted on their own and they did not consult me over their matters. I cannot say whether they met among themselves and discussed their matters.

I wanted to claim compensation as far as my buses were concerned. The manager of the Sri Lanka Bus Co. asked me to join their company and he valued my buses which were in the name of my step-brother and Pabilis Appuhamy. I wanted to claim compensation
 40 from the company, but the company asked me not to claim compensation, but to join them. At that time I did not agree to that suggestion made to me. On 16.1.43 I was asked to go down to Colombo to the office of the Sri Lanka Bus Co., and I went there. Then the manager of the Sri Lanka Bus Co. asked me to join the company. Then I mentioned to him that I had the idea of claiming compensation in a lump sum. Then he asked me to run the buses till they arrived at some decision over these buses. I cannot say whether the other

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members of the K. A. B. Bus Co. had transferred their buses to the Sri Lanka Bus Co. at that time, but the buses were given to me by the manager of the Sri Lanka Bus Co. to be run on behalf of the company. I carried on the work in that way. My two buses were also among the buses that I was running on behalf of the company. Later I thought I would also join the Sri Lanka Bus Co. They asked me to run the buses from 16.1.43 until they appointed a manager to run the buses. They gave me petrol coupons and I was running the buses for them, and I continued to get the collections daily and I used to deduct the actual expenses involved and remit the balance 10 to the Sri Lanka Bus Co., Colombo. The Company used to give me petrol coupons for one week only. Therefore, every week I had to go to the Colombo office of the company to get the petrol coupons.

About the beginning of February, 1943, the manager of the Sri Lanka Bus Co. told me that they had decided to open a branch at Kurunegala called the "G" branch, and asked me to take up the managership of that branch on the same terms as the other branches were being run. The terms were that 10% of the gross takings to be remitted to the Sri Lanka Bus Co. and Re. 1. per bus per day to be sent to the company out of the balance 90% of the gross takings. 20 I was expected to run the service on the balance money according to the Motor Car Ordinance, and any profit or loss the branch manager was personally responsible. Then I refused to accept the managership on those terms. I told the manager that the buses were too old and that I would like to have a salary paid to me. I thought if I took the responsibility on the terms the manager of the company had suggested to me that I would be a loser. At that time I was not prepared to take any risk. So the manager of the company refused to employ me on a salary. At a later stage Mudaliyar Madanayaka also spoke to me about this. He also requested me to take the 30 managership of the "G" branch, and I refused to do so on the terms offered by the company.

During my management of the K. A. B. Bus partnership the profits were very low—about 8 or 9% of the gross takings. At the time under the K. A. B. Bus Co. I had no occasion to spend money on replacements of vehicles. There was no provision for me to make replacements under the old partnership. There was no provision under the old partnership to provide with new buses in place of old ones or to supply additional buses. Later Mudaliyar Madanayake sent one Lairis Appu to speak to me about the post of manager of 40 the "G" branch. He also spoke to me. In spite of it I was not willing to take up the managership of the "G" branch. After that I received from the Sri Lanka Bus Co. asking me to come to their office in Colombo for a conference on 12.3.43. The plaintiff, Pabilis Appuhamy and others who were at one time partners of the K. A. B. Bus Co. were present at that conference. The directors of the Sri

Lanka Bus Co. were also present at the conference. To this conference I went in my individual capacity having received an individual invitation. I do not know how the others went whether they went individually or collectively. In March, 1943, the K. A. B. Bus Co. was not in existence. At that conference Mudaliyar Madanayake first asked me to take up the management of the "G" branch. I refused to accept it on the conditions offered to me. Then he told me and the others present that we had been invited to attend that conference with a view to offer the managership to one of us to run these buses. He asked one of us to take over the management. Then each one refused. Then the chairman of the conference said that they had invited us to give these buses to run. They refused to take it collectively, but each man offered to run his own bus for the company. Then all the directors said that that could not be done. Mudaliyar Madanayake said if none of us are willing to take up the management they will be forced to appoint someone from outside, and that if an outsider is appointed as manager some of us may lose our employment as drivers and conductors. He also said that an outsider might appoint his own men as drivers and conductors; and therefore those of you who are holding jobs may lose your jobs. I was not a driver nor was I doing any work in the buses. Most of the others who belonged to the K. A. B. Bus Co. were drivers and conductors, or some relation of their was a driver or a conductor.

Nachchiya's husband Beling Fernando was a driver and two relatives of Ran Menika were employed under the K. A. B. Bus Co. After listening to what Mudaliyar Madanayake said these former members of the K. A. B. Bus Co. one by one left the conference room. Someone of them asked me also to come out and I went there. At that time they asked me to take up the management of the "G" branch, as they feared they may lose their jobs. They said that all of them would help me to run the buses without robbing and giving me any profits. Then at that time I thought that when they were willing to help me that I should take up the post of branch manager. When the former members of the K. A. B. Bus Co. discussed the matter outside the conference room there was nothing spoken of with regard to the profits or losses that may be sustained, or how it may be divided. I consented to take up the post, because I thought that they may lose their jobs and I was willing to take up the responsibility. As such, I was willing to take up the responsibility alone.

If the plaintiff has stated that I was elected by them as manager of the "G" branch it is not true. If the plaintiff says that they elected me on my promise to pay them certain shares of the profits it is also not true. I did not promise to pay any such thing.

Then all of us went back to the conference room and I told the chairman of the conference that I was prepared to accept the managership of the "G" branch. It is false if the plaintiff or anyone should

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say that at this conference I was elected by them as manager of the "G" branch. The directors told me that they would appoint me as manager. They appointed me in my individual capacity as manager, and not as a representative of the former partners of the K. A. B. Bus Co. I produce marked D. 21 dated 16.3.43 which is the letter of appointment handed to me by the Sri Lanka Bus Co. at their Colombo office. I gave them a letter accepting office. D. 21 is addressed to me and it refers to my personal appointment as branch manager. This appointment was to take effect from 16.1.43. It is made clear in the letter of appointment dated 28.12.43, which I 10 produce marked D. 23. I signed a similar copy as D. 23 and handed it to the office of the company. D. 23 is the official appointment. In D. 23 I have myself signed accepting office on a 6 cents stamp. All the buses which were referred to in D. 21 were entrusted to me to be run under the "G" branch. There were 11 buses including, which at one time belonged to the plaintiff.

On 16.3.43 the Sri Lanka Bus Co. was the owner of all those buses referred to in D. 21. I do not know whether on that date these buses were registered in the name of the company, but they told me that they were their buses. Thereafter I ran those buses as manager 20 of the "G" branch, and I continued with the same employees who were in the buses before. In March, 1943, as far as I can remember, the bus drivers were paid Rs. 1.50 per day. I continued to employ them on the same terms under the "G" branch.

At the end of March, 1943, the drivers wanted an increase of salary, as the price of things has gone up owing to the war. I summoned the drivers and conductors—about 15 of them—to a meeting to be held at the end of March. I could not hold that meeting, as I could not come on that day for that meeting and I postponed it for 8.4.43. I increased the salary of drivers to Rs. 2.50 and that of 30 conductors to Rs. 1.50 per day on 8.4.43. Again they came to me saying that they wanted a further increase of salary. Then also I called the drivers for a conference, and I agreed to increase the salary of drivers to Rs. 3 per day, and conductors Rs. 1.75 per day. I told them not to worry me again. They wanted me to increase the salary of drivers to Rs. 5 per day. I said that I could not do, and told them if they increase the daily collections and bring more money, and that out of what they bring, after looking into accounts and if I find a reasonable profit, that I would give them 10 to 15% of the gross amount on what each man brought in daily in respect of each 40 bus. That profit was to be given to everybody; *i.e.* owner, driver or conductor. By owner I meant the previous owners of the buses. There were previous owners of the buses who were not working on the buses Nachchiya and Ran Menika were previous owners, who were not working on the buses. Ran Menika's son was working in the bus. Nachchiya's husband was working in the bus. I told them

that they could distribute among themselves the profits from each bus. This was an agreement between myself and the employees under me. It was on these terms that I employed them. They were worrying me for higher wages, and I wanted them to do satisfactory work. Therefore I offered these terms to them. This was somewhere in May, 1943. The war was in progress at that time. It was very difficult to get drivers and conductors for buses. They worked under me on these terms and I carried out my promise to them. I kept my accounts by my clerk Alfred Perera. He is now dead. The

10 books are not available. I have seen the cash book and the ledger that were kept by my clerk. There were ledger folios in the ledger. I had a separate folio for each separate bus and separate folio for petrol, tyres and tubes, salaries, repairs, etc. There was a separate folio for supervision allowance. I had a separate folio for each of the items in the business and a separate folio for each bus. The total gross income, I had to obtain by adding the total collections brought in by the respective buses. I add the expenses. The employees were paid their wages daily. After deducting the expenses,

20 if there was a balance, I paid out of that balance 10 or 15% according to the money received from each bus. There was no fixed rate of 10 or 15%, but the rate was determined by me according to the amount brought in by them. I told my employees that if at any time I did suffer loss from any particular bus that they will have to return the monies that I had paid to them by way of profits to cover such loss. When I told them about payment of losses to me, I did not mean to collect these monies from them, but to merely frighten them and the work done. I carried on in this system. In October or November I went to Mudaliyar Madanayake's Garage at Peliyagoda. At that time he was known as M. Jayasena (M. J.) and he is called

30 Mudaliyar Madayanake. He told me that they were expecting some new chassis and that each of them would cost about Rs. 15,000 to Rs. 20,000. He told me that all of your buses are old and that I should replace them with new ones. I told him that I have no money to buy new buses. He then asked me what I was doing with the collection. I told him that I was distributing a percentage of the profits to the employees, because they were asking me for increased salaries, and also to get satisfactory work. He told me if you do not replace buses you would be asked to cancel the agency. Then I came back to Kurunegala and told all the employees that I would

40 not be able to give them profits, but I would pay them their salaries only. When I said so they did not grumble and they continued to work. I told them this about in October or November. Ever after that day I have not paid my employees anything else, except their salaries. These letters that are produced by the plaintiff are letters that I wrote in connection with the profits that were given to them as employees in terms of the arrangement I had come to with them over their employment. I had not written any one of those letters, because

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of any arrangement that I had with the original partners of the K. A. B. Bus Co. at the time I assumed office as manager of the "G" branch. After October, 1943, I stopped paying any profits to the employees.

From 1.1.44 I obtained the Shell Petrol Agency with another partner called Mr. Ratnam. I got married about this time on 28.12.43. Somewhere in October, 1943, I stopped paying the shares of the profits to the employees. It is not true if the plaintiff says that I stopped paying them, because of my marriage which took place on 28.12.43 or because I became agent of the Shell Co. That petrol agency is more paying than the bus running business. Bus running business 10 involves lot of work and it has no rest.

I know the annual general meeting of the Sri Lanka Bus Co. held on 1.2.44. The record of the minutes of that meeting is found on pages 31 and 32 of D. 18. I was present at that general meeting. Branch managers were elected at that meeting. At that meeting I was elected branch manager of the "G" branch. All the shareholders of the Sri Lanka Bus Co. took part in my election as manager of the "G" branch of the company. At that meeting the plaintiffs of these five cases that have been filed against me were present except B. A. John Singho. Except B. A. John Singho all other four plaintiffs were 20 present. They have signed the minutes. The minutes were signed by them in my presence. The minutes were read and explained by the secretary. Dr. A. P. de Zoysa was not in a position to explain the minutes in Sinhalese, so the secretary explained the minutes. After the minutes were read and explained by the secretary and signed by Dr. Zoysa the others present at the meeting signed the minutes. Dr. Zoysa got the secretary to read and explain the minutes.

In 1944 I had occasion to dismiss the plaintiff in this case from service. I have summoned the plaintiff to produce the original of letter D. 2. I produce marked D. 2 the carbon copy of the original 30 letter sent to the plaintiff bearing my signature. The plaintiff has not produced it. After that he did not work under me. He was discontinued from service on 31.5.44. Plaintiff's step-brother Jina-dasa was working under me. I had to discontinue him sometime after I discontinued the plaintiff. Martin Dias (plaintiff) had a fight with my clerk in the office, and as such, I had to discontinue him. The plaintiff drinks heavily. He has fought with some of my conductors also under the effect of drinks. About 18.1.45 I was charged by the plaintiff with misappropriation. I produce a certified copy of the plaint in M. C. Kurunegala No. 22667 (plaint in that case) 40 marked D. 7. I was discharged in that case.

I know the annual general meeting of the Sri Lanka Bus Co. held on 23.3.45. I was present at that meeting. Martin Dias (plaintiff) and Pabilis Appuhamy made an attempt to remove me from the post of manager of the "G" branch, at that meeting. They did not

succeed in their attempt. At that meeting I was re-elected to be manager of the "G" branch. Now I am continuing to be the manager of the "G" branch on the terms contained in D. 19 dated 29.7.47.

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At no time there were buses registered under the name of K. A. B. Bus partnership. The buses were registered in the names of the individual owners. I do not know, but as far as I know, the plaintiff must be having about 20 or 25 shares in the Sri Lanka Bus Co.

Just before this case was filed I dismissed Pabilis Appuhamy from service. I received a Letter of Demand dated 21.8.46, which I
10 produced marked D. 13, written to me by Pabilis's proctor. I have summoned the plaintiff to produce the reply I sent to that Letter of Demand (D. 13), but, the original reply has not been produced by the plaintiff. I am producing the carbon copy of my letter in reply to D. 13 marked D. 12. I dismissed Pabilis Appuhamy as his work was not satisfactory. He was given a job as timekeeper, and instead of going to Alawwa he remained at home. I had warned him several times and I discontinued him. I deny that I dismissed Pabilis Appuhamy, because, he was interested in Martin Dias's criminal case against me. I dismissed Pabilis Appuhamy on 6.8.46.

20

(Sgd.).....

Addl. District Judge.

14.10.49.

It is now 4 p.m. At this stage further hearing is postponed for 13th, 14th, 15th, and 16th, December, 1949.

(Sgd.).....

Addl. District Judge.

14th October, 1949.

Trial Continued

13th December, 1949. Case No. 3705 M. D. C. Kurunegala.

30

Plaintiff and defendant are present. Mr. Adv. E. G. WICKREMANAYAKE with Mr. Adv. J. PATHIRANA instructed by Mr. IHALAGAMA for plaintiff.

It is now 10.45 a.m. Mr. A. C. Amerasinghe who is instructing counsel for defendant examines the witness till his counsel Mr. Adv. Thiagalingam arrives.

K. M. PERERA, recalled, sworn.

Examination continued.

I am the proprietor of the Kurunegala Town Bus Service. In partnership with one Mr. Ratnam. I am also a partner of the Shell
40 Petrol Agency in Kurunegala. In addition to my being the manager of the "G" branch of the Sri Lanka Bus Co. I had several contracts

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with the Military during the time of the war. Since I became manager of the "G" branch I have replaced eight buses by new buses at a cost of approximately a lakh of rupees. I have also booked a new Studebaker bus. There are buses belonging to other branches of the Sri Lanka Bus Co. operating in the routes where the buses of the "G" branch are running. They are the buses of the "A," "B," and "E" branches of the Sri Lanka Bus Co.

I remember Dr. A. P. de Zoysa and Mudaliyar Madanayake attending Courts in connection with this case. They were witnesses summoned by the plaintiff originally. I summoned Mudaliyar 10 Madanayake as a witness for me in this case for the first time only after the plaintiff had closed his case, and when he was not called by the plaintiff.

I produce a certified copy of the Journal entries dated 29.7.1947 in case No. A C R 33950 marked D. 33.

At this stage Mr. Amerasinghe moves to produce a copy of a letter written by the defendant to the Commissioner of Income Tax dated 30.10.1944, which is not a copy certified by the Income Tax Department on the ground that he intends calling as witness the person who made this copy from the original at the Income Tax Office. 20

Mr. Adv. Wickremanayake objects.

I uphold the objection as this is not a certified copy which has come from the file of a Government Department.

Examination continued.

I summoned the Commissioner of Income Tax for today to furnish my accounts forwarded to the Income Tax Department for the period 1943 to 1944. The Income Tax Commissioner has written to Court pleading privilege and has not attended Court today. I went to the Income Tax Office to get a certified copy of the statement furnished by me in my return for Income Tax for the period 16.1.43 to 31.3.44. I went to 30 Messrs. Terrance Perera & Co. and along with the Senior clerk one Mr. Ford I went to the Income Tax Office, and obtained a copy of my return for 16.1.43—31.3.44.

Mr. Ford made that copy from the files of the Department in my presence. D. 1, D. 3, D. 25 and D. 26 have been certified by the Supreme Court as correct copies of the minutes of the Special general meeting held on 22.1.43, 1.2.44, 5.1.43 and directors meeting held on 30.1.43 respectively.

Cross-examined by Mr. Adv. WICKREMANAYAKE.

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Cross-examina-
tion

Prior to 1942 when buses plied they ran in competition with each 40 other. Each bus owner tried to make as much money by the efforts of his own men. From 1939 the Commissioner of Motor Transport had given us time tables to run our buses, but the time table were not adhered to sometimes. That was the first step taken by the department in order to prevent clashes between the various bus owners.

I do not remember of any incident of any clash or any accident in this route due to bus overtaking one another or due to competition. Each bus owner tried as much as takings from his bus. To avoid competition it was found better and expedient for the bus owners to amalgamate themselves into one group and run their buses. Even before the Motor Car Ordinance came into operation thus giving certain routes to individuals or companies to ply their buses the bus owners had formed themselves into groups, unions or associations to run their buses. Before 1942 I was a member of the Bus Owners
 10 Union and I continued to be such even after 1942. When bus owners ran their buses individually the entire collections were their personal property and it was to their advantage. When they formed themselves into a group and run their buses, they lost the advantage of taking all the moneys collected, but they gained the advantage of dispensing with competition. Gradually the bus owners realised that taking all the earnings from their buses was not so advantageous as in running the buses in groups. Gradually more and more bus owners formed themselves into groups. When they formed themselves into groups the collections were taken and after deducting all expenses
 20 incurred in running the buses the profits were divided among the owners in proportion to the income that was brought in by each bus. It is true that so long as profits were divided in proportion to the amount of takings brought in by each bus there would have been a certain amount of competition in making money. Before 1942, there were Bus Owners' Unions but to my knowledge there were no groups of bus owners running their buses in a group or union.

It was in 1942 that Mr. Nelson came and advised the bus owners to run their buses in groups so as to avoid competition. At that time he did not suggest any other reason for the bus owners to form themselves into groups, except for the reason of avoiding competition. He
 30 only suggested the reason of avoiding competition. Our group, the K. A. B. Bus Co. was formed at the instance of Mr. Nelson for the sole purpose of avoiding competition on the routes. It may be that since each bus owner was paid the profits in proportion to his takings the so-called competition still lay there. Competition could not have been reduced to any degree if the bus owners were paid their profits in proportion to their takings.

The only capital invested by the bus owners who joined the groups were the contributions of their buses to the group, which
 40 they were running. Some of those bus owners contributed one bus, and some others two or three of their buses. If the distribution of profits was in proportion to the capital invested there would have been no competition at all. Mr. Nelson met the bus owners and told them that they should form themselves into groups, the total takings should be pooled and the distribution of profits should be in proportion to the capital invested by each of them. He also pointed out that in

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the event there would no competition in running the buses in different routes. Mr. Nelson's idea was to point out to us the danger of competition and he advised us to get rid of competition. It was after these suggestions made by Mr. Nelson that the K. A. B. Bus Co. was formed. K. A. B. Bus Co. was formed because the persons who joined the company felt the advantages of the suggestions made by Mr. Nelson. I myself appreciated the advantages of those suggestions of Mr. Nelson.

The way in which we avoided competition was by giving a separate schedule of time for the running of buses by each individual owner 10 thereby eliminating competition. The schedule of time was given by the Commissioner of Motor Transport since 1939, but once the bus owners formed themselves into a group and we formed the K. A. B. Bus Co. we had a timekeeper who regulated the times of the running these buses. Prior to that there was no regulated time for the running of the buses. I was manager of the K. A. B. Bus Co. and all the takings of those buses were paid into my hands. I made the disbursements for the expenses and made the distribution of profits to the respective owners of buses. I had books of accounts for that purpose, and those books will show how the profits were distributed. Those 20 books will also show the buses that were belonging to the members of the K. A. B. Bus Co. Those books will not show the valuation placed on those buses when they handed over to the K. A. B. Bus Co. K. A. B. Bus Co. did not place any valuation on the buses of the persons who joined the K. A. B. Bus Co. I have been summoned to produce those books, but once the partnership was dissolved, I think, I have given them to Romiel Dias, the plaintiff's brother and the books are not with me. I do not have those books with me. Even when the K. A. B. Bus Co. was dissolved it was I who sent the documents for the cancellation of the registration of that partnership. At the 30 time the K. A. B. Bus Co. was dissolved the moneys that I had received after the dissolution on 15.1.43 were with me. I had some money that was left over in my hands, which I distributed somewhere in February, 1943. When I distributed the balance money in February, 1943, those books of the K. A. B. Bus Co. were with me. In February, 1943, I was having my office as branch manager of the "G" branch of the Sri Lanka Bus Co. and I continued to have that office till today. Once the K. A. B. Bus Co. was dissolved the distribution of profits were over and those books were of no use to anyone. I do not know what has happened to those books. I tried to find out those books, 40 but they were not there. I had employed different clerks after the formation of the "G" branch of the Sri Lanka Bus Co. I cannot say whether any of the members of the K. A. B. Bus Co. was capable of keeping accounts. Romiel Dias was one who could read and write. I cannot say whether he could have kept accounts. I cannot say whether I gave those books to Romiel Dias or to anyone else or to anyone at all. I do not remember.

On 27.5.47 evidence in this case was led for the first time before the predecessor to the present judge. On that day in his evidence plaintiff (Martin Dias) might have stated that the profits of the K. A. B. Bus Co. were divided in proportion to the capital contributed by the respective shareholders. The trial in this case commenced before this judge on 27.5.1947. It then released that Martin Dias was not giving a correct statement of facts when he said that profits were divided according to the capital and not in proportion to the takings of each bus. I cannot remember whether I gave instructions to my
 10 counsel to question Martin Dias on any of the several dates of trial of this case between May, 1947, and October, 1948, when plaintiff was cross-examined on several days, whether it was not the fact that the profits of the K. A. B. Bus Co. were distributed according to the takings and not according to the capital. I realised that the books kept by me in the course of the business in the K. A. B. Bus Co. would disprove plaintiff's evidence that the profits were divided in proportion to the capital and not in proportion to the takings, but, I do not have those books to produce them. When I received summons to produce those books I made a search for them and found
 20 that the books are missing.

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 tion—
Continued.

For each bus I had a separate account of its takings. Similarly for each bus I had a separate account for the expenditure incurred in running that bus. At the end of the month I deducted the expenditure from the takings of each bus and paid the difference to the bus owner concerned. Expenditure in respect of each bus including timekeeper's salary, etc., was deducted from each bus. I, as the manager of the K. A. B. Bus Co., did not receive any salary. I also got my profit on the takings of my two buses. There was only one timekeeper appointed, who was paid according to the number of
 30 buses. The two buses which I ran in the K. A. B. Bus Co. were not registered in my name. One of my buses was registered in the name of Pabilis. The bus that was registered in the name of Pabilis was bought by me from a gentleman in Pannala. Pabilis transferred the bus in my name in 1943. Prior to 1943 also I was the beneficial owner of the bus though the registration was in the name of Pabilis. I lent money to Pabilis on an agreement that he was to transfer one bus to me if he was unable to pay a portion of the money and two buses if he was unable to pay the entire sum due to me. Pabilis paid me the entire sum I lent him. I cancelled that agreement after
 40 Pabilis paid me the entirety of the loan taken from me. The route licence for the bus that Pabilis transferred to me was in his name. I had that bus registered in Pabilis' name as he held the route licence. Pabilis had bought two buses earlier and one of those buses was out of order, but he held the route licence for both buses. He could not replace the bus that was out of order with another one. I bought the bus and registered in the name of Pabilis and allowed him to run

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 tion—
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that bus on that route. Pabilis got this loan from me to repair the second bus of his.

After the K. A. B. Bus Co. was formed I used to send out notices to the shareholders for the division of their profits. In addition to the post of manager of the K. A. B. Bus Co. I was doing contract work and I could not find each day for each man to pay their profits. So I summoned all of them on one day to distribute their profits. That was the only reason why I summoned them to a meeting for the distribution of profits.

Shown P. 44. P. 44 bears my signature. It is not addressed to any particular individual. P. 44 is dated 11.12.1942. 10

Shown P. 45. P. 45 is also a notice of a similar nature as P. 44. This too is not addressed to any particular person. It is addressed to a lady as "Dear Madam." P. 45 is dated 5.1.42. There were women shareholders in the K. A. B. Bus Co.

R. Beling Fernando was not my clerk under the K. A. B. Bus Co. When my clerk was not there Beling Fernando used to help me to collect money. Beling Fernando may have sent out letters to the shareholders of the K. A. B. Bus Co. asking them to attend a meeting for the purpose of distributing profits. 20

Shown a document. This is a letter sent on K. A. B. Bus Co.'s note paper. I know Beling Fernando's signature. I have been able to recognise his signature on other documents. The signature on this documents may be that of Beling Fernando. Beling Fernando was assisting me when I was the Manager of the K. A. B. Bus Co. He used to send out notices on my behalf. He has not sent me letters at any time. I have not seen him signing his name. Beling Fernando is working under me even now. He has been working under me from the day I became the manager of the "G" branch of the Sri Lanka Bus Co. as a ticket inspector. I do not get reports from him as ticket inspector. He only puts his initials on his books, and not the full signature. I told earlier that the signature on this document shown to me was like the signature of Beling Fernando because he has had sent notices on my behalf and also because the initials in the signature are like his initials. 30

(Witness after being pressed as to how he could say one thing is similar to another without having seen the original, states). It is like Beling Fernando's signature because the initials are similar to his initials, which I have seen.

D. A. Perera was my clerk. He was my clerk in my capacity as manager of the "G" branch, till he died. I have seen his signature. 40

Shown a document, dated 8.10.42. The signature on this document shown to me is similar to the signature of D. A. Perera. I cannot definitely state that the signature on this document is that of D. A. Perera. I have seen his signature several times. I have seen

his signature about 50 times. He had been my clerk for 1½ to 2 years. During that time he attended to my correspondence and I was quite conversant with his signature. I cannot still for all say that the signature on this document is the signature of D. A. Perera though it resembles his signature very much. He used to tell me and send out notices with my consent summoning the shareholders of the K. A. B. Bus Co. to attend meetings. I gave D. A. Perera my consent to send out notices when he was in my employ as clerk in the K. A. B. Bus Co. I have also sent out some notices when I was manager of the "G" branch asking people to come for meetings. As manager of the "G" branch I may have authorised D. A. Perera to send out notices summoning the persons to a meeting for the division of profits. I may have asked D. A. Perera to write letters to other people relating to any transaction when I was manager of the "G" branch, but, not summoning persons to meetings for the distribution of profits.

Shown another document. The signature on this document is similar to the signature of D. A. Perera. I cannot say whether it is in fact his signature or not. It is similar to his signature. I have not received any letters signed by D. A. Perera, when he was working under me. But he had sent me chits. When he sends me chits he usually initials them but he does not place his full signature.

Mr. Adv. Wickremanayake moves to mark these two documents dated 8.10.42 now shown to the witness sent by the K. A. B. Bus Co. office marked P. 46 and P. 47.

Mr. Amerasinghe objects to these two documents being admitted.

I allow these two documents to be put in subject to the finding of the Court on the evidence whether they should be admitted or not.

Cross-examination continued.

Shown another document. I cannot say whether this signature on this document is the same as the signature found on P. 46 and P. 47. There is no signature on this document. Therefore I cannot say whether this signature is similar to the signatures contained in P. 46 and P. 47.

Mr. Adv. Wickremanayake moves to put in this document dated 4.11.43 marked P. 48 subject to the same ruling as in P. 46 and P. 47.

Mr. Amerasinghe objects.

Court disallows the application.

Cross-examination continued.

Shown another document. The signature on this document is similar to that of D. A. Perera. In June, 1943, D. A. Perera was employed by me as clerk in the "G" branch of the Sri Lanka Bus Co,

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 tion---
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Counsel for plaintiff moves to put in this document as P. 48.

Mr. Amerasinghe objects.

I allow the document to go in subject to the finding of the Court on the evidence.

Cross-examination continued.

D. A. Perera is dead. As clerk of the "G" branch he sent out any letters that I had asked him to send. D. A. Perera would send out any letter which could in the ordinary course of his work be sent out by him, and he had my authority to do so. In the case of special letters he had to get my permission. Shown P. 7. The signature on P. 7 is mine. It is dated 12.7.43 and bears the seal of the Sri Lanka Bus Co. "G" branch. In P. 7 there is reference to checking of accounts and distribution of profits. When the plaintiff gave evidence in this case on 27.5.47 several of these letters sent by me calling for meetings for the distribution of profits of the "G" branch of the Sri Lanka Bus Co. must have been produced by the plaintiff. There were one or two letters produced in regard to the distribution of profits of the "G" branch of the Sri Lanka Bus Co.

From 1947 I realised that an explanation would have to be given as to why if the profits of the "G" branch of the Sri Lanka Bus Co. were not distributed among its members, letters were written to certain persons to attend meetings.

(Sgd.).....

A. D. J.

13.12.49.

At this stage Court adjourns for lunch.

Resumed after lunch interval.

K. M. PERERA recalled, sworn.

I realised the fact that an explanation would be necessary as to why the profits of the "G" branch were not distributed among its members, when the first document was produced in May, 1947. I did not realise that it was strong evidence against me if I had not given an explanation. First I told my lawyers what my explanation was. As to my having written letters to the persons to attend meetings for the distribution of profits. I cannot remember when I told that to my lawyers—whether it was before or after the first day's trial in May, 1947. Even before I may have told that to my lawyers, but after that day I certainly did give them the explanation. Martin Dias the plaintiff in this case gave evidence in cross-examination for five days from 25th August, 1948, to 24th February, 1949. I do not know why he was not questioned on this point. Pabilis Appuhamy gave evidence in cross-examination for three or four days. I am not responsible if the question on this point has not been put to Pabilis until some date in October, 1949.

In 1942 Mr. Nelson did not tell us anything about the granting of exclusive route licence from 1943. Somewhere at the end of 1942 he convened a meeting of the bus owners. I was not present at that meeting but I learnt that he had referred to the question of route licence. I cannot say whether I was present or not at the meeting held by Mr. Nelson in the Kurunegala Town Hall in April, 1942.

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tion—
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Shown P. 49. The signature on P. 49 is mine, but it is not in my handwriting. This letter is signed by me as Honorary Secretary of the Kurunegala Bus Owners' Union. We may have had meetings of this Union at Pothuhera, but it was not called The Pothuhera Bus Owners' Union. I admit the contents of P. 49. It has been written by the clerk at my instance. P. 49 refers to a meeting held on 28.4.42 that was addressed by Mr. Nelson, but there was a meeting held on 28.4.42 of the Bus Owners' Union and P. 49 refers to that meeting. I attended one meeting addressed by Mr. Nelson but I cannot say whether it was the meeting held on 28.4.42. Mr. Nelson wrote to each bus owner that meeting would be held in Kurunegala in 1942. I cannot say whether that meeting was on 28.4.42.

Shown a document, dated 2.4.42. This document does not help me to remember that Mr. Nelson held a meeting of bus owners on 28.4.42. I did not receive a letter from Mr. Nelson, but my brother got a letter which I saw. I cannot say whether the contents of the letter shown to me by my brother as written to him by Mr. Nelson is the same as the contents of this letter which is now shown to me. At the meeting that I attended at the early part of 1942 which was addressed by Mr. Nelson I cannot remember whether he mentioned anything about reorganisation of the entire transport system in Ceylon. I knew that Mr. Nelson was employed in Ceylon for the purpose of reorganisation of the transport system. One of the reorganisations brought about by Mr. Nelson is the granting of exclusive route licence to limited liability companies.

At the meeting I attended at which Mr. Nelson addressed I do not remember whether the question of the legislature approving the grant of exclusive licences was mentioned by Mr. Nelson, and that it would come into operation very soon. The grant of exclusive route licences came into operation by the end of 1942.

I was the convener of a meeting on behalf of the buses running between Kurunegala and Ambepussa for the purpose of forming a bus company. If I convened that meeting it must have been at the instance of Mr. Nelson. That meeting was convened by me for the purpose of forming a limited liability company of the bus owners running on the Kurunegala-Ambepussa route and for obtaining exclusive route licence on that route. Kurunegala-Alawwa route is the major part of the Kurunegala-Ambepussa route. The buses of the "G" branch run on the Kurunegala-Ambepussa route up to

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 tion—
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Pattalagedera, which is about 30 miles away from Ambepussa. There was only one bus of the shareholders of the K. A. B. Bus Co. that was running on that route before. From Kurunegala to Pattalagedera there were no other buses running that belonged to others. There was a bus running from Colombo. There is also a separate route from Colombo to Pattalagedera.

As a director of the Sri Lanka Bus Co., now I know that any person who had grievance against the Sri Lanka Bus Co. had to sue the Sri Lanka Bus Co. and not an individual member of the company. But, in the case of the K. A. B. Bus Co. any person had to sue the 10 partners of the K. A. B. Bus Co. individually as they had their buses in their own names. I did not obtain any legal advice when the K. A. B. Bus Co. was formed. I did not know whether the buses could have registered in the name of the K. A. B. Bus Co. or not.

On 12.12.42 there was a meeting of the K. A. B. Bus Co. convened for the purpose of making application to the Commissioner of Motor Transport for route licences. At that meeting I was authorised to apply for route licences, and I accordingly did apply to the Commissioner of Motor Transport for licences on 31.12.42. On 31.12.42 I did not know that the Ordinance in regard to exclusive 20 route licences was coming into operation on 1.1.43. We did not receive a notice from the Commissioner of Motor Transport asking to apply for exclusive route licences. I was told by the members of the K. A. B. Bus Co. to apply for route licences. I did not ask the members of the K. A. B. Bus Co. how they knew that they had to apply for route licences. I knew that we had to apply for route licences. I got that information from the local bus owners. Either my brother or Pabilis did not mention to me about applying for route licences as otherwise their buses would be off the road in January, 1943. It was I who convened the meeting on 12.12.42 of the bus 30 company. That meeting was called for the express purpose of finding whether we were to apply for route licences or not. At that time I knew from others that we had to apply for route licences, and I convened the meeting for 12.12.42. I had also learnt that if we had not applied for route licences and obtained licences our buses would not be able to run on the routes. But, I did not bother to find out when the exclusive route licence system would be enforced. Even now I do not know that the application for route licences had to reach the office of the Commissioner of Motor Transport before 24.12.42. I went and handed over the application at the office of 40 the Commissioner of Motor Transport, and there I was told that my applications were out of time and that they had already issued route licences. They did not tell me that the last date for the applications had been 24.12.42. I did not meet M. Jayasena between 12.12.42 and 31.12.42. I met him somewhere at the end of January, 1943. I did not meet any representative of the Sri Lanka Bus Co. between

12.12.42 and 31.12.42. I met Donald Perera on 13.1.43. Prior to 31.1.43 I did not meet any representative of the Sri Lanka Bus Co.

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tion.
---Continued.

On 5.1.43 I withdrew the applications for route licences I had already made in order to forward them through the Sri Lanka Bus Co. At the office of the Commissioner of Motor Transport when I went to hand over the applications for route licences the authorities there told me that if I wanted to apply for route licences that I had to apply through the Sri Lanka Bus Co. because they had already issued the licences for which we had applied to Sri Lanka Bus Co.
10 That was how I made these applications on 5.1.43 through the Sri Lanka Bus Co.

On 2.1.43 I convened a meeting of the K. A. B. Bus Co. Shown P. 2. I convened that meeting by this notice P. 2. At that meeting I told the members of the K. A. B. Bus Co. that I wanted to claim compensation for the loss of route and for the loss of buses. They told me that they would lose their jobs if their buses were out of the road and they suggested to make applications for route licences through the Sri Lanka Bus Co. I also agreed to their suggestion. The applications made on 31.12.42 were withdrawn by me at the
20 instance of the other members of the K. A. B. Bus Co. to be forwarded to the Commissioner of Motor Transport through the Sri Lanka Bus Co. Those applications made on 31.12.42 were on behalf of myself as well as the other partners of the K. A. B. Bus Co. On 5.1.43 I withdrew those applications. Those applications that were to be made through the Sri Lanka Bus Co. were also on my behalf and also on behalf of the other members of the K. A. B. Bus Co. I was very reluctant to continue in the bus business but I stayed on by the inducement of the other members of the K. A. B. Bus Co.

Besides being manager of the K. A. B. Bus Co. I was doing some
30 military contracts. I supplied timber to the military authorities at Amunugama, Bulupitiya and Sigiriya, on written agreements. I am not producing those agreements in connection with this case. I made fairly large profits on those transactions and I disclosed my profits to the Income Tax Department.

My father left an estate of about Rs. 14,000 and three children including myself and two sisters. In the Testamentary Case my mother was Administratrix of the estate of my deceased father. If it is given in the Testamentary Case that the nett value of the estate left by my father was Rs. 6,652.36 I accept that amount as
40 correct. This estate had to be divided among my mother and three of us. My mother took half and the other half was distributed among myself and my two sisters. My mother had bought other properties in my name in Thambahitiyawa. She had bought about 15 acres of coconut land not fully planted. It was a young plantation and I did not get an income from the other lands which my mother had.

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 tion—
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I was sued in Case No. 18353 of this Court and decree was entered against me on a mortgage bond, in 1936 in favour of one Karuppan Chettiar. As heirs of my father's estate I was sued by Karuppan Chettiar and he obtained judgment against me. I was also sued by Karuppan Chettiar in respect of a mortgage bond on other properties in 1939, and decree was entered against me. Time was given to me for the payment of the amount on that decree and I paid it by instalments. The properties were not sold. In 1939 I could have paid off those decrees by instalments, but I did not want to pay. I was not in a position to pay off those decrees in lump sum in 1939. The 10 decree in Case No. 92 was only for Rs. 1,965. The decree in D.C. Kurunegala 18353 was for a sum of Rs. 2,815. In 1941 I borrowed a sum of Rs. 700 on a mortgage bond mortgaging my boutique at Dambokka junction, which was given to me by my mother. That mortgage was before the system of exclusive route licences came into operation.

I am now worth about 70 to 80,000. I am not worth ten or twelve times that amount or even five or six times that amount. I am the sole proprietor of the Kurunegala Town Bus Service. There are six buses in that service. Two of them are new. I paid about 20 Rs. 30,000 for those two buses. I bought those two buses on instalments on one of them. Each of those two buses cost me about Rs. 15,200. I own a lorry privately. I bought that lorry for about Rs. 2,000, about two years back. It was a military lorry and I got it registered in my name after my purchase. It is numbered CY6749. I got the route licence for a lorry earlier and I bought the lorry only two years ago. The other four buses I own in the Kurunegala Town Bus Service are worth about Rs. 20,000. I own a car bearing number CL 3737. I bought that car for Rs. 6,655. Prior to 1943 I bought a property. I bought about 1½ acres of land somewhere in 1937 or 30 1938. I did not buy any landed property of any consequence before 1943. In October, 1943, I bought a property in the Kurunegala town. Its extent is about one acre. I bought it for Rs. 2,000. It is a building block. I have designed for a building on that block of land. I have some materials ready and I have got a plan made by a friend of mine. It is a building with two bedrooms and it would not cost me over Rs. 10,000 to complete that building.

I got married on 28.12.43. Before I married my wife she had property. She had an estate of about 10 to 15 acres of tea. My wife brought a cash dowry of about Rs. 13,000. There is a land at 40 Olupeliyawa which belongs to my wife. She bought that land and she has put up five boutiques and two small houses in that land. Each of those houses contain one bedroom and one office room. I bought a property at Thutturipitiya along the Colombo road. That land is planted with coconuts, and there is a small bungalow on that property. I bought that land for Rs. 10,000 in 1948. I also bought

a property at Dangaspitiya in 1948. I bought two estates between 1943 and 1946. I also purchased one or two paddy fields. I am also the proprietor of the Kurunegala Town Bus Service, and the agent for Shell Petrol in Kurunegala.

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tion—
Continued.

Prior to 1942 I had no bank account. I had a savings bank account, in 1942. I had little money in the savings bank. I had a few hundreds of rupees saved in 1942. In 1942 I did not have bank account, but I had money with me to the extent of about two to three thousands of rupees. I had that money in my house and not deposited
10 in any bank. I started the Town Bus Service with two buses which cost me about six to seven thousands of rupees. I started the Town Bus Service in 1945—two years after I became the manager of the “G” branch of the Sri Lanka Bus Co. In the middle of 1943 I made application for the Kurunegala Town Bus Service route. I refused to be the manager of the “G” branch of the Sri Lanka Bus Co. held on 12.3.43, but I accepted office later because the other members of the K. A. B. Bus Co. pressed me and told me that they would help me to run the service. Within three months of my taking the managership of the “G” branch I applied for the route
20 for the Kurunegala Town Bus Service. I felt that the Town Bus Service would be a paying business. Therefore, I wanted to start the Town Bus Service. I was the first to apply for the Town Bus Service route. As managing director of the Green Line Bus Co. one A. M. Lairis Appu objected to the granting of the Town Bus Service route to me. There was an inquiry held in order to consider my application. At the time I applied for the Town Bus Service route there were no other applicants for it. There was one inquiry in respect of my application held in Kandy by the Assistant Commissioner of Motor Transport. A subsequent inquiry was held in respect
30 of my application for the Town Bus Service route in Colombo by the Commissioner of Motor Transport. At the first inquiry held in Kandy A. M. Lairis Appu gave his consent to my being given the Town Bus Service route. Lairis Appu was present at that inquiry and he gave his consent. As the others who were invited by the Commissioner to be present at that inquiry were not present on that day another inquiry was held in Colombo. At the inquiry that was held in Colombo in respect of this same matter Lairis Appu was present and he objected to my being granted the Town Bus Service route. At that time he wanted the route to be given over to the Green Line
40 Bus Co., as he was the managing director of that company. The Commissioner refused my application and I appealed to the Tribunal. In the Appeal, I got the route licence for the Kurunegala Town Bus Service. The Commissioner did not allow the licence to anyone else but refused me to give the licence. The Commissioner refused my application on the ground that tyres and petrol could not be spared at that time.

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 tion.
 —Continued.

Each one of the members of the K. A. Bus Co. said that he would take their buses and pay 10% to the company and the Re. 1 as hire per day per bus. Each of the shareholders told so to the board of directors of the Sri Lanka Bus Co. at the meeting held on 12.3.43. I also agreed to it. At 15.1.43 I have been collecting the moneys and taking the collections from their buses and making the disbursements on behalf of the partners and paying the balance to them. Before January, 1943, all disbursements whether damages to vehicles, tyres or accidents were paid out on their account. Payments unconnected with the actual working of buses itself were sometimes paid by me. 10
 Payments incurred in the event of accidents were also paid by me on the accounts of the partners, of the K. A. B. Bus Co., and deducted from their day's account. But, there was no such expense. If there had been any such expense I would have to pay that also. If the directors allowed or accepted the terms that each of the bus owners could have run their own bus and paid 10% and Re. 1 on each bus to the Sri Lanka Bus Co. there need not be a manager. But the directors wanted one man to be in charge of the whole thing and take the responsibility. At that stage we went out of the meeting hall and had discussion among ourselves. I deny that at that time I agreed 20
 with the partners of the K. A. B. Bus Co. to run it for the Sri Lanka Bus Co. for the partners as before being responsible to the Sri Lanka Bus Co. for the efficient running and the payment of the 10% of the gross takings.

There was a meeting on 8.4.43 convened by me. I did not keep any Minutes of those meetings. I deny that at that meeting members of the "G" branch passed a resolution to the effect that I should be paid a salary of Rs. 100 out of the working expenses of the buses. I was appointed manager by the board of directors of the Sri Lanka Bus Co. I got no record of what took place in those meetings. The 30
 meeting of 8.4.43 was held in my office. At that time there was one clerk in the "G" branch. He was attending to correspondence, accounts and everything. He was D. A. Perera. Any record of that meeting if it had been kept would have been by that clerk D. A. Perera. That was a meeting called for the purpose of increasing the salaries of the employees of the "G" branch and as such no record of that meeting was kept. That meeting was convened to increase their salaries, if possible and ask them to do better work. I did not summon all the partners of the K. A. B. Bus Co. to that meeting. The persons who were summoned for that meeting were 40
 the persons who were working in the buses at that time. Some of them who were working in the buses were also shareholders of the Sri Lanka Bus Co. I sent a notice to the bus employees asking them to be present at that meeting, for the purpose of increasing their salaries, because they were clamouring for pay. "G" branch was the branch of the Sri Lanka Bus Co. There could be no meetings of that branch, because it was only a part of the Sri Lanka Bus Co. In

that branch there were a number of buses which formerly belonged to the members of the K.A. B. Bus Co.

Shown P. 5, dated 26.3.43. This is a letter by which I summoned a meeting for the 28th March, 1943. In P. 5 I have asked them to come to my office. P. 5 reads thus: "A meeting of our branch will be held on 28th instant at 10 a.m." I still maintain that by "A meeting of our branch" I meant the employees of the branch. On 28.3.43 that meeting was not held. Though that meeting was called for the purpose of informing the employees as regards their increase of salaries when I could not hold it I summoned a fresh meeting again by notice P. 6. (Witness reads P. 6). P. 6 reads: "I was unable to attend the previous meeting on account of a previous engagement. I tender my apologies. I will be holding the meeting on 8.4.43." At the meeting held on 8.4.43 I did not distribute the profits. After 8.4.43 I did not distribute any profits, to the shareholders of the "G" branch who were formerly members of the K. A. B. Bus Co. I distributed a portion of profits to the owners of buses who were working in the buses as drivers, conductors, etc., but not to the shareholders. The payment of this distribution was made at meetings held from time to time summoned by me. I did not write those letters summoning the meeting, but I signed them only. Therefore I cannot say whether the language in them are identical or same as the language which was used in summoning of the meetings of the partners of the K.A. B. Bus Co.

Shown P. 7. (Witness reads P. 7). P. 7 is addressed as "Sir" but not to a particular person. I do not address my conductors as "Mahathmaya" (Sir). The "Mahathmaya" referred to in P. 7 is the normal salutation in a letter. When I write an official letter to my collector or conductor I use the term "Dear Sir" in Sinhalese (Priya Mahathmaya). I have made the request in P. 7 in a polite form. "Sir" is (Mahathmaya) and "Dear Sir" is (Priya Mahathmaya). I have made the request in P. 7 in a polite form. "Sir" is (Mahathmaya) and "Dear Sir" is (Priya Mahathmaya).

Shown P. 8. In P. 8 it is mentioned that "Your presence is essential." I considered their presence essential because I was giving the owners who were working in the buses also 10 to 15 per cent. of the gross takings, and I wanted to see that all of them were paid at the same time. That is why I considered their presence as essential and also to tell them to do better work. Every time at the meetings I asked them to do better work. I gave the money to the chief person in that bus, either a driver or conductor or whoever it may be. I gave what I decided was my will and pleasure to give. The persons who attended the meetings did not check up my accounts or see that my accounts were correct. It was a rendering of accounts to the persons who attended the meetings. In P. 7 I have referred to

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tion—
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“checking up of accounts.” By that I meant that I would check up the accounts and what I should give them and not in respect of checking of accounts by them.

Shown P. 7 and P. 21. (Witness reads both these documents and compares the context). The wording of P. 7 is different from the wording of P. 21. In P. 21, I have referred to profits and losses to be looked into. It is my position that partners being entitled to go into profits and losses I have referred to the profits and losses, in P. 21. In P. 7 I have made no reference to “losses.” According to P. 7 I was to look into the profits and if there were profits that they would be paid, 10 but I had made them understand earlier that even if there were losses that they would have to pay me the losses. P. 21 I was writing to the owners of buses and as such it was a question of profits and losses, because they had to pay me back any losses. P. 7 is addressed to the employees, and that is why I have only referred to “profits.” There was no point in referring to “losses” in a letter to the employees.

Shown P. 8. P. 8 is written after the formation of the “G” branch of the Sri Lanka Bus Co. It is addressed to the employees as “Dear Sir.”

To Court.

20

Q. In this letter P. 8 why you have referred to two words “Laba” and “Padu” (Profits and Losses)?

A. Without looking at the envelope, I cannot say to whom I have addressed it. Without knowing to whom it has been addressed I am not in a position to give an explanation for the two words used therein.

P. 7 is also a general letter. In P. 7 I have referred to only “laba” (Profits). If I know the person to whom I have addressed P. 7, I will be able to explain why I have not included the word “padu” (losses). P. 8 is addressed to some person in the “G” branch. 30 I would not have addressed P. 8 to a ticket inspector. I would address P. 8 to a conductor of a bus if he was the chief man in that group. I would also address P. 8 to a driver if he had been a chief man in the bus. By the expression “Chief man” I mean the persons who asked me to undertake the management of the “G” branch and promised to see that they would help me, to run it efficiently and not rob. I would have addressed P. 8 to such a man. They were the former partners of the K. A. B. Bus Co. The partners of the K. A. B. Bus were not the only people who persuaded me to accept the managership of the “G” branch. But there were other persons 40 who were drivers and conductors in the K. A. B. Bus Co. who persuaded me to accept the managership of the “G” branch. This persuasion to accept the managership of the “G” branch took place at the office of the Sri Lanka Bus Co. in Colombo. To that meeting only the directors and shareholders of the Sri Lanka Bus Co. were

invited. But other persons interested in the shareholders were there outside the meeting. They were the relations of the shareholders. There was one Jinadasa who was present outside. He was not a shareholder of the company. I deny that Jinadasa was present at that meeting as the appointed representative of Romiel Dias. Romiel Dias himself was present at that meeting. Jinadasa was not within the meeting hall, but he was outside the hall. I am not certain whether Romiel Dias was present at the meeting held in the office of the Sri Lanka Bus Co. on 12.3.43 in Colombo. I am certain that 10 Jinadasa was there, but outside the meeting hall. I am not certain whether Jinadasa represented Romiel Dias at that meeting. There were relations of the former partners of the K. A. B. Bus Co. standing outside the meeting hall of the Sri Lanka Bus Co. I am unable to give their names. I treated those men also as the "chief men" whom I have referred to earlier, and to whom I paid money. At that meeting Ran Menika was present. A relation of B. A. John Singho was standing outside the meeting hall. John Singho was not there. Ran Menika was there and her son was also there. I did pay profits to the relation of John Singho who was present on 20 that day outside the meeting. John Singho's relations who persuaded me to accept the manager of the "G" branch was again employed in the bus, as a driver under the "G" branch. I treated him also as a "chief man" and gave him the profits. His name is Beling. I did not pay profits to John Singho, but I paid to Beling. John Singho is a director of the Green Line Bus Co. Beling was not at that time working in a bus that belonged to John Singho running in the Negombo Road. Beling was working on bus No. Q 1042 under the "G" branch.

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Evidence.
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tion—
Continued.

(Sgd.).....

30

A.D.J.

13.12.49.

At this stage trial is adjourned for tomorrow, the 14th instant. It is now 4.15 p.m.

(Intd.).....

A.D.J.

13.12.49.

Trial Continued

14th December, 1949. Case No. 3705. D.C. Kurunegala.

Plaintiff and defendant are present.

40 Mr. Adv. E. G. WICKRAMANAYAKA with Mr. Adv. J. PATHIRANA instructed by Mr. T. IHALAGAMA for plaintiff.

Mr. Adv. C. THIAGALINGAM instructed by Mr. A. C. AMERASINGHE for the defendant.

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 Cross-examina-
 tion—
Continued.

K. M. PERERA, recalled, sworn.

John Singho's relation Beling to whom I paid profits did not sign any document in acknowledgment of those payments. I may have seen Beling's signature, but I cannot remember it. I cannot identify it now.

Shown two signatures in a receipt book of the Green Line Bus Co., purported to be signed by Beling.

I cannot say whether these signatures are that of Beling. About December, 1942, I came to know from somebody outside that route licences have to be applied for. I cannot remember whether this 10 information was given to me by any other members of the K. A. B. Bus Co. Prior to December, 1942, I did not know that bus owners had to form themselves into Limited Liability Companies and apply for route licences or that exclusive route licences would be given only to limited liability companies. I am certain that prior to December, 1942, I did not know these matters. Shown P. 22. (Witness reads P. 22) P. 22 bears my signature. It is very faint and I am unable to read it. I admit the writing P. 22. It is dated 22.10.42. I signed this letter which has been written by someone else for me. I knew the contents of the letter when it was signed. As far as I 20 remembered my knowledge of these things in regard to route licences came to me somewhere in December, 1942. If I had written this letter P. 22 in October, 1942, I must have had the knowledge prior to writing it. But, I cannot remember the date.

Q. I put it to you that from April, 1942, you were organising these people in such a way so as to get the route licence for the K. A. B. Bus Co.?

A. I deny.

I deny that I was trying to organise the partnership of the K. A. B. Bus Co. into a limited liability company for the purpose of obtaining 30 route licences. I had no time as I was doing other business as well; mainly contract work. I deny that in the month of December when the members of the K. A. B. Bus Co. had asked me to obtain route licences and when I had gone to Colombo on that business I met any representatives of the Sri Lanka Bus Co. and discussed the matter with them. I deny that owing to such discussion I delayed the tendering of the applications for the route licences till 31.12.42. There was a meeting of the K. A. B. Bus Co. on 2.1.43. I deny that at that meeting I advised the members of the K. A. B. Bus Co. that by joining the Sri Lanka Bus Co. they could still carry on as they had 40 done before under the K. A. B. Bus Co. and working as a branch of the Sri Lanka Bus Co. I deny that it was on that advice of mine that I persuaded the partners of the K. A. B. Bus Co. to join the Sri Lanka Bus Co.

Romiel Dias was not in the employ of the "G" branch after its formation, but he was assisting me in supervising the buses that ran beyond Giriulla. He was not a timekeeper or a conductor of the "G" branch. Romiel Dias was not paid any salary by me. He was not employed under the "G" branch, on a salary. Shown P. 12. I admit that P. 12 is a cheque issued by me. It is a cash cheque. The first endorsement on the back of P. 12 is by me and the other endorsement is by one Jinadasa. Jinadasa is the step-brother of Romiel Dias. P. 12 is not a cheque by which I made any payment to Romiel Dias. On the days when I was distributing profits to the employees of the "G" branch I paid Romiel Dias also some portion of the profits. I think by October, 1943, I had stopped distribution of profits to the employees. From the date I met Mudaliyar Madanayaka I stopped payment of profits to the employees. I cannot exactly give the date, but it was some day in October or November, 1943. I deny that P. 12 is a cheque given by me to Romiel Dias in payment of any profits. I am perfectly definite that this cheque P. 12 is not in payment of profits to Romiel Dias. It is a cash cheque and as such I cannot remember for what purpose I had issued that cheque. I was buying second-hand parts for motor buses during those days and I may have issued this cheque in connection with those purchases.

After the death of Romiel Dias there was some dispute between his heirs and they came to my office one day in connection with that dispute. I remember Romiel Dias' mother coming there but I cannot say who the others were. Jinadasa may have come on that occasion I cannot remember whether Martin Dias, the plaintiff came there on that day. I cannot remember whether they placed any accounts before me. I cannot say whether I looked into any accounts. I do not remember the transaction at all. I am unable to say what I said or did in connection with that transaction over which these people came to see me in my office. I cannot say why they came to me on that day. They had known me well and as such they had come to me. I think I may have asked them to settle their dispute. I cannot remember whether I looked into their accounts and made any suggestions for settlement or what I had done over it.

Shown the last written page of a book of accounts.

These entries are written in my handwriting. What is written in my handwriting are "Almsgiving Rs. 400, Sohona (Funeral Pyre) Rs. 500. Extra expenses Rs. 100." The figure Rs. 4,451 on that page is written in my handwriting. The entirety of that page is not in my handwriting. But certain items are written in my handwriting. (This entire book which is shown to the witness is marked P. 51 and this particular page is marked P. 51A). The figure Rs. 4,451 on P. 51A within the red lines is in my handwriting. All the items

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 tion.
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and the figures within the red pencil lines marked by Court are in my handwriting. The items outside the red pencil lines are not in my handwriting. Outside the red lines, which writing is not mine, is the figures Rs. 4,451. Against the word "Balance" in Sinhalese the figures Rs. 4,451 is not written by me, I have written the figures 4,451 immediately below it in my handwriting. They showed me this book and the figures 4,451, I did not go into the accounts as to how they arrived at the figures Rs. 4,451, I re-wrote that figure without going into the accounts. I wrote it over again perhaps because someone there had asked me to write it down. I do not remember 10 whether I went through the accounts. I did not go through the accounts, but I accepted the total sum as given in that book. The figures of expenditure of various items written by me on P. 51A were given to me by the parties and I entered them. I do not know whether in fact those figures had been spent on the various items referred to by them. I added up the total of items of expenditure, which I had written and subtracted that amount from the sum of Rs. 4,451 which is the total shown to me, and which I had earlier written in my handwriting. I had stated that the balance amount also in my handwriting. The dispute was not between Romiel Dias's mother and Jinadasa, but there 20 were others also who disputed the items. Martin Dias was also one who disputed. The dispute was between Romiel Dias's mother and Martin Dias the full brother of Romiel Dias. The dispute as far as I can remember was among Romiel Dias's mother and Martin Dias and Martin Dias' step-brothers. I cannot say whether Romiel Dias' mother and Martin Dias were on one side or whether there was the dispute between them also. When Romiel Dias was alive his step-brothers used to convey messages to me from Romiel Dias. Not only Jinadasa but his other step-brother Chandradasa also conveyed messages to me. My impression was that Chandradasa was a step- 30 brother of Romiel Dias. Jinadasa was also employed by me as a ticket conductor. Apart from that he used to come to me with messages from Romiel Dias. I have never paid any money which should be paid to Romiel Dias to Jinadasa. I cannot remember whether it was Jinadasa who produced this book P. 51 before me and told me that this was the full account of Romiel Dias' balance cash. I remember this book P. 51 being produced to me. I deny that I went through the accounts and checked up their correctness with Romiel Dias's mother. I did not go through the accounts in the book P. 51 and accepted them and then put down the figures 4,451. 40 I deny that I put down the figures 2,401 as the balance amount due after going through the accounts and satisfying myself that it was correct. I put down the figures as stated by them and the balance also I deducted from the amount stated by them. There was no division of profits to the employees in the month of April, but there may have been in the month of May. For two three months I gave the employees the division of the profits. I cannot give the exact month or day.

Shown a page in P. 51. There is an entry in a page in this book under the month of April, 1943, "from company ට" (this is the first letter of the Sinhalese word *Lebuna*, which means "received.")

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tion—
Continued.

Against this entry it is written the figure of Rs. 175. I do not know to what this entry and the figures refer to. I do not know to what company it refers to. All that I can say is that it is in the month of April, 1943. I did not make a payment of Rs. 175 to Romiel Dias as profits from the "G" branch of the Sri Lanka Bus Co. In the month of April, 1943, Romiel Dias while he was assisting me in
10 supervising the bus line beyond Giriulla was also a shareholder of the Green Line Bus Co. and was doing work in that bus company also.

Shown another entry in P. 51.

Q. In May, 1943, this book P. 51 shows an entry, can you read it ?

A. I am only able to read the portion "from company." I am unable to read the rest as it is scribbled. (The Interpreter Mudaliyar of the Court reads this entry and states "received from the company Rs. 980.90.")

I deny that the reference in this entry has anything to do with
20 me or with the Sri Lanka Bus Co. I did not make any distribution of profits in May, 1943, to Romiel Dias or to any of the other employees of the "G" branch.

Shown another entry in P. 51. I find another entry under the month of June, 1943, reading as "from the Co. Rs. 895.78." That entry also has no bearing with me or on the "G" branch of the Sri Lanka Bus Co. In June I may have distributed some of the profits to the employees. I may have paid Romiel Dias some of the profits.

Shown another entry in P. 51. In P. 51 there is another entry under the month of July, 1943, which reads "Income from the com-
30 pany Rs. 389.89." This entry also has no bearing on me or on the Sri Lanka Bus Co. It does not refer to any payment made by me.

Shown another entry in P. 51. There is another entry under the month of August, 1943, which reads "From the Sri Lanka Bus Co. Rs. 720.20." This entry too has no bearing on me or on payment made by me to Romiel Dias.

Shown another entry in P. 51. I find that the very last entry under the month of September, 1943, reads thus "9th මාසය (this is the first letter of the Sinhalese word *Masaya*, which means "month") received from the company Rs. 437.62." This entry also has no
40 bearing or reference to any payments made by me to Romiel Dias. In this entry I can read only "මමවෙහි මාසය" (*Namaveni Ma*. This means ninth month). The Interpreter Mudaliyar reads this entry and says "9th *Ma* company ට").

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tion—
Continued.

Cross-examination continued.

I cannot say when Romiel Dias died. I do not know on what date I made the entries in P. 51A which are enclosed within the red pencil line marked by Court. I have not dated that entry and I cannot say when I made these entries. I cannot say whether Romiel Dias died before I had seen Mudaliyar Madanayake in October, 1943.

I was not noticed to produce the counter foils of the cheque book on the Bank of Ceylon for the month of October, 1943. Romiel Dias was ill for sometime before he died—for about 10 or 15 days—he was not ailing for a month or two before he died. 10

Mr. Adv. Wickremanayake mentions to Court that notice was given to the defendant's proctor by letter dated 13.10.48 asking him to cause the defendant to produce the cheque counter-foil book of which P. 12 was issued in October, 1943. Mr. Ihalagama, proctor for the plaintiff, states that he did send such letter to Mr. Amerasinghe, the plaintiff's proctor.

Mr. Adv. Wickremanayake moves to mark the copy of this letter.

Mr. Adv. Thiagalingam objects and wants the Court to take a statement from his proctor Mr. Amerasinghe submits, "I have no independent recollection of having received such a letter. My file is here. I have not got that letter in my file." 20

Order

This letter in fact has no bearing at the moment on the evidence given by this witness. The witness has denied in his evidence having received such notice. There is the statement of Mr. Adv. Wickremanayake as to this being a copy of a letter sent to the proctor for defendant that he moves to mark. Mr. Amerasinghe has stated that he does not remember having received such a letter and such letter is not in his file, which is before him. On the face of the statement made by Mr. Amerasinghe the only position is that this letter may be put in at a later stage in the proceedings by the plaintiff on furnishing sufficient proof that such a letter had been sent. For the moment this letter is not allowed to be put in. 30

A. D. J.

14.12.49

Cross-examination continued.

I may have made a payment of profits to the employees of the "G" branch in September, 1943. It may have at the end of September or beginning of October, 1943. If Romiel Dias was not present I would not have made the payment to Jinadasa on behalf of Romiel Dias. Jinadasa has brought messages to me from Romiel Dias. 40

Even if Romiel Dias' absence on the day of payment of profits to the employees was due to his illness I would not have paid what was due to Romiel Dias to Jinadasa to be handed over to Romiel Dias.

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tion—
Continued.

I have not borrowed money from Jinadasa. I have borrowed moneys from Romiel Dias and paid them back to him.

Q. Have you sent letters to Jinadasa asking money from him ?

A. No. No. I cannot remember.

I have sent Jinadasa to Colombo on various occasions to get parts for buses. I may have sent letters to Jinadasa in connection with those transactions. I borrowed a sum of Rs. 3,000 from Romiel Dias once. That sum of Rs. 3,000 was paid to him in cash and not by a cheque on the Hongkong Bank. Jinadasa at no time paid me a sum of Rs. 3,000 by cheque on the Hongkong Bank.

Shown a signature on a document. I cannot identify this signature as the signature of my clerk D. A. Perera. At any time no money had been sent to me by Romiel Dias through Jinadasa. Romiel Dias not sent me any money through Jinadasa. No. I cannot remember whether he has sent me money at any time.

I have produced in Court certain documents which I had submitted to the Income Tax Department. I have been noticed to produce the assessments made by the Income Tax authorities. I have brought them to Court. They are with my proctor.

(Mr. Thiagalingam hands over to Mr. Wickremanayake the assessments of the income of the defendant for the years 1942, 1943, 1944, 1945, 1946 and 1948. Mr. Wickremanayake marks them P. 52, P. 53, P. 54, P. 55, P. 56 respectively).

Mr. Adv. Thiagalingam moves that if an application is made by the defendant for these documents that he may be allowed to remove them after leaving in Court true copies thereof signed by both plaintiff's proctor and defendant's proctor.

Mr. Adv. Wickremanayake states that the matter does not concern him and that he has no objection.

The Court will make its order when such application is made.

Cross-examination continued.

As manager of the "G" branch there was no obligation on me to offer an explanation to anyone over the expenses incurred. There was no need for me to inform anyone in the event of a tyre bursting or any other expense of some magnitude to be met with.

Shown a document. This document bears my signature. I admit this signature as mine. On this document I find the frank of the Sri Lanka Bus Co. I have signed this letter as the manager of the "G" branch of the Sri Lanka Bus Co., Kurunegala. This is a letter dated 8.7.43 and is addressed to Romiel Dias of Maharagama.

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 tion---
Continued.

(Mr. Adv. Wickremanayake marks this document as P. 57). I admit the contents of P. 57. Romiel Dias was supervising the bus X 4361 which was plying on the Pattalagedera route. In that letter I have made a report against the driver of the bus to Romiel Dias for his negligence and thereby caused damage to a tyre. The driver of that bus at that time was the old driver of Romiel Dias. Romiel Dias was supervising the running of buses beyond Giriulla. Before Romiel Dias became a shareholder of the Sri Lanka Bus Co. he was running his bus beyond Giriulla from Giriulla to Mirigama, and from Mirigama to Muddaragama. One of his buses ran from Giriulla to 10 Kurunegala and the other bus ran from Muddaragama *via* Giriulla to Kurunegala. Neither of the buses went to Pattalagedera, when he was running his buses. After his buses were taken over by the Sri Lanka Bus Co. I had changed the routes of those buses myself. Romiel Dias looked after those two buses before he joined the company.

But, he was looking after all the buses that were running beyond Giriulla after the "G" branch was started. The bus X 4361 was the bus that belonged to Martin Dias before he joined the Sri Lanka Bus Co. Sometimes that bus ran on that former route, and sometimes 20 I changed that bus to another route.

The takings of the buses of the "A," "B" and "E" branches which on some of the routes as the buses of the "G" branch run went to the credit of those branches, namely "A," "B," and "E" branches. I cannot remember what rate of fare was charged in 1942 from Giriulla to Kurunegala. It may be 35 cents or more. The fares have gone up today relative to the fares in 1942. It has gone up by about 10 or 15 cents over the fares in 1942. I think the fare from Kurunegala to Giriulla now is 75 cents. If it is stated that it is 80 cents I will not deny it because I do not know that the fare in 30 1942 was 35 cents or more. I think it was about 50 cents.

After the "G" branch was formed I have spent about one lakh of rupees in replacing buses on the routes. By way of putting in new buses, building up of bodies for chassis for new and second-hand ones, I have spent about one lakh of rupees. Every time a fresh bus is put in either in place of an old one or in addition I have to inform the Sri Lanka Bus Co. Head Office. I need not inform of the amount that I have spent on such replacement or putting in a new one.

During 1948 and 1949 I have put in only four new buses, but the 40 previous balance sheets would show the other buses that I have put in. I have got the balance sheets of the Sri Lanka Bus Co. for the previous years. I send my accounts to the Sri Lanka Bus Co. They allow me 90% to deal with. I base my accounts of the "G" branch on the 90% allowed me by the Co.

In the 1945 balance sheets appears an item of a new chassis having been bought by me for a bus in 1944. In the balance sheet for 1945 the cost of a new chassis for a bus must be included as I in 1945 put in a new chassis. If at the meeting of the Board of Directors when the balance sheet for 1945 was considered this item of the new chassis was not in I would bring it to the notice of the directors and have got it rectified.

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tion—
Continued.

Shown Balance Sheet and Report for 1946 marked P. 40. There is an item against my name for a sum of Rs. 7,452.40 in the list of "Sundry
10 debtors and creditors." This is the money advanced to me by the company for the purpose of buying the chassis in 1945. (This item is marked "X" by Court and initialled). (Witness points out this entry or item in the balance sheet and report P. 40 shown to me and states that this the amount advanced to him by the company for the purpose of buying the chassis in 1945).

Shown an item in Balance Sheet and Report marked P. 36. Under the heading "Addition to motor vehicles" it shows an addition of four buses to the Kurunegala branch and their cost.

(Mr. Wickremanayake states that he has been handling the
20 balance sheet of 1946 under the impression that it was for 1945. The witness is correct in saying that in the 1945 balance sheet there is one bus as having been added to this branch between 1945 and 1946, and the cost of this chassis is Rs. 7,380).

When I said that I spent about a lakh of rupees on the replacing of buses I have included in it the buses which I had replaced after 31.3.49 also. After March, 1949, I have put in the following buses :—
CL 5576, CL 5575 and two others CL 3739 and CL 3792. All of them are second-hand chassis. The only new chassis I have put in after the period is one in number. I have put in two buses only in replace-
30 ment after March, 1949. Since 1943 I have put in one new chassis with a new body. I have purchased only one chassis from 1943. I have bought eight second-hand chassis since 1943 to this day. On seven of these second-hand chassis I have built new bodies. Except the 1949 purchases all others appear in the balance sheet.

I admit the correctness of the agency fees shown in the balance sheet. If the sum-total of the agency fees paid to me according to the balance sheet is Rs. 700,111 excluding the agency fees paid to me till 15.1.44 I admit that to be correct. A rough estimate of the percentage of expenditure would be about 90% of the gross takings.
40 Sometimes I have had to pocket out of my own funds. In some years I have had profits and in some years I have had losses. Prior to the year ending March, 1949, I have not had losses. Only last year

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1948-1949 that I had a loss. I have shown the losses in my income tax return, but I have not yet received their assessment on it.

(Sgd.)

A.D.J.

14.12.49.

At this stage Court adjourns for lunch.

Resumed after lunch interval.

K. M. PERERA, recalled, sworn.

Jinadasa was employed in the "G" branch as a ticket inspector. I did not pay him any money except his salary. I did not pay him 10 out of the profits. He may have been taking anything from his brother. Jinadasa was not an owner of a bus.

K. M. Perera
Re-examina-
tion.

Re-examined.

Shown P. 51. Apart from the entries which I have made within the red pencil lines marked 51A I know nothing about this book. I cannot say in whose handwriting the rest of the book 51A is. At the time I made the entries P. 51A I did not examine this book or at any time before or after. I was in no way concerned with the entries in this book except the entries 51A. In P. 51A certain entries were shown to me by the Plaintiff's Counsel. I only read them as 20 I was asked to read them. Those entries were not made by me or anyone whose handwriting I can identify. I now find that P. 51 contains a large number of pages in pencil writing and some pages on it are written in ink.

(Court on examining P. 51 at the instance of Mr. Thiagalingam finds that in the entry referred to by Counsel for the plaintiff in cross-examination in the month of August the words "Sri Lanka" in Sinhalese is written to the left of the column and continued on the column on which dates are meant to be entered. The Court initials this entry. 30

Re-examination continued.

The dispute over which Romiel Dias's mother, his brother Martin Dias and his step-brother Jinadasa and others came to me had no connection whatsoever with any transaction of the "G" branch of the Sri Lanka Bus Co. I knew them well and they knew me well. So they came with their disputes to me with the idea of settling their dispute. Jinadasa, the step-brother of Romiel Dias, was in Court this morning and he is in Court even now. I saw him when I was giving evidence talking to the plaintiff's proctor. There are four actions against me apart from this action of similar causes of action 40 pending in this Court awaiting the decision of this case. All the

plaintiffs in the other four cases have been in Court during this trial, and today, and in particular I saw B. A. John Singho, Pabilis Appuhamy talking to plaintiff's proctor while I was being cross-examined.

No. 7
Defendant's
Evidence.
K. M. Perera
Re-examina-
tion---
Continued.

Q. Do you know if Romiel Dias drew any money from the Green Line Bus Co. as dividends on his shares.

(Witness starts by saying "I have heard." The Court does not allow him to proceed further on hearsay). D. 22 is an account of my income and expenditure of the "G" branch of the Sri Lanka Bus Co. for the year ending 31.3.45. P. 41 is the income and expenditure account of the Sri Lanka Bus Co. for the corresponding year. On page of P. 41 under the heading "income and expenditure account" sub-paragraph (a) gives the various amounts of agency fees, to the managers of the various branches. Agency fees, is roughly 90% of the gross takings of each branch. According to page 3 of P. 41 the amount paid out to me as agency fees is Rs. 142,565.69. In D. 22 this account appears as agency fees received by me from the Sri Lanka Bus Co. for that year. In the accounts for each year the amount I have put in down as agency fees should tally more or less with the corresponding figures in the accounts of the Sri Lanka Bus Co. as agency fees paid to me in those accounts. In D. 22 against the column agency fees is Rs. 142,565.69 which I have received, I have shown the expenditure incurred by me against this agency fees. The amounts of the various items are shown. In D. 22 the surplus of the agency fees received by me over the expenditure incurred by me in running the buses for the "G" branch is about Rs. 23,619.57. This amount does not make any allowance for replacements in buses.

The replacements in buses that I have made during the period for which D. 22 stands does not include items of expenditure on the replacements. At the bottom D. 22 an entry shows that I have incurred a further expenditure of Rs. 7,380 on account of the purchase of a Ford V-8 chassis thereby the nett income has been reduced by that amount, namely, Rs. 16,239.57.

Since the last date of trial in October, 1949, I was noticed to bring in all my account books and bank statements. I have brought my account books of the "G" branch and the bank statements.

(Mr. Adv. Wickremanayaka mentions to Court this notice was served by the plaintiff's proctor by a letter to the defendant's proctor).

Mr. Wickremanayake admits that this letter did not contain notice to produce the cheque counter-foils but this was done by another letter.

No. 7
Defendant's
Evidence.
K. M. Perera
Re-examina-
tion—
Continued.

Re-examination continued.

The letter which has been now referred to by counsel for the plaintiff to produce the account books and bank statements of the "G" branch of the Sri Lanka Bus Co. is with me. It was handed to me by my proctor. In this letter there is no reference to my being asking to bring to Court the counterfoils of any cheque leaves. The account books of the Sri Lanka Bus Co. "G" branch for the period 1943 March to 1944 March have not been brought to Court by me, as those books have been lost, as stated by me earlier in my evidence. I have produced accounts similar to D. 22 for later years. 10

The assessments for the year ending 31.3.45 and for the year ending 31.3.47. are not produced. They are with my auditors in Colombo. There is no appeal pending now, but I have given them to my auditors in connection with an earlier appeal and I have not got them back.

I was aware of those letters referring to my summoning the men for the division of profits even before the trial in this case.

Mr. Adv. E. A. P. Wijeratne was my counsel at that time I had a conference with him with my proctor. I had told my lawyers about those letters at the beginning before the trial commenced. Since 20 the last date of trial in October I have taken out summons on Mr. Terrence Perera and Mr. Ford. Mr. Ford was present in Court on the last date of trial in October. Mr. Terrence Perera has sent a wire to my proctor to say that he is ill and unable to be present today. Mr. Ford has come to Court today. He has brought a medical certificate about Mr. Terrence Perera's illness.

(Sgd.)

A. D. J.

14.12.49.

Mr. Adv. Thiagalingam moves to call Mr. Ford. 30

Mr. Adv. Wickremanayake objects on the ground that his name has not been on the list of witness prior to the commencement of this trial. Application was made by Mr. Adv. Thiagalingam to call witness Ford during the course of this trial in October, 1949, and I raised objection to it. Ford's name has come into the list of witnesses only on 23.9.49. His name appears on a list filed after the trial commenced.

Mr. Adv. Thiagalingam submits that his application to call Mr. Ford is to prove the accounts made by Mr. Terrence Perera submitted in evidence by the defendant and also to speak to the 40 accounts produced by the plaintiff. This witness will speak of the accounts copied by him from the files of the Income Tax Commissioner.

The accountant is Mr. Terrence Perera and this witness Mr. Ford is his assistant. The party listed in the original list of witnesses by the defendant on 21.8.48 was Mr. Terrence Perera, himself. We summoned him and Mr. Terrence Perera has sent along Mr. Ford on the last date in October. The Income Tax Department has been summoned to appear in Court but they have not come and written to Court claiming privilege.

No. 7
Defendant's
Evidence.
K. M. Perera
Re-examina-
tion—
Continued.

In October I did move to call Mr. Ford. Due to certain objections taken by Mr. Adv. Wickremanayake I withdrew calling
10 Mr. Ford. Then Mr. Ford was called on the last date and Mr. Wickremanayake objected to it, I did not call upon the Court to make a ruling but I withdrew that witness stating that on the next date I would have Mr. Terrence Perera to give the evidence, and also have Mr. Ford. Subsequent to that date summons have been taken on both Mr. Terrence Perera and Mr. Ford, and Mr. Ford has been put in the list of witnesses.

Mr. Terrence Perera is ill and I am submitting to Court a telegram received by my proctor from Mr. Terrence Perera marked " X " and the medical certificate forwarded by him marked " Y ". In the
20 result Mr. Terrence Perera is not present in Court today.

I am calling Mr. Ford to speak to the accounts made by Mr. Terrence Perera and to prove the signature of Mr. Terrence Perera to those accounts, and also speak to the fact that certain books of the defendant were lost, of which the defendant had already referred to in his evidence. Mr. Adv. Thiagalingam further submits that Mr. Ford was there on the list of witnesses in substance from August, 1948. He further submits that Terrence Perera is the same man who did the accounts of the Sri Lanka Bus Co. He cites 50 N.L.R. pages 519 and 522.

30 Mr. Adv. Wickremanayake is heard in reply. He submits that Terrence Perera's name came on a very late list of witnesses long after the trial commenced. I do not object to calling Mr. Terrence Perera. I did not know that he was ill until today. I have to cross-examine him as to the details of the accounts and how he came to certify the accounts. Terrence Perera is the only person to be called to prove the accounts made by him. Ford's evidence cannot be substituted for Terrence Perera's evidence. This witness is going to speak to something that would be best spoken to by Mr. Terrence Perera. According to my recollection I would say that Mr. Adv.
40 Thiagalingam said on the last date when he withdrew this witness on my objections to his being called that he would call Mr. Terrence Perera and not Mr. Ford and that he would only confine himself in calling Terrence Perera only.

In regard to the case cited he submits that it cannot be applied to in this instance. He further submits that he is objecting to Ford

No. 7
 Defendant's
 Evidence.
 K. M. Perera
 Re-examina-
 tion—
 Continued.

being called because he is merely a minor employee of Terrence Perera and that he could be bought over for a couple of rupees. Illness of one witness is not an excuse to call another to speak to facts which would be best spoken of by the former witness.

Order

The purpose for which Counsel for the defendant moves to call this witness Mr. Ford is firstly to speak to the fact that he made a copy of certain documents which were in the custody of the Income Tax Department. Mr. Amerasinghe defendant's proctor who conducted the case yesterday due to the absence of Mr. Adv. Thiagalingam 10 moved to produce a copy of a letter written by the defendant to the Commissioner of Income Tax dated 30.10.44, a copy which is not certified by the Income Tax Department. Mr. Amerasinghe wanted to produce this copy of letter on the ground that he intends calling as witness the person who made the copy from the original at the Income Tax Office. Court made its ruling that the Court could not consider this copy as a copy from the Income Tax Department so long as it is not certified by the department and refused to allow the copy of letter sought to be produced.

The Court cannot accept any writing or document purported to 20 be taken by any person from a departmental as certified copy of a document that is in the possession of a Government Department. So on that ground calling of Mr. Ford would be unnecessary and would not in any way help the defendant. Court is not going to accept any document purported to be a copy taken by an outsider from the files of the Income Tax Department.

In the second instance Mr. Thiagalingam moves to call Mr. Ford to speak to certain accounts which have been prepared by Mr. Terrence Perera from certain account books. Mr. Ford is to speak to the fact that those accounts have been certified by Mr. Terrence Perera and 30 also to identify his signature. But, in fact it is Mr. Terrence Perera who has examined the books and prepared these accounts. Calling of Mr. Ford by Mr. Adv. Thiagalingam would not afford an opportunity to the other side to cross-examine Mr. Terrence Perera in regard to how he arrived at those accounts and as such calling of Mr. Ford is not going to help the defendant in proving the statement of accounts made and certified by Mr. Terrence Perera.

In regard to the objections raised by Mr. Adv. Wickremanayake on the ground that Mr. Ford's name is not on the list of witnesses till so late as November, 1949, when the trial of this case had gone on 40 for several days, if the Court remembers right Mr. Adv. Thiagalingam called Mr. Ford on 13.10.49 and Mr. Wickremanayake objected to Ford giving evidence as his name was not on the list of witnesses, and Mr. Thiagalingam withdrew his application to call Ford as a witness stating that he would call Mr. Terrence Perera to give evidence and

I agree with Mr. Wickremanayake as to what he says and the Court also had the same impression as Mr. Wickremanayake that Mr. Thiagalingam had dispensed with the idea of calling Ford to give evidence. It is unfortunate that Mr. Terrence Perera is unable to be here, on the medical certificate that has been submitted. But as far as the Court can see on the point of Mr. Ford testifying to certain copies purported to have been taken by Mr. Ford from the Income Tax Office and also to the accounts that have been prepared by Terrence Perera and certified by him which have been produced by the defendant, subject to proof, I do not think that calling of Mr. Ford to give evidence on these matters can be allowed.

No. 7
Defendant's
Evidence.
K. M. Perera
Re-examina-
tion—
Continued.

His name does not appear in the list of witnesses till late in November, 1949. Under the circumstances I find that I ought to uphold the objection taken by the plaintiff's Counsel to call Mr. Ford. I uphold the objection.

(Sgd.)

A.D.J.

14.12.49.

Mr. Adv. Thiagalingam moves to recall K. M. Perera, the defendant to speak to the signatures on D. 22, D. 30, D. 31, and D. 32 as being documents sent out during the course of business by Terrence Perera.

Mr. Wickremanayake objects. He submits that he will not dispute the fact that the documents have been actually signed by Mr. Terrence Perera, that he would not admit that the contents of the documents as true.

I refuse this application made by Mr. Adv. Thiagalingam to recall the defendant, because nothing afresh has transpired after the evidence of the defendant to enable the Court to consider this application. He has had ample opportunities of getting out everything he needed from this witness. Application refused.

Mr. Adv. Thiagalingam moves to read in evidence D. 1 to D. 33 including the documents D. 22, D. 30, D. 31 and D. 32, which have been admitted by Court subject to proof. Mr. Adv. Wickremanayake objects.

Court allows the documents D. 1 to D. 33 except the documents D. 22, D. 30, D. 31 and D. 32 to be read in evidence. Court would consider the position in regard to D. 22, D. 30 to D. 32. Whether they have been proved in Court, and if the Court should find that they have been proved they would be accepted.

(Sgd.)

A.D.J.

14.12.49.

No. 7
Defendant's
Evidence.
K. M. Perera
Re-examina-
tion—
Continued.

Mr. Adv. Thiagalingam closes defendant's case.

(Sgd.)

A.D.J.

14.12.49.

It is now 4 p.m. Court adjourns till tomorrow for address.

(Sgd.).....

A.D.J.

14.12.49.

No. 8

Addresses to Court

10

No. 8
Addresses to
Court

15th December, 1949. Case No. 3705 M. D.C. Kurunegala.

Addresses

Plaintiff and defendant present.

Mr. Adv. E. G. WICKREMANAYAKE with Mr. Adv. J. PATHIRANA instructed by Mr. I. A. B. IHALAGAMA for plaintiff. Mr. Adv. C. THIAGALINGAM instructed by Mr. A. C. AMERASINGHE for defendant.

Mr. Adv. Thiagalingam addresses Court. He submits that D. 25 minutes of the meeting of the shareholders of the Sri Lanka Bus Co. held on 5.1.43., D. 1 minutes of the special general meeting of the 20 Sri Lanka Bus Co. held on 22.1.43, D. 26 minutes of the directors meeting of the Sri Lanka Bus Co. held on 30.1.43 and D. 3 minutes of the annual general meeting of the shareholders of the Sri Lanka Bus Co. held on 1.2.44 are documents certified together as one document by the Registrar, Supreme Court, Colombo, and that the original of these are contained in D. 18 which is produced.

Mr. Adv. Thiagalingam moves the Court to initial them so that he may detach them from the lot and use them for his address. The Court initials them and permits him to do so.

All the claims in the connected cases D. 27, D. 28, D. 10 and D. 29 30 amounts to about one and three-quarter of a lakh of rupees. The defence that the defendant is not an Agent of the plaintiff in this case or an agent of the plaintiff in the connected cases, but, that the defendant is an employee of the Sri Lanka Omnibus Co. It is this question that has got to be determined in this case. The documents should be examined to appreciate the setting in which these events occurred.

P. 1 shows that the K. A. B. Bus Co. was registered on 20.7.42. The buses that ran under this partnership were not in the name of the partnership. They were in the names of the individual partners of the partnership. Each bus did not belong to all the nine people of the partnership. Each bus continued to be in the name of each individual partner. The defendant is the man who managed that partnership.

No. 8
Addresses to
Court—
Continued.

P. 46 and P. 47 dated 8.10.42, P. 22—22.10.42, P. 20—8.11.42, P. 21—11.12.42 and P. 44 and P. 45—11.12.42.

10 A meeting of the partners of the K. A. B. Bus Co. was held on 12.12.42 and the defendant was authorised at that meeting to make application to the Commissioner of Motor Transport for route licence. Accordingly the defendant did apply for route licence by P. 13 to P. 19 on 31.12.42. By P. 2 dated 31.12.42. The defendant called a meeting of the bus partnership for 2.1.43. After that meeting on 2.1.43 every member of the partnership realised that no route licence could be obtained for their partnership. He refers to the Motor Ordinance of 1942. After the meeting held on 2.1.43., P. 13 to P. 19 were withdrawn by the defendant on 5.1.43.

20 D. 25—minutes of the meeting of the Sri Lanka Bus Co. held on 5.1.43. (D. 25 is contained in the original book D. 18). At this meeting the company decided to form *only* A, B, C, D and E branches. Not *F* and *G*.

After the meeting held on 2.1.43. It was definitely clear in the mind of every person who belonged to the K.A.B. Bus Co. that bus partnership was over, and that each partner could act as each one pleased individually. On 16.1.43 on the documents P. 3 and P. 23 (16.1.43) buses of individual owners were assessed by the Sri Lanka Bus Co. and taken over by the company *individually*. The Sri Lanka Bus Co. dealt with each man separately and individually and they took each man's bus. Each man in having his bus assessed acted individually. He refers to the evidence of Pabilis Appuhamy at page 7 on 15.7.49. He submits that this shows that each man tried to get the valuation on his bus increased as much as possible. D. 17 dated 6.2.43—notice of cessation of the K. A. B. Bus partnership. This document is signed by every partner. It is not signed by one partner on behalf of others.

All the nine partners have put in each one's signature individually. D. 17 is a certified copy obtained from the office of the registrar of 40 business names, and it shows that this notice reached that office on 6.2.43.

D. 1—minutes of the general meeting of the Sri Lanka Bus Co. held on 22.1.43. D. 1 shows the terms and conditions on which the branches A, B, C, D, and E were to operate. He refers to the resolution passed at that meeting.

D. 26—minutes of the meeting of the Sri Lanka Bus Co. held on 30.1.43. For the first time the directors of the company decided to open the G branch on 30.1.43 for running of buses between Kurunegala and Alawwa. From 16.1.43 to 30.1.43 buses were run on this line by the defendant merely helping and assisting.

On 6.3.43 the Directors of the Sri Lanka Bus Co. wrote to the people whose buses they had taken for this section to attend a conference on 12.3.43 (P. 24). Sri Lanka Bus Co. know nothing of the K. A. B. Bus Co. They had nine of these people for a conference. The minute book contains no contract entered into. What happened 10 on 12.3.43 cannot be the subject-matter of any records in a minute book. On 12.3.43 it was decided as who should manage the "G" branch. Minutes are not records of negotiations. Minutes are a record of proceedings in a directors' or a shareholders' meeting. Minutes cannot and do not contain negotiations of the directors on the one side and the third party on the other. We are concerned as to what happened at that meeting.

Mr. Thiagalingam refers to the plaintiff's claim (para 6) Sri Lanka Bus Co. did not call the partners of the K. A. B. Bus Co. for the conference. Evidence do not show that the directors of the Sri Lanka Bus Co. knew anything about the existence of the K. A. B. Bus Co. He refers to para. 7 of the claim. Plaintiff's claim is that the directors called up the people of the bus partnership and told them that they are going to take over their buses collectively. The defence is that he has nothing to do. The defendant is an employee of the Sri Lanka Bus Co.

Plaintiff summoned both Mudaliyar Madanayake and Dr. A. P. de Zoysa, but they have not been called. Why did the plaintiff not call them? He refers to section 114 (F) of the Evidence Ordinance and ask the Court to draw the adverse inference as to why they have 30 not been called.

He refers to the evidence of Pabilis Appuhamy at pages 7, 8 and 9 of 14.7.49. He invites the attention of Court to the evidence of the defendant at pages 15, 16, 17 and 18 of 14.10.49. Also the defendant's evidence at pages 19 and 21 of 13.12.49.

The defendant was an employee of the Sri Lanka Bus Co. And not an agent of the Time partners of the K. A. B. Bus Co. That partnership was dissolved in February, 1943. Defendant is a contracting party of the Sri Lanka Bus Co. on document, the document being D. 21 and D. 23 and finally by D. 19. The defendant is function- 40 ing as the manager of the "G" branch under D. 19.

Mr. Adv. Wickremanayake is heard in reply :—

Plaintiff's case is that the defendant is holding certain things in trust for the plaintiff. The defendant is responsible for the plaintiff on a basis of trust. This is the simple answer to prescription. Was

there an understanding between the plaintiff and the defendant that the defendant was going to be responsible and that he was to be the agent representing the plaintiff ?

No. 8
Addresses to
Court--
Continued.

“ G ” branch is the only branch where there are more than two people whose buses were taken over by the Sri Lanka Bus Co.

Conduct of the parties. Meeting was held in March. Each man wanted to look after each man’s bus. The defendant goes out of the meeting and comes back and takes up the appointment as manager of the “ G ” branch as a representative of the others.

10 P. 5, letter written by the defendant calling the members for a meeting. P. 6 is a letter of apology at the inability of the defendant to attend a meeting. The explanation of the defendant in respect of the letters sent by him to the partners of the K.A.B. Bus Co. is utterly fantastic. He refers to a “ chief man ” and he says he distributed the profits to the chief man. This explanation is very curious. Defendant says he distributed profits to the employees.

K. A. B. Bus Co. was formed after the Nelson Meeting in April.

As regards belatedness of the plaint there is documentary evidence that the plaintiff prosecuted the defendant in the Magistrate’s Court 20 for criminal breach of promise.

Prescription : If it is held that the defendant was the trustee of the plaintiff there is no question of prescription. If the defendant was holding that legal right in trust there is no question of prescription. The defendant was running the buses on the basis of a contract but on the basis of trust.

(Sgd.).....

A.D.J.

15.12.49.

Judgment reserved.

30

(Sgd.).....

A.D.J.

No. 9

Judgment of the District Court

D.C. Kurunegala. No. 3705.

Judgment

No. 9
Judgment of the
District Court
20.3.50.

The plaintiff in this case has brought this action to call the defendant to account for the moneys collected by him as manager of the “ G ” branch of the Sri Lanka Omnibus Co., Ltd., Colombo, and to pay to the plaintiff, the sum found to be due on such accounting.

40 In default of proper accounting the plaintiff has sued the defendant

No. 9
Judgment of the
District Court
20.3.50—
Continued.

for the recovery of a sum of Rs. 22,088·56, with legal interest till the date of decree and thereafter on the aggregate amount of the decree till payment in full and costs of this action.

The defendant in his answer has stated that he was appointed manager of the "G" branch of the Sri Lanka Omnibus Co., Ltd. by the said Sri Lanka Omnibus Co., Ltd. and the said appointment was independent of the plaintiff or of any other persons referred to in the plaint. Further the defendant has denied the averments in the plaint as to any agreement entered into between the plaintiff and other persons on one hand and the defendant on the other and as such no rights could have accrued to the plaintiff and even if such alleged agreement was made, it was contrary to law and public policy and therefore not enforceable in law. The defendant has also raised the plea of prescription. 10

Parties went to trial on the following issues :—

1. Was the plaintiff prior to 16.1.43—
 - (a) owner of bus X 4361 ?
 - (b) partner of K.A.B. Bus Co. ?
2. Was K.A.B. Bus Co. a partnership registered for plying of buses between Kurunegala and Alawwa ? 20
3. Was defendant a partner and manager of the said business ?
4. Were the buses belonging to the said partnership business transferred to the Sri Lanka Omnibus Co., Ltd. ?
5. Was the said transfer in accordance with the decision of the partners taken in December, 1942 ?
6. Was plaintiff allotted shares to the value of Rs. 2,250 in the Sri Lanka Bus Co., Ltd. in exchange for his bus X 4361 ?
7. Were the plaintiff and others who were partners of the K.A.B. Bus Co. invited to meet the directors of the Sri Lanka Omnibus Co., Ltd. on 12.3.43 ? 30
8. At the said meeting (a) did the directors offered to contract with the said persons for running the said buses by them for the Sri Lanka Bus Co., Ltd. on a payment to the said persons of 90% of gross takings less a sum of Re. 1 per bus per day ?
 - (b) suggest to the said persons that they should nominate one from among them and represent them and act for them in the matter of the said contract and its execution ?
9. Did the plaintiff and the other persons accept the said offer ?
10. Did the plaintiff and the other said persons nominate the defendant to represent them to act on their behalf and to contract with the Sri Lanka Omnibus Co., Ltd. for the said purpose ? 40

11. Did Sri Lanka Bus Co., Ltd. appoint the defendant to be the manager of the " G " branch of the said company ?

No. 9
Judgment of the
District Court
20.3.50—
Continued.

11 (a) if issue No. 10 is answered in the affirmative did Sri Lanka Bus Co. appoint the defendant as such representative as manager of " G " branch of the said company ?

12. As such manager was defendant (a) responsible to the Sri Lanka Bus Co. for the running of the said buses and for the payment of the said dues, and (b) the agent and representative of the other said persons for the distribution to them of the balance income ?

10 13. Was it decided at a meeting of the plaintiff and defendant and other said persons held on 8.4.43 that $\frac{2}{3}$ of the net profits of the 90% of gross takings of the " G " branch were to be distributed monthly by the defendant and the said persons in proportion to their shares and that the remaining $\frac{1}{3}$ was to be distributed at the end of the financial year ?

13 (a) Was there a meeting of the plaintiff, defendant and other said persons on 18.4.43 ?

14. Did defendant at the said meeting promise and undertake to distribute the gross profits in the said manner at meetings to be 20 convened by him for the said purpose ?

15. Did defendant duly account for and distribute profits in the said manner at monthly meetings convened by him until November, 1943 ?

15. (a) Were monthly meetings held and convened by the defendant as suggested in issue No. 15 ?

16. Has defendant since November, 1943 wrongfully, unlawfully, fail to account to the plaintiff and withheld from plaintiff's share of the said profits ?

17. Is plaintiff entitled to an accounting from defendant in 30 respect of the said profits ?

18. What sum is due from defendant to plaintiff in respect of the said profits ?

19. Was the defendant appointed local manager of branch " G " by the said Sri Lanka Bus Co. ?

20. If so, was the said appointment independent of any nomination by the plaintiff and other persons mentioned in the plaint ?

21. Did defendant collect moneys and make disbursements as branch manager in accordance with the terms of his employment by the Sri Lanka Bus Co. ?

40 22. If so, is he liable in law to account for such moneys collected by him to the plaintiff and other said persons referred to ?

No. 9
Judgment of the
District Court
20.3.50—
Continued.

23. Even if an agreement as set out in paragraphs 7 and 8 of the plaint was entered into is such an agreement enforceable for the reasons set out in paragraph 6 of the answer ?

24. Is defendant liable in law to account for and or to make any payments to the plaintiff ?

25. Is plaintiff's claim, if any, prescribed ?

The plaintiff's case is that he was the owner of bus No. X 4361 in 1942 ; that bus was plying between Kurunegala and Patahagedera, a distance of 40 miles. There were in all 11 buses belonging to 9 owners inclusive of the plaintiff which were running on this route in 1942. The defendant himself had 2 buses running on this road. The plaintiff has produced the certificate of registration of the K.A.B. Co. P. 1 by which these 9 owners formed themselves into a partnership called K.A.B. Co. which was registered on 20.7.42, in view of the policy adopted by the Government that bus owners running buses on any particular route should form themselves into a company and apply for route licences. This partnership by which K.A.B. Co. came into existence on 20.7.42 composed of 9 partners including the plaintiff and the defendant and running their buses on the Kurunegala-Alawwa road. The defendant in this case was made the manager of this partnership by the other partners and he was entrusted with the running of the buses on the condition that 1/3 of the gross takings were to be put down for expenses and the balance 2/3 to be distributed among the partners monthly as their income. The buses were run by the very persons who were the owners of the buses or by drivers appointed by the very owners. On these facts there is no difference of opinion as to the case of the plaintiff and the defendant. At the end of 1942 the Nelson plan came into operation and different companies were formed of such men who were running their buses on the different routes and application for route licence had to be made, in December, 1942, the defendant was requested by the partners of the K.A.B. Co. to apply for such a route licence to ply their buses on the route that the K.A.B. Co. was using. There is no doubt that on 31.12.42 there was a meeting of the partners of the K.A.B. Co. According to the plaintiff's story and that of his witness Pabilis Appuhamy they did not request the defendant to withdraw the application for route licence but they accepted all the suggestions made by the defendant who had informed them the S.L.B. Co. had already been given the licence for the route for which they had applied for and the defendant had also informed them that from 15.1.43 no petrol coupons would be issued to the K. A. B. Bus Co. The plaintiff's story is that these things were not made known to them by the defendant but they came to know of them in April, 1943. The plaintiff's story further is that on 16.1.43 the plaintiff had transferred his bus to the S.L.B. Co. after it was valued on 13.1.43 by Mr. Donald Perera, Secretary of the S.L.B. Co. and the S.L.B. Co. had assessed

his bus at Rs. 2,250. P. 3 is the document that speaks of this assessment. P. 4 is a receipt which is produced by the plaintiff. From the S.L.B. Co. from the story of the plaintiff, the S.L.B. Co. allotted to the plaintiff shares to the value of Rs. 2,250 on transfer of his bus to the S.L.B. Co. The plaintiff also has admitted that on 15.1.43 the K.A.B. Co. partnership had ceased to exist as he knew that from 16.1.43 that petrol coupons would not be issued by the Commissioner of Transport for the K.A.B. Co. to run their buses on their route. The defendant was permitted by the S.L.B. Co. to run the buses which had been

10 sold and handed over to the S.L.B. Co. by its partners as from 16.1.43 as the agent of the S.L.B. Co. This fact is important. On 12.3.43 the S.L.B. Co. had summoned the plaintiff and the other members of the K.A.B. Co. who had sold their interests in their buses to the S.L.B. Co. and became shareholders of the S.L.B. Co. to a meeting to be held at Colombo at the office of the S.L.B. Co. This fact is not disputed by the defendant. According to the plaintiff at this meeting held on 12.3.43 presided over by Dr. A. P. de Zoysa, the directors of the S.L.B. Co. were present, and the only other persons who had

20 been summoned to this meeting were the individuals who at one time belonged to the K.A.B. Co. partnership. The plaintiff's position is that these individuals were summoned as partners of the K.A.B. Co. and at that meeting of 12.3.43 Dr. A. P. de Zoysa who presided had asked these individuals to nominate one among them to run the branch which they were going to form called the "G" branch. After some discussion the plaintiff and some of the partners of the former K.A.B. Co. including the defendant went out and discussed the matter among themselves and returned to the meeting and informed Dr. A. P. de Zoysa that they had chosen the defendant to be the manager of the branch. The plaintiff's position is that when they went out to

30 discuss the matter that the defendant had agreed with them that he would pay the 10% of the gross takings in running the buses for the "G" branch and a further Re. 1 on each bus per day to the S.L.B. Co. and out of the balance 90% of the gross takings the defendant would distribute the entirety of it to the former partners of the K.A.B. Co. Further the defendant distributed certain sums of money by calling a meeting by letters P. 25 and P. 26, of the former partners of the K.A.B. Co. and had distributed sums of Rs. 100 and similar sums to them on three occasions. But from November, 1943, the defendant had failed to do so and hence the plaintiff had brought

40 this action against the defendant. The plaintiff has given evidence and called Pabilis Appuhamy to support his story as Pabilis Appuhamy is also one of the partners of the former K.A.B. Co. and other witnesses to testify to various other facts but not to this story in regard to the meeting held on 12.3.43.

The defendant's position is that the meeting summoned by the S.L.B. Co. on 12.3.43 was a meeting of the board of directors of the S.L.B. Co. to meet the individuals who at one time belonged to the

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K.A.B. Co. to inform them of the decision of the S.L.B. Co. to form a "G" branch and to appoint its managers. The defendant has expressly stated in his evidence that he had been asked to act as the agent of the S.L.B. Co. as from 16.1.43 and subsequently certain terms were put to him by the S.L.B. Co., that the defendant should take the full responsibility upon himself of running the buses that were entrusted to him by the S.L.B. Co. on the routes specified by the S.L.B. Co. which was identical with the routes on which the buses of the former K.A.B. Co. ran and that they should pay to the S.L.B. Co. 10% of the gross takings together with Re. 1 per day per bus and 10 that the balance 90% less the amount paid to the S.L.B. Co. as on each bus per day should accrue to the benefit of the defendant, that the defendant should be responsible for the maintenance of the service the replacement of buses and all profits or losses should be saddled on the defendant. The defendant had refused to accept this responsibility as he was afraid to take up the responsibility for fear that if losses were incurred, he would be liable for the losses, and had requested the S.L.B. Co. if they desired so to appoint him as the manager of that branch on the payment of monthly salary, all responsibilities with regard to profits or losses to be with the S.L.B. Co. 20 At the meeting held on 12.3.43 the defendant had expressly stated so and that the directors mentioned the fact that if the defendant was not prepared to accept their terms that they would appoint a manager from outside the individuals who at one time formed the K.A.B. Co. partnership and who might not employ the former members of the K.A.B. Co. partnership who were drivers, inspectors, etc., and thus they may lose their employment. It was at that stage that the defendant and some of the former partners of the K.A.B. Co. left the meeting and went outside. That the defendant was persuaded by the other partners to accept the terms put by the S.L.B. Co. on 30 the promise by the others that they would do their best to run the buses and to get as much income as possible. They returned to the meeting and the defendant himself told the board of directors of the S.L.B. Co. that he was willing to accept the terms proposed to him by the S.L.B. Co. and accept the managership of the "G" branch, and as such, the S.L.B. Co. appointed him the manager of the "G" branch and he was liable to account to the S.L.B. Co. only and not the plaintiff or to the other individuals who at one time were members of the K.A.B. Co.

In regard to the two positions taken up by the plaintiff and the 40 defendant the plaintiff and Pabilis Appuhamy has supported the plaintiff's version. The defendant's position has been supported by his witness Mudaliyar Madanayake, a director of the S.L.B. Co. who was present at the meeting. There is no record of this meeting on 12.3.43 submitted to Court, but the production of D. 16, D. 16A, D. 18 along with other documents produced by the defendant clearly show that the defendant's appointment as manager of the "G"

branch was made by the S.L.B. Co. by its shareholders independently of the individuals who at one time formed the K.A.B. Co. partnership. The plaintiff himself has admitted that from 16.1.43 the day he sold his bus to the S.L.B. Co. and accepted the position of becoming a shareholder of the S.L.B. Co. that the S.L.B. Co. had asked the defendant to carry on with the task of running the buses on this route for them. In fact, from the evidence led for the plaintiff and for the defendant, one can safely arrive at the conclusion that the K.A.B. Co. partnership had terminated on 15.1.43 and from 16.1.43 the S.L.B. Co. was operating the buses through the defendant on these routes. Plenty of evidence of history from December, 1942, up to the 15.1.43 has been led, both by the plaintiff and the defendant. The Court allowed all this evidence to go in though it was not very material to the issues in the case with a view to assessing the credibility of the witnesses. I do not believe this plaintiff or his witness Pabilis Appuhamy when they state to Court in their evidence that it was some months after 15th January, 1943, that they came to know that the defendant had withdrawn the application for the route licences on behalf of the K.A.B. Co. The plaintiff and his witness Pabilis Appuhamy on this matter have given a very untrue account of the conduct of the defendant. If what they say is true, that they came to know of the withdrawal of the route licence on a date later than 16.1.43 there was no necessity for them to have had their buses assessed on 13.1.43 and to have transferred the buses to the S.L.B. Co. on 16.1.43 and to have accepted shares in the S.L.B. Co. The plaintiff and his witness Pabilis Appuhamy in my opinion, can be counted upon as men of experience in running a bus service. Each of them knew very well of the difficulties they were confronted with even if the defendant had failed to inform them of the difficulties. It may be that the defendant purely because of the fact that he could correspond in English, acted on their behalf in the K.A.B. Co. partnership, but the plaintiff, and Pabilis Appuhamy were men who knew what they were about. In fact both of them admitted to Court at a later stage that they were aware at the meeting held on 31.12.42 that they would not be issued with petrol coupons after 16.1.43. One need not comment on the evidence of the plaintiff and the witness Pabilis Appuhamy. Both of them are witnesses who have denied certain facts which were well within their knowledge and accepted the same only and after they were confronted with the documents in proof of same in Court. In regard to the meeting of 12.3.43. I have no hesitation in accepting the version given by the defendant and Mudaliyar Madanayake that the individuals who at one time were members of the K.A.B. Co. partnership did not nominate the defendant as their representative but induced the defendant to accept the position as manager of the "G" branch purely for this fact that if an outsider were appointed the plaintiff who was the driver of his own bus and Pabilis Appuhamy who was holding office as inspector

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might have to lose their jobs and so with the others. The defendant may have at that private discussion that they had outside the buildings of the S.L.B. Co. on 12.3.43 told his one time partners that he would also see to their pains if they did work hard and bring in more income and promise to remunerate them for their pains. I completely reject the story of the plaintiff and his witness Pabilis Appuhamy that at a meeting held in April, 1943, that a resolution was passed that $\frac{2}{3}$ of the 90% of the gross takings should be divided monthly among the owners of the buses and that the other $\frac{1}{3}$ should be divided among them at the end of the year. One has only to look **10** into the agreement which the defendant has entered with the S.L.B. Co. (D. 19) and into the minutes book (D. 16), (D. 16A) and to the various pages referred to in D. 18, the certified copies of which have been produced, to make up his mind as to whether the defendant was appointed by the S.L.B. Co. as manager of the "G" branch or as stated by the plaintiff was a nominee who was to operate as agent of the owners of the buses that were entrusted to the "G" branch of the S.L.B. Co. The fact that the plaintiff accepted shares in the S.L.B. Co. to the extent of Rs. 2,250 and became a shareholder of the S.L.B. Co. shuts him out completely from any individual position **20** that he may take independently of the S.L.B. Co. There is no doubt that prior to 16.1.43 the K.A.B. Co. did exist. Between the period 1.1.43 and 15.1.43 the members of the K.A.B. Co. knew and understood well their position. The plaintiff and his witness Pabilis Appuhamy have admitted the fact that the defendant had even told them at the meeting held on 31.12.42 that if they failed to get the route licence they can claim compensation from the S.L.B. Co. Pabilis Appuhamy has further in his evidence admitted that the defendant had told them that it would be advisable for them to join the S.L.B. Co. as shareholders than to have an action against them. That **30** certainly may have been the "bona fide" opinion of the defendant. In fact, the defendant in my opinion has acted faithfully to his task and perhaps given to best advice possible to those who had entrusted the management of the K. A. B. Co. to him. Further in regard to the position taken by the plaintiff that certain sums of money had been paid as dividends by the plaintiff between the months of April and November, 1943, on the footing that the plaintiff had promised to share $\frac{2}{3}$ of the gross takings equally among the owners of the buses at that time, there is no proof before Court except the bare statement of the plaintiff and his witness Pabilis Appuhamy. There **40** are the 2 productions P. 25 and P.26, the signatures on both had been admitted to be that of the defendant. P. 26 deals with the summoning of a meeting on 23.6.43 for sharing the profits and losses of this branch for the month of May, 1943, by the defendant. P. 25 is also another letter in which the defendant has expressed his regret for not being present at the meeting which was fixed for 28.3.43. In regard to these 2 letters, it must not be forgotten that the defendant had the

same status as the other partners when he himself was a partner of the K. A. B. Co. According to the defendant, he had promised that if the drivers who worked on the buses would increase their daily takings, he was willing to give them a portion of the profits. The letter P. 26 refers to profits and losses. The mere fact that it shows the 2 words profits and losses, it does not necessarily follow that it is the meeting summoned to look into accounts and to decide on profits and losses. Pabilis Appuhamy as well as the plaintiff have stated that the defendant was liable for losses, and that they
 10 were only entitled to the profits. More than that P. 25 and P. 26 do not give the name of the persons to whom these letters have been addressed, though these have been admitted in evidence by the defendant that he addressed these letters to the plaintiff. The plaintiff at this time, it must not be forgotten was a driver under the employ of the defendant and so was Pabilis Appuhamy an employ of the defendant.

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I accept the evidence of the defendant and that of Mudaliyar Madanayake when they stated that somewhere in the month of October, 1943, the defendant met Mudaliyar Madanayake in
 20 Colombo at his garage and that Mudaliyar Madanayake told the defendant there were a certain number of chassis which had been allotted to the S. L. B. Co. and that the defendant should buy a few of them that the defendant told Madanayake that he had no money to purchase same at that time, and that Mudaliyar Madanayake told the defendant that if the bus service was not run efficiently by him, by the replacement of new buses for old, then the S. L. B. Co. will be forced to terminate his agency. It was perhaps then that the defendant realised his position that he could not be generous towards his drivers and other workers in the buses and ever after did
 30 not pay anything out of the profits to his workers.

Pabilis Appuhamy's evidence on pages 7, 8, and 9 of 14.7.48 would be sufficient for one to make up his mind to discredit this witness. It must also not be forgotten that the plaintiff was dismissed by the plaintiff on 31.5.44 as proved by the document D. 2 and that Pabilis Appuhamy was dismissed by the defendant on 6.8.46. D. 4 and D. 6 and D. 9 letters written by the plaintiff to defendant are subsequent to the dismissal of the plaintiff by the defendant. At the meeting held in June, 1945, the plaintiff has made an attempt to displace the defendant as manager of the "G" branch. Though the plaintiff at
 40 first in his evidence denied this, yet the production of the minutes book D. 18 shows this and the plaintiff subsequently has admitted the same. The plaintiff has even denied that he had been at any time in Jail, till a certified copy of the Magistrate's Court and the Supreme Court proceedings of that case were produced in evidence. The plaintiff as well as Pabilis Appuhamy have denied the fact that they at any time set their signatures to the minutes book of the

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S. L. B. Co. They tried to get over the difficulty by stating that they signed blank sheets more or less as attendance registers, but when confronted with the minutes they have admitted the fact that they did sign. The evidence of the defendant, Mudaliyar Madanayake and Samarasinghe fully establish the fact that the plaintiff and Pabilis Appuhamy were present at these meetings and had signed those minutes referred to. I do not for a moment hesitate to disbelieve the evidence of the plaintiff and of his witness Pabilis Appuhamy on this fact that the defendant entered into certain terms and agreements with them and it was on that understanding that they nominated 10 him as manager of the "G" branch. In fact the evidence of the plaintiff and of Pabilis Appuhamy from the beginning to the end are full of contradictions. The latter part of their evidence contradicts the fact testified in the earlier part and I am forced to reject their evidence. I accept the evidence of the defendant and of his witnesses which are supported by documents which have been produced by the defendant. Several documents have been put in both by the plaintiff and the defendant. The Court has gone through all these documents and referred to only those documents, in its judgment, which affect the issues that have to be answered. 20

I therefore answer the issues as follows :—

Issue No. 1. In the affirmative.

Issue No. 2. In the affirmative.

Issue No. 3. In the affirmative.

Issue No. 4. In the negative. Individuals who were partners transferred their buses in their individual capacities to the S. L. B. Co.

Issue No. 5. Need not be answered in view of answer to issue No. 4.

Issue No. 6. In the affirmative.

Issue No. 7. In the affirmative but not as partners of the K. A. B. 30 Co.

Issue No. 8.

(a) In the negative ; (b) In the negative.

Issue No. 9. Need not be answered.

Issue No. 10. In the negative.

Issue No. 11. In the affirmative.

Issue No. 11 (a) In the affirmative.

Issue No. 12. (a) In the affirmative ; (b) In the negative.

Issue No. 13. In the negative.

Issue No. 13. (a) In the affirmative. 40

Issue No. 14. In the negative.

Issue No. 15. Does not arise in view of the answer to issue No. 14.

Issue No. 15. (a) In the negative.

- Issue No. 16. In the negative.
 - Issue No. 17. In the negative.
 - Issue No. 18. Does not arise in view of the answer to issue No. 17.
 - Issue No. 19. In the affirmative.
 - Issue No. 20. In the affirmative.
 - Issue No. 21. In the affirmative.
 - Issue No. 22. In the negative.
 - Issue No. 23. In the negative.
 - Issue No. 24. In the negative.
 - 10 Issue No. 25. In the affirmative.
- I therefore dismiss plaintiff's action with costs.

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(Sgd.).....
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Decree of the District Court

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 Decree of the
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IN THE DISTRICT COURT OF KURUNEGALA.

- 1. H. G. MARTIN DIAS of Maharagama,
Giriulla.....Plaintiff
- 20 Against
- 2. K. M. PERERA of Morris Street,
Kurunegala.....Defendant.

This action coming on for final disposal before W. G. Spencer, Esquire, Additional District Judge of Kurunegala on the 20th day of March, 1950, in the presence of Mr. I. A. B. Ihalagama proctor on the part of the plaintiff and of Mr. Amarasinghe of Messrs. Perera & Perera, proctors on the part of the defendant, it is ordered and decreed that the plaintiff's action for the recovery of Rs. 22,083·56 from the defendant is hereby dismissed.

30 It is further ordered that the plaintiff do pay to the defendant the costs of this action.

(Sgd.).....
Addl. District Judge.

This 20th day of March, 1950.

No. 11
 Petition of
 Appeal to the
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No. 11.

Petition of Appeal to the Supreme Court.

D.C. Kurunegala No. 3705/M.

H. G. MARTIN DIAS of Maharagama, Giriulla *Plaintiff*
vs.

K. M. PERERA of Morris Street, Kurunegala *Defendant*
 and

H. G. MARTIN DIAS of Maharagama, Giriulla
 *Plaintiff-Appellant*

vs. 10

K. M. PERERA of Morris Street, Kurunegala
 *Defendant-Respondent.*

To The Honourable the Chief Justice and the other Honourable Judges
 of the Supreme Court of the Island of Ceylon.

This 29th day of March, 1950.

The petition of appeal of the plaintiff-appellant abovenamed
 appearing his proctor I. A. B. Ihalagama stated as follows :—

1. The plaintiff-appellant and several others including the
 defendant-respondent were prior to January, 1943, owners of motor
 omnibuses which plied for hire on routes between Kurunegala and 20
 Alawwa.

2. In or about April, 1942, on a suggestion of Mr. Nelson, the
 Director of Transport, and in anticipation of the now existing scheme
 of exclusive road licences which was introduced by the said Mr. Nelson,
 the plaintiff-appellant, the defendant-respondent and the other persons
 referred to whom were plying their buses on the said routes formed
 themselves into a partnership called the K.A.B. Bus Co. with a view
 to securing for themselves the said routes exclusively.

3. The defendant-respondent who was the only educated person
 among the said partners was made the manager of the said partner- 30
 ship. By agreement of the parties it was the duty of the manager
 to receive the entire income of the partnership meet the expenses of
 the business and divide among the partners two-third of the nett
 profits putting the balance one-third into reserve.

4. In December, 1942, applications were due for the exclusive
 licences that came into force from 1943. The partners of the K.A.B.
 Bus Co. authorised the defendant-respondent to apply on their behalf
 further exclusive licence to ply on the routes, they were then operat-
 ing. The said authority was given to the defendant-respondent well
 within the time for making the said application. 40

5. It would appear that the defendant-respondent realised that
 the chances of the K.A. Bus Co. getting the said routes was
 greater if they threw in their lot with the Sri Lanka Omnibus Co., Ltd.

The defendant-respondent did not tender the application still after the licence had already been granted to the Sri Lanka Omnibus Co., Ltd.

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6. Thereafter the defendant-respondent would appear to have discussed the matter with the partners of the K.A.B. Bus Co. and informed them that if they joined the Sri Lanka Omnibus Co., Ltd., they would be able to manage their routes as before as a branch of the Sri Lanka Omnibus Co., Ltd., save only that they would have to give 10% of the gross takings and a hire for the buses to the main
10 company. On his advice that it would be more profitable than litigating about their routes they authorised him to withdraw the applications for route licences.

7. In January, 1943, all the members of the K.A.B. Bus Co. joined the Sri Lanka Omnibus Co., Ltd., and took shares to the value of their buses and route rights. A meeting of the directors of the Sri Lanka Omnibus Co., Ltd., was held on the 12th March, 1943, to which were invited all the former partners of the K.A.B. Bus Co. and at that meeting was formed a "G" branch of the company which consisted only of the former members of the K.A.B. Bus Co.

8. The plaintiff-appellant stated that at that meeting the person
20 invited who were to be the members of the "G" branch were requested to select one of their number who would be appointed manager of the "G" branch who would be held responsible for the collection and the payment to the main company of the 10% and the hire of buses. The rest of the takings could be expended and distributed by him without reference to the main company and they could run the branch as they had run the K.A.B. Bus Co. on 90% of the gross takings.

9. The plaintiff-appellant and other persons who were to be
30 members of the "G" branch therefore selected the defendant-respondent to represent them to receive the entire collections to pay to the main company the moneys that were due to it and with the 90% balance left to manage the affairs of the "G" branch in the same way as he had managed the K.A.B. Bus Co. dividing two-third of the net profits out of the same among the members of the "G" branch and putting one-third into reserve. The defendant-respondent agreed with the other members of the "G" branch that he would so deal with the moneys on their behalf and on that agreement and understanding it was that the said members selected him from among
40 their number to be made manager of the "G" branch.

10. The defendant-respondent was thereupon made manager of the "G" branch. The plaintiff-appellant stated that for several months at the start the defendant-respondent as he had done in the past when he was manager of the K.A.B. Bus Co. called monthly meetings of the members for the purpose of distributing and at which he distributed among them the two-third share of the monthly nett

profits. Thereafter he put them off from time to time on one pretext over another and did not distribute the proceeds among them.

11. When the members of the "G" branch found that the defendant-respondent was trying to avoid payment to them of their due share of the nett profits they first instituted Criminal Proceedings against him and thereafter instituted civil actions against him for an accounting and for the recovery of the moneys so due. The present action is the first of the said series of actions to be tried.

12. To the claim of the plaintiff-appellant the defendant-respondent filed answer *inter alia* denying that he represented the other 10 members of the "G" branch and that he had any contract with them and pleading prescription.

13. After trial the learned District Judge by his judgment delivered on 20th March, 1950, dismissed the action of the plaintiff-appellant with costs.

14. Being aggrieved at the said judgment, the plaintiff-appellant begs to appeal to Your Lordships' Honourable Court on the following among other grounds that may be urged by counsel at the hearing of this appeal:

(a) The said judgment is contrary to law and to the weight of 20 the evidence led in the case.

(b) The learned District Judge has utterly disregarded the probabilities of the case and the volume of documentary evidence which supports and corroborates the case of the plaintiff-appellant and is in conflict with that of the defendant-respondent.

(c) In support of the case of the plaintiff-appellant there is (1) evidence of the reason for the formation of the K.A.B. Bus Co. given by among others the defendant-respondent himself; (2) evidence of the distribution monthly of profits among the partners of the K.A.B. Bus Co., which evidence consists *inter alia* of letters sent out 30 to the partners by the defendant-respondent summoning them to meetings monthly for the distribution of profits after looking into the accounts; (3) evidence of the witnesses of the defendant-respondent showing that the Sri Lanka Omnibus Co., Ltd., was run through a series of branches. Each branch had distinct routes. Of each branch the members were only those who had previously run buses on those routes and to each branch was allotted only those buses of those members which had plied previously on those routes. The "G" branch was the last to be formed and on the lines and for the purpose for which the earlier branches were formed; (4) the evidence of the fact 40 consisting mainly of letters of the defendant-respondent himself that meetings for the consideration of the profits and losses and distribution of the profits were held monthly after the formation of the "G" branch in a manner identical with that which obtained while the K.A.B. Bus Co. was in existence.

(d) The explanation given for these letters by the defendant-respondent, viz., that they were written by him to employees of the "G" branch among whom he made a distribution of profits apart from being artificial was a complete after thought. It was not put to any witness and was first referred to more than a year after the letters were first produced.

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(e) It is true that in the course of a cross-examination that lasted several days the plaintiff-appellant and his witness have been found to have stated what is not true on matters not closely connected with the case. Whilst conceding that this was a fact to be taken into consideration in assessing the credit to be attached to the witnesses it is submitted that the learned District Judge was not justified on that ground alone to have disregarded the other evidence of the witnesses where it was corroborated by documents of the defendant-respondent himself and by the probabilities of the case.

(f) It is further submitted that in his readiness to reject the testimony of the plaintiff-appellant and his witness the learned District Judge has not even considered the infirmities attaching to the evidence of the defendant-respondent and his witnesses.

(g) As a reason for rejecting the evidence of Pabilis, witness for the plaintiff-appellant, the learned District Judge states that Pabilis was a dismissed employee. This is a misdirection as it is clear from the evidence that Pabilis was dismissed for the part he played in the institution of criminal proceedings against the defendant-respondent.

(h) It is submitted that the evidence of the defendant-respondent and of his witnesses Madanayake and Samarasinghe is clearly on an analysis to it unworthy of acceptance. The oral testimony of both sides is unsatisfactory and the only safe method of arriving at a judgment in this case is on a consideration of the probabilities of the stories and of the manner in which they are supported by the admitted documents.

Wherefore the plaintiff-appellant prays that Your Lordships' Court may be pleased (a) to set aside the judgment and decree of the learned District Judge; (b) to direct that judgment be entered in favour of the plaintiff-appellant as prayed for in the plaint; (c) to grant to the plaintiff-appellant the costs of this appeal and of the trial in the Court below and such other and further relief as to Your Lordships' Court may in the circumstances seem meet.

(Sgd.) I. A. B. IHALAGAMA,
Proctor for Plaintiff-Appellant.

40

Settled by :

E. G. WICKREMANAYAKE,
Advocate.

No. 12.

Judgment of the Supreme Court.

S.C. No. 444.

D.C. Kurunegala (F.) No. 3705/M.

H. G. MARTIN DIAS of Maharagama, Giriulla.....
.....*Plaintiff-Appellant*

vs.

K. M. PERERA of Morris Street, Kurunegala.....
.....*Defendant-Respondent.*

Present : ROSE, C. J. and SANSONI, J.

Counsel : H. V. PERERA, Q.C., with G. T. SAMARAWICK-10
REMA for the plaintiff-appellant.

N. E. WEERASOORIYA, Q.C., with H. W. JAYAWARDENA
and T. PARATHALINGAM for defendant-respondent.

Argued on : 22nd, 23rd, 24th, 25th, 28th, 29th and 30th June
and 1st July, 1954.

Delivered on : 4th August, 1954.

ROSE, C. J.

It is common ground that the plaintiff-appellant and the defendant-respondent were two of a group of nine persons who were operating independently a fleet of 11 motor omnibuses plying for 20 hire on routes between Kurunegala and Alawwa prior to April, 1942 ; that in or about that month these nine persons, on the suggestion and advice of a Mr. Nelson, the director of transport, and in anticipation of the present existing scheme of exclusive road licences which was shortly to be introduced by Mr. Nelson, formed themselves to a partnership called the K.A.B. Bus Co., with a view to securing for themselves exclusively the above routes ; that the defendant-respondent, the most literate of the nine persons, was made the manager of the partnership ; that it was the duty of the manager to receive the entire income of the partnership and divide among the partners 30 two-third of the nett profits retaining one-third to be placed to reserve.

It is the appellant's case that the remaining eight partners authorised the respondent to apply on their behalf for the necessary route licences and that subsequently the respondent persuaded the appellant and his co-partners that it would be advantageous to them to join the Sri Lanka Omnibus Co., Ltd., which was a large operating company running buses over many routes. Subsequently the applications for route licences by the K.A.B. partnership were withdrawn and a new branch of the Sri Lanka Omnibus Co., Ltd., to be known 40 as the " G " branch, was formed. Of this new branch the respondent

was appointed the manager on the understanding that the business was to be operated as before and that the profits were to be divided among the nine partners as heretofore subject only to the condition imposed by the agreement between the respondent and the Sri Lanka Omnibus Co., Ltd., that 10% of the gross profits were to be paid to the Sri Lanka Omnibus Co., Ltd., with the addition of a payment of Re. 1 per day for the hire of each of the buses to be operated in the "G" branch. The buses themselves were valued and shares were allocated to each bus owner according to the valuation of the bus.

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10 It was, of course, apparent that the bus service had to be maintained during the period of the change over and it is common ground between the parties that *de facto* the buses were transferred to the Sri Lanka Omnibus Co., Ltd., in mid-January, 1943, pending a meeting of the directors of the above company on the 12th of March, 1943, when the "G" branch of the company was formally established and the respondent appointed as manager. His letter of appointment as manager was dated 16th of March, 1943, and it is to be noted he was to receive no salary as such from the company but was to receive and have the full responsibility for disposal of the 90% of
20 the gross profits which remained after the deduction of the proportion which was payable to the company, and subject to the Re. 1 per diem payment for the hire of each bus.

It is the position of the appellant that the company were unconcerned with the internal arrangements of its various branches of which there were also "A," "B," "C," "D," "E" and "F" branches. He contends that provided that the company received from the manager of the "G" branch their 10% of the gross profits and Re. 1 per day as rent for each bus they had no interest in whatever personal arrangements the manager of a branch might enter
30 into; and that the agreement upon which he bases his action was made between himself and the defendant-respondent and not between himself and the Sri Lanka Omnibus Co., Ltd. He claims that in pursuance of the arrangements entered into between the other eight members of the former K.A.B. Bus Co. and the respondent a division of the profits in fact, took place for several months after the formation of the "G" branch and that it was only in November, 1943, that the respondent ceased to make such a division.

The respondent's position is that there was no such arrangement between the plaintiff and the other members of the K.A.B.
40 partnership and himself; that the other partners were amply compensated by the shares issued to them in respect of the valuation of their buses; that the dividends which they were to receive on those shares and the fact that they were able to retain their posts in connection with the running of the buses was ample consideration and compensation for their having given up their routes in the K.A.B.

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partnership and its buses. He maintains, however, that for a few months after the formation of the "G" branch he made *ex gratia* payments to the partners, which were in the nature of a bonus for good work and were made with a view to keeping the drivers and the inspectors of the buses contented. He says that he was obliged to discontinue these bonus payments towards the end of 1943 as it was pointed out to him by Mr. Madanayake, a director of the Sri Lanka Omnibus Co., Ltd., and an influential man in its affairs, that the fleet of buses was old and would in due course have to be replaced out of the earnings of the branch and that it would, therefore, be 10
unwise to squander these earnings in a too generous division of profits among the staff.

It is, of course, clear that the matter resolves itself into a question of fact as to which version should be accepted. The respondent contends that the learned District Judge expressed disbelief in the veracity of the appellant and accepted in substance the version of the respondent and that should be regarded by this Court as an end of the matter. The appellant on the contrary maintains that this is one of those cases in which a careful examination of the documents and of the basic probabilities of the matter must lead any 20
reasonable tribunal to a conclusion favourable to his version of the arrangement that was entered into.

I would observe that it may well be that the learned District Judge was entitled to draw the inference that the plaintiff was not a person whose truthfulness could be relied upon in all matters. The cross-examination in this case spread itself over many pages of the typewritten record and it may well be the case that in the course of that cross-examination, which strayed over a very wide field, the plaintiff may have given answers which the learned Judge was entitled to regard as untrue, or at any rate unreliable. The question, 30
however, which this Court has to consider is not whether the appellant in general is a truthful person but whether on the relatively narrow ground of the existence of the alleged agreement with the respondent, his story, in the light of the documents and of the probabilities of the case, should or should not be accepted.

On the 26th of March, 1943, the letter P. 5 was written by the respondent to the former partners of the K.A.B. Co. in the following terms :—

" Gentlemen,

As there is a meeting of our branch on the 28th instant 40
at 10 a.m. your early attendance is expected."

Subsequently on the 3rd of April, 1943, P. 6 was sent by the respondent in the following terms :—

“ Gentlemen,

Regret for the failure to attend the meeting which was fixed for the 28th ultimo as the holding of the same was uncertain. That meeting will be held on the 8th instant at 10 a.m. and your early attendance is expected.”

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With regard to this the plaintiff's position is that the arrangement with the respondent was finalised at the meeting of the 12th of March, 1943, and was confirmed at this meeting of the 8th of April, 1943, which was duly held in accordance with the notification given in P. 6.
10 It is to be noted that on the 5th of April, 1943, a letter, P. 25, was written by the respondent to the same persons in substantially the same terms confirming that the meeting had been postponed from the 28th of March to the 8th of April.

On the 12th of July, 1943, P. 7, which was a circular letter addressed to all the former partners of the K.A.B. Bus Co., was sent by the respondent in the following terms :—

“ Sir,

A meeting will be held at 11 a.m. on the 15th instant regarding the checking accounts of this branch for the month of June, 1943, and for sharing profits. Therefore, I request
20 you to be present.”

On the 14th of August, 1943, P. 8 was sent by the respondent. It reads :—

“ Gentleman,

As a meeting for the distribution of the profit and loss of this branch for the month of July, 1943—on the 20th instant at 10 a.m. your presence is essential.”

On the 21st of June, 1943, P. 26 was written to the former partners by the respondent :—

30 “ Dear Sir,

A meeting will be held at 11 a.m. on the 23rd instant for the purpose of checking accounts and for sharing the profits and losses of this branch for the month of May, 1943, therefore your presence is solicited.”

On the 12th of July, 1943, the following P. 27 was sent by the respondent to the same persons. It reads :—

“ Dear Gentleman,

As there will be a meeting on the 15th instant at 11 a.m. for the purpose of looking into the accounts of June, 1943, of
40 this branch and distribution of the profits, your presence is requested.”

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And on the 3rd of October, 1943, P. 28 was also sent by the respondent to the same persons. It reads :—

“ Gentleman,

A meeting will be held on the 5th instant at 11 a.m. to divide the profit and loss of the month of August, 1943. Your presence is essential.”

On the 4th of November, 1943, P. 29 was sent by the respondent to the same persons :—

“ Gentleman,

As there will be a meeting on the 7th instant at 11 a.m. 10 to divide the profits and losses of the month of September, 1943, your presence is essential.”

That is the last of the communications of this nature. It is perhaps significant to note the extent of the resemblance between the wording of this series of letters and that of P. 20 and P. 21 which were sent by the respondent to the partners of the K.A.B. Bus Co. on the 8th of November, 1942, and on the 11th of December, 1942, respectively, when admittedly the arrangements was that there should be a division of profits among the partners.

P. 20 reads :—

20

“ Sir,

Regarding the checking of monthly profits and losses of the above company meeting will be held on the 12th instant. Therefore your presence at 11 a.m. is kindly solicited.”

and P. 21 reads :—

“ Sir,

As the meeting with regard to the looking into of the monthly profits and losses of the above company will be held on the 12th instant at 11 a.m. I request you kindly to attend the same punctually.”

30

The appellant invites us to draw the inference from this series of letters referring to the sharing of profits and to the use of the phrase “ our branch ” in P. 5 that there was such an agreement as he alleges between himself and others on the one hand and the respondent on the other that “ G ” branch should in effect be carried on the same as previously with a division of profits among the former partners subject only to the payments to the Sri Lanka Omnibus Co., Ltd., to which I have already referred. It appears to me to be most significant that the books of the “ G ” branch which were admittedly in the hands of the respondent and which, one would have thought, 40 would have thrown considerable light on the nature of these payments made by the respondent to the former members of the K.A.B.

partnership, were unable to be produced. The explanation put forward on behalf of the respondent was that these books had been lost in the course of delivery to the Sri Lanka Omnibus Co.'s Accountants. Moreover, the books of the K.A.B. partnership itself which were also admittedly in the hands of the respondent were unable to be produced by him also on the ground that they had been mislaid. The respondent's income tax returns for the relevant period were also not forthcoming, although it is only fair to add that it was unlikely that they would have yielded any decisive indication.

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10 Another matter requires mention. On page 300 of the brief reference is made to a cheque for Rs. 437.62 payable by the Sri Lanka Bus Co. to one Romiel Dias, a brother of the appellant and one of the parents who has since died. It was contended that this was a payment made on the 5th of October, 1943, on account of his share in the monthly profits of the "G" branch. The respondent denies that this is so, but unfortunately failed to produce the cheque counter-foil book containing the cheque P. 12, although notice was duly given to the respondent's proctor by letter dated 13th October, 1948, asking him to cause the respondent to produce it. Reference to this matter
20 is made at the foot of page 300 of the brief.

It seems to me that it is in the light of the documents produced and of the absence of the other documents which one would have expected to see produced as part of the respondent's case and to which I have referred above, that the evidence of the plaintiff and the witnesses should be most carefully examined on the matter of the alleged agreement.

It is to be noted that the plaintiff's position was that eight of the nine partners of the K.A. B. Bus Co., were people of some small substance—as is exemplified by the fact adduced in evidence and which
30 was not challenged, that at some stage Romiel Dias was in a position to make a loan of Rs. 3,000 to the respondent—and were jealous of their position as bus operators. It is in evidence that it would not have been difficult at that period of time, 1942 to 1943, for bus drivers to obtain employment as there was a shortage of trained men. It would, therefore, seem to be unlikely that the attraction of being retained in employment in the newly-formed "G" branch was of any great persuasive value. Moreover, in assessing the weight to be attached to the respondent's explanation that the payments which he admittedly made to his former partners between March and
40 November, 1943, were in the nature of bonus payments to employees, it is relevant to bear in mind that three of the eight former partners were not, and have never been, engaged in the actual working of the buses. Two of the bus owners were women and a third was Romiel Dias to whom reference has already been made. Yet, these two received the series of letters inviting them to attend meetings for the purpose of checking and distributing the profits of the "G" branch.

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This is a circumstance which would seem to tend to support the appellant's position, namely, that it was their position as bus operators that these eight persons wished to have preserved in some appropriate way even after the absorption of the K.A.B. Bus Co. by the Sri Lanka Bus Co., Ltd. This, according to the appellant, was the position agreed upon on the 2nd of January, 1943, which was put into effect by the meeting of the 12th March, 1943, and received its ultimate confirmation on the 8th April. This interpretation of the meeting between the partners of the K.A.B. Bus Co., on the 2nd of January, 1943, received some confirmation from the respondent himself at pages 10 208 and 281 of the brief.

The respondent places reliance upon the evidence of Mr. Madanayake, particularly passages at pages 208 and 209 of the brief which relate to the selection and appointment of the respondent as manager of the "G" branch. It seems to me, however, that there is nothing in Mr. Madanayake's statement of the position which necessarily negatives the existence of an arrangement *inter se* between the respondent and the remaining former partners of the K.A.B. Bus Co.

The agreement alleged on behalf of the appellant is spoken to with sufficient clarity in various passages of the evidence of the appellant himself and of one Pabilis, who was also a partner in the K.A.B. Bus Co. 20

It is no doubt true that the learned District Judge, who had an opportunity of observing the demeanour of these two witnesses, states in his judgment that he rejects their evidence. I consider, however, that this is one of those cases in which this Court is in as good a position as the trial Court to arrive at the correct conclusion as to the basic issue in the case, namely, whether this arrangement has been established or not. It seems to me that, however unprepossessing or unconvincing the demeanour of the appellant and Pabilis 30 may have been, having regard to the documents which are entirely unfavourable to the respondent's case, and to the basic probabilities of the matter, their version, on the only part of the case that matters, should be accepted. It follows from this that the respondent's denial of the alleged agreement, which denial, in my opinion, flies in the face of the documents in the case, should be rejected, however satisfactory a witness he may have appeared to the District Judge to be on subsidiary matters.

In considering the probabilities of the matter it seems to me that the learned District Judge paid too little attention to the consideration 40 that the respondent was unable to give any satisfactory explanation as to why the appellant and the other partners of the K.A.B. Bus Co. should have been agreeable to the remarkable improvement in the respondent's position which was effected after his acceptance of the

managership of the " G " branch if his (the respondent's) version was true. According to him, although prior to the formation of the " G " branch he was only entitled to the proportion of the profits of the partnership as represented by his two buses in relation to the whole fleet, upon formation of the " G " branch the other eight partners were agreeable to his having the whole of the profits of the branch which was to be operated with the buses of all nine former partners.

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The respondent's explanation is that the other eight persons
10 were amply recompensed by the shares given to them in accordance
with the valuation of their individual buses, and by the fact that they
preserved their employment as bus drivers or employees of the
branch. But this explanation seems to overlook the fact that the
respondent himself also received shares according to the valuation of
his two buses. Moreover, the consideration of the retention of
employment in the new branch had no application as regards three
of the eight former partners, in that two of them were women and a
third was not employed in the " G " branch and had never been
actively employed in the K.A.B. Bus Co., and as regards the remaining
20 five it was, in my opinion, insufficient to influence them to accept
such an arrangement as the respondent alleges to be the true one, in
that, as I have already adverted to earlier, employment as such, as a
bus driver, was easy to come by in the year 1943 ; moreover, the
position of the appellant and his witness, Pabilis, is that the eight
partners of the K.A.B. Bus Co. were interested in the preservation of
their status—and the consequences flowing from that status—as bus
operators, and that their agreement with the respondent which took
the form of their sharing together in the profits of the new " G "
branch was, from their point of view, the most practical method of
30 achieving that end.

To summarize : the documents which have been produced in
the case are, in my opinion, inconsistent with the respondent's position
and consistent only with some such arrangement as alleged by the
appellant. Apart from the documents, the probabilities of the
matter seem to me to favour the appellant's version. Moreover, such
documents (I have adverted to them earlier) as were in the hands of
the respondent and would, if produced, have thrown light upon the
arrangement between the parties and substantiated the respondent's
denial (had it been true) of the alleged agreement, were unfortunately
40 mislaid and were unable to be produced by the respondent.

For all these reasons I am of opinion that the appeal must be
allowed and the judgment of the learned District Judge set aside and
the appellant's prayer for an account be granted. The matter must
be remitted to the District Court accordingly. The learned District
Judge will, no doubt, be mindful of his responsibilities in the event of

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proper accounts not being forthcoming. The respondent must pay the costs of this appeal and of the proceedings in the Court below.

(Sgd.) ALAN ROSE,
Chief Justice.

SANSONI, J.

I agree.

(Sgd.) M. C. SANSONI,
Puisne Judge.

No. 13

Decree of the Supreme Court

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No. 13
Decree of the
Supreme Court
4.8.54.

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

D.C. (F) 444M / 1951.

H. G. MARTIN DIAS of Maharagama, Giriulla
.....*Plaintiff-Appellant.*

against

K. M. PERERA of Morris Street, Kurunegala,
.....*Defendant-Respondent* 20

Action No. 3705. District Court of Kurunegala.

This cause coming on for hearing and determination on the 22nd, 23rd, 24th, 28th, 29th and 30th June and 1st July and 4th August, 1954, and on this day, upon an appeal preferred by the plaintiff-appellant before the Hon. Sir Alan Edward Percival Rose, Kt., Q.C., Chief Justice, and Hon. Mr. M. C. Sansoni, Puisne Justice of this Court, in the presence of counsel for the appellant and respondent

It is considered and adjudged that this appeal be and the same is hereby allowed and judgment of the District Judge is set aside 30 and the appellant's prayer for an account is granted and the case is remitted to the District Court for that purpose. The respondent must pay the costs of this appeal and of the proceedings in the Court below.

Witness the Hon. Sir Alan Edward Percival Rose, Kt., Q.C., Chief Justice at Colombo, the 16th day of August, in the year of our Lord One thousand Nine hundred and Fifty-four and of Our Reign the Third.

(Sgd.) W. G. WOUTERSZ,

(SEAL)

Dy. Registrar, S.C. 40

No. 14.

**Application for Conditional Leave to Appeal to
the Privy Council.**

No. 14
Application for
Conditional
Leave to Appeal
to the Privy
Council
26.8.54.

IN THE SUPREME COURT OF THE ISLAND OF
CEYLON.

S.C. 444 (F.) 1951.

D.C. Kurunegala 3705 (M).

In the matter of an Application under Rule 2 of Schedule to
Chapter 85 of the Legislative Enactments of Ceylon.

10 K. M. PERERA of Morris Street, Kurunegala *Petitioner*
vs.

H. G. MARTIN DIAS of Maharagama, Giriulla *Respondent.*

To His Lordship the Chief Justice and the other Justices of the
Hon'ble the Supreme Court of the Island of Ceylon.

On this 26th day of August, 1954.

The petition of the Petitioner abovenamed appearing by his
Proctors, Charles Laurence Weerasekera Perera, Albert Clarence
Amerasinghe and Ivor George Laurence Weerasekera Perera, practis-
ing in partnership under the name, style and firm of Perera & Perera,
20 states as follows :—

1. Your Lordships' Court delivered judgment in the above case
on the 4th August, 1954, setting aside the judgment of the learned
Additional District Judge.

2. The said judgment of Your Lordships' Court gives a final
judgment and the matter in dispute in the appeal is over Rs. 5,000
and the appeal also involves a claim or question respecting rights
of the value of over Rs. 5,000.

3. On the 5th August, 1954, the petitioner moved Your Lord-
ships' Court that notice of the petitioner's intended application to
30 Your Lordships' Court for conditional leave to appeal to Her Majesty
the Queen from the judgment of the Supreme Court dated the 4th
August, 1954, be served through Court on the plaintiff-respondent.

4. Your Lordships' Court ordered notice to issue on the plaintiff-
respondent through the Fiscal on the 5th August, 1954, and the
Fiscal made his return reporting that the plaintiff-respondent could
not be found.

5. The petitioner filed affidavit on the 6th August, 1954, stating
that the plaintiff-respondent was evading service of notice and Your
Lordships' Court ordered that substituted service of notice be effected
40 according to the directions of Court dated the 6th August, 1954.

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—Continued.

6. The Fiscal has duly made his return to the effect that service in the manner prescribed has been duly effected.

7. Petitioner has also complied with the other directions of Court that the notice should be published in the “ Dinamina ” and “ Lankadipa ” and in proof thereof he produces herewith issues of the said newspapers containing the said notice of the 13th August, 1954.

8. On the 5th August, 1954, the petitioner posted the said notice to the plaintiff-respondent by registered post and by express post and the registered letter receipt and certificate of posting are already filed of record marked R. 2 and R. 3. 10

9. The petitioner has, therefore, duly given notice to the plaintiff-respondent in terms of Rule 2 of the said schedule.

10. It is, therefore, necessary that the petitioner be granted conditional leave to appeal to Her Majesty the Queen in Council subject to such terms and conditions as to Your Lordships’ Court shall seem meet.

Wherefore the petitioner prays :

- (a) that he may be granted conditional leave to appeal to Her Majesty in Council from the said judgment of the Supreme Court of the Island of Ceylon on such terms as to Your Lordships’ Court may seem meet ;
- (b) for costs in the premises incurred ; and
- (c) for such other and further relief as to Your Lordships’ Court may seem meet.

(Sgd.) PERERA & PERERA,
Proctors for Petitioner.

No. 15
Decree granting
Conditional
Leave to Appeal
to the Privy
Council
8.9.54.

No. 15.

Decree Granting Conditional Leave to Appeal to the Privy Council.

ELIZABETH THE SECOND, Queen of Ceylon and of Her other Realms and Territories,
Head of the Commonwealth 30

IN THE SUPREME COURT OF THE ISLAND OF CEYLON.

K. M. PERERA of Morris Street, Kurunegala.....
.....*Petitioner (Defendant-Respondent).*
against
H. G. MARTIN DIAS of Maharagama, Giriulla.....
.....*Respondent (Plaintiff-Appellant).*

Action No. 3705/M. (S.C. 444. Final).
District Court of Kurunegala.

No. 15
Decree granting
Conditional
Leave to Appeal
to the Privy
Council 8.9.54
—Continued.

In the matter of an application dated 1st September, 1954, for conditional leave to appeal to Her Majesty the Queen in Council by the defendant-respondent abovenamed against the decree dated 4th August, 1954.

This cause coming on for hearing and determination on the 8th day of September, 1954, before the Hon. Mr. H. W. R. Weerasooriya, Puisne Justice and the Hon. Mr. K. D. de Silva, Puisne Justice of
10 this Court, in the presence of Counsel for the petitioner.

It is considered and adjudged that this application be and the same is hereby allowed upon the condition that the applicant do within one month from this date :—

1. Deposit with the Registrar of the Supreme Court a sum of Rs. 3,000 and hypothecate the same by bond or such other security as the Court in terms of Section 7 (1) of the Appellate Procedure (Privy Council) Order shall on application made after due notice to the other side approve.

2. Deposit in terms of provisions of section 8 (a) of the Appellate
20 Procedure (Privy Council) Order with the Registrar a sum of Rs. 3,000 in respect of fees mentioned in section 4 (b) and (c) of Ordinance No. 31 of 1909 (Chapter 85).

Provided that the applicant may apply in writing to the said Registrar stating whether he intends to print the record or any part thereof in Ceylon, for an estimate of such amounts and fees and thereafter deposit the estimated sum with the said Registrar.

Witness the Hon. Mr. E. H. T. Gunasekera, Puisne Justice, at Colombo, the 21st day of September, in the year of our Lord One thousand Nine hundred and Fifty-four and of Our Reign the Third.

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(Sgd.) W. G. WOUTERSZ,
Deputy Registrar, S.C.

No. 16.

**Application for Final Leave to Appeal to the
Privy Council.**

**IN THE SUPREME COURT OF THE ISLAND
OF CEYLON.**

S.C. 444 (F.) 1951.

D.C. Kurunegala 3705 (M.).

K. M. PERERA of Morris Street, Kurunegala. *Petitioner*

40

vs.

No. 16
Application for
Final Leave to
Appeal to the
Privy Council
30.9.54.

No. 16
Application for
Final Leave to
Appeal to the
Privy Council
30.9.54
—(continued).

H. G. MARTIN DIAS of Maharagama, Giriulla . . . *Respondent.*

In the matter of an application under Rules 1 and 3 of Schedule to Chapter 85 of the Legislative Enactments of Ceylon for final leave to appeal to Her Majesty in Council.

To His Lordship the Chief Justice and the other Judges of the Hon'ble the Supreme Court of the Island of Ceylon.

This 30th day of September, 1954.

The petition of the petitioner abovenamed appearing by his Proctors, Messrs. G. L. W. Perera, A. C. Amerasinghe and K. I. G. L. W. Perera, practising in partnership under the name, style and firm of 10 Perera & Perera, states as follows :—

1. On the 5th of August, 1954, the petitioner filed papers in Your Lordships' Court of his intended application for leave to appeal to the Privy Council in the above-numbered action and duly gave notice of such application as directed by Your Lordships' Court for service on the respondent.

2. Your Lordships' Court allowed the petitioner's application for conditional leave to appeal to Her Majesty in Council subject to the usual terms on the 2nd of September, 1954.

3. The petitioner deposited a sum of Rs. 3,000 on the 24th of 20 September, 1954, to the credit of the above case by way of security for the payment of all such costs as may become payable to the respondent in the event of the appellant not obtaining an order granting him final leave to appeal, or of the appeal being dismissed for non-prosecution, or of Her Majesty in Council ordering the appellant to pay the respondent's costs of the appeal (as the case may be).

4. The petitioner on the said date also deposited a further sum of Rs. 300 to cover the cost of printing of the record and transcript fees.

5. Kacheheri receipt bearing K/12 No. 006804 of the 24th 30 September, 1954, for the said aggregate sum of Rs. 3,300 has been duly issued.

6. The petitioner tenders herewith hypothecary bond securing the said sum of Rs. 3,000 in the name of the Registrar of Your Lordships' Court.

7. The petitioner is further prepared to comply with any other terms or conditions which Your Lordships' Court may deem fit to impose for the further prosecution of this appeal as a condition precedent to final leaving to appeal to Her Majesty in Council being 40 allowed by Your Lordships' Court.

8. The petitioner has duly complied with the conditions set forth in the schedule to the Rules of Chapter 85 of the Legislative Enactments of Ceylon.

9. Wherefore the petitioner prays :

- (1) that Your Lordships' Court may be pleased to grant him final leave to appeal to Her Majesty in Council ;
 (2) for costs in the premises incurred ; and
 (3) for such further and other relief as to Your Lordships' Court shall seem meet.

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 Application for
 Final Leave to
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 30.9.54
 —Continued.

(Sgd.) PERERA & PERERA,
Proctors for Petitioner.

No. 17.

**Decree Granting Final Leave to Appeal to the
 Privy Council.**

No. 17
 Decree granting
 Final Leave to
 Appeal to the
 Privy Council
 12.11.54

10

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

K. M. PERERA of Morris Street, Kurunegala.....
*Petitioner (Defendant-Respondent)*
 against

H. G. MARTIN DIAS of Maharagama, Giriulla.....
*Respondent (Plaintiff-Appellant).*

20

Action No. 3705/M. (S.C. 444. Final).
 District Court of Kurunegala.

In the matter of an application by the defendant abovenamed dated 30th September, 1954, for final leave to appeal to Her Majesty the Queen in Council against the decree of this Court dated 4th August, 1954.

This cause coming on for hearing and determination on the 12th day of November, 1954, before the Hon. Mr. K. D. de Silva, Puisne Justice and the Hon. Mr. H. N. G. Fernando, Acting Puisne Justice
 30 of this Court, in the presence of Counsel for the petitioner.

The applicant having complied with the conditions imposed on him by the order of this Court dated 8th September, 1954, granting conditional leave to appeal.

It is considered and adjudged that the applicant's application for final leave to appeal to Her Majesty the Queen in Council be and the same is hereby allowed.

Witness the Hon. Sir Alan Edward Percival Rose, Kt., Q.C., Chief Justice at Colombo, the 19th day of November in the year of our Lord One thousand Nine hundred and Fifty-four and of Our
 40 Reign the Third.

(Sgd.) W. G. WOUTERSZ,
Deputy Registrar, S.C.

Exhibits

 P. 49
 Letter from
 defendant re-
 garding meeting
 1.5.42

PART II EXHIBITS

P. 49

Letter from Defendant regarding Meeting POTHUHERA BUS OWNERS' UNION

Date : 1.5.1942.

Malpitiya, Kurunegala.

Dear Gentleman,

A conclusion could not be arrived at as some of the bus owners did not attend our meeting on 28th April last. 10

Therefore as a meeting is going to be held at the aforesaid Library on the 5th instant at 9 in the morning your presence is specially expected.

(Sgd.) K. M. PERERA,
Secretary.

Translated by :

(Sgd) Illegibly.

S. T.

18.5.45.

P. 1
 Certificate of
 Registration of
 K. A. B. Bus
 Co.
 20.7.42

P. 1

20

Certificate of Registration of K. A. B. Bus Co. BUSINESS NAMES ORDINANCE (CAP. 120) Certificate of Registration of a Firm

Certificate No. 1879.

I hereby certify that the following statement, made in pursuance of "the Business Names Ordinance (Cap. 120)" "was registered in the office of the Registrar of Business Names for the North Western Province, under number 1897 on the 20th day of July, 1942.

1. The business name : "K.A.B. Bus Company"
2. The general nature of the business : Plying Omnibuses for hire 30
3. The principal place of business : No. 7, Morris Street, Kurunegala
4. The date of the commencement of the business, if the business was commenced after November 7, 1918 : 1st July, 1942

5. Any other business name or names under which the business is carried on : Nil
6. The present name, in full, of every individual who is, and the corporate name of every Corporation which is, a partner in the firm : 1. Kekulawala Widanelage Manuel Perera
2. Loku Arachchige Pabilis Appuhamy
3. Makawitage Nikulas Appuhamy
4. Dahamaka Achilage Ranmenika
5. Horadugodagamage Romiel Dias
6. Horadugodagamage Martin Dias
7. Pitche Tambilage Seidahu Natchiya
8. Petikiri Arachchige Mendis Appuhamy
9. . . . itiya Arachchige John Singho
7. Any former name, in full, of every individual partner in the firm : 1. Nil
2. Nil
3. Nil
4. Nil
5. Nil
6. Nil
7. Nil
8. Nil
9. Nil
8. The nationality of every individual partner in the firm : 1. British
2. British
3. British
4. British
5. British
6. British
7. British
8. British
9. British
9. The nationality of origin (if other than the present nationality) of every individual partner of the firm : 1. Nil
2. Nil
3. Nil
4. Nil
5. Nil
6. Nil
7. Nil
8. Nil
9. Nil
10. The usual residence of every individual who is, and the registered or principal office of every corporation which is, a partner in the firm : 1. Malpitiya
2. Potuhera
3. Boyagane
4. Kapuwarala
5. Maharagama
6. Maharagama
7. Bevilgomuwa
8. Parabevila
9. Kurunegala

Exhibits
—
P. 1
Certificate of
Registration of
K. A. B. Bus
Co.
20.7.42—
Continued

Exhibits
—
P 1.
Certificate of
Registration of
K. A. B. Bus
Co.
20.7.42
—Continued.

- | | |
|--------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 11. The other business occupation (if any) of every individual partner in the firm : | 1. Landed Proprietor
2. Trader
3. Landed Proprietor
4. Landed Proprietor
5. Landed Proprietor
6. Landed Proprietor
7. Landed Proprietor
8. Landed Proprietor
9. Landed Proprietor |
|--------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

CANCELLED

10

(Sgd.) W. E. DE PINTO,
for R.B.N.N.W.P.
6.2.43.

Office of the Registrar of Business Names for the North-Western Province.
Dated at Kurunegala Kachcheri this 20th day of July, 1942.

(Sgd.) C. KANAPATHIPILLAI,
for Registrar of Business Names for the North-Western Province.

N.B.—Any change in the above particulars must be notified within 14 days. The penalty for default is Rs. 100 for each day's delay.

I do hereby certify that the above is a true copy of Business Name Certificate 20 No. 1879, dated 20th July, 1942.

(Sgd.)
for Registrar of Business Names, N.W.P.

Kurunegala Kachcheri,
3rd April, 1945.

P. 45

Letter from Defendant regarding Meeting

K. A. B. BUS Co.

Madam,

There is a meeting to be held at 9 a.m. on the 10th instant re- 30
garding the dividends of profits and losses this time.

Therefore expecting your presence in time.

(Sgd.) K. M. PERERA,
Managing Director,
5.9.42.

Translated by :

(Sgd.) Illegibly.
S. T.

P. 45
Letter from
Defendant re-
garding Meeting
5.9.42

P. 22**Letter from Defendant regarding Meeting***Translation.*

K. A. B. BUS Co.
 (Kurunegala—Alawwa Branch Service)
 Office : No. 7, Morris Street,
 Kurunegala.

2.10.1942.

Ceylon.

10 Sir,

As it has become necessary to organize limited companies regarding the omnibuses under the new ordinance, and as a special meeting will be held on the 20th instant at 9 a.m. in order to have discussions with a view to so organize a company I request you to attend the same punctually and take part in the discussion.

To which effect

(Sgd.) K. M. PERERA,
Managing Director.

Translated by :

20 (Sgd.) Illegibly.
 S. T.

P. 46**Letter from Secretary, K. A. B. Co. regarding Meeting***Translation.*

K. A. B. Office,
 Kurunegala.

8.10.42.

Sir,

The monthly meeting of the above company will be held at 9 a.m. on the 10th instant, and as there are several important matters to be discussed this day your presence in time is solicited.

To this

(Sgd.) Illegibly,
for K. A. B. Bus Co.

Secretary.

Translated by :

(Sgd.) Illegibly
 S. T.

Exhibits
 —
 P. 22
 Letter from
 Defendant re-
 garding Meeting
 2.10.42

P. 46
 Letter from
 Secretary,
 K. A. B. Co.
 regarding
 Meeting
 8.10.42

Exhibits

P. 47
Letter from
Secretary,
K.A.B. Co. re-
garding Meeting
8.10.42

P. 47**Letter from Secretary, K. A. B. Co. regarding Meeting**

K. A. B. Bus Co. Office,
Kurunegala.
8.10.42.

Gentleman,

That the meeting of the Association will be held on the 10th instant at 9 a.m. As there are important things to be discussed about your early attendance is requested.

(Sgd.) L. B. PERERA, 10
K. A. B. S. L.

Translated by :

(Sgd.) Illegibly
S. T. D. C. C.
18.5.45.

P. 20

P. 20
Letter from
Secretary,
K. A. B. Co. re-
garding Meeting
8.11.42

Letter from Secretary K. A. B. Bus Co.*Translation.*

K. A. B. BUS Co.
Office : No. 7, Morris St., 20
Kurunegala,
8.11.1942.
Ceylon.

Sir,

Regarding the checking of monthly profits and losses of the above company meeting will be held on the 12th instant. Therefore your presence at 11 a.m. is kindly solicited.

To this

By Order of Committee,
(Sgd.) FERNANDO, 30
Secretary.

Translated by :

(Sgd.) Illegibly.

P. 21**Letter from Defendant regarding Meeting***Translation.*

K. A. B. BUS Co.
(Kurunegala—Alawwa Branch Services)

Office : No. 7, Morris Street,
Kurunegala,
11.12.42.
Ceylon.

Exhibits
—
P. 21
Letter from
Defendant re-
garding Meeting
11.12.42

10 Sir,

As the meeting with regard to the looking into of the monthly profits and losses of the above company will be held on the 12th instant at 11 a.m. I request you kindly to attend the same punctually.

To which effect.

(Sgd.) K. M. PERERA,
Managing Director.

Translated by :
(Sgd.) Illegibly.
S. T.

20

P. 44**Letter from Defendant regarding Meeting**

K. A. B. BUS Co.
(Kurunegala—Alawwa Branch Service)

Office : No. 7, Morris Street,
Kurunegala,
11.12.42.
Ceylon.

P. 44
Letter from
Defendant re-
garding Meeting
11.12.42

Sir,

The monthly meeting of the above company will be held on the 12th of this month at 11 a.m. in order to see the monthly profits and losses.

Your presence is kindly solicited.

(Sgd.) K. M. PERERA,
Managing Director.

Translated by :
(Sgd.) Illegibly.
S. T.

30

Exhibits

P. 2

P. 2
Letter from
Defendant to
Members of
K. A. B. Bus Co.
31.12.42

Letter from Defendant to Members of K. A. B. Bus Co.

K. A. B. BUS Co.
No. 7, Morris Street,
Kurunegala.
31st December, 1942.

Gentleman,

As there will be a special meeting of this Association on 2nd
January, 1943, at 10 a.m. this is to remind you to be present on that
day in time. 10

(Sgd.) K. M. PERERA,
Managing Director.

Translated by :

(Sgd.) S. T.
23.4.45.

P. 13**Application for Route Licence**

P. 13
Application for
Route Licence
31.12.42

Form PSV 1.

K.A.B. VII.

For use in C.M.T.'s office only

Date received : 31.12.42 20

Licence and Service No.....

Serial No.....

OMNIBUS SERVICE LICENSING ORDINANCE, 1942**Application for the Grant of a Road Service Licence for a
Regular Service of Omnibuses or Motor Cabs**

NOTES

- (1) A separate application must be submitted in respect of each distinct route.
- (2) Each application must be accompanied by a map or diagram of the route and
by the following schedules in duplicate :—
- (a) The time table proposed (showing mileage—see specimen on page 3). 30
- (b) The fare table proposed (see specimen on page 4).

If the service is to be limited to certain days of the week or month or to some parti-
cular period or periods this should be clearly indicated on the time table as well as in the
answers on this form.

(3) The fee payable for a road service licence is Re. 1 for each month or part of a
month for which the licence is expressed to have effect. Fees should not be sent with
this form.

Endorsements on P. 13

K. C. S.

31 Dec.

Exhibits

P. 13

Application for
Route Licence
31.12.42*Continued*

Application withdrawn and the time table, fare table, plan of route taken for re-submission through Sri Lanka Bus Co.

(Sgd.) K. M. PERERA.

To The Commissioner of Motor Transport,

P. O. Box 533, Colombo.

I, the undersigned, hereby apply for a licence to provide a road service, details of which are shown below and in the schedules attached, and I declare that to the best of my knowledge and belief the statements made herein are true and correct.

Usual Signature : (Sgd.) K. M. PERERA.

Full name of person signing	Kerulawala Vidanelage Manuel Perera
Description	Managing Director
On behalf of	K.A.B. Bus Co.
Address	No. 7, Morris Street, Kurunegala
Date	_____
1. Is the applicant (if not a company) over 21 years of age ?	_____
2. Description of route :	
(a) Terminal points of the route as a whole (Terminal points must be specified precisely, e.g., Bus Stand, Lotus Road, Colombo)	Between Maharachimulla and Kurunegala Bus Stand <i>via</i> Alawwa
(b) Details of route sufficient to identify the roads to be traversed	Maharachimulla —Alawwa—Polgahawela—Kurunegala
3. Name any part of the route applied for which is common to any route on which any other bus owner operates a bus service	Between Alawwa and Kurunegala
4. (a) Is the application for a new service ?	(a) No
(b) Is the application for the continuation of an existing service ?	(b) Yes
(c) Is the existing service operated by the applicant ?	(c) Yes
(d) Does the applicant, if a company or partnership, comprise the holders of all the licenses now in force under the Motor Car Ordinance No. 45 of 1938 authorising the use of omnibuses on the route applied for ?	(d) Yes
(e) Has the applicant acquired the interests of the holders of all such licenses ?	(e) Yes

Exhibits
 P. 13
 Application for
 Route Licence
 31.12.42
 —Continued.

5. If for the continuance of an existing service, state—
- (a) Date when the service was commenced (a) Commenced in 1930
 - (b) Whether it has been run regularly in accordance with a time table .. (b) Yes
 - (c) Whether any modification or extension of the existing service is required ; if so, give particulars .. (c) None
6. Is the application for a service to be run every day throughout the year ? If not, give particulars of the day or the week or the occasion on which, or periods during which, it is to be run.. .. . Yes 10
7. (a) How many vehicles will normally be required to operate the service according to the proposed schedule ? .. (a) One
- (b) How many vehicles do you own ? .. (b) One
- (c) How many spare vehicles will be available for the operation of this service, if necessary ? (c) None at present but will acquire 20
8. What type or types of vehicles is it proposed to use for the operation of the service ?
- (a) *E.g.* Bus, motor cab, type of body, make, petrol or diesel (a) Bus ; open body
 - (b) Seating capacity of each vehicle .. (b) 22
9. State :
- (a) Monthly bus mileage represented by the time table submitted .. (a) 1302 30
 - (b) The amount of fuel required to cover this monthly mileage (b) (i) Petrol, 108 gals.
(ii) Diesel oil—gals.
 - (c) The amount of fuel at present allowed by the Petrol Controller for all the buses to be used on this service .. (c) (i) Petrol, 75 gals.
(ii) Diesel oil—gals.
- (Time Table and Fare Table omitted)

P. 14
 Application for
 Route Licence
 31.12.42

P. 14

**APPLICATION FOR ROUTE LICENCE
 OMNIBUS SERVICE LICENSING ORDINANCE, 1942 40
 Application for the Grant of a Road Service Licence for a
 Regular Service of Omnibuses or Motor Cabs**

Form PSV. I.

K.A.B. VI

For use in C.M.T's office only.
 Date received : 31.12.42.
 Licence and Service No.....
 Serial No.....

NOTES

Exhibits

- (1) A separate application must be submitted in respect of each distinct route.
- (2) Each application must be accompanied by a map or diagram of the route and by the following schedules in duplicate :—

P. 14
Application for
Route Licence
31.12.42
---Continued

- (a) The time table proposed (showing mileage— see specimen on page 3).
- (b) The fare table proposed (see specimen on page 4).

If the service is to be limited to certain days of the week or month or to some particular period or periods this should be clearly indicated on the time table as well as in the answers on this form.

- 10 (3) The fee payable for a road service licence is Re. 1 for each month, or part of a month for which the licence is expressed to have effect. Fees should not be sent with this form.

Endorsements on P. 14.
D. of T. Received.
31 Dec., 1942.

Application withdrawn, time table, fare table and plan of route taken away for re-submission through the Sri Lanka Bus Co., Ltd.

(Sgd.) K. M. PERERA.

20 To The Commissioner of Motor Transport,
P. O. Box 533, Colombo.

I, the undersigned, hereby apply for a licence to provide a road service, details of which are shown below and in the schedules attached, and I declare that to the best of my knowledge and belief the statements made herein are true and correct.

Usual Signature : (Sgd.) K. M. PERERA.

30	Full name of person signing	Kekulawala Vidanilage Manuel Perera
	Description	Managing Director
	On behalf of	K.A.B. Bus Co.
	Address	No. 7, Morris Street, Kurunegala
	Date	— —
	1. Is the applicant (if not a company) over 21 years of age ?	— —
	2. Description of route :—	
	(a) Terminal points of the route as a whole (Terminal points must be specified precisely, e.g., Bus Stand, Lotus Road, Colombo)	Between Mottunna and Kurunegala Bus Stand
40	(b) Details of route sufficient to identify the roads to be traversed	Mottunna, Mirigama, Warakapola, Alawwa, Polgahawela, Kurunegala

Exhibits
—
P. 14
Application for
Route Licence
31.12.42
—Continued.

3. Name any part of the route applied for which is common to any route on which any other bus owner operates a bus service .. Between Ambepussa and Kurunegala
4. (a) Is the application for a new service ? .. No
- (b) Is the application for the continuation of an existing service ? .. Yes
- (c) Is the existing service operated by the applicant ? .. Yes
- (d) Does the applicant, if a company or partnership, comprise the holders of all the licenses now in force, under the Motor Car Ordinance No. 45 of 1938 authorising the use of omnibuses on the route applied for .. Yes 10
- (e) Has the applicant acquired the interests of the holders of all such licenses ? .. Yes
5. If for the continuance of an existing service, state -
- (a) Date when the service was commenced .. (a) Commenced in 1934 20
- (c) Whether it has been run regularly in accordance with a time table .. (c) Yes
- (b) Whether any modification or extension of the existing service is required : if so, give particulars .. (b) — — —
- (d) Whether any modification or extension of the existing service is required : if so, give particulars .. (d) None
6. Is this application for a service to be run every day throughout the year ? If not, give particulars of the day or the week or the occasion on which, or, periods during which, it is to be run .. Yes 30
7. (a) How many vehicles will normally be required to operate the service according to the proposed schedule ? .. (a) One
- (b) How many vehicles do you own ? .. (b) One
- (c) How many spare vehicles will be available for the operation of this service, if necessary ? .. (c) None at present but will acquire 40
8. What type or types of vehicle is it proposed to use for the operation of the service ? .. Bus : open body
- (a) E.g., Bus, Motor Cab type of body, make Petrol or Diesel ..
- (b) Seating capacity of each vehicle .. 22

9. State :
- (a) the monthly bus mileage represented by the time table submitted .. (a) 2356
 - (b) the amount of fuel required to cover this monthly mileage (b) (i) petrol, 196 gals.
(ii) Diesel oil—gals.
 - (c) the amount of fuel at present allowed by the Petrol Controller for all the buses to be used on this service .. (c) (i) Petrol, 95 gals.
(ii) Diesel oil—gals.
- 10 (Time Table and Fare Table omitted)

Exhibits
—
P. 14
Application for
Route Licence
31.12.42
Continued

P. 15

APPLICATION FOR ROUTE LICENCE

Form PSV. I.

K.A.B. V.

For use in C.M.T's office only.

Date received : 31.12.42.

Licence and Service No.....

Serial No.....

P. 15
Application for
Route Licence
31.12.42

20 *Endorsements on P. 15.*
D. of T. Received.
31 Dec., 1942.

K. C. S.
30 Dec.

Application withdrawn, time table, fare table and plan of route taken away for re-submission through the Sri Lanka Omnibus Co., Ltd.

(Sgd.) K. M. PERERA.

OMNIBUS SERVICE LICENSING ORDINANCE, 1942

Application for the grant of a Road Service Licence for a regular service of Omnibuses or Motor Cabs

30

NOTES

- (1) A separate application must be submitted in respect of each distinct route.
- (2) Each application must be accompanied by a map or diagram of the route and by the following schedules in duplicate : -
 - (a) The time table proposed (showing mileage— see specimen on page 3).
 - (b) The fare table proposed (see specimen on page 4).

If the service is to be limited to certain days of the week or month or to some particular period or periods this should be clearly indicated on the time table as well as in the answers on this form.

40 (3) The fee payable for a road service licence is Re. 1 for each month or part of a month for which the licence is expressed to have effect. Fees should not be sent with this form.

Exhibits
P. 15
Application for
Route Licence
31.12.42
—Continued.

To The Commissioner of Motor Transport,
P. O. Box 533, Colombo.

I, the undersigned, hereby apply for a licence to provide a road service, details of which are shown below and in the schedules attached, and I declare that to the best of my knowledge and belief the statements made herein are true and correct.

Usual Signature : (Sgd.) K. M. PERERA.

- | | | |
|-------------------------------------|-------------------------------------|----|
| Full name of person signing | Kekulawala Vidanalage Manuel Perera | |
| Description | Managing Director | |
| On behalf of | K.A.B. Bus Co. | 10 |
| Address | No. 7, Morris Street, Kurunegala | |
1. Is the applicant (if not a company) over 21 years of age ?
 2. Description of route :—
 - (a) Terminal points of the route as a whole (a) Between Katupitiya and Kurunegala Bus Stand *via* Dambokka
 - (b) Details of route sufficient to identify the roads to be traversed .. (b) Katupitiya—Dambokka—Kurunegala 20
 3. Name any part of the route applied for which is common to any route on which any other bus owners operate a bus service .. Between Dambokka and Kurunegala
 4. (a) Is the application for a new service ? .. (a) No
 - (b) Is the application for the continuance of the existing service ? .. (b) Yes
 - (c) Is the existing service operated by the applicant ? .. (c) Yes
 - (d) Does the applicant, if a company or partnership, comprise the holders of all the licences now in force under the Motor Car Ordinance No. 45 of 1938, authorising the use of omnibuses on the route applied for .. (d) Yes 30
 - (e) Has the applicant acquired the interests of the holders of all such licences ? .. (e) Yes
 5. If for the continuance of an existing service, state—
 - (a) Date when the service was commenced .. (a) Commenced in 1935 40
 - (b) Whether it has been run regularly in accordance with the time table .. (b) Yes

- (c) Whether any modification or extension of the existing service is required, if so, give particulars (c) None
6. Is this application for a service to be run every day throughout the year? If not, give particulars of the day or the week or the occasion on which, or periods during which, it is to be run Yes
- 10 7. (a) How many vehicles will normally be required to operate the service according to the present schedule? .. (a) One
- (b) How many vehicles do you own? .. (b) One
- (c) How many spare vehicles will be available for the operation of this service, if necessary? (c) None at present, but will acquire
8. What type or types of vehicles is it proposed to use for the operation of this service? (a) Bus : open body
- (b) Seating capacity of each vehicle .. (b) 22
9. State :—
- 20 (a) the monthly bus mileage represented by the time table submitted .. (a) 620
- (b) the amount of fuel required to cover this monthly mileage (b) Petrol 52 gals.
- (c) the amount of fuel at present allowed by the Petrol Controller for all the buses to be used on this service .. (c) Petrol 50 gals.

(Time Table and Fare Table omitted)

P. 16

APPLICATION FOR ROUTE LICENCE

30 **OMNIBUS SERVICE LICENSING ORDINANCE, 1942**

Application for the Grant of a Road Service Licence for a Regular Service of Omnibuses or Motor Cabs

Form PSV. I.

K.A.B. IV.

For use in C.M.T.'s office only.

Date received : 31.12.42.

Licence and Service No.....

Serial No.....

Endorsements on P. 16.

D. of T. Received.

40 31 Dec., 1942.

Exhibits
—
P. 15
Application for
Route Licence
31.12.42
—Continued.

P. 16
Application for
Route Licence.
31.12.42

Exhibits

NOTES

P. 16
Application for
Route Licence
31.12.42
Continued

- (1) A separate application must be submitted in respect of each distinct route.
 (2) Each application must be accompanied by a map or diagram of the route and by the following schedules in duplicate :—
 (a) The time table proposed (showing mileage—see specimen on page 3).
 (b) The fare table proposed (see specimen on page 4).

If the service is to be limited to certain days of the week or month or to some particular period or periods this should be clearly indicated on the time table as well as in the answers on this form.

(3) The fee payable for a road service licence is Re. 1 for each month or part of a 10 month for which the licence is expressed to have effect. Fees should not be sent with this form.

K. C. S.

31 Dec.

Application withdrawn, time table, fare table and plan of route taken away for re-submission through Sri Lanka Bus Co., Ltd.

(Sgd.) K. M. PERERA.

To The Commissioner of Motor Transport,

P. O. Box 533, Colombo.

I, the undersigned, hereby apply for a licence to provide a road 20 service, details of which are shown below and in the schedules attached and I declare that to the best of my knowledge and belief the statements made herein are true and correct.

Usual Signature : (Sgd.) K. M. PERERA.

Full name of person signing .. .. .	.. .. .	Kekulawala Vidanilage Manuel Perera
Description .. .. .	.. .. .	Managing Director
On behalf of .. .. .	.. .. .	K.A.B. Bus Co.
Address .. .. .	.. .. .	No. 7, Morris Street, Kurunegala
Date .. .. .	.. .. .	-----

1. Is the applicant (if not a company) over 21 years of age? 30

2. Description of route :—

(a) Terminal points of the route as a whole (a) Between Giriulla and Kurunegala Bus Stand *via* Alawwa

(b) Details of route sufficient to identify the roads to be traversed (Names of towns and villages to be in Block Capitals and the names of roads in towns to be given) (b) Giriulla—Alawwa—Kurunegala 40

(A map or diagram of the route should be supplied)

		Exhibits
		—
	3. Name and part of the route applied for which is common to any route on which any other bus owner operates a bus service	Between Alawwa and Kurumegala
	4. (a) Is the application for a new service ..	(a) No
	(b) Is the application for the continuation of the existing service ?	(b) Yes
	(c) Is the existing service operated by the applicant ?	(c) Yes
10	(d) Does the applicant, if a company or partnership, comprise the holders of all the licences now in force under the Motor Car Ordinance No. 45 of 1938 authorising the use of omnibuses on the route applied for ?	(d) Yes
	(e) Has the applicant acquired the interests of holders of all such licences ? ..	(e) Yes
	5. If for the continuance of an existing service, state	
	(a) Date when the service was commenced	(a) Commenced in 1922
20	(b) Whether it has been run regularly in accordance with a time table ..	(b) Yes
	(c) Whether any modification or extension of the existing service is required : If so, give particulars. (Any modification of route, time table or fares should be set out in details. If no modifications are desired state "none")	(c) None
30	6. Is this application for a service to be run every day throughout the year ? If not, give particulars of the day or the week or the occasion on which, or periods during which, it is to be run	Yes
	7. (a) How many vehicles will normally be required to operate the service according to the proposed schedule ? ..	(a) One
	(b) How many vehicles do you own ? ..	(b) One
40	(c) How many spare vehicles will be available for the operation of this service, if necessary ?	(c) None at present but will be acquired
	8. What type or types of vehicle is it proposed to use for the operation of the service ?	
	(a) <i>E.g.</i> , Bus, motor cab, type of body, make, petrol or diesel	(a) Bus : open body
	(b) Seating capacity of each vehicle ..	(b) 22

P. 16
Application for
Route Licence
31.12.42
Continued.

Exhibits
P. 16
Application for
Route Licence
31.12.42
--Continued

9. State :—

- (a) the monthly bus mileage represented
by the time table submitted .. (a) 1674
- (b) the amount of fuel required to cover
this monthly mileage (b) Petrol 140 gals.
- (c) the amount of fuel at present allowed
by the Petrol Controller for all the
buses to be used on this service .. (c) Petrol 70 gals.
- (Time Table and Fare Table omitted)

P. 17
Application for
Route Licence
31.12.42

P. 17

10

APPLICATION FOR ROUTE LICENCE
OMNIBUS SERVICE LICENSING ORDINANCE, 1942
Application for the Grant of a Road Service Licence for a
Regular Service of Omnibuses or Motor Cabs

Form PSV. I.

K.A.B. III.

For use in C.M.T's office only.

Date received : 31.12.42.

Licence and Service No.....

Serial No.....

NOTES

20

- (1) A separate application must be submitted in respect of each distinct route.
- (2) Each application must be accompanied by a map or diagram of the route and by the following schedule in duplicate :—
- (a) The time table proposed (showing mileage—see specimen on page 3).
- (b) The fare table proposed (see specimen on page 4).
- If the service is to be limited to certain days of the week or month or to some particular period or periods this should be clearly indicated on the time table as well as in the answers on this form.
- (3) The fee payable for a road service licence is Re. 1 for each month or part of a month for which the licence is expressed to have effect. Fees should not be sent with 30 this form.

Endorsements on P. 17.

D. of T. Received.

31 Dec., 1942.

K. C. S.

31 Dec.

Application withdrawn, time table, fare table and plan of route taken for re-submission through Sri Lanka Bus Co., Ltd.

(Sgd.) K. M. PERERA.

To The Commissioner of Motor Transport,
P. O. Box 533, Colombo.

Exhibits
—
P. 17
Application for
Route Licence
31.12.46
—Continued.

I, the undersigned, hereby apply for a licence to provide a road service, details of which are shown below and in the schedules attached, and I declare that to the best of my knowledge and belief the statements made herein are true and correct.

Usual Signature : (Sgd.) K. M. PERERA.

- | | | |
|----|-------------------------------------|-------------------------------------|
| | Full name of person signing | Kekulawala Vidanalage Manuel Perera |
| | On behalf of | K.A.B. Bus Co. |
| 10 | Description | Managing Director |
| | Address | No. 7, Morris Street, Kurunegala |
| | Date | — — — |
-
1. Is the applicant (if not a company) over 21 years of age ? ———

 2. Description of route :—
 - (a) Terminal points of the route as a whole (Terminal points must be specified precisely *e.g.*, Bus Stand, Lotus Road, Colombo)
 - (a) Between Narammala and Kurunegala Bus Stand

 - (b) Details of route sufficient to identify the roads to be traversed
 - (b) Narammala—Wadakada—Polgahawela—Kurunegala

 3. Name any part of the route applied for which is common to any route on which any other bus owner operate a bus service
 - Between Polgahawela and Kurunegala

 4. (a) Is the application for a new service ? (a) No
 - (b) Is the application for the continuation of an existing service ? (b) Yes
-
- 30 (c) Is the existing service operated by the applicant ? (c) Yes

 - (d) Does the applicant, if a company or partnership, comprise the holders of all the licences now in force under the Motor Car Ordinance No. 45 of 1938 authorising the use of omnibuses on the route applied for ; or (d) Yes

 - (e) Has the applicant acquired the interests of the holders of all such licences ? (e) Yes

Exhibits
 P. 17
 Application for
 Route Licence
 31.12.42
 —Continued

5. If for the continuance of an existing service state :—
- (a) Date when the service was commenced (a) Commenced prior to 1935
- (b) Whether it has been run regularly in accordance with a time table .. (b) Yes
- (c) Whether any modification or extension of the existing service is required : if so, give particulars (c) None
6. Is this application for a service to be run every day throughout the year ? If not, give particulars of the day or the week or the occasion on which or periods during which, it is to be run Yes 10
7. (a) How many vehicles will normally be required to operate the service according to the proposed schedule .. (a) One
- (b) How many vehicles do you own ? .. (b) One
- (c) How many spare vehicles will be available for the operation of this service, if necessary ? (c) None at present, but will acquire 20
8. What type or types of vehicles is it proposes to use for the operation of this service ?
- (a) *E.g.* Bus, motor cab, type of body, make, petrol or diesel .. (a) Bus : open body
- (b) Seating capacity of each vehicle .. (b) 22 passengers
9. State :—
- (a) the monthly bus mileage represented by the time table submitted .. (a) 1488
- (b) the amount of fuel required to cover this monthly mileage (b) Petrol 124 gals. 30
- (c) the amount of fuel at present allowed by the Petrol Controller for all the buses to be used on this service .. (c) Petrol 90 gals.
- (Time Table and Fare Table omitted)

P. 18

**APPLICATION FOR ROUTE LICENCE
OMNIBUS SERVICE LICENSING ORDINANCE, 1942
Application for the Grant of a Road Service Licence for a
Regular Service of Omnibuses or Motor Cabs**

Exhibits
P. 18
Application for
Route Licence
31.12.42

Form PST. I.

K.A.B. II.

For use in C.M.T.'s office only.

Date received : 31.12.42.

Licence and Service No.....

Serial No.....

10

NOTES

(1) A separate application must be submitted in respect of each distinct route.

(2) Each application must be accompanied by a map or diagram of the route and by the following schedules in duplicate :—

(a) The time table proposed (showing mileage—see specimen on page 3).

(b) The fare table proposed (see specimen on page 4).

If the service is to be limited to certain days of the week or month or to some particular period or periods this should be clearly indicated on the time table as well as in the answers on this form.

20 (3) The fee payable for a road service licence is Re. 1 for each month or part of a month for which the licence is expressed to have effect. Fees should not be sent with this form.

Endorsements on P. 18.

D. of T. Received.

31 Dec., 1942.

Application withdrawn and time table, fare table and plan of route taken away for re-submission through the Sri Lanka Bus Co., Ltd.

(Sgd.) K. M. PERERA.

30 To The Commissioner of Motor Transport,
P. O. Box 533, Colombo.

I, the undersigned, hereby apply for a licence to provide a road service, details of which are shown below and in the schedules attached, and I declare that to the best of my knowledge and belief the statements made herein are true and correct

Usual Signature : (Sgd.) K. M. PERERA.

Full name of person signing ..	..	..	..	Kekulawala Vidanelage Manuel Perera
Description ..	..	..	..	Managing Director
On behalf of ..	..	..	..	K.A.B. Bus Co.
40 Address ..	..	..	..	No. 7, Morris Street, Kurunegala

Exhibits P. 18 Application for Route Licence 31.12.42 ---Continued	1. Is the applicant (If not a company) over 21 years of age ?	-----	
	2. Description of route :— (a) Terminal points of the route as a whole (Terminal points must be specified precisely, e.g., Bus Stand, Lotus Road, Colombo) (b) Details of route sufficient to identify the roads to be traversed	(a) Between Muddaramagama and Kurunegala Bus Stand via Giriulla and Alawwa (b) Muddaragama—Mirigama Giriulla—Alawwa—Polgahawela—Kurunegala	10
	3. Name any part of the route applied for which is common to any route on which any other bus owner operates a bus service	Between Alawwa and Kurunegala	
	4. (a) Is the application for a new service ? (b) Is the application for the continuation of an existing service ? (c) Is the existing service operated by the applicant ? (d) Does the applicant, if a company or partnership, comprise the holders of all the licences now in force under the Motor Car Ordinance No. 45 of 1938 authorising the use of omnibuses on the route applied for ; or (e) Has the applicant acquired the interests of the holders of all such licences ?	(a) No (b) Yes (c) Yes (d) Yes (e) Yes	20
	5. If for the continuance of an existing service, state :— (a) Date when the service was commenced (b) Whether it has been run regularly in accordance with a time table ? (c) Whether any modification or extension of the existing service is required ; if so, give particulars	(a) Commenced in 1937 (b) Yes (c) None	30
	6. Is this application for a service to be run every day throughout the year ? If not, give particulars of the day or the week or the occasion on which, or periods during which, it is to be run	Yes	40
	7. (a) How many vehicles will normally be required to operate the service according to the proposed schedule ? (b) How many vehicles do you own ? (c) How many spare vehicles will be available for the operation of this service if necessary	(a) One (b) One (c) None at present but will acquire	

8. What type or types of vehicles is it proposed to use for the operation of the service ?
- (a) *E.g.* Bus, motor cab. Type of body, make, petrol or diesel (a) Bus : open body
- (b) Seating capacity of each vehicle (b) 27
9. State :—
- (a) the monthly bus mileage represented by the time table submitted (a) 2666
- 10 (b) the amount of fuel required to cover this monthly mileage (b) Petrol 222 gallons
- (c) the amount of fuel at present allowed by the Petrol Controller for all the buses to be used on this service (c) Petrol 70 gals.
(Time table and fare table omitted)

Exhibits
—
P. 18
Application for
Route Licence
31.12.42
—Continued

P. 19

APPLICATION FOR ROUTE LICENCE

P. 19
Application for
Route Licence
31.12.42

Endorsements on P. 19.

D. of T. Received.

31 Dec., 1942.

- 20 Application withdrawn and time table, fare table and plan of route taken away for re-submission through the Sri Lanka Bus Co., Ltd.

(Sgd.) K. M. PERERA.

OMNIBUS SERVICE LICENSING ORDINANCE, 1942

Application for the grant of a Road Service Licence for a regular service of Omnibuses or Motor Cabs

NOTES

- (1) A separate application must be submitted in respect of each distinct route.
- (2) Each application must be accompanied by a map or diagram of the route and
30 by the following schedules in duplicate :—
- (a) The time table proposed (showing mileage—see specimen on page 3).
- (b) The fare table proposed (see specimen on page 4).

If the service is to be limited to certain days of the week or month or to some particular period or periods this should be clearly indicated on the time table as well as in the answers on this form.

(3) The fee payable for a road service licence is Re. 1 for each month or part of a month for which the licence is expressed to have effect. Fees should not be sent with this form.

40 To The Commissioner of Motor Transport,
P. O. Box 533, Colombo.

I, the undersigned, hereby apply for a licence to provide a road service, details of which are shown below and in the schedules attached,

Exhibits
—
P. 19
Application for
Route Licence
31.12.42
—Continued

and I declare that to the best of my knowledge and belief the statements made herein are true and correct.

Usual Signature : (Sgd.) K. M. PERERA.

- | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|
| Full name of person signing | Kekulawala Vidanalage Manuel Perera |
| Description | Managing Director |
| On behalf of | K.A.B. Bus Co. |
| Address | No. 7, Morris Street, Kurunegala |
| 1. Is the applicant (if not a company) over 21 years of age ? | ————— |
| 2. Description of route :— | 10 |
| (a) Terminal points of the route as a whole | Between Alawwa and Kurunegala Bus Stand |
| (b) Details of route sufficient to identify the route to be traversed | Alawwa—Polgahawela—Kurunegala |
| 3. Name any part of the route applied for which is common to any route on which any other bus owner operate a bus service | Between Alawwa and Kurunegala |
| 4. (a) Is the application for a new service ? | (a) No |
| (b) Is the application for the continuation of an existing route ? | (b) Yes |
| (c) Is the existing service operated by the applicant ? | (c) Yes |
| (d) Does the applicant, if a company or partnership, comprise the holders of all the licences now in force under the Motor Car Ordinance No. 45 of 1938, authorising the use of omnibuses on the route applied for ? | (d) Yes |
| (e) Has the applicant acquired the interests of the holders of all such licences ? | (e) Yes |
| 5. If for the continuance of an existing service, state :— | 30 |
| (a) Date when the service was commenced | (a) Commenced in 1925 |
| (b) Whether it has been run regularly in accordance with a time table | (b) Yes |
| (c) Whether any modification or extension of the existing service is required ; if so, give particulars | (c) None |
| 6. Is this application for a service to be run every day throughout the year ? If not, give particulars of the day or the week or the occasion on which, or periods during which, it is to be run | 40 |
| 7. (a) How many vehicles will normally be required to operate the service according to the proposed schedule ? | (a) Eight |

- (b) How many vehicles do you own ? .. (b) Five
- (c) How many spare vehicles will be available for the operation of this service, if necessary ? .. (c) None at present, but will acquire
8. What type or types of vehicles is it proposed to use for the operation of the service ?
- (a) *E.g.*, Bus, motor cab, type, or types of body, make, petrol or diesel .. (a) Bus : open body
- (b) Seating capacity of each vehicle .. (b) 26
- 10 9. State :—
- (a) the monthly bus mileage represented by the time table submitted .. (a) 136,921
- (b) the amount of fuel required to cover this monthly mileage .. (b) Petrol 1,141 gals.
- (c) the amount of fuel at present allowed by the Petrol Controller for all the buses to be used on this service .. (c) Petrol 305 gals.

Exhibits
—
P. 19
Application for
Route Licence
31.12.42
—Continued.

D. 25.

Minutes of Meeting.

D. 25
Minutes of
Meeting
5.1.43

20 **SRI LANKA OMNIBUS CO., LTD.**

Minutes of the meeting of Directors held on 5th January, 1943, at 11 a.m., at Victoria Buildings, Norris Road, Pettah.

There were present Messrs. B. J. Fernando, M. Jayasena, W. K. Fernando, P. D. F. Alwis and Dr. A. P. De Zoysa.

Dr. A. P. De Zoysa presided.

It was decided that Mr. D. J. F. Obeysekera be appointed the secretary of the company on a monthly salary of Rs. 100.

It was decided that branches of the company be established called "A," "B," "C," "D," and "E." It was also decided that
30 the Bank of Ceylon be and hereby authorised and requested to pay all cheques purporting to be drawn on behalf of the company and to debit the same to the account kept with them by the company whether such account be in credit or otherwise ; Provided the said cheques are signed by two directors for the time being of the said company ; that a list of the names and specimen signatures of the persons at present authorised to sign under this resolution be furnished to the said bank, and that they be advised in writing of all changes which may take place in the same from time to time ; that a copy of this resolution be furnished to the said bank and it remain in force until the receipt
40 by the said bank of a copy of a resolution to be passed by the said company rescinding the same.

It was resolved that the company should decide before it takes a loan from any one, the amount of the loan and the person from

Exhibits
—
D. 25
Minutes of
Meeting
5.1.43
—Continued

whom the loan to be taken. The directors' meeting could make such decisions.

It was decided that the following loans be taken and that interest be paid at 5% per annum: From Muhandiram B. J. Fernando, Rs. 9,000; from Messrs. F. D. F. Alwis and K. W. Fernando, Rs. 13,500; and from Mr. M. Jayasena, Rs. 27,500. It was resolved to buy 18 omnibuses from Mr. B. J. Fernando, 27 buses from Messrs. P. D. F. Alwis and W. K. Fernando, and 65 buses from Mr. M. Jayasena.

It was also decided to allot 3,250 shares to Mr. M. Jayasena, 900 shares to Muhandiram B. J. Fernando, 850 shares to Mr. P. D. F. Alwis, and 850 shares to Mr. W. K. Fernando. All the above shares are to be treated as 90% of them as paid.

(Sgd.) M. JAYASENA
" B. J. FERNANDO
" P. D. F. ALWIS
" W. K. FERNANDO
" A. P. de ZOYSA.

5th January, 1943.

(Sgd.) D. J. F. OBEYSEKERA.

P 3
Valuation of
Bus
16.1.43

P. 3.
Valuation of Bus.

20

Colombo,
16.1.1943.

*From Sri Lanka Omnibus Co., Ltd.,
P.O. Box 155, Colombo.*

We have taken possession of the undernoted omnibus as per particulars given below:—

Bus No.	Make	Engine No.	Chassis No.	Assessed Value
				Rs. Cts. 30
X 4361	.. Willy's			
	6 Cyld.	..	..	.. 1,750 00
	Route value of above vehicle and good-			
	will	..	..	.. 500 00
				Rs. .. 2,250 00

· Rupees Two thousand two hundred and fifty only.

(Sgd.).....
Sri Lanka Omnibus Co., Ltd.,
Manager.

P. 23.**Valuation of Bus and Receipt.**

Colombo,
16.1.1943.

Exhibits
—
P 23
Valuation of
Bus and Receipt
16.1.43/23.2.43

From Sri Lanka Omnibus Co., Ltd.,
P.O. Box 155, Colombo.

We have taken possession of the undermentioned omnibus
as per particulars given below.

10 Sri Lanka Omnibus Co., Ltd.,
(Sgd.) Illegibly,
Manager.

Bus No.	Make	Engine No.	Chassis No.	Assessed Value
X 1340	.. Dodge	.. —	.. —	.. 1,500 00
	Route value and goodwill of the above vehicle	..	..	.. 500 00
				Rs. .. 2,000 00

Rupees Two thousand only.

20 Sri Lanka Omnibus Co., Ltd.,
(Sgd.) Illegibly,
Manager.

SRI LANKA OMNIBUS CO., LTD.
(Incorporated in Ceylon)
(Liability of members is limited)

41, Victoria Building,
Norris Road, Colombo.
February 23, 1943.

Received from Mr. L. A. Pabilis Appuhamy of Potuhera omnibus
bearing No. X 1340 transferred with its route and goodwill to the
30 Sri Lanka Omnibus Co., Ltd., for Rupees Two thousand only.

Sri Lanka Omnibus Co., Ltd.,
(Sgd.) Illegibly,
Secretary.

N.B.—Please note that this amount is with the company to your
credit.

Exhibits

D 1
Minutes of
Special General
Meeting of Sri
Lanka Omnibus
Co., Ltd.
22.1.43

D. I

**Minutes of Special General Meeting of Sri Lanka
Omnibus Co. Ltd.**

SRI LANKA OMNIBUS CO. LTD.

Minutes of the special general meeting held on 22nd January, 1943, at 11 a.m. at the registered office at Victoria Buildings, Pettah, Colombo.

All the shareholders of the company, *i.e.*, Messrs. M. Jayasena, B. J. Fernando, P. D. F. Alwis, W. K. Fernando, Dr. A. P. de Zoysa and Mr. D. J. F. Obeysekera were present. Dr. A. P. de Zoysa 10 presided.

It was agreed by all the members entitled to attend and vote at meeting to dispense with notice required by section 115 of Ordinance No. 15 of 1938.

The following special resolution was unanimously passed : " That regulations 2 (a), 2 (b) and 2 (c) of the company's articles of association be repealed and replaced by the following regulations which shall be numbered as regulation 108 :—

108. The company shall be a private company and it (a) restricts the right to transfer its shares ; (b) limits the 20 number of its members to 50, not including persons who are in the employment of the company and persons who, having been formerly in the employment of the company ; and (c) prohibits any invitation to the public to subscribe for its shares or debenture stock of the company."

The above resolution was proposed by Mr. B. J. Fernando and seconded by Mr. P. D. F. Alwis.

The following resolution was unanimously passed ; " That this meeting confirms the appointment of Messrs. M. Jayasena, B. J. Fernando, P. D. F. Alwis, W. K. Fernando and Dr. A. P. de Zoysa 30 as the directors of the company."

The above resolution was proposed by Mr. D. J. F. Obeysekera and seconded by Mr. W. K. Fernando.

The following resolution was unanimously passed : " That Mr. M. Jayasena be appointed the managing director of branch " B." Messrs. W. K. Fernando and P. D. F. Alwis as managing directors of branch " C," Mr. L. Robert Perera as manager of branch " D," Mr. W. D. M. J. Paulis Appuhamy as manager of branch " E."

The above resolution was proposed by Mr. D. J. F. Obeysekera and seconded by Mr. P. D. F. Alwis. Muhandiram B. J. Fernando 40 proposed that a branch " F " be opened. Mr. M. Jayasena seconded it and the resolution was carried. Mr. W. K. Fernando proposed and Mr. B. J. Fernando seconded that omnibuses belonging to the

company be left in charge of different branches under managers or managing directors and that they should maintain, repair and replace the omnibuses according to time table and such regulations and conditions as are imposed by the Commissioner of Motor Cars and by Motor Car Ordinance. The said managers or managing directors should pay the employees and expenses necessary to run the said omnibuses except insurance, licencing fees, supervisors and time-keepers also they should pay to the company one rupee per day for every omnibus in their charge. They should garage the omnibuses in suitable garages. The company will pay 90 % of the collections from omnibuses for the expenses and allowance as managing directors.

Exhibits
—
D 1
Minutes of
Special General
Meeting of Sri
Lanka Omnibus
Co., Ltd.
22.1.43—Conti-
nued.

The above resolution was unanimously passed.

(Sgd.) B. J. FERNANDO.
,, P. D. F. ALWIS.
,, W. K. FERNANDO.
,, M. JAYASENA.
,, A. P. De ZOYSA.
,, D. J. F. OBEYSEKERA.

D. 26

20

Minutes of Meeting

SRI LANKA OMNIBUS CO., Ltd.

D 26
Minutes of
Meeting
30.1.43

Minutes of the meeting of the directors held on 30th January, 1943, at the registered office, Victoria Buildings, Pettah, Colombo.

There were present Messrs. W. K. Fernando, B. J. Fernando, M. Jayasena, A. P. de Zoysa, and D. J. F. Obeysekera (Secretary).

It was decided to appoint Mr. S. A. Samarasinghe as manager of branch "F" on the same conditions as for the other branches. It was also decided to open a branch "G" (Alawwa to Kurunegala). It was decided to appoint a ledger-clerk on a salary of Rs. 75 per month and a peon on a salary of Rs. 20 per month. Until the appointment is made an allowance of Rs. 25 to be paid to a clerk who attends to the work temporarily from February, 1943.

It was decided to hold the next directors' meeting on 8th February, 1943.

Mr. B. J. Fernando proposed to pay Dr. A. P. de Zoysa Rs. 150 per month as travelling and other expenses. This was seconded by Mr. W. K. Fernando.

40

(Sgd.) M. JAYASENA.
,, B. J. FERNANDO.
,, W. K. FERNANDO.
,, A. P. De ZOYSA.
,, D. J. F. OBEYSEKERA.

Exhibits

D 17

Notice of Cessa-
tion of Business
6.2.43**D. 17****Notice of Cessation of Business****BUSINESS NAMES ORDINANCE (CAP. 120)***(To be accompanied by the Certificate of Registration)*

In pursuance of the provisions of Section 14 of the Business Names Ordinance (Cap. 120) notice is hereby given by the undersigned that K. A. B. Bus Co. registered under the said Ordinance in the office of the Registrar of Business Names for the North-Western Province under number 1879 and dated the 20th day of July, 1942, ceased to carry on business on the 1st day of February, 1943. 10

Dated this 6th day of February, 1943.

Signature or Signatures

1. (Sgd.) K. M. PERERA.
2. „ P. A. M. APPUHAMY.
3. „ M. N. APPUHAMY.
4. „ B. A. JOHN SINGHO (in Sinhalese).
5. „ MARTIN DIAS (in Sinhalese).
6. „ H. G. ROMIEL DIAS.
7. „ D. A. RANMENIKE (in Sinhalese).
8. „ L. A. PUBLIS APPUHAMY (in Sinhalese). 20
9. „ P. T. S. NATCHIYA (in Sinhalese).

The business name registered under No. 1879 is hereby removed from the Register of Business Names under Section 14 (2) of Ordinance No. 6 of 1918.

(Sgd.) W. E. PINTO,

for Registrar of Business Names, N.W.P.

6th February, 1943.

To The Registrar of Business Names
for the North-Western Province.

I do hereby certify that the document overleaf is a true copy of 30
the original Notice of Cessation of Business, dated 6th February, 1943.

(Sgd.) Illegibly,

for Registrar of Business Names, N.W.P.

Kurunegala Kachcheri,
11th October, 1949.

P. 4.**Receipt for Bus.**

SRI LANKA OMNIBUS CO., LTD.

*(Incorporated in Ceylon)**(Liability of members is limited)*41 2/1, Victoria Building,
Norris Road, Colombo.

February 23rd, 1943.

Received from Mr. H. G. Martin Dias of Maharagama, Giriulla,
10 Omnibus bearing No. X 4361 transferred with route and goodwill
to the Sri Lanka Omnibus Co., Ltd., for Rupees Two thousand two
hundred and fifty only. (Rs. 2,250).

Sri Lanka Omnibus Co., Ltd.,

(Sgd.).....

*Secretary.**N.B.*—Please note that this amount is with the company to your credit.**P. 24.**

**Letter from Manager, Sri Lanka Omnibus Co., Ltd.,
to L. A. Pabilis Appuhamy.**

20

SRI LANKA OMNIBUS CO., LTD.

*(Incorporated in Ceylon)**(Liability of members is limited)*41, Victoria Building,
Norris Road, Colombo.

March 6, 1943.

Dear Sir,

We shall thank you to call at this office on Friday, the 12th
instant, at 11.30 a.m.

30

Yours faithfully,

Sri Lanka Omnibus Co., Ltd.,

(Sgd.) Illegibly.

Manager.

A. Pabilis Appuhamy,
Kurunegala.

Exhibits
—
P 4
Receipt for Bus
23.2.43

P 24
Letter from
Manager, Sri
Lanka Omnibus
Co., Ltd. to
L. A. Pabilis
Appuhamy
6.3.43

Exhibits

P 43
Minutes of the
Meeting of
Directors of Sri
Lanka Omnibus
Co., Ltd.
12.3.43

P. 43.

**Minutes of the Meeting of Directors of Sri Lanka
Omnibus Co., Ltd.**

SRI LANKA OMNIBUS CO., LTD.

Minutes of the meeting of directors held on the 12th March, 1943, at the registered office at Victoria Buildings, Pettah, Colombo. Messrs. B. J. Fernando, P. D. F. Alwis, M. Jayasena, W. K. Fernando, Dr. A. P. de Zoysa, and Mr. D. J. F. Obeysekera, were present.

It was resolved that the assessed value of Delgoda and Attanagalla buses and their earning capacities be accepted. It was resolved that the licence duty paid by previous owners should be refunded to owners when the licensing authorities repay such sums to the company.

Payment of Rs. 5,443.55 (*i.e.*, Rs. 2,631.55, for insurance of buses for January and February and lighting, telephone and rents Rs. 1,109, for cost of typewriter and stationery and Rs. 1,703 for cost of stationery and printing. Also approved payment of Rs. 163.28 for almirah.

(Sgd.) B. J. FERNANDO
 „ M. JAYASENA 20
 „ W. K. FERNANDO
 „ P. D. F. ALWIS
 „ A. P. de ZOYSA
 „ D. J. F. OBEYSEKERA.

True copy of the minutes of the meeting held on 12.3.43 as appears on page 15 of the document marked D. 18 in D.C. Kurunegala Case No. 3705.

D 21
Letter from
Director, Sri
Lanka Omnibus
Co., Ltd. to
Defendant
16.3.43

D. 21.

**Letter from Director, Sri Lanka Omnibus Co., Ltd.,
to Defendant.**

30

SRI LANKA OMNIBUS CO., LTD.

*(Incorporated in Ceylon)
(Liability of members is limited)*

41 2/1, Victoria Building,
Norris Road, Colombo,
March 16, 1943.

K. M. Perera, Esq.,
Malpitiya, Pothuhera.

Dear Sir,

The company has appointed you as the manager of branch " G " 40 of the company on the following conditions:—

1. The omnibuses, the numbers of which are given hereunder belonging to the company are left in your charge.

2. You are to maintain, repair and replace them and to run them according to the time table and such regulations and conditions as are imposed by the Commissioner of Motor Transport and by Motor Car Ordinances.

3. You are authorised to pay employees and expenses necessary to run the said omnibuses except insurance and licensing fees.

4. You should pay to the company Re. 1 per day for every 10 omnibus in your charge.

5. You should garage the omnibuses in suitable garages.

6. The company will pay 90% of the collections from omnibuses under your charge for your expenses and your allowance as manager.

Please reply if you agree to the above conditions.

Yours faithfully,
Sri Lanka Omnibus Co., Ltd.,
(Sgd.) A. P. de ZOYSA,
Director.

20 Omnibuses referred to :

X 1340, Z 4295, X 9764, X 6742, X 8434, Q 378, E 397, W 500, Q 925, X 4361, and Q 1042.

P. 5

Letter from Defendant Regarding Meeting

Sri Lanka Bus Co.,
" G " Branch, Kurunegala,
26.3.1943.

Gentleman,

As there is a meeting of " our " branch on the 28th instant at 30 10 a.m. your early attendance is expected.

(Sgd.) K. M. PERERA.

Translated by :

(Sgd.).....
S.T.D.C.C.
18.5.45.

Exhibits
D 21
Letter from
Director, Sri
Lanka Omnibus
Co., Ltd. to
Defendant
16.3.43
—Continued.

P 5
Letter from
Defendant re-
garding Meeting
26.3.43

Exhibits
—
P 6
Letter from
Defendant re-
garding Meeting
5.4.43

P. 6

Letter from Defendant Regarding Meeting

Sri Lanka Bus Co., Ltd.,
“ G ” Branch, Kurunegala.
5.4.1943.

Gentleman,

Regret for the failure to attend the meeting which was fixed for the 28th ultimo as the holding of the same was uncertain. That meeting will be held on the 8th instant at 10 a.m. and your early attendance is expected. 10

(Sgd.) K. M. PERERA.

Translated by :

(Sgd.).....
S.T., D.C.C.
18.5.45.

P 25
Letter from
Defendant re-
garding Meeting
5.4.43

P. 25

Letter from Defendant Regarding Meeting

Sri Lanka Bus Co., Ltd.,
Branch “ G,” Kurunegala. 20
5.4.1943.

Sir,

Whilst expressing my sincere regret regarding the failure to hold the meeting which had been fixed for the 28th ultimo owing to unexpected reasons I expect your punctual presence as the said meeting will be held here at 10 a.m. on the 8th instant.

To this

(Sgd.) K. M. PERERA.

Translated by :

(Sgd.) Illegibly.
S.T.

P. 26

**Letter from " G " Branch Manager, Sri Lanka
Omnibus Co. Ltd., Regarding Meeting**

Translation. (Seal)

Exhibits
—
P 26
Letter from
" G " Branch
Manager, Sri
Lanka Omnibus
Co., Ltd. re-
garding Meeting
21.6.1943. 21.6.43

Dear Sir,

A meeting will be held at 11 a.m. on the 23rd instant for the purpose of checking accounts and for sharing the profits and losses of this branch for the month of May, 1943, therefore your presence is solicited.

Sri Lanka Omnibus Co., Ltd.,

(Sgd.) Illegibly.

For Manager Branch " G," Kurunegala.

Translated by :

(Sgd.) Illegibly.

S.T.

P. 48.

**Letter from " G " Branch Manager, Sri Lanka
Omnibus Co., Ltd., regarding Meeting.**

20

Gentleman,

21.6.43.

P 48
Letter from
" G " Branch
Manager, Sri
Lanka Omnibus
Co., Ltd. re-
garding Meeting
21.6.43

As there will be a meeting on the 23rd instant at 11 a.m. to go through the accounts of the month of May, 1943, of this branch and divide the profits and losses, your presence is essential.

Sri Lanka Omnibus Co., Ltd.,

(Sgd.) Illegibly,

for Manager, Branch " G," Kurunegala.

Translated by :

(Sgd.) Illegibly,

30

S.T., D.C.C.

1.12.45.

Exhibits
P 57
Letter from
Defendant to
Romiel Dias
8.7.43

P. 57.

Letter from Defendant to Romiel Dias.

Sri Lanka Omnibus Co., Ltd.,
7, Morris Street,
Kurunegala.
8.7.1943.

H. G. Romiel Dias, Esq.,
Maharagama.

Sir,

In driving bus X 4361 by driver Albert without air in one of the 10 rear tyres, 32x6, the said tyre and the tube have been burst both these cannot be used for work.

To this

Sri Lanka Omnibus Co., Ltd.,
(Sgd.) K. M. PERERA,
Manager, Branch "G," Kurunegala.

Translated by :

(Sgd.) Illegibly,
S.T.

P 7
Letter from
Defendant
regarding Meet-
ing
12.7.43

P. 7.

20

Letter from Defendant regarding Meeting.

Translation.

12.7.43.

(Seal)

" G " Branch.

Sir,

A meeting will be held at 11 a.m. on the 15th instant regarding the checking accounts of this branch for the month of June, 1943, and for sharing profits, therefore I request you to be present.

To this

30

(Sgd.) K. M. PERERA.

Translated by :

(Sgd.)
S.T.

P. 27.**Letter from Defendant regarding Meeting.**

12.7.43.

Exhibits

P 27

Letter from
Defendant
regarding Meeting
12.7.43

Dear Gentleman,

As there will be a meeting on the 15th instant at 11 a.m. for the purpose of looking into the accounts of June, 1943, of this branch and distribution of the profits, your presence is requested.

(Sgd.) K. M. PERERA.

Translated by :
10 (Sgd.) Illegibly,
S.T., D.C.C.
18.5.45.

P. 8.**Letter from Defendant regarding Meeting.**

14.8.43.

P 8

Letter from
Defendant
regarding Meeting
14.8.43

Gentleman,

As a meeting for the distribution of the profit and loss of this branch for the month of July, 1943, will be held on the 20th instant at 10 a.m., your presence is essential.

20 Sri Lanka Omnibus Co., Ltd.,
(Sgd.) K. M. PERERA,
Manager, Branch "G," Kurunegala.

Translated by :
(Sgd.).....
S.T., D.C.C.
1.12.44.

P. 28.**Letter from "G" Branch Manager, Sri Lanka Omnibus Co., Ltd., regarding Meeting.**30 *Translation.*

3.10.43.

P 28
Letter from
"G" Branch
Manager, Sri
Lanka Omnibus
Co., Ltd. re-
garding Meeting
3.10.43

Gentleman,

A meeting will be held on the 5th instant at 11 a.m. to divide the profit and loss of the month of August, 1943. Your presence is essential.

Sri Lanka Omnibus Co., Ltd.,
(Sgd.) Illegibly,
for Manager, Branch "G," Kurunegala.

Translated by :
40 (Sgd.) Illegibly,
S.T., D.C.C.
1.12.44.

Exhibits
—
P 12
Cheque
5.10.43

P. 12.
Cheque.
No. Z 015828.

Pettah,
5th October, 1943.

BANK OF CEYLON

Established under Ordinance No. 53 of 1938.

Pettah.

Pay cash or bearer Rupees Four hundred and Thirty-seven and
Cents Sixty-two only.

Rs. 437·62.

(Sgd.) K. M. PERERA. 10

Endorsements.

Paid.

Hongkong & Shanghai Banking Corporation,
Hongkong & Shanghai Bank
Clearing.

Endorsements on back.

(Sgd.) K. M. PERERA

„ S. S. JINADASA (in Sinhalese)

Please Credit my Account

S. A. SILVA.

(Sgd.) S. A. SILVA.

20

P. 29.

P 29
Letter from
“ G ” Branch
Manager, Sri
Lanka Omnibus
Co., Ltd. re-
garding Meeting
4.11.43

**Letter from “ G ” Branch Manager, Sri Lanka
Omnibus Co., Ltd., regarding Meeting.**

4.11.43.

Gentleman,

As there will be a meeting on the 7th instant at 11 a.m. to divide
the profits and losses of the month of September, 1943, your presence
is essential.

Sri Lanka Omnibus Co., Ltd., 30
(Sgd.) Illegibly,
for Manager, Branch “ G,” Kurunegala.

Translated by :
(Sgd.) Illegibly,
S.T., D.C.C.
1.12.43.

P. 11.**Share Certificate issued to Plaintiff.**

A. 44.

Share Certificate No. 21.

P. 58.

Exhibits
—
P 11
Share Certifi-
cate issued to
Plaintiff
17.12.43

SRI LANKA OMNIBUS CO., LTD.

*(Incorporated in Ceylon under the Companies**Ordinance No. 51 of 1938)**(The liability of members is limited)*

Authorized capital : Rs. 1,000,000.

10 Divided into 10,000 shares of Rs. 100 each.

This is to certify that H. G. Martin Dias, Esq., of Giriulla, is the registered holder of twenty-five ordinary shares numbered 6867 to 6891 inclusive in the abovenamed company subject to the rules and regulations of the company and that the sum of Rupees Ninety (Rs. 90) has been paid up upon each of the said shares.

Given under the seal of the company this seventeenth day of December, One thousand nine hundred and forty-three.

(Sgd.) A. P. de ZOYSA } *Directors.*
.. Illegibly }

20

(Sgd.) Illegibly,
Secretary.

It is hereby certified that the stamp duty payable in respect of the capital issued has been commuted in terms of section 8 of the Stamp Ordinance.

N.B.—A transfer of the above shares can be effected only by a transfer duly executed and registered in the books of the company and the name of the proposed transferee must be approved by the board of directors before the transfer be forms of transfer can be obtained at the registered office of the company.

Calls

30	Date	No. of Call	Amount of Call per Share	Total Amount Paid	Signature of Authorised Officer of the Company
----	------	-------------	--------------------------	-------------------	------------------------------------------------

True copy of Share Certificate filed of record in D.C., Colombo, case No. 15925/M.

(Sgd.)

*Secretary,**D.C., Colombo,*

19.8.48.

Exhibits
—
D 23
Agreement
28.12.43

**D. 23.
Agreement.**

Sri Lanka Omnibus Co., Ltd.,
41 2/1, Victoria Building,
Norris Road, Colombo,
December 28, 1943.

Dear Sir,

You have been appointed our Agent as from January 16, 1943, on the following terms and we shall be glad if you will kindly signify your agreement to these terms by signing accordingly at the foot of 10 this letter.

Terms of Agreement

1. The total collections for the week for the buses in your charge shall be forwarded by you to us every Monday together with Way Bills.
2. Only those bus services as are fixed by us from time to time shall be carried out by you. The buses in your charge shall not be used for any service other than those fixed by us without our prior consent in writing.
3. We shall pay, during the week following the receipt of your weekly collections, at the rate of 90%.
4. You will pay us as rental the sum of Re. 1 per day for each and every bus given 20 to you.
5. This agreement may be terminated by one month's notice in writing on either side.
6. You shall employ for the purposes of the service an efficient and adequate staff to our satisfaction, which staff though controlled by you shall be considered our servants. You shall pay such staff the wages as are or may be fixed by law from time to time.
7. We shall pay the annual licence fees, the stand licence fees and the insurance premia on the buses given in your charge. All other outgoing whatsoever in respect of the buses shall be met by you. 30
8. If owing to any negligence or failure on your part or on the part of the employees controlled by you, we become liable to pay any fine or damage the total amount of such fines or damages shall be paid to us by you. Every vehicle belonging to the company shall be covered by insurance before being put into service. Failure to comply, and if the vehicle meets with any accident, the total amount of any such claim shall be met by you.
9. You shall allow us or our duly appointed representatives free access at all reasonable hours to inspect the vehicles in your charge.
10. If there is any breach of the terms of this agreement on your part, we shall be entitled to forthwith to determine this agreement and retake all our vehicles 40 and accessories.
11. Upon the termination of this agreement, either clause 5, or upon the determination of the agreement under clause 10 you will hand over to us all buses and other property given in your charge in good condition, fair wear and tear excepted.

Yours faithfully,
(Sgd.) A. P. de ZOYSA,
Director.

I agree to the terms referred to above.
(Sgd.) K. M. PERERA.

P 51.
Pages from a Book of Accounts.

1943/44.

Expenditure for the Month of April.

Exhibits
—
P 51
Pages from a
Book of
Accounts
1943

		Rs.	Cts.
10	June	To Brother	112 15
		Siti Mahammadu Mudalali	46 00
		Aron Baas	5 00
		Paid interest	20 00
		To Jalin Aiyah	40 00
		Forty coconut poles	8 00
		For plucking coconuts	3 50
Expenditure		234	65

Income.

		Rs.	Cts.
20	Giriulla	Received from company	175 00
		Two months house rent	18 00
		Rent of Wele Boutique	12 75
	9.3.25	Income of the bus	713 51
		919	26
	Last month	3,671	13
		4,590	39
		Expenditure	234 65
		4,365	74

Translated by :
(Sgd.) Illegibly.
S.T.

Expenditure for May, 1943.

		Rs.	Cts.
30	324	Case	8 50
		Cooly hire to plant coconuts	1 50
	8	Siti Mohammadu	30 00
	8	Brother	10 00
		7 Bags of flour	220 00
		To Dharmasena	20 00
		Petrol, 4	20 00
		Gave brother to go to Kuliyaipitiya	30 00
		One tyre	150 55
		Brother	15 00
	40	Six tins of cigarettes	8 16
	325	Checknut	30 00
	325	Stand licence	5 00
	18	To go to Colombo	50 00
		To brother	10 00
		To Kamboyas	25 00
		For coconuts of Wele Boutique	26 30

Continued next page

Exhibits
—
P 51
Pages from a
Book of
Accounts
1943
—Continued

	Rs.	Cts.
Korawadu	9	00
To brother	4	00
To Mr. Ranasinghe	30	00
To Mr. Siriwardene	201	65
	<hr/>	<hr/>
	904	66
To get and sugar for brother to go to Colombo ..	150	00
	<hr/>	<hr/>
Expenditure	1,054	66

Translated by :

(Sgd.) Illegibly,
S.T.

10

Month of May.

Income.

	Rs.	Cts.
1 Received from company	980	90
From Peon Gunasekera	20	90
From Nondi boutique	5	00
Rent of Wele boutique	13	25
Giriulla rent	9	00
Received from Sediris Ralahamy	300	00
	<hr/>	<hr/>
	1,328	15
Income—325—Received	714	40
	<hr/>	<hr/>
Balance from last month	2,042	55
	<hr/>	<hr/>
	4,355	74
	<hr/>	<hr/>
Expenditure	6,398	29
	<hr/>	<hr/>
Balance	1,054	66
	<hr/>	<hr/>
Balance	5,343	63

43/5.

Translated by :

(Sgd.) Illegibly,
S.T.

30

6th June, 1943.

Income.

	Rs.	Cts.
To Mr. Leo	125	00
„ Mr. Eddie	25	00
„ Brother	25	00
„ Brother Albert	5	00
„ Mariano	2	00
„ War funds	10	00
„ M. Wilson Mudalali	200	00
„ Mother	25	00
„ Brother	5	00

40

Continued next page

					Rs. Cts.	Exhibits
					20	00
					10	00
					35	00
					10	40
					150	00
					89	00
					350	00
					651	70
10					<hr/> 1738	10
					895	78
					30	00
					250	00
					13	25
					9	00
					<hr/> 1,198	03
					5,343	63
					<hr/> 6,541	66
					1,738	10
20					<hr/> 4,803	56

Translated by :
(Sgd.) Illegibly,
S.T.

Expenditure

7th July, 1943

					Rs. Cts.	
					25	00
					30	00
					10	75
30	6				6	00
					56	00
					20	00
	6				10	00
	11				200	00
					300	00
					5	00
					20	00
					6	00
					1	25
40					300	00
					9	00
					25	04
					5	50
					<hr/> 1,029	54

P 51
Pages from a
Book of
Accounts
1943
Continued

Exhibits
—
P 51
Pages from a
Book of
Accounts
1943
—Continued.

				Income	Rs.	Cts.	
				From the company	389	89	
				For the razor	50	00	
				Cheque received	25	00	
				Received from Mr. Siriwardene	160	00	
				Received by selling the bull	50	00	
				Received from coconut	200	00	
				Two bags of flour	64	00	
				House rent of Wele boutique	13	25	
				Giriulla	9	00	10
				Received from bus 325	500	00	
					<hr/>		
				Balance for last month	1,461	14	
					<hr/>		
				Expenditure	4,803	56	
					<hr/>		
				Balance	6,264	70	
					<hr/>		
				Balance	1,029	54	
					<hr/>		
				Balance	5,235	16	

Translated by :

(Sgd.) Illegibly,
S.T.

August 8, 1943.

INCOME & EXPENDITURE

				Income	Rs.	Cts.		
				To Podiappu on brother's account	7	00		
7				„ Siti Mohamradu	11	00		
21				„ Brother	20	20		
23				„ Brother	5	00		
				„ Thomas	1	00		
26				„ Brother	10	00		
25				„ Citi Mohamradu	132	00		
24				„ Bring timber for brother	25	00		
				„ Saw the timber	4	00	30	
				„ Basket	0	60		
				„ Santi	2	00		
				„ Pluck coconuts	5	00		
				„ Redi Tambi	76	00		
				„ Load cadjans	502	00		
					<hr/>			
				Expenditure	800	80		
					<hr/>			
					Income	Rs.	Cts.	
				Sri Lanka Co.	720	20		
				Two bags of flour	67	50		
				House rent of Wele boutique	13	25	40	
				Giriulla rent	9	00		
					<hr/>			
				Balance for last month	5,235	16		
				Income	6,045	11		
				Expenditure	800	80		
					<hr/>			
				Balance	5,244	31		

Translated by :

(Sgd.) Illegibly,
S.T.

INCOME AND EXPENDITURE

9 September, 1943.

		Rs. Cts.	
	10	Brother's account from company	50 00
	10	2 lbs. of ginger	1 60
	11	To Brother	13 70
	11	To Thatched cadjans	10 70
	13	To Brother	5 00
	14	Goonsekera's mortgage	110 00
10	15	Addu Norim	250 00
	15	To Brother	8 00
	16	To Brother	2 00
	16	To Brother	1 85
	17	Siti Mohamradu	48 00
	17	To Kutton on brother's account	10 00
	17	For the lock	2 50
	17	By Brother to Somapala	10 00
	17	To Brother	32 50
	20	To Ranasinghe on brother's account	25 00
20	20	To Brother	10 00
	21	To Brother	22 15
	25	To Siti Mohamradu	30 00
	26	Glucose packet	3 75
	26	To Brother Auneris	145 00
	27	To Mr. Edmund	20 00
	27	To Joseph	1 00
	27	Vegetable and cart	3 25
	28	To Medicines	27 25
	28	1 tin butter	1 00
30	28	To Brother	3 50
			<hr/>
			857 75

Exhibits
 P 51
 Pages from a
 Book of
 Accounts
 1943
 --Continued.

Income and Expenditure

1943/9		Rs. Cts.	
		Received Giriulla rent	9 00
43/10	5	House rent	5 00
	5	Rent of Welu Kade	13 25
		Rent of the house of	8 00
1943/8		Balance last month	5,244 31
40	9	Received from company	437 62
			<hr/>
			5,717 18
	9	Months expenditure	857 75
			<hr/>
9/43		Balance	4,859 43
			<hr/>

D. 3

Minutes of Annual General Meeting of Sri Lanka Omnibus Co. Ltd.
SRI LANKA OMNIBUS CO. LTD.

Exhibits
 —
 D 3
 Minutes of
 Annual General
 Meeting of Sri
 Lanka Omnibus
 Co., Ltd.
 1.2.44

The annual general meeting of the shareholders of the Sri Lanka Omnibus Co. Ltd., was held at the registered office at No. 41 2/1, Victoria Buildings, Norris Road, Colombo, at 12 noon on Tuesday, the 1st February, 1944.

Those present were : Dr. A. P. de Zoysa, Messrs. W. K. Fernando, L.R.Perera, K.M.Perera, S.A.Samarasinghe, W.D.Henry, Muhandiram B.J.Fernando, M.Jayasena, Mrs.D.A. Ran Menika, Mrs.P.T.S.Natchiya, Messrs. H. G. Martin Dias, M. N. Appuhamy, L. A. Pabilis Appuhamy, P. A. Mendis Appuhamy and D. J. F. Obeysekera (Secretary).

The annual report for the year ended 16.1.44 was read and accepted unanimously.

Mr. K. M. Perera proposed a vote of thanks to the retiring board of directors and this was duly seconded by Mr. S. A. Samarasinghe.

Mr. L. R. Perera proposed that the following five directors be re-elected for the ensuing year : Muhandiram B. J. Fernando, W. K. Fernando, P. Don Francis Alwis, M. Jayasena and Dr. A. P. de Zoysa and was duly seconded by Mr. K. M. Perera.

Muhandiram B. J. Fernando proposed that the following three gentlemen be added to the board of directors : Messrs. S. A. Samarasinghe, K. M. Perera and L. R. Perera and was duly seconded by Mr. W. K. Fernando and was unanimously carried.

On the proposal of Mrs. P. T. S. Natchiya, seconded by Mr. D. M. Wickremesinghe it was unanimously decided that the branch system be carried on for the ensuing year.

It was proposed and seconded that the branches be managed by the following :—

- | | |
|-----------------|-----------------------------------------------------------------------------|
| 30 " A " Branch | .. M. Jayasena |
| Peliyagoda | Proposed by Mrs. P. T. S. Natchiya.
Seconded by Mr. L. R. Perera. |
| " B " Branch, | .. Muhandiram B. J. Fernando |
| Borella | Proposed by Mr. S. A. Samarasinghe
Seconded by Mr. M. Jayasena. |
| " C " Branch, | .. Mr. W. K. Fernando |
| Mawanella | Proposed by Muhandiram B. J. Fernando
Seconded by Mr. H. G. Martin Dias. |
| " D " Branch, | .. Mr. L. Robert Perera |
| 10 Delgoda | Proposed by Mr. K. M. Perera
Seconded by Muhandiram B. J. Fernando. |

Exhibits
—
D 3
Minutes of
Annual General
Meeting of Sri
Lanka Omnibus
Co., Ltd.
1.2.44
—Continued.

“ E ” Branch,
Attanagalla

.. Mr. W. D. J. M. Paulis Appuhamy
Proposed by Mr. W. K. Fernando
Seconded by Mr. K. M. Perera.

“ F ” Branch,
Kadugannawa

.. Mr. S. Samarasinghe
Proposed by Muhandiram B. J. Fernando
Seconded by Mr. M. Jayasena.

“ G ” Branch,
Kurunegala

.. Mr. K. M. Perera
Proposed by Mr. L. Robert Perera
Seconded by Muhandiram B. J. Fernando.

(Sgd.) A. P. De ZOYSA. 10
 ,, B. J. FERNANDO.
 ,, M. JAYASENA.
 ,, S. A. SAMARASINGHE.
 ,, ROBERT PERERA (in Sinhalese).
 ,, W. D. HENRY.
 ,, APPUHAMY.
 ,, MARTIN DIAS (in Sinhalese).
 ,, D. A. RAN MENIKA (in Sinhalese).
 ,, FERNANDO.
 ,, K. M. PERERA. 20
 ,, PABILIS APPUHAMY.
 ,, S. M. WICKREMASINGHE (in Sinhalese).
 (Intd.) (In Sinhalese).
 (Sgd.) W. K. FERNANDO.
 ,, D. J. F. OBEYSEKERA.

True copy of the minutes of the Sri Lanka Omnibus Co., Ltd.,
Colombo, held on 5.1.43, 18.1.43, 22.1.43, 30.1.43, 27.7.43, 9.11.43
and 1.2.44.

(Sgd.) N. Navaratnam
for Registrar, Supreme Court, 30
2nd March, 1949.

D. 2

Letter from Defendant to Plaintiff

31 May, 1944.

Mr. H. G. Martin Dias,
Maharagama, Giriulla.

This is to inform you that you are dismissed from the post as
Inspector appointed under me from today.

And I further inform you that you have no right to work in the
abovementioned post in future.

(Sgd.) K. M. PERERA. 40

Translated by :
(Sgd.) Illegibly.
S. T.

D 2
Letter from
Defendant to
Plaintiff
31.5.44

P. 9**Letter from Plaintiff and Three others to Defendant**

Maharagama,
Giriulla,
13th June, 1944.

Exhibits

P 9

Letter from
Plaintiff and 3
others to
Defendant
13.6.44

The Manager,
Sri Lanka Omnibus Co. Ltd.,
" G " Branch, Kurunegala.

Dear Sir,

10 We the undersigned desire that a meeting of the shareholders of the " G " branch be convened during the course of this month to discuss various matters affecting the interests of the shareholders.

We remain,

Yours faithfully,

(Sgd.) MARTIN DIAS.

.. RAN MENIKA HAMINE.

.. PABILIS APPUHAMY.

.. JOHN SINGHO.

P. 10**Letter from Defendant to Plaintiff**

K. M. Perera,
Malpitiya, Kurunegala.
15th June, 1944.

P 10

Letter from
Defendant to
Plaintiff
15.6.44

20

Mr. H. G. Martin Dias,
Maharagama, Giriulla.

Dear Sir,

With reference to your letter of 13th June, 1944, I have to inform you that you being a shareholder of the Sri Lanka Omnibus Co., Ltd., should write to the manager of the said company to convene
30 a meeting of the shareholders as you desire.

Yours faithfully,

(Sgd.) K. M. PERERA.

D. 4**Letter from Plaintiff to Manager, Sri Lanka Omnibus Co. Ltd.***Translation*

Maharagama,
Giriulla.
23.6.44.

D 4

Letter from
Plaintiff to
Manager, Sri
Lanka Omnibus
Co., Ltd.
23.6.44

The Manager,
Sri Lanka Omnibus Co., Ltd.,
Colombo.

40

Sir,

I, the undersigned, a shareholder of the " G " branch of the Sri Lanka Omnibus Co., Ltd., beg to lay the following with the hope of obtaining some relief.

Exhibits
—
D 4
Letter from
Plaintiff to
Manager, Sri
Lanka Omnibus
Co., Ltd.
23.6.44
—Continued.

When the first general meeting was held in your office in Colombo, you elected with our approval, Mr. K. M. Perera to be in charge of our branch. About one and a half years have elapsed since then and during this period you have neither held a meeting nor sent us a report regarding the position of the company.

Although we spoke to you several times regarding this, you never paid any attention.

Further on the 13th June, 1944, a letter was sent to you signed by several shareholders requesting you to hold a meeting, but the reply we received was "that you will be informed about this." 10

Since December, 1943, up to date, we have neither heard anything about the financial position nor about the management from the beginning.

When there are plenty of things like the registration of the company, laying rules and regulations, etc., to do, this gentleman does everything on his own accord.

Therefore you are kindly requested to take necessary action in this connection.

Yours faithfully,
(Sgd.) MARTIN DIAS, 20
Shareholder, Sri Lanka Omnibus Co. Ltd.

Translated by :
(Sgd.) Illegibly.
S. T.

P. 34

P 34
Letter from
Manager, Sri
Lanka Omnibus
Co., Ltd. to
Plaintiff
26.6.44

Letter from Manager, Sri Lanka Omnibus Co. Ltd. to Plaintiff
Translation

SRI LANKA OMNIBUS CO. LTD.
(Incorporated in Ceylon. Liability of members is limited)
41,2/1, Victoria Buildings, 30
Norris Road, Colombo.
June 26th, 1944.

To Mr. Martin Dias.
Dear Sir,

I request you kindly to come to this office within this week in order to discuss fully with regard to all the purposes mentioned in the letter you sent.

To which effect,

Sri Lanka Omnibus Co. Ltd.,
(Sgd.) Illegibly. 40
Manager.

Translated by me :
(Sgd.) Illegibly.
S. T.

D. 5
Letter of Authority from Plaintiff

Maharagama,
Giriulla,
11.7.44.

Exhibits
—
D 5
Letter of
Authority from
Plaintiff
11.7.44

Sri Lanka Bus Co. Ltd.,
Colombo.

I the undersigned, a shareholder of Sri Lanka Bus Co. Ltd., do hereby give permission to Mr. T. V. Jinadasa of Maharagama, and
10 Mr. H. G. D. Sawanadasa, to speak on my behalf and give the vote for anything at the meeting to be held on the 14th of this month.

This permission is given on this 11th July, 1944.

(Sgd.) MARTIN DIAS.

Translated by :
(Sgd.) Illegibly.
S. T.

D. 5 (a)
Envelope

D 5 (a)
Envelope

20 Giriulla
No. 92.

To be Registered.

The Secretary,
Sri Lanka Omnibus Co., Ltd.,
Victoria Buildings,
Colombo.

Post Office Stamp
Giriulla
11 JL 44

D. 6

Letter from Plaintiff to Secretary, Sri Lanka Omnibus Co. Ltd.

Maharagama,
Giriulla,
25th August, 1944.

D 6
Letter from
Plaintiff to
Secretary, Sri
Lanka Omnibus
Co., Ltd.
25.8.44

30

The Secretary,
Sri Lanka Omnibus Co., Ltd.,
Colombo.

Sir,

With reference to your letter of 23.8.44. I beg to inform you that I have received the balance sheet sent to me on 4th July, 1944, but as it is not signed by the directors of the company we can't accept
40 it. Therefore please be good enough to send me a copy of the balance sheet as I required by my letter of 15th July, 1944.

Yours faithfully,
(Sgd.) MARTIN DIAS (in Sinhalese).

Exhibits

D 9
Letter from
Plaintiff to
Secretary, Sri
Lanka Omnibus
Co., Ltd.
29.11.44

D. 9

Letter from Plaintiff to Secretary, Sri Lanka Omnibus Co. Ltd.

Maharagama,
Giriulla,
29.11.44.

The Secretary,
Sri Lanka Omnibus Co. Ltd.,
Norris Road, Colombo.

Dear Sir,

With reference to the letter dated the 23rd November, 1944, ¹⁰ sent to my lawyer Mr. I. A. B. Ihalagama I have to request you to be good enough to forward to me a certified copy of the minutes of all the general meetings of the company held since its incorporation within seven days from the date hereof. I am herein enclosing a money order for Rs. 25 (twenty-five) in your favour as charges for the above in terms of section 119 (2). If any further sum is required, I will be obliged if you will let me know the same at your earliest convenience and if there is any excess you may please return the same along with the certified copy.

Should you fail to comply with this my request I shall be reluct- ²⁰ antly compelled to take necessary steps under section (4) of the Company's Ordinance No. 51 of 1938.

Yours faithfully,
H. G. MARTIN DIAS (in Sinhalese).

Endorsements.

Sri Lanka Omnibus Co. Ltd.,
Date Recd : 4.12.44.
Date Ansd.....
By Whom :.....

P 30
Plaint and Evi-
dence of Obey-
sekera in M.C.
Kurunegala
Case No. 22667
April-May, 1945

P. 30.

30

**Plaint and Evidence of Obeysekera in M.C. Kurunegala
Case No. 22667.**

M.C. Kurunegala Case No. 22667.

IN THE MAGISTRATE'S COURT OF KURUNEGALA.

I, H. G. MARTIN DIAS, do hereby complain to Court under section 148 (1) of the Criminal Procedure Code that—

1. Between the 1st November, 1943, and 31st January, 1944, in the District of Kurunegala within the local limits of the jurisdiction of this Court K. M. Perera of Malpitiya being entrusted with certain

monies being the profits of the " G " branch of the Sri Lanka Omnibus Co., Ltd., in the capacity of an agent, to wit, the manager of the said branch did dishonestly dispose thereof a sum of Rs. 582 in violation of a contract to pay over the said sum of Rs. 582 to the said H. G. Martin Dias as a member of the " G " branch of Sri Lanka Omnibus Co., Ltd., and did thereby commit the offence of criminal breach of trust punishable under section 392 of the Ceylon Penal Code.

Exhibits
—
P 30
Plaint and Evidence of Obeysekera in M.C. Kurunegala Case No. 22667 April-May, 1945
—Continued.

2. Between 1st February, 1944 and 30th April, 1944, in the district of Kurunegala within the local limits of the jurisdiction of this Court K. M. Perera of Malpitiya being entrusted with certain monies being profits of the " G " branch of the Sri Lanka Omnibus Co., Ltd., in the capacity of an agent, to wit, the manager of the said branch did dishonestly dispose thereof a sum of Rs. 582 in violation of a contract to pay over the said sum of Rs. 582 to H. G. Martin Dias as a member of the " G " branch of the Sri Lanka Omnibus Co., Ltd., and did thereby commit the offence of criminal breach of trust punishable under section 392 of the Ceylon Penal Code.

3. Between the 1st May, 1944, and 31st October, 1944, in the District of Kurunegala within the local limits of the jurisdiction of this Court K. M. Perera of Malpitiya being entrusted with certain monies being the profits of the " G " branch of the Sri Lanka Omnibus Co., Ltd., in the capacity of an agent, to wit, the manager of the said branch did dishonestly dispose thereof a sum of Rs. 1,164 in violation of a contract to pay over the said sum of Rs. 1,164 to the said H. G. Martin Dias as a member of the " G " branch of the Sri Lanka Omnibus Co., Ltd., and did thereby commit an offence of criminal breach of trust punishable under section 392 of the Ceylon Penal Code.

(Sgd.) MARTIN DIAS.

Drawn and signed by me.

30 (Sgd.) A. E. P. WIJESINGHE,
Proctor, S.C.

18.4.45.

Accused : K. M. PERERA.

Mr. GRATIAEN with Mr. WIJESINGHE for complainant.

Mr. J. E. M. OBEYSEKERA with Messrs. C. L. W. PERERA & Mr. AMARASINGHE for accused.

D. J. F. OBEYSEKERA, sworn, 45 years, secretary of the Sri Lanka Omnibus Co., Ltd., Colombo.

I have been the secretary since the incorporation of the company.
40 I produce the memorandum and articles of association of the company marked P. 1. The date of incorporation is 13.10.42. The directors of the company were Dr. A. P. de Zoysa, M. Jayasena, B. J. Fernando, W. K. Fernando and P. D. F. Alwis. I produce a copy of the minutes

Exhibits
 P 30
 Plaintiff and Evidence of Obeysekera in M.C. Kurunegala Case No. 22667 April-May, 1945
 --Continued.

of a special general meeting of the company held on 22.1.43, P. 2. At that meeting M. Jayasena was appointed manager of branch "A" of the company. In branch "A" there were about 48 buses to be controlled and about 35 belonged to M. Jayasena. B. J. Fernando was appointed manager of the "B" branch. He had the most amount of buses in that branch. Similarly W. J. Fernando and P. D. F. Alwis were joint managers of branch "C," L. R. Perera for branch "D" and Paulis Appuhamy for branch "E."

On the same day there was a proposal to open branch "F." A resolution was also passed regarding the disposal of the funds 10 collected by the managing directors of the branches.

On 30.1.43 Mr. Samarasinghe was appointed manager of branch "F." He too had the largest number of buses in branch "F." I produce a certified copy of the minutes of the meeting of that day. P. 3. On that day only the directors met. On the same day it was decided to open branch "G" from Alawwa and Kurunegala. The branches are for different areas.

On 12.3.43 there was a meeting of the directors of the company. The complainant and the bus owners of the Kurunegala-Alawwa area invited on that day for an important discussion with the directors. 20 The manager of the company is Mr. Donald Perera. The minutes of 12.3.43 do not state anything in regard to the discussions with the bus owners of Kurunegala-Alawwa bus routes.

The next meeting of the board of directors was on the 30.3.43. There has been no meeting on 16.3.43. There was no resolution in March to appoint any particular person as the manager of the branch "G." The directors had sent a letter of appointment to the accused or the manager of branch "G" on 16.3.43. This much have been done as a result of the conference the directors had with Kurunegala-Alawwa bus owners on 12.3.43. 30

I produce a copy of the minutes of a meeting held on 1.2.44, P. 4. It was the annual general meeting of shareholders. There was a resolution that "G" branch should be managed by the accused. The accused transferred two buses to the company. The practice of the company was for members to transfer buses and buy shares according to the value of the buses. People could sell their buses to the company and draw the money if they so desired and not become members of the company. There were several who did this. On 14.7.44 there was a meeting of shareholders at which a dividend of 1% was declared. I produce P. 5, a letter sent by me on 31.10.44 40 to the complainant forwarding Rs. 19.12. Complainant replied by letter P. 6, dated 7.11.44. He returned the cheque for Rs. 19.12 and complained that it was a requisition. I produce the cheque P. 6A. I produce P. 7 the balance sheet for the year ending 15.1.44. The gross taking of the whole company was Rs. 1,676,647.38 and of which Rs. 1,508,938.77 remained in the hands of the branch manage,

as agency fees. It was not necessary for the branch managers to account for the agency fees. 90% of the gross takings are given to show that the shareholders were informed of the terms on which the accused was appointed. I personally do not know the circumstances in which the accused came to be appointed.

Exhibits
—
P 30
Plaint and Evidence of Obeysekera in M.C. Kurunegala Case No. 22667 April-May, 1945
Continued.

(Sgd.) A. L. S. SIRIMANA.

(Sgd.) D. F. J. OBEYSEKERA.

Read over, etc.,

(Sgd.) T. A. JAYASUNDERA.

10 Further inquiry 25.5 (date strictly given to suit counsel).

(Intd.) A. L. S. S.

25.5.45.

Accused : K. M. PERERA, Present.

Mr. J. E. M. OBEYSEKERA with Mr. PERERA for the accused.

Mr. E. F. N. GRATIAEN with Mr. J. JAYAWARDENE instructed by Mr. WIJESINGHE for the complainant.

D. F. S. OBEYSEKERA. Affirmed, recalled P. E. R.

The accused had to send 10% of the gross collection to the company. He has done so regularly. Mr. Darell Perera opens the letters
20 so sent.

Cross-examined.

Shown D. 1. This is the accused's letter of appointment. It is dated 16.3.43. It is signed by Dr. A. P. de Zoysa. Shown D. 2. This is the letter by which the accused accepted the appointment. (D. 1. and D. 2 are admitted subject to proof. D. 2 is a certified copy). In October, 1944, a dividend of 1% for the year 1943-1944 was declared. The accused was sent Rs. 46.66 which was the amount he was entitled to as a shareholder. On 28.12.43 a contract was entered into between the accused and the company embodying the
30 terms of employment.

Cross-examined.

There is nothing in the minutes to show how D. 1 came to be sent to the accused.

(Sgd.) A. L. S. SIRIMANNA.

25.5.

(Sgd.) D. F. S. OBEYSEKERA.

Read over, etc.,

(Sgd.) T. A. JAYASUNDERA.

True copy of the plaint and the evidence of D. J. F. Obeysekera
40 given in M.C. Kurunegala Case No. 22667.

(Sgd.) Illegibly,
Chief Clerk.

M.C. Kurunegala,
30.2.47.

Exhibits

D 7
 Plaint in M.C.
 Kurunegala
 Case No. 22667
 (Undated)

D. 7.**Plaint in M.C. Kurunegala Case No. 22667.**

M.C. Kurunegala Case No. 22667.

I, H. G. Martin Dias, do hereby complain to Court under section 148 (1) of the Criminal Procedure Code that :—

(1) Between the 1st November, 1943, and 31st January, 1944, in the District of Kurunegala within the local limits of the jurisdiction of this Court K. M. Perera of Malpitiya being entrusted with certain monies being the profits of the “ G ” branch of the Sri Lanka Omnibus Co., Ltd., in the capacity of an agent to wit, the manager of the said 10 branch did dishonestly dispose thereof a sum of Rs. 582 in violation of a contract to pay over the said sum of Rs. 582 to the said H. G. Martin Dias as a member of the “ G ” branch of the Sri Lanka Omnibus Co., Ltd., and did thereby commit the offence of criminal breach of trust punishable under section 392 of the Ceylon Penal Code.

2. Between the 1st February, 1944, and 30th April, 1944, in the District of Kurunegala within the local limits of the jurisdiction of this Court K. M. Perera of Malpitiya being entrusted with certain monies being the profits of the “ G ” branch of the Sri Lanka Omnibus Co., Ltd., in the capacity of an agent to wit, the manager of the 20 said branch did dishonestly dispose thereof the sum of Rs. 582 in violation of a contract to pay over the said sum of Rs. 582 to the said H. J. Martin Dias as a member of the “ G ” branch of the Sri Lanka Omnibus Co., Ltd., and did thereby commit the offence of criminal breach of trust punishable under section 392 of the Ceylon Penal Code.

3. Between the 1st May, 1944, and 31st October, 1944, in the district of Kurunegala within the local limits of the jurisdiction of this Court K. M. Perera of Malpitiya being entrusted with certain monies being the profits of the “ G ” branch of the Sri Lanka Omni- 30 bus Co., Ltd., in the capacity of an agent, to wit, the manager of the said branch did dishonestly dispose thereof a sum of Rs. 1,164 in violation of a contract to pay over the said sum of Rs. 1,164 to the said H. G. Martin Dias as a member of the “ G ” branch of the Sri Lanka Omnibus Co., Ltd., and did thereby commit the offence of criminal breach of trust punishable under section 392 of the Ceylon Penal Code.

(Sgd.) MARTIN DIAS.

Drawn and signed by me,

(Sgd.) A. E. P. WIJEYESINGHE,
Proctor, S.C.

P. 31.**Letter from Sri Lanka Office, Kurunegala, to
L. A. Pabilis Appuhamy.**Sri Lanka Office,
Kurunegala.Exhibits
—
P 31
Letter from Sri
Lanka Office,
Kurunegala, to
L. A. Pabilis
Appuhamy
(Undated)*To Mr. L. A. Pabilis Appuhamy.*

This is to inform you to come over to working place tomorrow morning without fail.

By order,

(Sgd.) Illegibly (in English).

10

Translated by :

(Sgd.) Illegibly,
S.T.

D. 8.**Letter from Plaintiff to Director, Sri Lanka Omnibus Co., Ltd.**A. G. Martin Dias,
Maharagama, Giriulla.D 8
Letter from
Plaintiff to
Director, Sri
Lanka Omnibus
Co., Ltd.
11.6.46

11.6.46.

The Director,

20 Sri Lanka Bus Co.,
Colombo.

With due respect and honoured sir, I humbly beg to submit the following to your kind notice, that I like to give from the "G" branch 20% to the company from the income, and also Rupee One (1) a day from each bus, and 10% for the balance sheet account for the year. The balance 10% should be divided among the members of the "G" branch monthly. Therefore, Sir, you may consider this and grant me my request. Also you may announce this letter in next meeting to the members.

30

Awaiting an early reply,

Yours faithfully,

H. G. MARTIN DIAS,

11.6.46.

Endorsement.

Sri Lanka Omnibus Co., Ltd.,

Date received : 15.6.46.

Date answered : 1.7.46.

Exhibits

P 33
Letter from
Manager, Sri
Lanka Omnibus
Co., Ltd. to
Plaintiff
1.7.46

P. 33.**Letter from Manager, Sri Lanka Omnibus Co., Ltd., to Plaintiff.****SRI LANKA OMNIBUS CO., LTD.***(Incorporated in Ceylon, liability of members is limited)*

41 2/1, Victoria Building,
Norris Road, Colombo.

July 1, 1946.

H. G. Martin Dias, Esq.,
Maharagama-Giriulla.

Dear Sir,

10

We thank you for your letter of the 11th ultimo, but regret to advise you that we are unable to understand same and we suggest that you write in Sinhalese.

It seems that you want some other system of working in connection with "G" branch. This branch was given to Mr. K. M. Perera with your full consent and approval and also with those of other shareholders to work on the 90% basis.

Yours faithfully,
Sri Lanka Omnibus Co., Ltd.,
(Sgd.) DONALD PERERA, 20
Manager.

D. 20.

D 20
Letter from
Manager, Sri
Lanka Omnibus
Co., Ltd. to
Plaintiff
1.7.46

Letter from Manager, Sri Lanka Omnibus Co., Ltd., to Plaintiff.

July 1, 1946.

H. G. Martin Dias, Esq.,
Maharagama, Giriulla.

Dear Sir,

We thank you for your letter of the 11th ultimo, but regret to advise you that we are unable to understand same and we suggest that you write in Sinhalese.

30

It seems that you want some other system of working in connection with "G" branch. This branch was given to Mr. K. M. Perera with your full consent and approval and also with those of other shareholders to work on the 90% basis.

Yours faithfully,
Sri Lanka Omnibus Co., Ltd.,
(Intd.) Illegibly,
Manager.

D. 13**Letter from Proctor for Plaintiff to Defendant**

I. A. B. Ihalagama,
Proctor, S.C., Notary Public.

Office : No. 12, Puttalam Road,
Kurunegala,
21st August, 1946.

Exhibits
—
D 13
Letter from
Proctor for
Plaintiff to
Defendant
21.8.46

K. M. Perera, Esqr.,
Manager, Sri Lanka Omnibus Co.,
Morris Street, Kurunegala.

10

Dear Sir,

I am instructed by my client L. A. Pabilis Appuhamy of Potuhera, suddenly discontinued from service by you to demand of you the immediate payment of Rs. 130, viz., Rs. 65 being salary due for this month and Rs. 65 being salary for September, 1946, in lieu of a month's notice.

Should you fail to comply with this demand within 7 days from date hereof. I am further instructed to file action against you for the recovery of same.

20

Yours faithfully,
(Sgd.) I. A. B. IHALAGAMA.

D. 12**Letter from Defendant to Proctor for Plaintiff**

29th August, 1946.

I. A. B. Ihalagama, Esq.,
Proctor, S.C.,
12, Puttalam Road, Kurunegala.

D
Letter from
Defendant to
Proctor for
Plaintiff
29.8.46

Dear Sir,

With reference to your letter of the 21st instant, I have to inform you that your client was dismissed for valid reasons and that as a matter of law he is entitled to only six days wages.

I was prepared to pay him this amount and one full month's salary in lieu of notice but this he was not prepared to accept.

In the circumstances you are at liberty to prefer your client's claim through a court of law where the matter could be gone into fully.

I am still prepared to pay him six days wages and a full month's salary.

Yours faithfully,

(Intd.) K. M. P.
(K. M. PERERA),
Manager.

40

Exhibits

D 27
 Plaint in D.C.
 Kurunegala
 Case No. 3706
 30.8.46

D. 27

Plaint in D.C. Kurunegala Case No. 3706

IN THE DISTRICT COURT OF KURUNEGALA

D. A. RAN MENIKA HAMINE of
 Upuwarala, Alawwa Plaintiff

No. 3706

Class V

vs.

Amount : Rs. 26,684.34

Nature : Damages

K. M. PERERA of Morris Street, Kurune-

Procedure : Regular

gala Defendant. 10

The 30th day of August, 1946.

The plaintiff of the plaintiff abovenamed appearing by I. A. B. Ihalagama, her proctor, states as follows :—

1. The parties to this action reside and the cause of action hereinafter set out arose within the local limits of the jurisdiction of this Court.

2. The plaintiff and the defendant are registered shareholders of the Sri Lanka Omnibus Co. Ltd.

3. The plaintiff was prior to the 16th day of January, 1943, the owner of the motor omnibus No. X 6742 and a partner of the 20 K.A.B. Bus Co. which was a registered partnership consisting of nine omnibus owners carrying on business of running omnibuses for carrying passengers between Kurunegala and Alawwa. The defendant was a partner and the manager of the said partnership business.

4. In accordance with a decision of the said partnership taken in December, 1942, the omnibuses belonging to the partners were transferred to the Sri Lanka Omnibus Co., Ltd., the plaintiff receiving 27 ordinary shares in the Sri Lanka Omnibus Co. Ltd., in exchange for her omnibus No. X 6742 which was valued by the Sri Lanka Omnibus Co. Ltd. at Rs. 2,500. 30

5. The Sri Lanka Omnibus Co. Ltd., started a separate organisation called the " G " branch to run the omnibuses taken over from the K. A. Bus Co. on the Kurunegala-Alawwa routes.

6. The plaintiff and the other persons who were partners of the said K.A.B. Bus Co. were invited to meet the directors of the Sri Lanka Omnibus Co. Ltd. on 12th March, 1943.

7. At the said meeting the chairman of the board of directors of the Sri Lanka Omnibus Co. Ltd., speaking on behalf of the said board informed the plaintiff and the said other persons that—

(a) the board of directors had decided to offer to contract with 40 the said persons from whom the buses in the " G " branch had been taken over, viz., the former partners of the K. A. Bus Co. for the running of the said omnibuses by

them for the Sri Lanka Omnibus Co., Ltd., on a payment to the said persons of 90% of the gross takings of the said omnibuses less the sum of Re. 1 per omnibus per diem ;

(b) that it was not possible for the Sri Lanka Omnibus Co. Ltd. to enter into separate contracts for the said purpose with each of the said persons, the said persons should nominate one from among them to represent them and to act for them in the matter of the said contract and its execution.

8. The plaintiff and the said other persons accepted the said offer of the board of directors and nominated the defendant, who undertook to represent them and act on their behalf, to contract with Sri Lanka Omnibus Co. Ltd. for the said purpose.

9. Thereupon the Sri Lanka Omnibus Co., Ltd., appointed the defendant who was the agent and representative of the plaintiff and the other said persons, to be the manager of the said " G " branch of the Sri Lanka Omnibus Co., Ltd., for the running of the said omnibuses and for the payment to the Sri Lanka Omnibus Co., Ltd. of 10% of the gross takings for the said omnibuses plus a further sum of Re. 1 per omnibus.

10. The defendant has since March, 1943, collected the gross takings of all the said omnibuses and paid to the Sri Lanka Omnibus Co. Ltd. the amounts due to it.

11. At the meeting of the plaintiff the defendant and other said persons held at Kurunegala on the 8th April, 1943, it was decided that 2/3rd of the net profit from the working of the omnibuses of the said " G " branch were to be distributed monthly among the said persons in proportions to the valuation of their omnibuses by the Sri Lanka Omnibus Co., Ltd., and that the remaining 1/3rd of the net profits was to be reserved for distribution in similar manner at the end of each financial year after deducting therefrom any capital or exceptional expenditure that the said persons might specially authorise. The defendant, at the same meeting promised and undertook to distribute the said profits among the said persons at meetings to be convened by him for the purpose.

12. The defendant duly accounted for and distributed the profits among the said persons at monthly meetings convened by him until November, 1943.

13. Since November, 1943, the defendant has wrongfully and unlawfully failed to account to the plaintiff and withheld from the plaintiff the plaintiff's share of the said profits and has wrongly and unlawfully appropriated the money to himself. The plaintiff assesses the amount so due and payable to the plaintiff by the defendant at Rs. 26,684.34 up to the date hereof.

14. A cause of action has accrued to the plaintiff to sue the defendant for an accounting and for the recovery of the amount due

Exhibits

D 27

Plaint in D. C.

Kurunegala

Case No. 3706

30.8.46

Continued.

Exhibits
 —
 D 27
 Plaintiff in D. C.
 Kurunegala
 Case No. 3706
 30.8.46
 ---Continued

to the plaintiff and in default of a proper accounting for the recovery of Rs. 26,684·34 due up to the date hereof.

Whereof the plaintiff prays—

- (a) That the defendant be directed to account to the plaintiff for the moneys collected by him as manager of the “ G ” branch of the Sri Lanka Omnibus Co. Ltd., and to pay to the plaintiff the said sum found to be due on such accounting ;
- (b) in default of proper accounting for judgment against the defendant in the sum of Rs. 26,684·34 with legal interest 10 thereon from date hereof till the date of decree and thereafter on the aggregate amount of the decree until payment in full ;
- (c) for costs and for such other and further relief as to this Court shall seem meet.

(Sgd.) I. A. B. IHALAGAMA,
Proctor for plaintiff.

True copy of the plaint in D. C. Kurunegala Case No. 3706.

(Sgd.) Illegibly,
Secretary, D.C., Kurunegala. 20

(Caption as in Plaint)

Answer

1. The defendant admits that he resides within the jurisdiction of this Court, but denies that a cause of action hath accrued to plaintiff.

2. The defendant denies all and singular the rest of the averments in the plaint which are inconsistent with what is hereinafter stated and puts the plaintiff to the proof of the several averments in the plaint.

3. The defendant especially denies the averments contained in paragraphs 7, 8, 9, 11 and 12 and 13 of the plaint and avers that 30 the Sri Lanka Bus Co., Ltd. appointed the defendant as local branch manager of the “ G ” branch of the said company independent of any nomination by the plaintiff or any of the other persons mentioned in the plaint.

4. The defendant has collected monies and made disbursements as branch manager in terms of his appointment by the Sri Lanka Bus Co. and denies that he was liable to account for any monies collected by him in such capacity to plaintiff or any of the other persons mentioned in the plaint.

5. The defendant denies that he is liable in law to make any 40 accounting to the plaintiff or to pay any monies to the plaintiff.

6. The plaintiff's cause of action, if any, is prescribed in law.

Wherefore the defendant prays that plaintiff's action be dismissed with costs, etc.

D. 28

Plaint in D.C. Kurunegala Case No. 3707

IN THE DISTRICT COURT OF KURUNEGALA

D. 28
 Plaint in D. C.
 Kurunegala
 Case No. 3707
 30.8.46

No. 3707.

Class—

Amount : Rs. 80,000·00

Nature : Damages

Procedure : Regular

H. G. MARTIN DIAS of Maharagama,
 Administrator of the estate of H. G.
 ROMIEL DIAS deceased in Case No.
 4505 of the District Court of Kurune-
 gala.....*Plaintiff*

vs.

K. M. PERERA of Morris Street,
 Kurunegala.....*Defendant.*

10

The 30th day of August, 1946.

The plaintiff of the plaintiff above-named appearing by I. A. B. Ihalagama, his proctor, states as follows :—

1. The parties to this action resides in and the cause of action hereinafter set out arose within the local limits of the jurisdiction of this Court.

2. The plaintiff is the lawfully appointed administrator of the estate of H. G. Romiel Dias deceased in Testamentary Case No. 4505
 20 of the District Court of Kurunegala.

3. H. G. Romiel Dias and the defendant are registered shareholders of the Sri Lanka Omnibus Co. Ltd.

4. The said H. G. Romiel Dias was prior to the 16th day of January, 1943, the owner of the motor omnibuses Nos. X 9764 and Z 4295 and a partner of the K. A. Bus Co. which was a registered partnership consisting of nine omnibus owners carrying on the business of running omnibuses for carrying passengers between Kurunegala and Alawwa. The defendant was a partner and the manager of the said partnership business.

30 5. In accordance with a decision of the said partnership taken in December, 1942, the omnibuses belonging to the partners were transferred to the Sri Lanka Omnibus Co. Ltd., the said Romiel Dias receiving 88 ordinary shares in the Sri Lanka Omnibus Co. Ltd. in exchange for his omnibuses Nos. X 9764 and Z 4295 which were valued by the Sri Lanka Omnibus Co. Ltd. at Rs. 8,000·00.

6. The Sri Lanka Omnibus Co., Ltd., started a separate organization called the " G " branch to run the omnibuses taken over from the K. A. Bus Co. on the Kurunegala-Alawwa routes.

40 7. The said H. G. Romiel Dias and other persons who were partners of the said K. A. Bus Co. were invited to meet the Directors of the Sri Lanka Omnibus Co. Ltd., on the 12th March, 1943.

Exhibits
 —
 D 28
 Plaintiff in D. C.
 Kurunegala
 Case No. 3707
 30.8.46
 —Continued

8. At the said meeting the chairman of the board of directors of the Sri Lanka Omnibus Co. Ltd., speaking on behalf of the board informed the said H. G. Romiel Dias and the said other persons that—

- (a) the board of directors had decided to offer to contract with the said persons from whom the buses in the " G " branch had been taken over, viz., the former partners of the K. A. Bus Co. for the running of the said omnibuses of the K. A. Bus Co. for the running of the said omnibuses by them for the Sri Lanka Omnibus Co. Ltd., on a payment to the said persons of 90% of the gross takings of the 10 said omnibuses less the sum of Re. 1 per omnibus per diem ;
- (b) that as it was not possible for the Sri Lanka Omnibus Co. Ltd. to enter into separate contract for the said purpose with each of the said persons, the said persons should nominate one from among them to represent them and to act for them in the matter of the said contract and its execution.

9. The said H.G. Romiel Dias and the said other persons accepted the said offer of the board of directors and nominated the defendant who undertook to represent them and act on their behalf to contract 20 with Sri Lanka Omnibus Co. Ltd. for the said purpose.

10. Thereupon the Sri Lanka Omnibus Co. Ltd. appointed the defendant, who was the Agent and representative of the said H. G. Romiel Dias and the other said persons to be the manager, of the said " G " branch of the Sri Lanka Omnibus Co. as manager defendant was to be responsible to the Sri Lanka Omnibus Co. Ltd. for the running of the said Omnibuses and for the payment to the Sri Lanka Omnibus Co., Ltd. of 10% of the gross takings of the said omnibus plus a further Re. 1 per omnibus.

11. The defendant has since March, 1943, collected the gross 30 takings of all the said omnibuses and paid to the Sri Lanka Omnibus Co. Ltd. the amounts due to it.

12. At a meeting of the said H. G. Romiel Dias the defendant and the said other persons held at Kurunegala on the 8th April, 1943, it was decided that 2/3rd of the net profits from the working of the omnibuses of the said " G " branch were to be distributed monthly among the said persons in proportion to the valuation of their omnibuses by the Sri Lanka Omnibus Co. Ltd. and that the remaining 1/3 of the net profits was to be reserved for distribution in a similar manner at the end of each financial year after deducting therefrom 40 any capital or exceptional expenditure that the said persons might especially authorise. The defendant at the same meeting promised and undertook to distribute the said profits among the said persons at meetings to be convened by him for the purpose.

13. The defendant duly accounted for and distributed the profits among the said persons at monthly meetings convened by him until November, 1943.

Exhibits
 D 29
 Plaintiff in D. C.
 Kurunegala
 Case No. 3709
 30.8.46
 --Continued

3. The plaintiff was prior to the 16th day of January, 1943, the owner of the motor omnibus No. Q 1042 and a partner of the K. A. Bus Co. which was a registered partnership consisting of nine omnibus owners carrying on the business of running omnibuses for carrying passengers between Kurunegala and Alawwa. The defendant was a partner and the manager of the said partnership business.

4. In accordance with a decision of the said partnership taken in December, 1942, the omnibuses belonging to the partners were transferred to the Sri Lanka Omnibus Co. Ltd. the plaintiff receiving 27 ordinary shares numbered 6734 to 6760 in the Sri Lanka Omnibus Co. Ltd. in exchange for his omnibus No. Q 1042 which was valued by the Sri Lanka Omnibus Co. Ltd. at Rs. 2,500.

5. The Sri Lanka Omnibus Co. Ltd. started a separate organisation called the "G" branch to run the omnibuses taken over from the K. A. Bus Co. on the Kurunegala-Alawwa routes.

6. The plaintiff and the other persons who were partners of the said K. A. Bus Co. were invited to meet the directors of the Sri Lanka Omnibus Co. Ltd. on 12th March, 1943.

7. The said meeting the Chairman of the board of directors of the Sri Lanka Omnibus Co. Ltd. speaking on behalf of the said board informed the plaintiff and the said other persons that :—

(a) The board of directors had decided to offer to contract with the said persons, from whom the buses in the "G" branch had been taken over, viz. the former partners of the K. A. Bus Co. for the running of the said omnibuses by them for the Sri Lanka Omnibus Co., Ltd., on a payment to the said persons of 90% of the gross takings of the said omnibuses less the sum of Re. 1 per omnibus per diem ;

(b) that, as it was not possible for the Sri Lanka Omnibus Co., Ltd. to enter into separate contracts for the said purposes with each of the said persons, the said persons should nominate one from among them to represent them and to act for them in the matter of the said contract and its execution.

8. The plaintiff and the said other persons accepted the said offer of the board of directors and nominated the defendant, who undertook to represent them and act on their behalf, to contract with Sri Lanka Omnibus Co. Ltd. for the said purpose.

9. Thereupon the Sri Lanka Omnibus Co. Ltd. appointed the defendant who was the agent and representative of the plaintiff and the other said persons, to be the manager of the said "G" branch of the Sri Lanka Omnibus Co. As manager the defendant was to be responsible to the Sri Lanka Omnibus Co. Ltd., for the running of the said omnibuses and for the payment to the Sri Lanka Omnibus Co. Ltd. of 10% of the gross takings of the said omnibuses plus a further sum of Re. 1 per omnibus.

10. The defendant has since March, 1943, collected the gross takings of all the said omnibuses and paid to the Sri Lanka Omnibus Co. Ltd. the amounts due to it.

11. At a meeting of the plaintiff the defendant and the other said persons held at Kurunegala on the 8th of April, 1943. It was decided that 2/3rd of the net profits from the working of the omnibuses of the said "G" branch were to be distributed monthly among the said persons in proportion to the valuation of their omnibuses by the Sri Lanka Omnibus Co. Ltd. and that the remaining 1/3rd of the net profits was to be reserved for distribution in a similar manner at the end of each financial year after deducting therefrom any capital or exceptional expenditure that the said persons might specially authorise. The defendant at the same meeting promised and undertook to distribute the said profits among the said persons at meetings to be convened by him for the purpose.

12. The defendant duly accounted for and distributed the profits among the said persons at monthly meetings convened by him until November, 1943.

13. Since November, 1943, the defendant has wrongfully and unlawfully failed to account to the plaintiff and withhold from the plaintiff, the plaintiff's share of the said profits and has wrongfully and unlawfully appropriated the moneys to himself. The plaintiff assessed the amount as due and payable to the plaintiff by the defendant at Rs. 26,569.34 up to the date hereof.

14. A cause of action has accrued to the plaintiff to sue the defendant for an accounting and for the recovery of the amount found due to the plaintiff and in default of a proper accounting for the recovery of Rs. 26,569.34 due up to the date hereof.

Wherefore the plaintiff prays :—

- 30 (a) that the defendant be directed to account to the plaintiff for the moneys collected by him as manager of the "G" branch of the Sri Lanka Omnibus Co. Ltd. and to pay to the plaintiff the sum found to be due on such accounting.
- (b) in default of proper accounting for judgment against the defendant in the sum of Rs. 26,569.34 with legal interest thereon from date hereof till the date of decree and thereafter on the aggregate amount of the decree until payment in full.
- 40 (c) for costs and for such other and further relief as to this court shall seem meet.

(Sgd.) I. A. B. IHALAGAMA,
Proctor for plaintiff.

True copy of plaint in D.C. Kurunegala (Case No. 3709.

(Sgd.) Illegibly,
Secretary, D.C.K.

Exhibits
—
D 29
Plaint in D. C.
Kurunegala
Case No. 3709
30.8.46
—Continued

Exhibits
 D 10
 Plaint in D. C.
 Kurunegala
 Case No. 3708
 30.8.46

D. 10

Plaint in D.C. Kurunegala Case No. 3708
IN THE DISTRICT COURT OF KURUNEGALA

L. A. PABILIS APPUHAMY of Pothu-
 hera *Plaintiff*

No. 3708.

vs.

K. M. PERERA of Morris Street, Kurune-
 gala *Defendant.*

The 30th day of August, 1946.

The plaint of the plaintiff abovenamed appearing by I. A. B. 10 Ihalagama, his proctor, states as follows.

1. The parties to this action reside in and the cause of action hereinafter set out arose within the local limits of the jurisdiction of this Court.

2. The plaintiff and the defendant are registered shareholders of the Sri Lanka Omnibus Co. Ltd.

3. The plaintiff was prior to the 16th day of January, 1945, the owner of the motor omnibus No. X 1340 and a partner of the K. A. Bus Co. which was a registered partnership consisting of nine omnibus owners carrying on business of running omnibuses for 20 carrying passengers between Kurunegala and Alawwa. The defendant was a partner and the manager of the said partnership business.

4. In accordance with a decision of the said partnership ; taken in December, 1942, the omnibuses belonging to the partners were transferred to the Sri Lanka Omnibus Co., Ltd., the plaintiff receiving 22 ordinary shares numbered 6771-6782 in the Sri Lanka Omnibus Co. Ltd. in exchange for his omnibus No. 1340 which was valued by the Sri Lanka Omnibus Co. Ltd. at Rs. 2,000.

5. The Sri Lanka Omnibus Co. Ltd. started a separate organisation called the " G " branch to run the omnibuses taken over from 30 the K. A. Bus Co., Kurunegala-Alawwa routes.

6. The plaintiff and the other persons who were partners of the K. A. Bus Co. were invited to meet the directors of the Sri Lanka Omnibus Co. Ltd. on the 12th March, 1943.

7. At the said meeting the Chairman of the board of directors of the Sri Lanka Omnibus Co., Ltd., speaking on behalf of the said board informed the plaintiff and the said other persons that :—

- (a) The board of directors had decided to offer to contract with the said persons from whom the buses in the " G " branch had been taken over, viz. the former partners of the K. A. 40 Bus Co. for the running of the said omnibuses by them

for the Sri Lanka Omnibus Co., Ltd. on a payment to the said persons of 90% of the gross takings of the said omnibuses less the sum of Re. 1 per omnibus per diem ;

Exhibits
—
D 10
Plaint in D. C.
Kurunegala
Case No. 3708
30.8.46
—Continued

(b) that, as it was not possible for the Sri Lanka Omnibus Co., Ltd. to enter into separate contracts for the said purpose with each of the said persons the said persons should nominate one from among them to represent them and to act for them in the matter of the said contract and its execution.

8. The plaintiff and the said other persons accepted the said offer of the board of directors and nominated the defendant, who undertook to represent them and set on their behalf to contract with Sri Lanka Omnibus Co. Ltd. for the said purpose.

9. Thereupon the said Sri Lanka Omnibus Co., Ltd. appointed the defendant who was the agent and representative of the plaintiff and the other said persons, to be the manager of the said "G" branch of the Sri Lanka Omnibus Co. As manager the defendant was to be responsible to the Sri Lanka Omnibus Co. Ltd. for the running of the said omnibuses and for the payment to the Sri Lanka Omnibus Co. Ltd. of 10% of the gross takings of the said omnibuses plus a further sum of Re. 1 per omnibus.

10. The defendant has since March, 1943, collected the gross takings of all the said omnibuses and paid to the Sri Lanka Omnibus Co. Ltd. the amounts due to it.

11. At the meeting of the plaintiff the defendant and the other said persons held at Kurunegala on the 8th of April, 1943, it was decided that 2/3rd of the net profits from the working of the omnibuses of the said "G" branch were to be distributed monthly among the said persons in proportions to the valuation of their omnibuses by the Sri Lanka Omnibus Co. Ltd. and that the remaining 1/3rd of the net profits were to be reserved for distribution in a similar manner at the end of each financial year after deducting therefrom any capital or exceptional expenditure that the said persons might specially authorise. The defendant, at the same meeting promised and undertook to distribute the said profits among the said persons at meetings to be convened by him for the purpose.

12. The defendant duly accounted for and distributed the profits among the said persons at monthly meetings convened by him until November, 1943.

13. Since November, 1943, the defendant has wrongfully and unlawfully failed to account to the plaintiff and withheld from the plaintiff the the plaintiff's share of the said profits and has wrongfully and unlawfully appropriated the moneys to himself. The plaintiff assesses the amount so due and payable to the plaintiff by the defendant at Rs. 18,847.99.

Exhibits
—
D 10
Plaint in D. C.
Kurunegala
Case No. 3708
30.8.46
Continued.

14. A cause of action has accrued to the plaintiff to sue the defendant for an accounting and for the recovery of the amount found due to the plaintiff and in default of a proper accounting for the recovery of Rs. 18,847.99 due up to date hereof.

Wherefore the plaintiff prays—

- (a) that the defendant be directed to account to the plaintiff for the moneys collected by him as manager of the “G” branch of the Sri Lanka Omnibus Co. Ltd. and to pay to the plaintiff the sum found to be due on such accounting.
- (b) in default of proper accounting, for judgment against the defendant in the sum of Rs. 18,847.99 with legal interest thereon from the date hereof till the date of decree and thereafter on the aggregate amount of the decree until payment in full
- (c) for costs and for such other and further relief as to this Court shall seem meet.

(Sgd.) I. A. B. IHALAGAMA,
Proctor for plaintiff.

Settled by :

Walter Jayawardene and E. G. Wickramanayake, 20
Advocates.

True copy of the plaint in D.C. Kurunegala Case No. 3708.

(Sgd.) Illegibly,
Secretary, D.C., Kurunegala.

D 11
Summons to
Defendant in
D. C. Kurunegala Case
No. 3708
16.9.46

D. 11

Summons to Defendant in D.C. Kurunegala Case No. 3708

I. A. B. IHALAGAMA,
Proctor, S.C. and Notary Public,
Kurunegala. 30

Summons to Defendant

IN THE DISTRICT COURT OF KURUNEGALA

L. A. PABILIS APPUHAMY.....
Plaintiff

No. 3708

vs.

K. M. PERERA of Morris Street, Kurunegala
..... *Defendant.*

To the abovenamed defendant,

Whereas the abovenamed plaintiff has instituted an action against you in this Court, for to account to the plaintiff for the moneys collected by him as manager of the “G” branch of the Sri Lanka Omnibus 40

Co. Ltd. and to pay the sum found to be due on such accounting and in default of proper accounting for judgment in the sum of Rs. 18,847.99 with legal interest and costs as mentioned in the copy of the plaint hereto annexed.

Exhibits
D 11
Summons to
Defendant in
D. C. Kurunegala Case
No. 3708
16.9.46
-Continued.

You are hereby summoned to appear in this Court, in person or by Proctor on the 10th day of October, 1946, at 10 o'clock of the forenoon to answer the abovenamed plaintiff. And you are hereby required to take notice that in default of your so appearing, the action will be proceeded with and heard and determined in your
10 absence. And you will bring with you or send by your proctor any documents on which you intend to rely in support of your defence.

By Order of Court,
(Sgd.) Illegibly,
Secretary.

This 16th day of September, 1946.

Note 1.—Should you apprehend that your witnesses will not attend of their own accord you can have Summons from this Court to compel the attendance of any witnesses and the production of any document you have a right to call on any witness to produce, by applying to the Court at any reasonable time before
20 trial, and depositing the necessary subsistence money.

Note 2.—If you admit the demand you should pay the money in Court with the cost of the action, to avoid the summary execution of the decree which may be against your person or property or both, if necessary.

(The signature of Donald Perera appears on the reverse of this Summons)

D. 14

Plaint in C.R. Kurunegala Case No. 13950

**IN THE ADDITIONAL COURT OF REQUESTS OF
KURUNEGALA**

D 14
Plaint in C. R.
Kurunegala
Case No. 13950
2.9.46

30 L. A. PABILIS APPUHAMY of Pothuhera..... Plaintiff

No. 13950

vs.

Amount : Rs. 130.

K. M. PERERA of Morris Street, Kurunegala..... Defendant.

Nature : Money.

The 2nd day of September, 1946.

The plaint of the plaintiff abovenamed appearing by I. A. B. Ihalagama, his proctor, states as follows :—

1. The parties to this action reside at the respective places abovenamed and the cause of action arose within the jurisdiction of this Court.

40 2. The defendant is the manager of the " G " branch of the Sri Lanka Omnibus Co. Ltd. and under whom the plaintiff was employed as a " Ticket Inspector " of the said " G " branch on a monthly salary of Rs. 65.

Exhibits
—
D 14
Plaint in C. R.
Kurunegala
Case No. 13950
2.9.46
—Continued.

3. That on or about the 9th day of August, 1946, the defendant abovenamed without any notice or reasonable cause wrongfully and unlawfully dismissed the plaintiff from his service.

4. A cause of action has thus accrued the plaintiff to sue and recover from the defendant a sum of Rs. 130, namely Rs. 65 being salary for the month of August, 1946, and Rs. 65 being one month's salary in lieu of notice.

5. There is now due and owing from the defendant to the plaintiff the said sum of Rs. 130 which or any portion of which the defendant has failed and neglected to pay though thereto often demanded. 10

Wherefore the plaintiff prays for judgment against the defendant for the said sum of Rs. 130 together with legal interest from date hereof till payment in full, for costs of suit and for such other and further relief as this Court shall seem meet.

(Sgd.) I. A. B. IHALAGAMA,
Proctor for Plaintiff.

D 15
Answer in C. R.
Kurunegala
Case No. 13950
17.10.46

D. 15

Answer in C. R. Kurunegala Case No. 13950

**IN THE ADDITIONAL COURT OF REQUESTS OF
KURUNEGALA 20**

L A. PABILIS APPUHAMY of Potu-
hera *Plaintiff*
vs.

No. 13950

K. M. PERERA of Kurunegala.....
Defendant.

This 17th day of October, 1946.

The answer of the defendant abovenamed appearing by C. L. Perera, K. C. C. W. Perera and A. C. Amerasinghe, his proctors practising in partnership under the name and style and firm of Perera & Perera state as follows :— 30

1. The defendant admits that he resides within the jurisdiction of this Court but denies that any cause of action hath accrued to the plaintiff.

2. The defendant states that plaintiff was employed as a time-keeper of the Sri Lanka Bus Co. " G " branch at the dates material to this action.

3. The defendant had on several occasions warned plaintiff for unsatisfactory work and various acts of disobedience prior to the 6th August on which date defendant as he lawfully might dispense with plaintiff's service. 40

4. The plaintiff is in law entitled only to payment for six days' work in the month of August amounting to Rs. 15/- and a month's salary in lieu of notice.

Exhibits
—
D 15
Answer in C. R.
Kurunegala
Case No. 13950
17.10.46
—Continued

5. The defendant has been always ready and willing to pay the sum of Rs. 80/-, to wit Rs. 15/- for wages due up to date of dismissal and Rs. 65/- being a month's salary in lieu of notice which amount the defendant brings into Court.

Wherefore the defendant prays that plaintiff's action be dismissed with costs and for such other and further relief as to this Court shall seem meet.

(Sgd.) PERERA & PERERA,
Proctors for the Defendant.

D. 33

**Journal Entry in D.C. Kurunegala Case No. 13950
IN THE ADDITIONAL COURT OF REQUESTS OF
KURUNEGALA**

D 33
Journal Entry
in D. C.
Kurunegala
Case No. 13950
22.7.47

L. A. PABILIS APPUHAMY of Pothu-
hera *Plaintiff*
vs.

No. 13950

20

K. M. PERERA of Morris Street, Kurune-
gala *Defendant.*

22 July, 1947.

Mr. IHALAGAMA for plaintiff.

Messrs. PERERA & PERERA for defendant.

Trial of consent plaintiff's action is dismissed. No costs.

Plaintiff to draw Rs. 80 in deposit.

(Sgd.) A. JAYARATNE.

D. 24.

Minutes of Meetings.

SRI LANKA OMNIBUS CO., LTD.

30

A meeting of the Board of Directors of the Sri Lanka Omnibus Co., Ltd., was held at the Registered Office, Victoria Buildings, Norris Road, Colombo, on Tuesday, the 27th March, 1945, at 11.30 a.m.

D 24
Minutes of
Meetings
27.3.45 to
17.12.46

Minute Book
of the Board
of Directors'
meetings from
27.3.45 to
17.12.46

Those present were : Dr. A. P. de Zoysa, Messrs. W. K. Fernando, S. A. Samarasinghe, K. M. Perera and D. J. F. Obeysekera.

1. *Re Attanagalla Branch.*—As there was no letter from the agent the matter could not be considered and to inform the manager accordingly.

Exhibits
 D 24
 Minutes of
 Meetings
 27.3.45 to
 17.12.46
 —Continued.
 Minute Book of
 the Board of
 Directors' meet-
 ings from
 27.3.45 to
 17.12.46.

2. *Re Unauthorised Buses.*—It was agreed to write to Mr. K. M. Perera and call for explanation *re* the complaint.

3. It was decided that all new Nelson type buses be insured under Comprehensive Cover.

4. *New Typewriter.*—It was agreed to purchase a new typewriter for Rs. 571.

Mr. P. Don Francis Alwis arrived at this stage.

5. *Omnibus Companies' Association.*—It was agreed that the company do join the Omnibus Companies' Association and pay the annual subscription. 10

6. *Orphanage at Moratuwa.*—It was decided to make a charity allowance annually when cases be put up.

All remaining items were postponed for discussion later.

Meetings.—The Agenda to be forwarded prior to all meetings to the directors.

(Sgd.) A. P. de ZOYSA
 „ W. K. FERNANDO
 „ S. A. SAMARASINGHE
 „ K. M. PERERA
 „ P. D. FRANCIS ALWIS 20
 „ D. J. F. OBEYSEKERA.

SRI LANKA OMNIBUS CO., LTD.

A meeting of the Board of directors of the Sri Lanka Omnibus Co., Ltd., was held at the Registered Office, at 41 2/1, Victoria Buildings, Norris Road, Colombo, on Friday, 20th April, 1945, at 3.15 p.m.

Those present were : Muhandiram B. J. Fernando, Messrs. W. K. Fernando, M. Jayasena, P. Don Francis Alwis and D. F. J. Obeysekera.

Muhandiram B. J. Fernando presided.

Re Excess Profit Duty.—It was agreed to pay the sum of Rs. 100,000 30 and if money to meet the tax was necessary to obtain a loan to meet the amount.

Re Purchase of Chassis, etc.—It was agreed that before any chassis or any other goods or articles were to be issued to branches, no chassis or article was to be issued without payment being made in advance.

Re Outstanding Account.—It was agreed to write to the agents concerned to pay up the outstanding account on or before the 30th April, 1945.

Re Cheques Signature.—It was agreed that all cheques be signed by Mr. M. Jayasena, together with the signature of one of the follow- 40 ing directors, Muhandiram B. J. Fernando, Dr. A. P. de Zoysa, Mr. W. K. Fernando and Mr. M. P. Don Francis Alwis.

Re Auditors and Auditing of Books.—It was agreed to advertise and call for applications from a qualified accounts clerk for acting as internal audit, with salary expected (allowance plus salary).

Salaries of Staff.—The temporary appointment of Mr. O. L. P. Gooneratne as cashier was confirmed and it was agreed to pay him a monthly salary of Rs. 15 only (fifteen only) commencing from date of appointment.

The following increments commencing from April, 1945, were sanctioned :—

10	Mr. Donald Perera	..	Rs. 30	per month
	Mr. D. J. F. Obeysekera..	..	25	..
	Mr. P. Thiagarajan	..	15	..
	Mr. A. Sirimanne	..	10	..
	Mr. U. L. P. Gooneratne..	..	5	..
	Mr. U. Undugoda	..	5	..

It was agreed to increase the allowance of Dr. A. P. de Zoysa by Rs. 25 per month.

It was agreed to increase the salary of the messenger, Francis Jayawardene, by Rs. 5 per month.

20 It was agreed that the advance of one month's salary be treated as an allowance and be dealt with accordingly.

(Sgd.) Illegibly

.. W. K. FERNANDO
 .. M. JAYASENA
 .. P. D. FRANCIS ALWIS
 .. D. J. F. OBEYSEKERA.

SRI LANKA OMNIBUS CO., LTD.

A meeting of the Board of directors of the Sri Lanka Omnibus Co., Ltd., was held at the Registered Office, 41 2/1, Victoria Buildings, 30 Norris Road, Colombo, on Tuesday, the 22nd May, 1945, at 12.30 p.m.

Those present were: Messrs. M. Jayasena, W. K. Fernando, K. M. Perera, L. Robert Perera, Dr. A. P. de Zoysa, Muhandiram B. J. Fernando, and Mr. D. J. F. Obeysekera, Secretary.

Dr. A. P. de Zoysa presided.

1. *Re Claim Against " B " Branch.*—It was decided to address the agent in terms of the agreement and to call upon the branch agent to pay the sum of Rs. 5,500.

2. *Security from Branch Agents.*—It was proposed by Muhandiram B. J. Fernando and seconded by Mr. M. Jayasena, that all 40 branch agents be called upon to deposit a security of Rs. 25,000 as a minimum and that this proposal be circulated amongst the agents and at a subsequent meeting it be discussed for consideration and adoption.

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3. *Re Claim Against " F " Kadugannawa Branch.*—It was agreed to take the matter up when the agent, Mr. S. A. Samarasinghe, was present.

4. *Re Claim Against " C " Branch.*—It was agreed that the claim be met by the company.

5. *Re Insurance.*—It was agreed that the extra cover afforded for buses should be met by each branch agent.

6. *Re Kandy Time Table.*—It was agreed to run according to the approved time table.

7. *Re Kadugannawa Service.*—The manager was requested to 10 make a report on the matter.

8. *Re Petrol Allowance.*—It was agreed to consider it at a subsequent meeting.

9. *Re Car Belonging to the Manager.*—It was agreed to refund the value of the car to the manager as the car belonged to him although it was registered in the name of the company.

10. It was agreed to hold the next meeting on the 18th June, 1945, at 11 a.m.

(Sgd.) A. P. de ZOYSA
 ,, W. K. FERNANDO 20
 ,, (Illegibly in Sinhalese)
 ,, K. M. PERERA
 ,, (Illegibly)
 ,, M. JAYASENA
 ,, D. J. F. OBEYSEKERA.

SRI LANKA OMNIBUS CO., LTD.

A meeting of the Board of directors of the Sri Lanka Omnibus Co., Ltd., was held at the Registered Office, 41 2/1, Victoria Buildings, Norris Road, Colombo, at 1 p.m., on Monday, the 18th June, 1945.

Those present were : Messrs. W. K. Fernando, S. A. Samara- 30 singhe, M. Jayasena, K. M. Perera, D. J. F. Obeysekera, Secretary.

Mr. M. Jayasena presided.

Re letter from secretary to the Minister for Local Administration.

It was agreed to reserve two seats in each 'bus for the use of religious personages.

Dr. A. P. de Zoysa arrived and Mr. Jayasena vacated the chair and Dr. A. P. de Zoysa presided.

No Chassis.—It was agreed to accept 25 chassis as a first consignment and to distribute same as under :—

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10 and the manager requested to write to the Director of Transport accordingly and to state that the balance 25 chassis will be taken before the end of 1945.

Re Milk Contract.—It was agreed to consider the matter at a meeting when Muhandiram B. J. Fernando was present.

Re Security from Branches.—It was agreed to write to Muhandiram B. J. Fernando in reply asking him whether he proposes to bring forward a resolution in lieu of the resolution of the meeting of 22nd May, 1945.

20 *Re Minutes of 22nd May, 1945.*—Considering the letter of 3rd June, 1945, from Muhandiram B. J. Fernando, it was unanimously agreed that the minutes of 22nd May, 1945, were correct and four of the directors, Messrs. M. Jayasena, W. K. Fernando, K. M. Perera and Dr. A. P. de Zoysa who were present at the meeting supported same, as the minutes were in order.

Re Kandy Time Table.—*Re Mr. S. A. Samarasinghe's* letter of 24th May, 1945 and 4th June, 1945, it was agreed to defer decision. The matter to be considered at a subsequent meeting.

(Sgd.) A. P. de ZOYSA
 „ K. M. PERERA
 „ W. K. FERNANDO
 „ M. JAYASENA
 „ S. A. SAMARASINGHE
 „ D. J. F. OBEYSEKERA.

30

SRI LANKA OMNIBUS CO. LTD.

A meeting of the board of directors of the Sri Lanka Omnibus Co., Ltd., was held at the registered office, 41 2/1, Victoria Buildings, Norris Road, Colombo.

Those present were : Dr. A. P. de Zoysa, Messrs. M. Jayasena, P. Don Francis Alwis, L. R. Perera, K. M. Perera, S. A. Samarasinghe,
 40 W. K. Fernando, D. J. F. Obeysekera, Secretary.

Dr. A. P. de Zoysa presided.

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Re Kandy Time Table.—It was agreed by the directors, Mr. Samarasinghe dissenting that the present time table need not be altered.

Traffic managers.—It was agreed to appoint three (3) traffic managers as from 1st August, 1945, on three months' probation.

(Sgd.) A. P. De ZOYSA
.. M. JAYASENA
.. S. A. SAMARASINGHE
.. D. T. FRANCIS ALWIS
.. K. M. PERERA 10
.. (Illegibly in Sinhalese)
.. W. K. FERNANDO
.. D. J. F. OBEYSEKERA.

SRI LANKA OMNIBUS CO. LTD.

A Meeting of the board of directors of the Sri Lanka Omnibus Co., Ltd. was held on Friday the 12th October, 1945 at 11.30 a.m. at the registered office 41 2/1, Victoria Buildings, Norris Road, Colombo.

Those present were Dr. A. P. de Zoysa, Messrs. W. K. Fernando, S. A. Samarasinghe, K. M. Perera, M. Jayasena and D. J. F. Obeysekera, Secretary. 20

Dr. A. P. de Zoysa presided.

Provident Fund.—It was agreed that a Provident Fund be established for all the employees of the company, including the staff employed in the head office, supervisors, time-keepers, inspectors, drivers, conductors, cleaners, and others and rules framed accordingly and submitted for the consideration of the directors.

Re Letter from L. J. Perera.—It was agreed to refer the letter to the manager for disposal.

(Sgd.) A. P. De ZOYSA
.. M. JAYASENA 30
.. S. A. SAMARASINGHE
.. K. M. PERERA
.. D. T. FRANCIS ALWIS
.. W. K. FERNANDO

SRI LANKA OMNIBUS CO. LTD.

A meeting of the board of directors of Sri Lanka Omnibus Co. Ltd., was held on Friday, the 19th October, 1945, at 11 a.m. at the registered office 41 2/1, Victoria Buildings, Norris Road, Colombo.

Those present were Muhandiram B. J. Fernando, Messrs. W. K. Fernando P. Don Francis Alwis, M. Jayasena and D. J. F. Obeysekera. 40
Muhandiram B. J. Fernando presided.

Mr. K. M. Perera arrived at 11.10 a.m.

Mr. S. A. Samarasinghe arrived at 11.20 a.m.

It was agreed to summon a meeting of the directors on the 24th October, 1945, at 11 a.m.

(Not signed).

SRI LANKA OMNIBUS CO. LTD.

A meeting of the board of directors of the Sri Lanka Omnibus Co. Ltd. was held on Wednesday the 24th October, 1945, at 11.45 a.m. at the registered office 41 2/1, Victoria Buildings, Norris Road, Colombo.

10 Those present were Dr. A. P. de Zoysa, Muhandiram B. J. Fernando, Messrs. W. K. Fernando, S. A. Samarasinghe, R. L. Perera, K. M. Perera, M. Jayasena and D. J. F. Obeysekera, Secretary.

Dr. A. P. de Zoysa presided.

Mr. Terrence Perera, auditor, was present by invitation.

Muhandiram B. J. Fernando presided at this stage, as Dr. A. P. de Zoysa left the meeting.

20 *Re New Chassis.*—It was agreed that all new extra chassis paid for by the company should be on hire to the agents, the agents paying the hire in one payment. This payment to be accounted for in the books as being hire for five years. In the event of the cancellation of the agent's agreement the agent will have no claim on the prepaid hire for new chassis.

Re Agents.—The manager was requested to address the board of directors regarding complaints against agents and the working of road service licences.

All complaints against the employees of agents to be sent direct to the agent.

Free Passes.—It was agreed to issue free passes to the employees. These free passes to come into force from 15th November, 1945.

30 Dr. A. P. de Zoysa returned at 12.45 p.m. and presided once again.

(Sgd.) A. P. de ZOYSA
 „ W. K. FERNANDO
 „ (Illegibly in Sinhalese)
 „ S. A. SAMARASINGHE
 „ M. JAYASENA
 „ K. M. PERERA.

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SRI LANKA OMNIBUS CO. LTD.

A meeting of the board of directors of the Sri Lanka Omnibus Co. Ltd., was held on Friday, the 9th November, 1945, at 11 a.m. at the registered office at 41 2/1, Victoria Buildings, Norris Road, Colombo.

Those present were Dr. A. P. de Zoysa, Messrs. W. K. Fernando, L. R. Perera, M. Jayasena, P. Don Francis Alwis, K. M. Perera, Muhandiram B. J. Fernando and D. J. F. Obeysekera.

Dr. A. P. de Zoysa presided and informed that he had to attend a meeting and with the permission of those present withdrew.

Mr. M. Jayasena then took the chair. 10

Purchase of New Chassis.—It was agreed to reply the C.M.T. that the company did not want any more new chassis, and the manager was directed to reply accordingly.

Re Provident Fund.—The manager was requested to make the necessary arrangements to establish a Provident Fund by collecting all particulars regarding the employees who were to join the fund.

Transfer of Shares.—The applications submitted by the following were considered and approved and the secretary was directed to make the necessary records :

Mr. S. A. Samarasinghe's application to transfer in favour of the following :— 20

Malini Samarasinghe, Hettimulla, Kegalle	..	2 shares
Siripala Samarasinghe, Hettimulla, Kegalle	2	„
Gunapala Samarasinghe, Hettimulla, Kegalle	2	„
George Abeysekera, Tarzan Garage, Kegalle	2	„
K. Mudiyanse, Tarzan Garage, Kegalle	..	2 „
R. P. Weerasinghe, Tarzan Garage, Kegalle	2	„

Mr. W. K. Fernando's application to transfer in favour of the following :—

Malini Fernando, Aranayake, Kegalle	..	5 shares	30
Badurawathie Fernando, Aranayake, Kegalle	5	„	

Mr. L. R. Perera's application to transfer in favour of the following :—

L. S. Perera, Delgoda, Weliveriya..	..	2 shares
L. H. Perera, Delgoda, Weliveriya	..	2 „
L. P. Perera, Delgoda, Weliveriya	..	2 „
L. Hemakirthi, Delgoda, Weliveriya	..	2 „
K. D. Karunawathie, Delgoda, Weliveriya..	2	„

Muhandiram B. J. Fernando's application to transfer the Exhibits following :—

Alice Fernando, 25, Cotta Road	2 shares	D. 24. Minutes of meetings 27.3.45 to 17.12.46. —Continued Minute Book of the Board of Directors' meet- ings from 27.3.45 to 17.12.46
Richard Fernando, 25, Cotta Road	10 shares	
Sirisena Fernando, 25, Cotta Road	2 shares	
Cyril Fernando, 25, Cotta Road	2 shares	
Jayasena Fernando, 25, Cotta Road	2 shares	
Margaret Fernando 25, Cotta Road	2 shares	
Lionel Jayaratne, 25, Cotta Road.. ..	2 shares	

10 Mr. K. M. Perera's application to transfer in favour of the following :—

Mana Perera, Potuhera, Kurunegala	2 shares
Shirani Perera, Potuhera, Kurunegala	5 shares

Mr. P. Don Francis Alwis' application to transfer in favour of the following :—

Helena de Alwis, Bokundera, Kesbewa	5 shares
Gunawathie de Alwis, Bokundera, Kesbewa	5 shares

Mr. D. J. F. Obeysekera's application to transfer in favour of the following :—

20 Emilia Obeysekera, St. Rita's, Kadawata	2 shares
Muriel Obeysekera, St. Rita's, Kadawata	2 shares
Julian Obeysekera, St. Rita's, Kadawata	2 shares

It was agreed to meet on the 13th November, 1945, as per notice to consider the letter from Dr. N. M. Perera, as it was late for those at outstation to travel back by bus.

(Sgd.) (Illegibly)

„ M. JAYASENA

„ K. M. PERERA

„ W. K. FERNANDO

30 „ (Illegibly in Sinhalese)

SRI LANKA OMNIBUS CO. LTD.

A meeting of the board of directors of the Sri Lanka Omnibus Co. Ltd. was held on Tuesday, the 13th November, 1945, at 11 a.m. at the registered office at 41 2/1, Victoria Buildings, Norris Road, Colombo.

Those present were Messrs. M. Jayasena, L. R. Perera, S. A. Samarasinghe, K. M. Perera, W. K. Fernando and D. J. F. Obeysekera.

Mr. M. Jayasena presided.

40 Letter dated 1st November, 1945, received on the 8th November, 1945, from Dr. N. M. Perera re-demands of Motor Workers was considered and it was decided that no reply be forwarded.

(Sgd.) W. K. FERNANDO.

„ (Illegibly in Sinhalese).

„ M. JAYASENA.

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SRI LANKA OMNIBUS CO. LTD.

A meeting of the directors of the Sri Lanka Omnibus Co. Ltd. was held on Wednesday, the 6th February, 1946, at 11 a.m. at the registered office at 41 2/1, Victoria Buildings, Norris Road, Colombo.

Those present were Messrs. W. K. Fernando, S. A. Samarasinghe and Dr. A. P. de Zoysa and the Secretary, D. J. F. Obeysekera.

The meeting was postponed for the 18th February, 1946.

(Sgd.) A. P. De ZOYSA.
,, S. A. SAMARASINGHE.
,, W. K. FERNANDO. 10
,, D. J. F. OBEYSEKERA.

SRI LANKA OMNIBUS CO. LTD.

The adjourned meeting of the directors of the Sri Lanka Omnibus Co. Ltd., was held on Monday, 18th February, 1946, at 11.45 a.m. at the Registered Office, 41 2/1, Victoria Buildings, Norris Road, Colombo.

Those present were Dr. A. P. de Zoysa, Muhandiram B. J. Fernando, Messrs. W. K. Fernando, L. R. Perera and D. J. F. Obeysekera, Secretary.

Annual General Meeting.—It was agreed that the Annual General Meeting be held in April when the Balance Sheet for the year ended 31st March, 1946, is ready and certified by the Auditors.

Statement of Accounts.—The statement of accounts for the period of 1st April, 1945 to September 20th, 1945, was tabled and approved.

Loan for Mr. Donald Perera.—It was agreed to allow a loan of Rs. 1,500 to Mr. Donald Perera, repayable by monthly instalments of Rs. 50 a month.

Claims.—It was agreed to meet the claims of the "B" branch buses and the debit to be forwarded to the branch for collection.

Mr. M. Jayasena arrived at 12.15 p.m. 30

Time Tables.—It was agreed that if any alterations in the approved time tables were necessary that the manager first place the matter before the Board.

Omnibuses Companies' Association.—It was agreed that all branches be requested to forward the gross collections on the 11th March, 1946, as a donation to the Omnibus Companies' Association.

(Sgd.) A. P. De ZOYSA.
,, (Illegibly).
,, M. JAYASENA.
,, (Illegibly in Sinhalese) 40
,, W. K. FERNANDO.

Colombo, 21st March, 1946.

SRI LANKA OMNIBUS CO. LTD.

A meeting of the board of directors was held at the registered office of the Company on Thursday, the 21st instant.

Present: Dr. A. P. de Zoysa, Muhandiram B. J. Fernando, Messrs. W. K. Fernando, P. D. Francis Alwis, S. A. Samarasinghe and L. R. Perera. Mr. Donald Perera acted as Secretary.

Letter dated 6th March, 1946, from the Income Tax Commissioner was read and those present decided that the full excess profit duty amounting to Rs. 211,000 be paid by the company and not by the branches.

It was decided to pay the annual subscription of Rs. 100 to the Income Tax Payers' Association. It was agreed to request the manager to make application to the C.M.T. for a service—Mawanella, Rambukkana *via* Baddewela.

It was agreed that the claims in D.C. Colombo Case No. 15580/M to be paid by the "A" branch and claim and costs for D.C. Colombo Case 16148/M to be paid by "B" branch.

It was decided that in future law suits against the company, the board of directors should decide the lawyers to be retained for the case. At this stage Messrs. M. Jayasena and K. M. Perera arrived.

(Sgd.) A. P. De ZOYSA.
 .. B. J. FERNANDO.
 .. M. JAYASENA
 .. S. A. SAMARASINGHE.
 .. P. T. FRANCIS ALWIS.
 .. W. K. FERNANDO.
 .. (Illegibly in Sinhalese).
 .. K. M. PERERA.
 .. DONALD PERERA.

30

Colombo, 10th May, 1946.

A meeting of the board of directors of the Sri Lanka Omnibus Co. Ltd., was held at the registered office on Friday, the 10th May, 1946, at 12 a.m.

Present: Dr. A. P. de Zoysa, Muhandiram B. J. Fernando, Messrs. M. Jayasena, P. D. Francis Alwis, W. K. Fernando.

Dr. A. P. de Zoysa presided.

The audited balance sheet for year ended 31st March, 1945, was considered and adopted.

It was agreed to declare a dividend of 5% (five) per cent for the year ended 31st March, 1945, free of taxes.

It was agreed to hold the annual general meeting on June 4th, 1946, at 10 a.m.

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It was agreed to consider the question of Workmen's Compensation after the annual meeting.

(Sgd.) A. P. De ZOYSA.
,, B. J. FERNANDO.
,, P. T. FRANCIS ALWIS.
,, M. JAYASENA.
,, W. K. FERNANDO.
,, D. J. F. OBEYSEKERA.

Colombo, 28th June, 1946.

A meeting of the board of directors of the Sri Lanka Omnibus 10 Co. Ltd. was held at the registered office on Friday, the 28th June, 1946, at 11 a.m.

Present: Dr. A. P. de Zoysa, Muhandiram B. J. Fernando, Messrs. M. Jayasena, W. K. Fernando and D. J. F. Obeysekera, Secretary.

It was decided that the employees be insured under the Workmen's Compensation Ordinance and the company bearing the expenditure.

Mr. S. A. Samarasinghe arrived at 11.30 a.m.

Re letter from the All Ceylon Motor Transport Workers' Union it was agreed to refer same to our lawyers for instructions.

Salaries and Wages.—The following salary scales were approved:— 20
Manager—Rs. 300 to Rs. 600 annual increments of Rs. 25 per annum.

Secretary—Rs. 100 to Rs. 300 ; annual increments of Rs. 15 per annum.

Accounts Clerk—Rs. 75 to 200 ; annual increments of Rs. 12.50 per annum.

Clerk-Typist Scale—Rs. 60 to Rs. 150 ; annual increments of Rs. 10 per annum.

Mr. U. L. P. Gooneratne—Annual increment Rs. 5 per annum.

Mr. D. A. Undugoda—Annual increment Rs. 5. 30

Peon—Rs. 30 to Rs. 60 ; annual increment Rs. 2/50.

It was agreed to grant a donation of Rs. 25 to the Moratuwa Convent of Our Lady of Victories.

Re Martin Dias' letter it was agreed to reply that this letter was not understood and to write in Sinhalese. That it appeared that it was in connection with "G" branch which was given to Mr. K. M. Perera with the full consent and approval of the other shareholders. It was agreed to buy over if available the Silver Line Bus Co. Ltd. and the directors were authorised to negotiate in this connection.

(Sgd.) A. P. De ZOYSA. 40
,, B. J. FERNANDO.
,, W. K. FERNANDO.
,, M. JAYASENA.
,, S. A. SAMARASINGHE.
,, D. J. F. OBEYSEKERA.

Colombo, 5th July, 1946. Exhibits

A meeting of the board of directors of the Sri Lanka Omnibus Co. Ltd. was held at the registered office at 41 2/1, Victoria Buildings, Norris Road, Colombo, on Friday, 5th July, 1946, at 11.30. a.m.

Those present were Dr. A. P. de Zoysa, Muhandiram B. J. Fernando, Messrs. M. Jayasena, P. Don Francis Alwis, S. A. Samarasinghe, K. M. Perera, L. R. Perera, W. K. Fernando and D. J. F. Obeysekera, Secretary.

Dr. A. P. de Zoysa presided.

10 The manager's letter, it was agreed to engage a clerk on a salary of Rs. 75 per month.

Re Muthukude's letter it was agreed to allow him three months' leave with pay.

Re share case, it was agreed if the judgment was unfavourable to appeal to the Supreme Court.

(Sgd.) A. P. De ZOYSA.
 „ B. J. FERNANDO.
 „ M. JAYASENA.
 „ (Illegibly).
 „ S. A. SAMARASINGHE.
 „ K. M. PERERA.
 „ (Illegibly in Sinhalese).
 „ W. K. FERNANDO.
 „ D. J. F. OBEYSEKERA.

20

Colombo, 6th August, 1946.

A meeting of the board of directors of the Sri Lanka Omnibus Co. Ltd. was held on Tuesday, the 6th August, 1946, at the registered office at 41 2/1, Victoria Buildings, Norris Road, Colombo, at 12.15 p.m.

30 Those present were Muhandiram B. J. Fernando, Messrs. M. Jayasena, S. A. Samarasinghe, W. K. Fernando, L. R. Perera, K. M. Perera and D. J. F. Obeysekera, Secretary.

Muhandiram B. J. Fernando presided.

Re the question of the appointment of manager.—It was agreed to appoint Mr. V. L. A. Perera temporarily for a period of 3 months on probation.

Re Mr. Sirimane.—It was agreed to appoint a suitable clerk after calling up applications.

(Sgd.) B. J. FERNANDO
 „ M. JAYASENA
 „ S. A. SAMARASINGHE
 „ W. K. FERNANDO
 „ K. M. PERERA
 „ (Illegibly in Sinhalese.)

40

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A meeting of the board of directors of the Sri Lanka Omnibus Co. Ltd., Colombo, held at the registered office of the company (No. 41 2/1, Victoria Buildings, Norris Road, Colombo) on 13th September, 1946, at 11 a.m.

Present : Dr. A. P. de Zoysa, M.S.C. (Chairman), Mr. M. Jayasena, Muhandiram B. J. Fernando, Messrs. S. A. Samarasinghe, K. M. Perera and V. L. A. Perera, manager and acting secretary.

1. *Colombo D.C. Cases No. 15925 and 15931, 16290 and 16291.*—It was decided to appeal against the judgment in Colombo D.C. Cases 15925, 15931, 16290 and 16291. 10

It was decided to obtain from the lawyers further details of the bill dated 10.9.46 for Rs. 5,102·60.

2. *Colombo D.C. Case No. 16153.*—It was decided that out of Rs. 5,000 paid as damages to Mr. Felix Silva in, Colombo, D.C. Case 16153, a sum of Rs. 2,000 to be paid by the Insurance company and the balance Rs. 3,000 to be paid by the manager of the branch "F." Kegalle.

Mr. S. A. Samarasinghe dissented.

3. *Cases instituted against manager (G) branch, Kurunegala.*—It was decided to inform Mr. K. M. Perera in reply to his letter dated 20 11.9.46 that the board of directors are not in a position to accede to his request.

4. *Unpaid dividends.*—The board was informed that the under-mentioned shareholders failed to perfect the return the vouchers for payment of the dividends due to them :—

Mr. N. M. Matheshamy	..	..	..	Rs. 129·60
Mrs. D. A. Ran Menika	..	..	..	.. 97·20
Mr. B. A. John Singho	..	..	..	.. 97·20
Mr. P. H. G. Martin Dias	..	..	..	.. 97·20

It was resolved to send their dividends by cheques. 30

5. *Extra work done by Mr. D. B. Perera, Clerk.*—On the recommendation of the manager, it was resolved to pay Mr. D. B. Perera, a clerk in this company office, a sum of Rs. 45 for extra work done during August, 1946.

6. *Kandy Perahera.*—Refused to make payments to traffic managers and time-keepers for extra work done during Kandy Perahera season (1946).

7. *Inventory Form.*—Resolved to approve to the new form.

(Sgd.) A. P. De ZOYSA,
Chairman, 40
18.10.46.

A meeting of the board of directors of Sri Lanka Omnibus Co. Ltd., Colombo, held at the registered office of the company at Victoria Buildings, Norris Road, Colombo, on 18th October, 1946, at 11 a.m.

Present : Dr. A. P. de Zoysa (M.S.C. Chairman), Messrs. S. M. Jayasena, S. A. Samarasinghe, W. K. Fernando, L. R. Perera, "Victor" L. A. Perera, manager and acting secretary.

1. Confirmed the minutes of the meeting held on 13th September, 1946.

2. *Omnibus Insurance*.—It was resolved to defer consideration of the following motion moved by Mr. S. A. Samarasinghe, until particulars are obtained from various Insurance companies :—

"That the buses of the company should be insured by comprehensive policy with an unlimited third party cover."

3. It was resolved to grant two months' leave from 13th September, 1946, to Mr. D. F. J. Obeysekera, secretary of this company.

4. *Lawyers Fees re share cases appeal*.—Tabled a letter from D. F. J. Perera, lawyer, consenting to reduce his bill by Rs. 225. It was resolved to pay the balance Rs. 1,275 due to Mr. D. F. J. Perera.

5. *The late Mr. Romiel Dias*.—It was resolved that the dividend of Rs. 316.80 due to the estate of the late Mr. Romiel Dias be sent to the secretary, District Court, Kurunegala, to be deposited in the Testamentary Case, No. 3505.

6. *Time Table*.—The question was deferred.

7. Tabled a letter *re* T.I.M. Bus ticket, issuing machine, and it was resolved to recommend it to the branches for consideration.

(Sgd.) A. P. De ZOYSA,

Chairman,

17.12.46.

Minutes of a meeting of the board of directors of Sri Lanka Omnibus Co. Ltd., Colombo, held at the registered office of the company on 17th December, 1946, at 11 a.m.

Present : Dr. A. P. de Zoysa, M.S.C. (Chairman), Mr. M. Jayasena, Mr. W. K. Fernando, Mr. P. Don Francis Alwis, Mr. L. R. Perera, Mr. S. A. Samarasinghe, Mr. V. L. A. Perera, manager and acting secretary.

1. *Minutes*.—Confirmed the minutes of the previous meeting held on 18th October, 1946.

2. *Mail Contract*.—The manager informed that he is taking the necessary action regarding the question of renewal of mail contract.

3. *Late Mr. Donald Perera*.—Tabled a letter from Mrs. Donald Perera, wife of the late manager of this company asking for a granting. It was resolved to cancel the debt of Rs. 1,206.25 due to this company from late Mr. Donald Perera. It was also resolved to give the two

Exhibits

D. 24

Minutes of Meetings
27.3.45 to
17.12.46

-Continued

Minute Book of the Board of Directors' meetings from
27.3.45 to
17.12.46

Exhibits
D. 24.
Minutes of
Meetings
27.3.45 to
17.12.46.
Continued.
Minute Book of
the Board of
Directors' meet-
ings from
27.3.45 to
17.12.46.
Continued.

children of the late Mr. Donald Perera, a sum of Rs. 1,500. The money to be deposited in the Ceylon Savings Bank in two separate accounts in the names of the two children. Each to get a sum of Rs. 750.

4. *Increase of Allowance.*—Tabled a letter from Mr. D. M. Wickremasinghe asking for an increase of the allowance allowed to him. It was resolved to inform Mr. D. M. Wickremasinghe that he is given an allowance of Rs. 60 a month for the services he renders to the company and that the legal dividend due to him on the shares owned by him is paid regularly. 10

5. *Motor Omnibus Insurance.*—It was resolved to defer the consideration of this question.

6. *Bonus Head Office staff for 1946.*—It was resolved to pay clerks of the office and peons one month's salary due as bonus for the year 1946.

7. *Secretary of the company.*—It was resolved to ask Mr. W. L. P. Perera, the general manager, to continue to attend to the work of the secretary in place of Mr. D. J. F. Obeysekera who has not yet reported himself for duty, his leave expires on 13th December, 1946.

(Sgd.) A. P. De ZOYSA, 20
Chairman,
17.1.1947.

D 16 (a)
Minutes of
Meeting of Sri
Lanka Omnibus
Co., Ltd.
23.3.45

D. 16 (a)

Minutes of Meeting of Sri Lanka Omnibus Co. Ltd.

SRI LANKA OMNIBUS CO. LTD.

The annual meeting of the shareholders of the Sri Lanka Omnibus Co., Ltd., was held at the registered office, 41 2/1, Victoria Building, Norris Road, Colombo, on Friday, the 23rd March, 1945, at 12 noon.

Those present were Messrs. M. Jayasena, S. A. Samarasinghe, K. M. Perera, W. M. D. J. Paulis Appuhamy, W. D. Henry, Muhandi- 30
ram B. J. Fernando, Messrs. D. M. Wickremasinghe, W. K. Fernando, Mrs. P. T. S. Natchiya, Messrs. P. A. Mendis Appuhamy and D. J. F. Obeysekera.

Also, Mrs. D. A. Ran Menika, Messrs. L. A. Pabilis Appuhamy, Martin Dias and B. A. John Singho were present but refused to sign the attendance sheet.

Muhandiram B. J. Fernando presided.

(1) On the proposal of Mr. W. M. D. J. Paulis Appuhamy and seconded by Mrs. P. T. S. Natchiya, it was unanimously agreed that the present branch system of working be continued during the ensuing 40 year.

(2) On the proposal of Mr. D. M. Wickremasinghe seconded by Mr. W. M. D. J. Paulis Appuhamy, it was unanimously agreed that the same directors do continue in office during the ensuing year, viz. Muhandiram B. J. Fernando, Messrs. M. Jayasena, P. Don Francis Alwis, K. M. Perera, S. A. Samarasinghe, W. K. Fernando, L. Robert Perera and Dr. A. P. de Zoysa, Dr. A. P. de Zoysa to be the chairman of the board of directors.

Exhibits
D 16 (a)
Minutes of
Meeting of Sri
Lanka Omnibus
Co., Ltd.
23.3.45
—Continued.

(3) It was proposed by Muhandiram B. J. Fernando and seconded by Mr. S. A. Samarasinghe that the same gentlemen be in charge of
10 branches or agencies as last year for the ensuing year, viz. Messrs. M. Jayasena, B. J. Fernando, W. K. Fernando, L. Robert Perera, W. M. D. J. Paulis Appuhamy, S. A. Samarasinghe, and K. M. Perera.

(4) Mr. Martin Dias proposed and Mr. L. A. Pabilis Appuhamy seconded that a new agent in place of Mr. K. M. Perera be appointed, This proposal was discussed and put to the house and lost. Those voting for the proposal being the proposer Mr. Martin Dias, the seconder, Mr. L. A. Pabilis Appuhamy and also Mrs. D. A. Ran Menika and Mr. B. A. John Singho.

The meeting adjourned with a vote of thanks to the chair.

20

(Sgd.) B. J. FERNANDO.

D. 16 (b)

Minutes of Meeting of Sri Lanka Omnibus Co. Ltd.

SRI LANKA OMNIBUS CO. LTD.

The annual meeting of the shareholders of the Sri Lanka Omnibus Co. Ltd. was held at the registered office, 41 2/1, Victoria Buildings, Norris Road, Colombo, on Tuesday, 4th June, 1946, at 11.30 a.m.

D 16 (b)
Minutes of
Meeting of Sri
Lanka Omnibus
Co., Ltd.
4.6.46

Those present were Muhandiram B. J. Fernando, Messrs. M. Jayasena, P. D. Francis Alwis, P. A. Mendis Appuhamy, H. D. Martin Dias, M. N. Appuhamy, L. A. Pabilis, W. D. Henry, Mrs. D. A. Ran
30 Menika, Mrs. P. T. S. Natchiya, Messrs. K. M. Perera, D. M. Wickremasinghe and D. J. F. Obeysekera.

Muhandiram B. J. Fernando presided.

On the proposal of Muhandiram B. J. Fernando and seconded by Mr. P. Don Francis Alwis the balance sheet which was circulated previously was duly adopted unanimously.

On the proposal of Mr. D. M. Wickremasinghe and seconded by Mrs. P. T. S. Natchiya the directors recommendation of the payment of 5% dividend was unanimously recommended.

Muhandiram B. J. Fernando proposed that the present system
40 of branches being worked by agencies be continued during the ensuing year, this was seconded by Mrs. P. T. S. Natchiya.

Exhibits
—
D 16 (b)
Minutes of
Meeting of Sri
Lanka Omnibus
Co., Ltd.
4.6.46
—Continued.

The agents being Messrs. M. Jayasena, Muhandiram B. J. Fernando, W. K. Fernando, K. M. Perera, W. M. F. J. Paulis Appuhamy, L. R. Perera for the ensuing year, proposed by Mr. P. Don Francis Alwis and seconded by Mr. D. M. Wickremasinghe.

Mr. D. M. Wickremasinghe proposed and Mrs. P. T. S. Natchiya seconded that the following be elected directors for the ensuing year :—

Dr. A. P. de Zoysa, Muhandiram B. J. Fernando, P. Don Francis Alwis, K. M. Perera, L. R. Perera, W. K. Fernando and S. A. Samarasinghe.

(Sgd.) B. J. FERNANDO. 10

D 16 (c)
Minutes of
Meeting of Sri
Lanka Omnibus
Co., Ltd.
27.6.47

D. 16 (c)

Minutes of Meeting of Sri Lanka Omnibus Co. Ltd.

Minutes of the annual general meeting of the Sri Lanka Omnibus Co. Ltd., Colombo, held at the registered office, No. 41 1/6, Victoria Buildings, Norris Road, Colombo, on the 27th June, 1947, at 11 a.m.

Present : Dr. A. P. de Zoysa (M.S.C.) Chairman, Muhandiram B. J. Fernando, Messrs. W. K. Fernando, L. R. Perera, P. D. F. Alwis, W. M. D. J. Paulis Appuhamy, D. M. Wickremasinghe, Martin Dias, S. A. Samarasinghe, V. L. A. Perera, General Manager and Secretary.

1. Tabled telegrams from Mr. K. M. Perera and Mrs. P. T. S. Natchiya, regretting their inability to be present at the meeting. 20

2. *Accounts for 1945-46.*—It was resolved to approve the statement of accounts for 1945-46 submitted by the Company Auditors, Messrs. Terence Perera & Co., the copies of which were furnished to all the shareholders. This was proposed by Muhandiram B. J. Fernando and seconded by Mr. P. D. F. Alwis.

3. *Dividend for 1945-46.*—It was resolved to approve the recommendation made by the board of directors that the company should declare a dividend of 20% less Income Tax for the year 1945-46. This was proposed by Muhandiram B. J. Fernando and seconded by Mr. P. D. F. Alwis. 30

4. *Chairman of the board of directors.*—On the proposition of Muhandiram B. J. Fernando, and seconded by Mr. L. R. Perera, it was resolved to elect Dr. A. P. de Zoysa as Chairman of the board of directors for 1947-48.

5. *Board of directors for 1947-48.*—It was resolved to elect the following gentlemen for the Board of Directors of the company :—

Mr. M. Jayasena, Muhandiram B. J. Fernando, Messrs. W. K. Fernando, S. A. Samarasinghe, K. M. Perera, L. R. Perera, P. D. F. Alwis, W. M. D. J. Paulis Appuhamy.

This was proposed by Muhandiram B. J. Fernando and seconded by Mr. S. A. Samarasinghe. Exhibits

6. *Branch managers.*—It was decided to appoint the same Branch Agents as last year. D 16 (c)
Minutes of
Meeting of Sri
Lanka Omnibus
Co., Ltd.
27.6.47

The Agents being :—Mr. M. Jayasena, Muhandiram B.J. Fernando, Messrs. W. K. Fernando, L. R. Perera, S. A. Samarasinghe, W. M. D. J. Paulis Appuhamy, K. M. Perera. —Continued.

This was proposed by Mr. P. D. F. Alwis and seconded by Mr. L. R. Perera.

7. *Auditors.*—It was decided to appoint Messrs. Terence Perera & Co. as Company Auditors. This was proposed by Muhandiram B. J. Fernando and seconded by Mr. L. R. Perera.

(Sgd.) A. P. De ZOYSA,
Chairman of the Board of Directors.

P. 52.

Notice of Assessment of Income Tax of Defendant.

No. 43/663.
Charge No. 3657.

P 52
Notice of
Assessment of
Income Tax of
Defendant
1942

**CEYLON INCOME TAX
Income Tax Year Ending March 31, 1942.**

NOTICE OF ASSESSMENT.

To K. M. Perera, Esq., Malpitiya of Kurunegala.

Take notice that the assessor, Unit 1, has assessed your income as follows :—

Total income							Rs. 8,000
Earned Personal Income	1,200	Wife	—	Children	—	Dependent Relatives	—
	2,000					Total	3,200
				Taxable income			Rs. 4,800

Tax Payable							
Taxable Income	4,800	Rate	at 7½ per cent.				Tax 360
							360
				Less Allowance for Tax paid at Source			—
							360

The above amount is payable by you on or before 26th April, 1945.

If not paid on that date, a sum not exceeding 20 per cent. of the tax will be added.

If you object to the above assessment you must give notice of appeal in writing within 21 days of the date hereof, giving the grounds of objections.
24th March, 1945.

Income Tax Office,
Colombo.

(Sgd.) S. SUBRAMANIAM,
Assistant Commissioner.

Exhibits
—
P 53
Notice of
Assessment of
Income Tax of
Defendant
1943

P. 53.**Notice of Assessment of Income Tax of Defendant.**

No. 43/633.
Charge No. 32613.

CEYLON INCOME TAX.**Income Tax Year Ending March 31, 1943.****AMENDED NOTICE OF ASSESSMENT.**

To K. M. Perera, Esq., 7, Morris St., Kurunegala.

Take notice that the assessor, Unit 1, has assessed your income as follows :—

<i>Source of Income</i>						<i>Amount</i>
						<i>Assessed</i>
						Rs.
Profits from agriculture	..	..	..	..	..	—
Profits from employment	..	..	..	..	..	—
Profits from trades, professions, &c.	..	..	..	..	..	6,250
Interest from sources in Ceylon	..	..	..	..	..	—
Dividends from Ceylon Companies	..	..	..	..	..	—
Interest, &c., from the United Kingdom and India	..	..	..	..	..	—
<i>Foreign Income</i>						
Annual value of residence owned	..	..	..	..	..	— 20
Rent of properties	..	..	..	..	..	—
Other profits and income	..	..	..	..	..	—
<i>Less</i> Interest, &c., paid	..	..	..	..	..	6,250
Total						6,250
Allowances	Personal	Wife	Children	Dependent		
Earned				Relatives		
Income						
1,250	2,000	—	—	—	..	3,250
Taxable income						3,000
Tax Payable						30
Taxable Income	<i>Tax Payable</i>					
Rs.	Rate					Tax
3,000	at 7½ per cent.				..	Rs. 225
						225
<i>Less</i> Allowance for						
(a) Tax paid at source						—
Payable						225

The above amount is payable by you on or before 7.1.48. If not paid on that date a sum not exceeding 20 per cent. of the tax will be added.

If you object to the above assessment you must give notice of appeal in writing within 21 days of the date hereof, stating the grounds of objections. Your income from trades is assessed under Section 11 (3) of the Income Tax Ordinance.

(Sgd.) S. SUBRAMANIAM,
Assistant Commissioner.

16.12.47.

Unit 1.

—Continued.

CEYLON INCOME TAX

This slip must be detached and forwarded with your remittance to The Commissioner of Income Tax, Administrative Branch (C), Colombo.

Year to March 31, 1943.

Charge No. 32613/AR 5467.

File No. 43/633.

Name : K. M. Perera, Esq.

Address : No. 7, Morris St., Kurunegala.

Tax payable : Rs. 225.

10 Date due : 7.1.48.

If not paid on or before the due date, a further sum will be charged.

Exhibits

P 53

Notice of
Assessment of
Income Tax of
Defendant
1943

Continued.

P. 54.

Notice of Assessment of Income Tax of Defendant.

No. 43/633.

Charge No. 32614/7791.

CEYLON INCOME TAX.

Income Tax Year Ending March 31, 1944.

NOTICE OF ASSESSMENT (Add.)

To K. M. Perera, Esq., 7, Morris St., Kurunegala.

20 Take notice that the assessor, Unit 1, has assessed your income as follows :—

<i>Source of Income</i>	<i>Amount Assessed</i>
	Rs.
Profits from agriculture	—
Profits from employment	600
Profits from trades, professions, &c.	30,000
Dividends from Ceylon companies	—
Interest, &c., from the United Kingdom	—
Foreign income	—
30 Annual value of residence owned	—
Other profits and income	—
<i>Less Interest, &c., paid</i>	30,600
Losses	—
Total	30,600

Earned Income	<i>Allowances</i>				Total
	Personal	Wife	Children	Dependent Relatives	
4,000	2,000	—	—	—	6,000
					Taxable income 24,600
					<i>Tax Payable</i>
					Taxable Income
Rs. 6,000					Rate 450
18,000					at 7½ per cent. 2,790
					at 15 per cent.
					3,240

Continued next page

Exhibits — P 54. Notice of Assessment of Income Tax of Defendant 1944 — <i>Continued.</i>	Less Allowance for (a)..... (b)..... Tax charged by previous assessment Add Tax payable	B/forward	Rs. 3,240 — — 2,400 <hr/> 840
-------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------	-----------	----------------------------------------------

The above amount is payable by you on or before 9th January, 1948.

If not paid on that date, a sum not exceeding 20 per cent. of the tax will be added.

If you object to the above assessment, you must give notice of appeal in writing within 10 21 days of the date hereof, stating the grounds of objections.

(Sgd.) S. SUBRAMANIAM,
Assistant Commissioner.

26th November, 1947.

CEYLON INCOME TAX

This slip must be detached and forwarded with your remittance to The Commissioner of Income Tax, Administrative Branch (C), Colombo.

Year to March 31, 1944.

Charge No. 32614/7791.

File No. 43/633.

Name : K. M. Perera, Esq.

Address : 7, Morris St., Kurunegala.

Tax payable : Rs. 840.

Date due : 9th January, 1946.

If not paid on or before the due date, a further sum will be charged.

P. 55.

Notice of Assessment of Income Tax of Defendant.

No. 43/633.

Charge No. 34526/7792.

CEYLON INCOME TAX.

Income Tax Year Ending March 31, 1946.

NOTICE OF ASSESSMENT.

To K. M. Perera, Esq., 7, Morris St., Kurunegala.

Take notice that the assessor, Unit 1, has assessed your income as follows :—

<i>Source of Income</i>	<i>Amount Assessed</i>
	Rs.
Profits from agriculture	174
Profits from employment	—
Profits from trades, professions, &c.	40,000 40
	893
Interest from source in Ceylon	6,774
Rent of properties	192
	<hr/> 48,033

Continued next page

Exhibits
—
P. 56
Notice of
Repayment of
Income Tax of
Defendant
1948

P. 56.

Notice of Repayment of Income Tax of Defendant.

No. 43/633.

Charge No. 43176.

CEYLON INCOME TAX.

Income Tax Year Ending March 31, 1948.

NOTICE OF REPAYMENT.

To K. M. Perera, Esq., No. 7, Morris Street, Kurunegala.

Take notice that repayment is due to you as follows :—

									Rs. c. 10
							Total income		46,722 00
							<i>Less</i> Interest, &c. paid		—
							Losses		—
							Assessable income		46,722 00
							<i>Earned</i> Income		
							4,000 ..		
							<i>Personal</i> .. 2,000 ..		
							<i>Wife</i> .. 1,000 ..		
							<i>Allowances</i>		
							<i>Children</i> .. 1,500 ..		
							<i>Dependent</i> .. — ..		
							<i>Relatives</i>		
							Total ..		8,500 00
							Taxable income		38,222 00 20
							<i>Tax Payable</i>		
							Rate		Tax
							Rs.		Rs. c.
							at 1½ per cent.		—
							6,000		510 00
							10,000		1,800 00
							at 18 per cent.		
							20,000		4,200 00
							at 20 per cent.		
							2,222		833 25 30
							at 21 per cent.		
							at 23 per cent.		
							at 37½ per cent.		
							at 58 per cent.		
							at 64 per cent.		—
							38,222		7,343 25
							Net tax due		7,343 25
							Tax paid by direct assessment		12,510 00
							Tax repayable		5,166 75
							Tax transferred to charge No. AA 236		5,166 75
							Balance tax repayable : Nil.		

(Sgd.) Illegibly,

Assessor, Unit 1.

40

12th November, 1949.

P. 35.
Statement of Accounts.

41 2/1, Victoria Building,
Norris Road,
Colombo, October 5, 1945.

Exhibits
P 35
Statement of
Accounts
5.10.45

Statement of Accounts.

Kurunegala Agent : Mr. K. M. Perera.

	Rs.	c.
Total bus income for the period from February 1, 1944 to April 30, 1944	38,281	90
10 90% Commission	34,453	72
10% Balance	3,828	78
Rs. c.		
Total bus income for the period from May 1, 1944 to October 31, 1944	81,164	35
90% Commission	73,047	94
10% Balance	8,116	41

We hereby certify that the above statement is the correct extract from our books and statements received from the agent concerned.

(Sgd.) A. P. de ZOYSA,
Chairman.
Sri Lanka Omnibus Co., Ltd

20

D. 22.

Statement of Accounts.

TERENCE PERERA & Co.,

Approved Accountants, Income Tax.

K. M. PERERA
(Kurunegala Branch)
Sri Lanka Omnibus Co., Ltd.

**Income and Expenditure Account for the Year ended
31st March, 1945**

	Rs.	c.	Rs.	c.	
30 To Petrol	33,442	15	By Agency Fees	142,565	69
.. Lubricating oil and grease	3,599	85			
.. Salaries and wages	28,526	47			
.. Repairs	7,450	00			
.. Accessories	30,485	01			
.. Tyres and tubes	7,590	22			
.. Bus rent	5,491	00			
.. Rent and rates	904	65			
.. Stationery	580	20			
40 .. Postage	55	72			
.. Travelling	206	75			
.. Sundries	614	10			
.. Surplus	23,619	57			
	Rs. . .	142,565	69		
			Rs. . .	142,565	69

D 22.
Statement of
Accounts
2.4.46

Exhibits
—
D 22
Statement of
Accounts
2.4.46
—Continued.

We have prepared the above from the books and certify that it is based thereon. The agency fees of Rs. 142,565.69 is 90 per cent. of the gross takings of Rs. 158,406.25 the 10 per cent. being paid to the Sri Lanka Omnibus Co., Ltd. The rent of Rs. 5,491 was paid to the Sri Lanka Omnibus Co., Ltd., being a charge of Re. 1 per day for each bus on 11 buses, plus a sum of Rs. 1,476 being a rental charged by the company on a new chassis supplied to the agency.

Of the 11 buses licensed, on an average only 9 buses were in service during the year. The following is the fare table :—

Kurunegala-Alawwa	Rs. 0.50	
Kurunegala-Polgahawela .. .. .	.. 0.35	10
Kurunegala-Giriulla .. .. .	.. 0.75	
Kurunegala-Muddaragama .. .. .	.. 1.05	
Kurunegala-Pattalagedera .. .. .	.. 1.20	
Polgahawela-Narammala .. .. .	.. 0.35	

(Sgd.) TERANCE PERERA & CO.,
Certified Public Accountants.

Colombo, 2nd April, 1946.

Out of the surplus of Rs. 23,619.57 a sum of Rs. 7,380 has to be deducted on account of cost of a new Ford V 8 chassis so that the local manager received in all Rs. 16,239.57.

..... 20
Proctor for Local Manager.

P 42
Balance Sheet
22.1.46

P. 42.
Balance Sheet.

1943-44.

SRI LANKA OMNIBUS CO., LTD.

Balance Sheet as at 31st March, 1944.

LIABILITIES

	Rs.	c.	Rs.	c.
Authorised Capital :—				
1,000 shares of Rs. 1,000 each	1,000,000	00		30
Subscribed Capital			717,210	00
Sundry Creditors :—				
On open accounts			55,502	60
Commissioner of Income Tax			6,250	60
Income and Expenditure Account :—				
Surplus 16.1.43 to 31.3.43	24,023	63		
Surplus on 1.4.43 to 31.3.44 as per accounts	5,310	52	29,334	15
	Rs.	..	808,296	75

ASSETS

	Rs.	c.	Rs.	c.
Goodwill			256,983	00
Preliminary Expenses			8,820	00
Motor Vehicles			389,788	00

Continued next page 655,591 00

						Rs.	c.	Rs.	c.	Exhibits
				B/forward				655,591	00	—
Furniture and Fittings	..	..	..	..	..			2,184	28	P 42
Sundry Debtors :—										Balance Sheet
On open accounts	..	..	..	..	..			11,960	65	22.1.46
Deposit	..	..	..	..	..			240	00	—Continued
Income Tax Assessments :—										
1942/43	..	..	..	..	..	7,500	00			
1943/44	..	..	..	..	..	11,250	00	18,750	00	
10 Cash :—										
Bank of Ceylon	..	..	..	..	..	88,722	33			
In hand	..	..	..	..	..	30,848	49	119,570	82	
								Rs.	..	808,296 75

We have audited the accounts of the Sri Lanka Omnibus Co., Ltd., for the period 1st April, 1943 to 31st March, 1944, and have obtained all the information and explanations we have required. We are of the opinion that the above Balance Sheet made up to 31st March, 1944, is properly drawn up so that it exhibits a true and correct view of the state of the Company's affairs as at that date, according to the best of our information and the explanations given to us and as shown by the books of the Company.

20

(Sgd.) **TERENCE PERERA & Co.,**
Certified Public Accountants.
 22.1.46.

SRI LANKA OMNIBUS CO., LTD.
Income and Expenditure Account of the Period
1st April, 1943 to 31st March, 1944.

			Rs.	c.			Rs.	c.	
To Agency fees	..	..	1,536,451	99	By Gross takings	..	1,706,724	76
„ Licence duty	..	..	58,157	51	„ Rent	..	52,343	00
„ Insurance	..	..	10,172	00	„ Interest	..	434	76
30 „ Salaries	..	..	15,512	50	„ Sundry income	..	61	71
„ Stationery	..	..	3,222	54				
„ Postage	..	..	221	05				
„ Travelling	..	..	283	90				
„ Rent	..	..	415	00				
„ Telephone	..	..	190	00				
„ Lights	..	..	38	50				
„ Subscription	..	..	300	00				
„ Legal	..	..	608	90				
„ Interest	..	..	2,580	00				
40 „ Audit	..	..	425	00				
„ Depreciation	..	..	124,179	00				
„ Sundries	..	..	1,504	82				
„ Surplus	..	..	5,310	52				
			Rs.	..	1,759,573	23	Rs.	..	1,759,573 23

Certified as correct.

(Sgd.) **TERENCE PERERA & Co.,**
Certified Public Accountants.
 22.1.4.6

Exhibits
—
P 42
Balance Sheet
22.1.46
—Continued.

Copy

TERENCE PERERA & CO.,
Approved Accountants,
Income Tax.

Bristol Buildings,
Fort, Colombo,
June 3, 1944.

To the Shareholders of
The Sri Lanka Omnibus Co., Ltd.
Colombo.

Gentlemen,

We have audited the books of your company and have pleasure in handing you herewith the following documents :— 10

1. Balance Sheet as at 15th January, 1944.
2. Income and Expenditure Account for the 12 months ended 15th January, 1944.
3. Statements of Sundry Debtors and Creditors as at 15th January, 1944.

The road services were conducted through agents. During the year under review 145 vehicles were in use.

Balance Sheet

Income Tax.—A sum of Rs. 10,891.35 has been carried to reserve to meet liability in respect of income tax. 20

Goodwill.—The goodwill of Rs. 256,983 represents compensation paid to the proprietary concerns whose business has been taken over by the company.

Motor Vehicles.—The fleet of buses was acquired at Rs. 513,967. The year's depreciation at 25 per cent per annum amounted to Rs. 124,179. Depreciation has not been reckoned on the additions made during the year amounting to Rs. 17,250.

Sundry Debtors and Creditors.—Details of debtors and creditors are enclosed.

Cash.—The balance at credit at the Bank of Ceylon was duly 30 reconciled with bank pass book.

Loans.—The following amounts were outstanding :—

Muhandiram B. J. Fernando ..	Rs.	9,000	
Mr. W. K. Fernando .. ..	..	13,500	
Mr. M. Jayasena .. ..	..	27,500	50,000
<i>Add interest at 5%</i>			2,500
			Rs. 52,500

Exhibits
P. 42
Balance Sheet
22.1.46
—Continued.

Deposits.—This is comprised as under :—

Times of Ceylon	Rs.	3,125
Postmaster-General .. ..	..	240
		Rs. 3,365

10

Income and Expenditure Account

Licences and Insurance Fees.—The company pays licences, stand licences, road service licences and Insurance. All other expenditure necessary to maintain a regular efficient service such as petrol, lubricating oil, tyres, tubes, repairs, wages of drivers and cleaners is accepted by the agents, who are reimbursed such expenditure by payment of ninety per cent of the gross takings. A levy of one rupee per day per vehicle is collected from each agent as a rent for the use of the vehicle.

20 *Legal Expenses.*—The whole of the legal expenses incurred in connection with the acquisition of road service licences, etc., have been charged in the accounts.

Salaries.—Six Timekeepers were also paid salaries.

Interest.—The loan of Rs. 50,000 carried interest at 5 per cent.

General.—The books of account have been kept with great acceptance and the officer is in charge deserves credit for the readiness with which he has applied his knowledge and experience to the growing needs of the business.

30 *In Conclusion.*—If there is any further information which you require in connection with these accounts, we will endeavour to supply same on hearing from you.

(Sgd.) TERENCE PERERA & CO.

Exhibits
P 41
Balance Sheet
1.4.46

P. 41.
Balance Sheet.

TERENCE PERERA & Co.,
Approved Accountants, Income Tax.

SRI LANKA OMNIBUS CO., LTD.

Income and Expenditure Account for the Year
Ended 31st March, 1945.

	Rs.	c.		Rs.	c.
To Agency fees	1,700,635	96	By Gross takings	1,889,842	84
„ Licence :					10
Duty .. Rs. 28,812	75				
Stand .. „ 8,834	20				
Road					
Service „ 424	00	38,070	„ Rent	87,258	47
„ Insurance	6,682	80	„ Stationery	2,815	69
„ Salaries and allowances	22,750	45	„ Bank interest	432	97
„ Postage	197	33	„ Sundry income	40	00
„ Travellings	331	36			
„ Rent	365	50			
„ Telephone	346	05			20
„ Lights	39	00			
„ Subscription	350	00			
„ Legal	2,983	10			
„ Charity	1,100	00			
„ Audit	850	00			
„ Sundries	501	83			
„ Depreciation	97,447	00			
„ Surplus	107,738	64			
	Rs. ..	1,980,389		Rs. ..	1,980,389
		97			97

Balance Sheet as at 31st March, 1945.

30

LIABILITIES		Rs.	c.
Authorised Capital :—			
10,000 shares of Rs. 100 each	Rs.	1,000,000	00
Subscribed Capital :—			
7,969 partly paid up shares of Rs. 90 each	717,210	00	
Pre-payment of Rent	144,733	91	
Sundry Creditors :—			
On open accounts as per schedule	Rs.	50,255	00
Staff	500	00	
Commissioner of Income Tax	6,250	00	57,025 00 40

Continued next page

		B/forward	...	Rs.	c.	Exhibits
Income and Expenditure Account :—				918,968	91	P 41
	Balance brought forward	Rs.	29,334	·15		Balance Sheet
	Less dividends	„	6,056	·28		1.4.46
						—Continued
		Rs.	23,277	·87		
	Less Income tax	„	18,750	·00		
		Rs.	4,527	·87		
	Surplus for the year	„	107,738	·64	112,266	51
10		Rs.	..	1,031,235	42	
ASSETS						
				Rs.	c.	
	Goodwill			256,983	00	
	Preliminary expenses			8,820	00	
	Motor Vehicles :—					
	Balance at 31st March, 1944	Rs.	389,788	·00		
	Additions	„	180,917	·38		
		Rs.	570,705	·38		
	Depreciation	„	97,447	·00	473,258	38
	Furniture and Fittings :—					
20	Balance at 31st March, 1944	Rs.	2,184	·28		
	Additions	„	801	·50	2,985	78
	Sundry Debtors :—					
	On open accounts as per schedule	Rs.	92,843	·76		
	Staff	„	120	·00	92,963	76
	Deposits :—					
	Deputy Financial Secretary	Rs.	6,500	·00		
	Postmaster-General	„	1,692	·00		
	Government Agent, N.W.P.	„	40,727	·91	47,919	91
	Investments :—					
30	Fixed deposit with the Bank of Ceylon				100,000	00
	Cash :—					
	Bank of Ceylon	Rs.	38,145	·15		
	In hand	„	10,159	·44	48,304	59
		Rs.	..	1,031,235	42	

We have audited the accounts of the company for the year ended 31st March, 1945, and have obtained all the information and explanations we have required. We are of the opinion that the above Balance Sheet is properly drawn up so that it exhibits a true and correct view of the state of the company's affairs as at 31st March, 1945, according to the best of our information and the explanations given to us and as shown by the books of the company.

(Sgd.) TERENCE PERERA & Co.,
Certified Public Accountants.

Colombo, 1st April, 1946.

Exhibits
—
P. 41
Balance Sheet
1.4.46
—Continued

SCHEDULE OF SUNDRY CREDITORS AND DEBTORS

Sundry Creditors	Rs.	c.	Sundry Debtors	Rs.	c.	
L. A. Perera	5,000	00	Emjay Garages	17,773	34	
P. D. Pabilis Appuhamy	5,000	00	B. J. Bus Service	15,718	55	
K. K. Kirinelis Perera	5,000	00	L. S. Bus Service	9,588	63	
W. D. R. Gunasekera	8,000	00	L. R. Perera	15,690	55	
G. D. E. Malawana	9,250	00	W. M. D. J. Paulis	2,306	55	
Mrs. Alice Wijeratne	3,250	00	Tarzan Bus Co.	11,156	37	
R. A. Sirisena	1,500	00	K. M. Perera	13,013	42 10	
W. Arnolis Appuhamy	3,500	00	Emjay Insurance Co.	1,983	35	
H. M. J. Bandara	5,250	00	Daily News	5,113	00	
M. G. J. Nanayakkara	1,750	00	D. F. J. Perera	500	00	
R. D. Siyaneris	1,500	00				
Terence Perera & Co.	1,275	00				
	Rs.	50,275	00	Rs.	92,843	76

TERENCE PERERA & CO.,
Approved Accountants, Income Tax

Bristol Buildings,
Fort, Colombo,
1st April, 1946

The Shareholders of
The Sri Lanka Omnibus Co., Ltd.,
Colombo 20

Gentlemen,

We have audited the accounts of your company for the year ended 31st March, 1945, and have pleasure in forwarding herewith the following documents:—

1. Income and Expenditure Account for the year ended 31st March, 1945 ;
2. Statements of debtors and creditors ; and
3. Balance sheet as at 31st March, 1945. 30

Income and Expenditure Account

(a) *Agency Fees Rs. 1,700,635.96.*—Ninety per cent of the gross takings was paid to the agents for operating the agencies as follows:—

M. Jayasena .. ..	..	Peliyagoda Agency ..	Rs. 674,831.82
W. K. Fernando .. ..	..	Mawanella Agency ..	326,291.74
B. J. Fernando .. ..	..	Borella Agency	223,804.06
K. M. Perera .. ..	..	Kurunegala Agency ..	142,565.69
S. A. Samarasinghe .. ..	..	Kegalle Agency	124,915.80
L. R. Perera .. ..	..	Delgoda Agency	120,210.75
W. M. D. J. Paulis Appuhamy	..	Urapola Agency	88,016.10 40

(b) *Salaries and Allowances—Rs. 22,750.45.*—Of the 22 persons who received salaries the undermentioned received over Rs. 1,000 each.

A. P. De Zoysa, Director	Rs. 1,800·00
D. J. F. Obeysekere, Secretary	„ 2,000·00
Donald Perera, Manager	„ 4,800·00
T. Thiagarajah, Book-keeper	„ 1,968·75
H. A. D. S. Sirimanne	„ 1,360·00

Exhibits
—
P 41
Balance Sheet
1.4.46
—Continued

(c) *Subscriptions*.—Rs. 350 were paid to quarter :—

Income Tax Payers' Association	Rs. 200
All-Ceylon Omnibus Companies' Association	„ 150

(d) *Legal Expenses*—Rs. 2,983·10.—The expenditure was in 10 connection with road service licences, etc.

(e) *Charity*—Rs. 1,100.—The Ceylon Forces Gifts Fund received Rs. 1,000, and the Girls' Industrial Home Rs. 100.

(f) *Depreciation*—Rs. 97,447.—The deduction has been reckoned at 25% per annum on the written-down value of the motor vehicles on 31st March, 1944, of Rs. 389,788.

(g) *Bus Rent*—Rs. 87,258·47.—A rental of Re. 1 per day for each bus was charged to the agent as follows :—

M. Jayasena	Peliyagoda	Rs. 17,836
W. K. Fernando	Mawanella	„ 11,680
20 B. J. Fernando	Borella	„ 4,404
K. M. Perera	Kurunegala	„ 4,015
S. A. Samarasinghe	Kegalle	„ 5,110
L. R. Perera	Delgoda	„ 4,380
W. M. D. J. Paulis Appuhamy	Urapola	„ 3,650

The amount receivable being Rs. 51,100, Rs. 25 was outstanding at 31st March, 1945, on this account.

According to an agreement entered into the company replaces unserviceable buses with new buses and the cost of the chassis is charged to the agent as rental for a period of 5 years. During the 30 year 24 chassis were purchased for the agents as follows :—

M. Jayasena	11 Chassis	Rs. 81,992·38
W. K. Fernando	4 Chassis	„ 35,630·00
B. J. Fernando	4 Chassis	„ 29,020·00
K. M. Perera	1 Chassis	„ 7,380·00
S. A. Samarasinghe	2 Chassis	„ 13,885·00
L. R. Perera	2 Chassis	„ 13,010·00

Of this amount Rs. 36,183·47 (being one-fifth of Rs. 180,917·36) has been regarded as income for the year.

(h) *Stationery*—Rs. 2,815·69.—The supply of stationery to the 40 agencies resulted in the company earning an income of Rs. 2,815·69.

Exhibits
—
P. 41
Balance Sheet
1.4.46
—Continued

Balance Sheet

(a) *Prepayment of Bus Rent*—Rs. 144,733·91.—The cost of the chassis supplied to the agents and paid by them amounted to Rs. 180,917·38, of this amount Rs. 36,183·47 only has been regarded as income arising in the year.

(b) *Commissioner of Income Tax*—Rs. 6,250.—This balance was due to the Commissioner of Income Tax on an estimated assessment of Rs. 75,000, which is in appeal ; the assessment was for the tax year 1943-44.

(c) *Income and Expenditure Account ; Income Tax*—Rs. 18,750.—¹⁰ The deduction was in respect of tax for the assessment years 1942-43 and 1943-44, as follows :—

1942-43	Rs. 7,500
1943-44	,, 11,250

Of the tax payable for 1943-44, Rs. 6,250 has been held over pending the result of the appeal.

(d) *Motor Vehicles*—Rs. 473,258·38.—Depreciation has not been deducted on the replacements of Rs. 180,917·38.

(e) *Deposits*—Rs. 47,919·91.—The deposit of Rs. 6,500 has since been returned by the Financial Secretary. The deposit with the ²⁰ G.A., N.W.P. of Rs. 40,727·91 was in respect of the value of buses acquired by the company, in dispute.

We have referred to all matters which appear to call for comments. Should you require further information, we will endeavour to supply same on hearing from you.

Yours faithfully,
(Sgd.) **TERENCE PERERA & CO.**

P. 40
Balance Sheet
31.1.47

P. 40 Balance Sheet

TERENCE PERERA & Co.,
Certified Public Accountants,
Telephone 4624.

Bristol Buildings, ³⁰
Fort, Colombo,
31st January, 1947.

The Shareholders of
The Sri Lanka Omnibus Co., Ltd.,
Colombo.

Gentlemen,

We have audited the accounts of your company for the year ended 31st March, 1946, and have pleasure in forwarding herewith the following documents :—

1. Income and Expenditure Account for the year ended 31st ⁴⁰ March, 1946.

2. Statements of Sundry Debtors and Creditors.
3. Balance Sheet as at 31st March, 1946.

Exhibits
—
P 40
Balance Sheet
31.1.47
—Continued

Income and Expenditure Account

(a) *Agency Fees*—Rs. 2,190,489·03.—Ninety per cent. of the gross takings was paid to the agents for operating the agencies, as follows :—

	M. Jayasena	Peliyagoda Agency ..	Rs. 867,584·16
	W. K. Fernando	Mawanella Agency ..	„ 474,823·27
	B. J. Fernando	Borella Agency	„ 309,835·89
10	K. M. Perera	Kurunegala Agency ..	„ 140,094·37
	S. A. Samarasinghe ..	Kegalle Agency	„ 129,925·90
	L. R. Perera	Delgoda Agency	„ 163,459·04
	W. M. D. J. Paulis Appuhamy	Urapola Agency	„ 104,766·40

(b) *Salaries and Bonus*—Rs. 27,424·70.—Of the 21 persons who received salaries the undermentioned received over Rs. 1,000 each :—

	Donald Perera, manager	Rs. 4,950·00
	D. J. F. Obeysekera, secretary	„ 2,251·00
	P. Thiagarajah, book-keeper	„ 2,100·00
20	H. A. D. S. Sirimane	„ 1,425·00
	O. C. W. Rodrigo	„ 1,800·00
	S. Perera	„ 1,800·00
	O. S. Herat	„ 1,800·00
	Dr. A. P. de Zoysa, director	„ 2,100·00
	7 time-keepers, 5 clerks and 1 peon	„ 7,867·45
	Bonus	„ 1,331·25

(c) *Subscriptions and Donations*.—Rs. 10,437·05 were paid to—

	All-Ceylon Omnibus Companies' Association	Rs. 10,287·05
	Income Tax Payers' Association	„ 100·00
30	Home for the Aged	„ 50·00

(d) *Legal Expenses*—Rs. 4,078.—The expenditure was in connection with—

	Excess Profits duty	Rs. 1,340·50
	Route Acquisitions	„ 2,737·50

(e) *Claims*—Rs. 3,143·28.—This expenditure was in connection with third-party risks that arose during the year as a result of road accidents over and above the risks covered by insurance.

(f) The expenditure on general charges includes Rs. 790·31, being the cost of constructing a que.

40 (g) Depreciation has been reckoned at 25% on the written-down value of the fleet of buses on 1st April, 1945, of Rs. 473,258.

Exhibits
P 40
Balance Sheet
31.1.47.
Continued

(h) *Bus Rent*—Rs. 137,320.—A rental of Re. 1 per day for each bus was collected from each agent as follows :—

M. Jayasena	Rs. 17,886·00	
B. J. Fernando	„ 4,380·00	
W. K. Fernando	„ 11,616·00	
L. R. Perera	„ 4,380·00	
W. M. D. J. Paulis Appuhamy	„ 3,650·00	
S. A. Samarasinghe	„ 5,110·00	
K. M. Perera	„ 4,015·00	
Rent on 24 chassis supplied to agents during the previous year	„ 36,183·00	10
Rent on 30 chassis supplied to agents in the year to 31.3.46	„ 50,100·00	

Balance Sheet

(a) *Sundry Creditors*.—Included herein is the liability in connection with the price payable to those whose buses were acquired by the company. These creditors have refused to accept payment on the ground that they should be allotted shares in the company. The amount due to those who have instituted action against the company has been placed in deposit with the Government Agent, W.P. 20

(b) *Commissioner of Income Tax*—Rs. 4,827·19.—On an estimated assessment made in respect of the year ended 31st March, 1944, tax is payable in a sum of Rs. 8,500, of which Rs. 4,827·19 has been allowed to be held over pending the result of the appeal.

(c) *Pre-payment of Bus Rent*—Rs. 308,950·91.—This balance has been arrived at as under :—

Balance at 31.3.45	Rs. 144,733·91	
Rent received from Agents in respect of 30 chassis supplied to them during the year to 31.3.46 being rent for a period of five years	„ 250,500·00	30
	<hr/>	
	Rs. 395,233·91	
Deduct amount credited to revenue	„ 86,283·00	
	<hr/>	
	Rs. 308,950·91	

(d) *Motor Vehicles*.—During the year thirty chassis were distributed as under :—

M. Jayasena 13 chassis	Rs. 110,500·00	
B. J. Fernando 2 chassis	„ 17,000·00	
W. K. Fernando 6 chassis	„ 51,000·00	
L. R. Perera 2 chassis	„ 17,000·00	40
W. M. D. J. Paulis Appuhamy 5 chassis	„ 38,000·00	
S. A. Samarasinghe 2 chassis	„ 17,000·00	
	<hr/>	
	Rs. 250,500·00	

We have referred to all matters which appear to call for comments. Should you require further information, we will endeavour to supply same on hearing from you.

Yours faithfully,

(Sgd.) **TERENCE PERERA & CO.**

SRI LANKA OMNIBUS CO., LTD.
Income and Expenditure Account for the Year
Ended 31st March, 1946.

		Rs.	c.			Rs.	c.
10	To Agency fees	2,190,489	03	By Gross takings	2,441,026	88	
	„ Licence :—			„ Rent	137,320	00	
	Duty Rs. 33,545.85			„ Bank interest	1,210	54	
	Stand „ 13,324.21						
	Road						
	Service „ 720.00	47,590	06				
	„ Insurance	8,263	59				
	„ Office rent	526	50				
	„ Postage	486	82				
	„ Telephone	640	05				
20	„ Lights	48	00				
	„ Travelling	395	33				
	„ Stationery and printing	1,221	52				
	„ Advertising	58	10				
	„ Salaries and bonus	27,424	70				
	„ Subscriptions and dona- tions	10,437	05				
	„ General charges	2,359	69				
	„ Legal	4,078	00				
	„ Claims	3,143	28				
30	„ Depreciation	118,314	00				
	„ Surplus	163,981	70				
		Rs. .. 2,579,557	42		Rs. .. 2,579,557	42	

Balance Sheet as at 31st March, 1946.

LIABILITIES		Rs.	c.
Authorised Capital :—			
10,000 shares of Rs. 100 each	Rs. 1,000,000	00	
Subscribed Capital :—			
7,696 partly paid up shares of Rs. 100 each	717,210	00	
Sundry Creditors :—			
40 On open accounts as per schedule	Rs. 1,402	20	
Commissioner of Income Tax	4,827	19	56,229 39
Pre-payment of Rent			308,950 91

Continued next page

1,082,390 30

Exhibits
—
P. 40
Balance Sheet
31.1.47
Continued

Exhibits — P 40 Balance Sheet 31.1.47 —Continued	Income and Expenditure Account :—	B/forward	Rs. c.
			1,082,390 30
	Balance brought forward	Rs. 112,266 51	
	Add tax discharged	" 6,250 00	
		Rs. 118,516 51	
	Surplus for year	" 163,981 70	
		Rs. 282,498 21	
	Less Excess profit duty	" 211,000 00	71,498 21
			Rs. .. 1,153,888 51 10

ASSETS

			Rs. c.
Goodwill			256,983 00
Preliminary Expenses :—			
Motor Vehicles			8,820 00
Balance at 31st March, 1945		Rs. 473,258 38	
Additions		" 250,500 00	
		Rs. 723,758 38	
Depreciation		" 118,314 00	650,444 38
Furniture and Fittings :—			
Balance 31st March, 1945			2,985 78 20
Deposits :—			
Postmaster-General		Rs. 395 56	
Government Agent, W.P.		" 40,727 91	41,123 47
Income Tax Assessment :—			
1944/45			8,500 00
Sundry Debtors :—			
On open accounts as per schedule			65,329 84
Stock of Stationery			1,000 00
Investments :—			
Fixed deposit with the Bank of Ceylon			100,000 00 30
Cash :—			
Bank of Ceylon		Rs. 46,926 62	
In hand		" 16,775 42	63,702 04
			Rs. .. 1,153,888 51

We have audited the accounts of the company for the year ended 31st March, 1946, and have obtained all the information and explanations we have required. We are of the opinion that the above Balance Sheet is properly drawn up so that it exhibits a true and correct view of the state of the company's affairs as at 31st March, 1946. According to the best of our information and the explanations given to us and as shown by the books of the company.

(Sgd.) TERENCE PERERA & Co.,
Certified Public Accountants.

Colombo, 31st January, 1947.

SRI LANKA OMNIBUS CO., LTD.

Schedule of Sundry Debtors and Creditors.

Exhibits
P. 42
Balance Sheet
31.1.47
Continued

Sundry Debtors			Sundry Creditors			
	Rs.	c.		Rs.	c.	
Emjay Garages	22,786	66	Emjay Insurance Co.	1,902	20	
B. J. F. Bus Service	15,302	06	L. A. Perera	5,000	00	
L. R. Perera	6,929	59	P. D. Pabilis Appuhamy	5,000	00	
W. M. D. J. Paulis	3,410	13	K. K. Kirinelis Appu	5,000	00	
Tarzan Bus Service	5,566	00	W. D. R. Gunsekera	8,000	00	
10 K. M. Perera	7,452	40	G. D. E. Malawana	9,250	00	
Donald Perera	1,450	00	Mrs. Alice Wijeratne	3,250	00	
D. J. F. Obeysekera	45	00	R. A. Sirisena	1,500	00	
P. Thiagarajah	360	00	W. A. Arnolis Appuhamy	3,500	00	
H. A. D. Sirimana Silva	25	00	M. G. J. Nanayakkara	1,750	90	
P. F. P. Jayawardene	5	00	H. M. J. Bandara	5,250	00	
P. Vandort	10	00	R. D. Siyaneris	1,500	00	
D. J. F. Perera	500	00	Dr. A. P. de Zoysa	400	00	
Sundries	1,488	00	D. F. J. Obeysekera	100	00	
	Rs.	65,329	84	Rs.	51,402	20

20

P. 39.

P. 39
Balance Sheet
13.12.47

Balance Sheet.

TERENCE PERERA & Co.,

Certified Public Accountants.
Telephone 4624.

Bristol Building, Fort,
Colombo,

13th December, 1947.

The Shareholders of

The Sri Lanka Omnibus Co., Ltd.,
Colombo.

Gentlemen,

30 We have completed the audit of the accounts of your company for the year ended 31st March, 1947, and have pleasure in forwarding herewith the undermentioned statements of accounts :—

1. Revenue Account ;
2. Statement of Debtors and Creditors ; and
3. Balance Sheet as at 31st March, 1947.

Exhibits
—
P 39
Balance Sheet
13.12.47
—Continued

Income and Expenditure Account

(a) *Agency Fees*—Rs. 2,535,039·41.—This represents 90% of the gross income paid to the agents as follows :—

M. Jayasena	Rs. 1,009,615·91	
W. K. Fernando	592,832·84	
B. J. Fernando	359,573·31	
L. R. Perera	155,458·35	
S. A. Samarasinghe	155,364·64	
W. M. D. J. Paulis Appuhamy	132,516·80	
K. M. Perera	129,677·56	10

The gross income of Rs. 2,817,171·17 includes income from mails, etc., amounting to Rs. 4,325·50. The remuneration of 90% was paid on only Rs. 2,816·710.

(b) *Licence Fees*—Rs. 55,272·26.—As compared with the previous year there were in service during the current year fifteen more vehicles.

(c) *Salaries*—Rs. 32,038·43 is comprised as follows :—

Donald Perera, Manager	Rs. 1,775·00	
V. L. A. Perera, Manager	3,000·00	
D. J. F. Obeysekera, Secretary	1,650·00	20
P. Thiagarajah, book-keeper	2,439·94	
O. C. W. Rodrigo, traffic manager	1,800·00	
S. Perera, traffic manager	1,050·00	
O. S. Herat, traffic manager	1,800·00	
Dr. A. P. de Zoysa, chairman	2,175·00	
4 Traffic supervisors	3,270·00	
9 Timekeepers	7,121·56	
3 Typists	2,634·99	
3 Clerks	2,370·00	
2 Peons	951·94	30

(d) *Insurance*—Rs. 13,697·93.—Rs. 5,978·25 is in respect of Workmen's Compensation ; the balance Rs. 7,719·69 being for insurance under the Motor Ordinance.

(e) *Subscriptions and Donations*.—Rs. 3,675 were paid to—

The All-Ceylon Omnibus Association	Rs. 2,150·00
Children of the late Mr. Donald Perera	1,500·00
General	25·00

(f) *Legal*—Rs. 5,236·20.—The expenditure was in respect of—

Stand Licence	Rs. 92·70	
Claims for acquisition of shares in the company	5,143·50	40

(g) Depreciation has been computed at 25 per cent on the written-down value of the vehicles on 31st March, 1946, Rs. 605,444·38.

(h) *Income from Rent*—Rs. 51,149.—Each agent paid a rental of Re. 1 per day for each vehicle as follows :—

M. Jayasena	Rs. 17,934·00
W. K. Fernando .. .	.. 11,680·00
B. J. Fernando .. .	.. 4,380·00
L. R. Perera .. .	.. 4,380·00
S. A. Samarasinghe .. .	.. 5,110·00
K. M. Perera .. .	.. 4,015·00
W. M. D. J. Paulis Appuhamy .. .	.. 3,650·00

Exhibits
—
P. 39
Balance Sheet
13.12.47
Continued

10 The total strength of the service was 140 vehicles. Mr. M. Jayasena has paid the above levy for 366 days instead of 365 days, in respect of 49 vehicles.

(i) *Income from interest* Rs. 500 was earned on the deposit with the Bank of Ceylon, of Rs. 100,000. This deposit was subsequently withdrawn and invested in Government National Development Loan.

Balance Sheet

(a) *Capital Income Accounts*—Rs. 343,950·91.—This balance is made up as follows :—

20 Balance 31.3.46 Rs. 308,950·91

(Chassis supplied to the company by agents during the year—

M. Jayasena .. 3 Bed. Chassis	21,000·00
B. J. Fernando .. 1 Bed. Chassis	7,000·00
L. R. Perera .. 1 Bed. Chassis	7,000·00

(b) *Deposit with Government Agent, W.P.*—Rs. 40,727·91.—This amount is payable to persons whose business has been acquired by the company. These persons are now claiming for an allotment of shares in the company against the price payable to them.

30 (2) *Supreme Court*—Rs. 2,250.—The deposit has been made against costs in the action brought against the company by the creditors referred to above.

(c) *Cash*.—We have seen the Bank Pass Book in verification of the balance at credit at the Bank of Ceylon.

(d) *Difference in Books*.—We have been unable to trace the difference of Rs. 149·97 in the books. When a difference in the books is not located to any particular month it is not quite possible to trace it at the annual audit.

Reserve Account

40 The balance available for distribution is Rs. 54,057·18. But before such distribution is made it would be necessary to carry forward Rs. 20,000 to a Taxation Reserve Account to meet the liability that would arise in respect of income tax.

Exhibits
P. 39
Balance Sheet
13.12.47
—Continued

We have referred to all matters which appear to call for comments. Should you require further information, we will endeavour to supply same on hearing from you.

Yours faithfully,

(Sgd.) **TERENCE PERERA & CO.**

SRI LANKA OMNIBUS CO., LTD.

Revenue Account for the Year Ended

31st March, 1947.

	Rs.	c.		Rs.	c.
To Agency fees	2,535,039	41	By Gross takings	2,817,171	17 10
„ Licence :—			„ Rent	51,149	00
Duty .. Rs. 38,818	44		„ Bank interest	500	00
Stand .. „ 15,882	32				
Road					
Service .. 571	50	55,272			
		26			
„ Office rent	756	00			
„ Postage and telegram ..	303	50			
„ Telephone	533	65			
„ Lights	197	12			
„ Salaries	32,038	43			20
„ Insurance	13,697	94			
„ Stationery	703	44			
„ Travelling	99	49			
„ Sundries	789	85			
„ Subscriptions and dona- tions	3,675	00			
„ Legal	5,236	20			
„ Audit	850	00			
„ Depreciation	151,361	00			
„ Preliminary expenses ..	8,820	00			30
„ Surplus	59,446	88			
	Rs. .. 2,868,820	17		Rs. .. 2,868,820	17

Balance Sheet as at 31st March, 1947.

LIABILITIES		Rs.	c.
Authorised Capital :—			
10,000 shares of Rs. 100 each	Rs. 1,000,000	00	
Subscribed Capital :—			
7,696 partly paid up shares of Rs. 100 each		717,210	00
Sundry Creditors :—			
On open accounts as per schedule		50,621	01 40
Capital Income Account		343,950	91
Difference in Books		149	97

Continued next page

1,111,931 89

		B/forward	Rs.	c.	Exhibits
			1,111,931	89	—
Revenue Account :—					P. 39
Balance at 31st March, 1946	.. ..	Rs. 71,498	21		Balance Sheet
Less Tax paid :—					13.12.47
1942/43, 1943/44, 1944/45, 1945/46	.. ..	48,199	51		-Continued
Surplus for year	.. ..	Rs. 23,298	70		
		59,446	88		
10 Dividend for year to 31st March, 1946	.. ..	Rs. 82,745	58		
		28,688	40	54,057	18
			Rs. ..	1,165,989	07
ASSETS					
				Rs. c.	
Goodwill	.. ..			256,983	00
Motor Vehicles :—					
Balance 31st March, 1946	.. ..	Rs. 605,444	38		
Additions	.. ..	35,000	00		
		Rs. 640,444	38		
Depreciation	.. ..	151,361	00	489,083	38
Furniture and Fittings :—					
20 Balance 31st March, 1946	.. ..	Rs. 2,985	78		
Additions	.. ..	1,909	97	4,895	75
Deposits :—					
Government Agent, W.P	.. ..	Rs. 40,727	91		
Municipal Treasurer	.. ..	500	00		
Postmaster-General	.. ..	395	56		
Government Electrical Department	.. ..	40	00		
Supreme Court	.. ..	2,250	00	43,913	47
Investments :—					
Government National Development Loan	.. ..			100,000	00
30 Sundry Debtors :—					
On open accounts as per schedule	.. ..			78,411	77
				973,287	37
Cash :—					
Bank of Ceylon	.. ..	Rs. 173,025	14		
In hand	.. ..	19,676	56	192,701	70
			Rs. ..	1,165,989	07

We have audited the accounts of the company for the year ended 31st March, 1947, and have obtained all the information and explanations we have required. We are of the opinion that the above Balance Sheet is properly drawn up so that it exhibits a true and correct view of the state of the company's affairs as at 31st March, 1947, according to the best of our information and the explanation given to us and as shown by the books of the company.

(Sgd.) TERENCE PERERA & Co.,
Certified Public Accountants.

Colombo, 13th December, 1947.

Exhibits
—
P. 39
Balance Sheet
13.12.47
—Continued

SRI LANKA OMNIBUS CO., LTD.
Schedule of Sundry Creditors and Debtors.

Sundry Creditors	Rs.	c.	Sundry Debtors	Rs.	c.
L. S. Bus Co.	29	70	Emjay Garages	44,402	42
Emjay Insurance Co.	1,091	31	B. J. F. Bus Service	18,229	10
L. A. Perera	5,000	00	L. R. Perera	64	15
P. D. Pabilis Appuhamy	5,000	00	Tarzan Bus Service	3,937	25
K. K. Kirinelis Appu	5,000	00	K. M. Perera	8,389	60
W. D. R. Goonesekera	8,000	00	Donald Perera	1,206	25 10
G. D. E. Malawana	9,250	00	D. J. F. Obeysekera	180	00
Mrs. Alice Wijeratne	3,250	00	P. Vandort	15	00
R. A. Sirisena	1,500	00	D. J. F. Perera	500	00
H. M. J. Bandara	5,250	00			
W. A. Arnolis Appuhamy	3,500	00	Sundries	1,488	00
M. G. Nanayakkara	1,750	00			
R. D. Siyanoris	1,500	00			
D. J. F. Obeysekera	100	00			
Dr. A. P. de Zoysa	400	00			
	Rs.	50,621 01		Rs.	78,411 77 20

P. 38
Balance Sheet
12.10.48

P. 38

Balance Sheet

TERENCE PERERA & CO., 29 2/8, Gaffoor Buildings,
(Certified Public Accountants. Fort, Colombo,
12th October, 1948.

The Shareholders of
The Sri Lanka Omnibus Co., Ltd.,
Colombo.

Gentlemen,

We have completed the audit of the accounts of your company 30 for the year ended 31st March, 1948, and have pleasure in forwarding herewith the undermentioned statements of accounts :—

1. Revenue Account ;
2. Statement of Sundry Debtors and Creditors ;
3. Profit and Loss Appropriation Account ;
4. Dividend Account ;
5. Balance Sheet as at 31st March, 1948.

1. Revenue Account

(a) *Agency Fees*—Rs. 2,987,959·72.—See Addendum on bottom of page 3.

	Emjay Garages Limited	Rs. 1,291,580·39
	T. K. Fernando	612,042·90
	B. J. Fernando	396,947·10
	L. R. Perera	199,092·49
	S. A. Samarasinghe	186,157·04
	W. M. P. J. Paulis Appuhamy	175,741·83
10	K. M. Perera	126,397·87

Rs. 2,987,959·71

(b) *Licence Fees*—Rs. 63,134·81.—During the year an additional levy of Rs. 10 was made in respect of each standing passengers in a "Nelson Body" bus.

The maximum number of standing passengers allowed was eight, and there were in service during the year eighty buses of this type.

(c) *Salaries amounting to Rs. 31,627·95 was paid* to the under-mentioned :—

	V. L. A. Perera, manager and secretary	Rs. 5,351·75
20	P. Thiagarajah, book-keeper	2,780·25
	D. B. Perera, typist	1,600·75
	O. C. W. Rodrigo, traffic manager	2,378·72
	C. S. Herath, traffic manager	1,800·90
	E. B. Herath	1,150·00
	W. D. Boteju, traffic manager	1,215·90
	Four others	2,793·15
	Timekeepers	9,307·33
	Allowance to Dr. A. P. de Zoysa	3,250·00

Rs. 31,627·95

30 (d) *Insurance amounting to Rs. 10,804·81 was in respect of—*

	Motor vehicles	Rs. 4,827·81
	Workmen's compensation	5,977·00

Rs. 10,804·81

(e) *Subscription*—Rs. 3,275 were paid to :—

	The All-Ceylon Omnibus Companies' Association	Rs. 3,250·00
	Home for the aged	25·00

Rs. 3,275·00

Exhibits
P. 38
Balance Sheet
12.10.48
--Continued

Exhibits
P. 38
Balance Sheet
12.10.48
- Continued

(f) *Claims amounting to Rs. 37,525·95* were paid to the undermentioned agents in respect of risks not covered under third party's insurance contract :—

Emjay Garages Ltd.	..	..	..	Rs.	6,253·30
B. J. Fernando	..	..	..	..	18,226·90
W. K. Fernando	..	..	..	..	9,287·00
S. A. Samarasinghe	..	..	..	..	3,758·75
					Rs. 37,525·95

(g) *Legal Charges—Rs. 5,467·50* were incurred in connection with—

Stand Licence	..	..	..	..	Rs.	496·60
Assessments for excess profit duty	..	..	..	..	..	262·50
Accidents	..	..	..	..	..	346·50
Allotment of shares	..	..	..	..	..	4,360·00
					Rs. 5,467·50	

(h) Depreciation has been reckoned at 25 per cent on the value of buses at 31st March, 1948.

(i) *Income from bus rent—Rs. 52,443.*—Each agent paid a rental of Re. 1 per day for each vehicle, as follows :—

Emjay Garages Ltd.	..	..	..	Rs.	18,542·00	20
W. K. Fernando	..	..	..	..	10,815·00	
L. R. Perera	..	..	..	..	5,137·00	
S. A. Samarasinghe	..	..	..	..	4,959·00	
W. M. D. J. Paulis Appuhamy	..	..	..	..	4,724·00	
B. J. Fernando	..	..	..	..	4,392·00	
K. M. Perera	..	..	..	..	3,874·00	
					Rs. 52,443·00	

(j) *The Income from Interest Rs. 1,854·84* was earned on the investment of Rs. 100,000 in Ceylon Government National Development Loan.

2. Balance Sheet

(a) *Capital Income Account—Rs. 117,977·79.*—This account should be named “capital receipts account.” During the year the vehicles paid for by the agents amounted to Rs. 54,565. This addition brought up the original balance to Rs. 398,515·91, from which a sum of Rs. 232,845·94 was transferred to the Profit and Loss Appropriation

Account for the purpose of increasing the profits available for dividends. In the absence of special provisions in the Articles of Association there is nothing to prevent the directors in making use of the whole or a portion of this amount for the purposes of paying dividends. Exhibits p. 38 Balance Sheet 12.10.48 —Continued

(b) *Motor Vehicles*—Rs. 505,123·79.—The cost of building bodies for the chassis paid for by the agents prior to 1st April, 1947, has not been charged to this account. On account of this the company is unable to claim the full depreciation allowance.

10 (c) *Income Tax and Excess Profits Duty*.—The company has paid this liability from the Capital Receipts Account, in addition to paying dividends. The liability for Income Tax and Profit Tax for the current year will be about Rs. 56,000. This will leave a balance of Rs. 144,133·64 available for distribution; which means that a dividend of 20% less income tax at 25% can be declared. The provision for taxation takes into account the deduction of 25% from the dividends to be declared.

(d) The following outstanding amounts have been written off:—

20	D. F. Obeysekera	..	..	..	..	Rs. 180·00
	Donald Perera	..	..	..	..	„ 1,206·25

(e) The cost of First Aid Sets have been charged to General Expenses Account.

(f) *Cash in hand*.—The collection made by the agents on behalf of the company on the 31st March is received by the company after that date. But this has to be brought into the company's books as income on 31st March. To enable this to be done your book-keeper keeps his books open till after the 31st March and when the collection on this date is received on the 1st or 2nd of the following month, it is deposited in the Bank on the date of receipt and entered as income on the 31st March. This amount appears in the balance sheet as cash in hand on 31st March. Following this practice the balance shown in the balance sheet as cash in hand amounting to Rs. 17,701·69 (Rs. 17,790·20 minus petty cash Rs. 88·51) was credited to the current account at the Bank of Ceylon in April, 1948. 30

Yours faithfully,

(Sgd.) TERENCE PERERA & CO.

**Agency Fees*—Rs. 2,987,959·71.—This represents 90% of the gross receipts less the cost of the bus bodies. During the year 13 bodies were built for Emjay Garages Ltd. at a cost of Rs. 97,500.

Exhibits
P 38
Balance Sheet
12.10.48
—Continued

**Revenue Account for the Year Ended
31st March, 1948.**

	Rs.	c.		Rs.	c.
To Agency fees	2,987,959	71	By Gross takings	3,428,287	84
Licence :—					
Duty .. Rs. 45,577	45,577	81			
Stand .. ,, 16,355	16,355	00			
Road					
Service .. 1,202	1,202	00	.. Bus rent	52,443	00
.. Office rent	882	00	.. Interest	1,854	84 10
.. Postage and telegrams	325	56			
.. Telephone	601	90			
.. Lights	177	73			
.. Salaries	31,627	95			
.. Insurance	10,804	81			
.. Stationery	991	02			
.. Travelling	567	10			
.. Subscription	3,275	00			
.. Claims	37,525	95			
.. Legal	5,467	50			20
.. Bad debts	1,386	25			
.. Depreciation	135,874	59			
.. General expenses ..	1,850	16			
.. Surplus	200,133	64			
	Rs. .. 3,482,585	68		Rs. .. 3,482,585	68

Balance Sheet as at 31st March, 1948

	Rs.	c.	Rs.	c.
LIABILITIES				
Authorised Capital :—				
10,000 shares of Rs. 100 each	1,000,000	00		30
Subscribed Capital :—				
7,969 partly paid up shares of Rs. 100 each			717,210	00
Sundry Creditors :—				
On open accounts			49,706	20
Capital Income Account :—				
Balance brought forward	343,950	91		
Value of vehicles supplied by agents during the year ..	54,565	00		
			398,515	91
Less Amount transferred to profit and loss account ..	232,845	94		
			165,669	97
Less Tax and duty paid	Rs. 105,068	98		
Deduct Taxes recovered from dividends	57,376	80	47,692	18
			117,977	79
			884,893	99
Revenue Account :—				
Surplus for year			200,135	64
			Rs. .. 1,085,027	63

ASSET

						Exhibits	
						P 38	
						Balance Sheet	
						12.10.48	
						—Continued	
						Rs.	c.
Goodwill	..	..	..	..	..	256,983	00
Motor Vehicles :—							
Balance brought forward	..	..	..	..	..	489,083	38
Additions	..	..	..	..	..	152,065	00
						641,148	38
Less Sale	..	..	..	..	..	150	00
						640,998	38
10	Less Depreciation 25%	..	..	..	..	135,874	59
						505,123	79
Furniture and Fittings :—							
Balance brought forward	..	..	..	..	..	4,895	75
Additions	..	..	..	..	..	364	00
						5,259	75
Deposits :—							
Government Agent, W.P.	..	..	..	..	..	40,727	91
Supreme Court	..	..	..	..	..	2,250	00
Municipal Treasurer	..	..	..	..	..	500	00
Postmaster-General	..	..	..	..	..	395	56
Government Electrical Department	..	..	..	..	..	40	00
						43,913	47
20 Investments :—							
Ceylon Government 3% National Development Loan 1965/70						100,000	00
Sundry Debtors :—							
On open accounts	..	..	..	..	..	679	15
Loan :—							
M. Jayasena	..	..	..	..	..	45,493	49
Cash :—							
Bank of Ceylon	..	..	..	..	..	109,784	78
In hand	..	..	..	..	..	17,790	20
						127,574	98
						Rs.	1,085,027 63

30 I have audited the accounts of the company for the year ended 31st March, 1948, and have obtained all the information and explanations I have required. I am of the opinion that the above Balance Sheet is properly drawn up so that it exhibits a true and correct view of the state of the company's affairs as at 31st March, 1948, according to the best of my information and the explanation given to me and as shown by the books of the company.

(Sgd.) TERENCE PERERA & Co.,
Certified Public Accountants.

Colombo, 12th October, 1948.

Exhibits

Statement of Sundry Creditors and Debtors

P 38
Balance Sheet
12.10.48
Continued

Sundry Creditors		Sundry Debtors	
	Rs. c.		Rs. c.
B. J. F. Bus Services	5 30	C. C. W. Rodrigo	95 00
L. S. Bus Co.	29 70	P. Vandort	20 00
K. M. Perera	30 40	D. F. J. Perera	500 00
Emjay Insurance Co.	140 80	L. R. Perera	64 15
Mrs. Alice Wijeratne	3,250 00		
R. S. Sirisena	1,500 00		
W. A. Arnolis Appu	3,500 00		10
H. M. J. Bandara	5,250 00		
K. G. J. Nanayakkara	1,750 00		
K. D. Siyanoris	1,500 00		
Dr. A. P. de Zoysa	400 00		
D. J. F. Obeysekere	100 00		
L. A. Perera	5,000 00		
P. D. Paulis Appuhamy	5,000 00		
K. K. Kirinelis Appu	5,000 00		
W. D. E. Goonesekere	8,000 00		
G. D. E. Malawana	9,250 00		20
	Rs. .. 49,706 20		Rs. .. 679 15

P 36
Balance Sheet
1.6.49

P. 36

Balance Sheet

TERENCE PERERA & CO., 29 2/8, Gaffoor Building,
Certified Public Accountants. Fort, Colombo,
1st June, 1949.

The Shareholders of
Sri Lanka Omnibus Co., Ltd.,
Colombo.

Gentlemen,

30

We have completed the audit of the accounts of your company for the year ended 31st March, 1949, and have pleasure in forwarding herewith the undermentioned statements of accounts :—

1. Revenue Account ;
2. Statement of Sundry Debtors and Creditors ; and
3. Balance Sheet as at 31st March, 1949.

Revenue Account

(a) Agency Fees—Rs. 3,107,805·23.—This represents 90% of the traffic receipts less the cost of buses supplied to agents. During

the year. Agents received buses, etc., at a total cost of Rs. 303,834·57.
The balance was paid to them as follows :—

Emjay Garages Ltd.	Rs. 1,211,216·00
W. K. Fernando	645,125·78
B. J. Fernando	403,127·54
L. R. Perera	322,822·47
W. M. D. J. Paulis Appuhamy	188,222·67
S. A. Samarasinghe	175,014·34
K. M. Perera	162,276·43

Exhibits
P 36
Balance Sheet
1.6.49
—Continued

10 (b) *Licence Fees*—Rs. 78,222·47.—Twenty-five new vehicles were licensed during the year.

(c) *Salaries*—Rs. 34,311·33 were paid to the undermentioned :—

V. L. A. Perera, manager and secretary	Rs. 5,885·00
P. Thiagarajan, accountant	3,113·70
O. C. W. Rodrigo, traffic manager	3,009·97
D. B. Perera, typist	1,806·00
T. D. A. Seneviratne, internal audit clerk	1,113·00
W. D. Boteju, traffic supervisor	1,513·80
Seven timekeepers	7,424·40
20 O. S. Herat, chief inspector	1,950·00
Two reporters of accidents	1,950·00
Temporary time-keepers	376·90
Two other typists	1,405·62
Cashier (part time)	860·00
Peon	902·94
Allowance to Dr. A. P. De Zoysa, Chairman	3,000·00

(d) *Insurance* Rs. 15,215·37.—Of this amount Rs. 5,977·00 was for Workmen's compensation and Rs. 9,238·37 for motor vehicles.

30 (e) *Subscriptions and Donations*—Rs. 8,044·10.—This amount was distributed as follows :—

All-Ceylon Omnibus Companies' Association	Rs. 4,300·00
Vesak Dansal	100·00
United Native Children's Appeal	100·00
Deaf and Blind School	100·00
Kurunegala Sports Club	500·00
Emjay Garages, Ltd.	1,944·10
Dr. A. P. de Zoysa	1,000·00

40 (f) *Claims*—Rs. 15,840·85.—This amount is made up as follows :—
Mr. W. K. Fernando, in respect of risk not covered under

insurance contract	Rs. 3,340·85
Compensation for acquisition of route rights to—	
B. M. T. Banda	Rs. 5,000
M. Wickremasinghe	2,500
G. W. Perera	5,000
	Rs. 12,500·00

Exhibits
P 36
Balance Sheet
1.6.49
Continued

(g) *Legal* Rs. 12,122·96.—This expenditure was incurred in connection with :—

Accidents	Rs. 1,265·20
Acquisition of new routes and objections against existing routes	„ 3,810·00
Privy Council Case <i>re</i> allotment of shares ..	„ 7,047·76

(h) *Stationery and Printing*—Rs. 1,989·35—This amount includes cost of fare tables, time tables, daily reports, etc., supplied to the branches.

(i) *Travelling*—Rs. 1,278·61.—This was expended by the general manager in connection with such matters as attending Courts, scene 10 of accidents, etc., expenditure also includes travelling by the other members of the staff in connection with business generally.

(j) *Entertainment*—Rs. 1,799·58.—Of this amount Rs. 1,373 was in connection with the “Social” for Mudaliyar Madanayaka and Mudaliyar B. J. Fernando, the balance Rs. 426·58 being the cost of tea served to the staff.

(k) *Income from Bus Rent*—Rs. 58,604·00.—A rental of Re. 1 per day from each vehicle was collected as follows :—

Emjay Garages Ltd.	Rs. 20,511·00	
W. K. Fernando	„ 10,484·00	20
L. R. Perera	„ 7,148·00	
W. M. D. J. Paulis Appuhamy	„ 6,205·00	
K. M. Perera	„ 4,781·00	
S. A. Samarasinghe	„ 4,745·00	
B. J. Fernando	„ 4,750·00	

Depreciation has been reckoned at 25% on the value of the buses at 31st March, 1948. Depreciation on the additions made during the year to fleet will be considered in the next year's accounts.

Balance Sheet

(a) *Motor Vehicles*—Rs. 808,958·36.—Additions to the fleet, 30 amounting to Rs. 303,834·57 were made as follows :—

<i>Peliyagoda Branch</i> —			Rs.	c.
3 buses	Rs. 30,000·00			
1 chassis	„ 12,376·40			
Cost of bus bodies	„ 167,258·17	209,634	57	

Kegalle Branch—

2 buses	„	5,750	00
-----------------	---	-------	----

Mawenella Branch—

3 buses	„	45,300	00
-----------------	---	--------	----

Kurunegala Branch—

4 buses	Rs. 38,400·00			40
Cost of 2 chassis	„ 4,750·00	43,150	00	

(b) During the year income tax and excess profits duty, amounting to Rs. 319,976·75 made up as follows :—

Income tax for tax year 1946/47	..	..	Rs. 19,976·75
On account Excess Profits Duty	..	..	„ 300,000·00

Exhibits
—
P 36
Balance Sheet
1.6.49
—Continued

(c) *Taxation*.—The liability for excess profits duty is in a sum of Rs. 375,831·90 made up as follows :—

	For period 16.1.43 to 31.3.43	..	..	Rs. 44,575·00
	„ „ 1.4.43 to 31.3.44	..	..	„ 224,519·00
	„ „ 1.4.44 to 31.3.45	..	..	„ 316,119·65
10	„ „ 1.4.45 to 31.3.46	..	..	„ 401,618·25
				Rs. 986,831·90

Payments during year ended—

31.3.46	..	..	Rs. 211,000 00
31.3.48	..	..	„ 100,000·00
31.3.49	..	..	„ 300,000·00
			Rs. 611,000·00
			Rs. 375,831·90

In view of this liability we would recommend the net revenue balance to be carried forward.

(d) *Deposit Rs. 61,421·51*.—A sum of Rs. 17,100 was deposited with the Supreme Court as cost in Privy Council Case, bringing up the total deposit to Rs. 19,350.

(e) *Cash in Hand Rs. 21,927·85*—of this amount Rs. 21,832·30 being the traffic receipts on 31st March, 1949, received on the 1st April, has been credited to the current account at the Bank of Ceylon in April, 1949.

3. The accounts of the company for the period under review were kept very satisfactorily, and we are glad to say that your Accountant answered the various audit queries readily and convincingly.

Yours faithfully,
(Sgd.) TERENCE PERERA & Co.

Exhibits
P 36
Balance Sheet
1.6.49
Continued

SRI LANKA OMNIBUS CO., LTD.
Revenue Account for the Year Ended 31st March, 1949.

	Rs.	c.		Rs.	c.
To Agency Fees	3,107	805	23	By Traffic receipts	3,790,710 24
Licences—					
Duty .. Rsl	55,642	47		Bus Rent	58,604 00
Stand	22,300	00		Interest on Govt. Stock	3,000 00
Road					
Service	280	00	78,222 47		
Office rent			912 00		10
Salaries			34,311 33		
Bonus			1,000 00		
Insurance			15,215 37		
Postage and Telegrams ..			344 07		
Stationery and Printing ..			1,989 35		
Advertising			145 05		
Lights			230 38		
Telephone			572 35		
Travelling			1,278 61		
Bank Interest			116 17		20
Entertainment			1,799 58		
Subscription and Donations			8,044 10		
Claims			15,840 85		
Legal			12,122 96		
Audit			750 00		
Depreciation			126,280 95		
General expenses			400 41		
Surplus			444,933 01		
	Rs.		3,852,314 24	Rs.	3,852,314 24

Certified as correct.
TERENCE PERERA & CO.,
Certified Public Accountants.

Colombo, 1st June, 1949.

SRI LANKA OMNIBUS CO., LTD.
BALANCE SHEET AS AT 31st MARCH, 1949
LIABILITIES

	Rs.	c.		Rs.	c.
Authorised Capital :—					
10,000 shares of Rs. 100 each	1,000,000	00			
Subscribed Capital :—					
7,969 partly paid up shares of Rs. 100 each				717,210	00
Sundry Creditors :—					40
On open accounts				50,023	40
Bank of Ceylon :—					
Overdraft				37,194	95
Capital Income Account :—					
Balance brought forward				117,977	79
Revenue Account :—					
Balance brought forward	200,133	64			
Surplus for year	444,933	01			
	Rs.		645,066 65		
Less Income Tax and Profits Duty Paid			319,976 75		50
			325,089 90		
Less Audit fees paid for 1946/47 and 1947/48			1,700 00	327,389	90
				Rs.	1,245,796 04

ASSETS						Rs.	c.	Rs.	c.	Exhibits P 36 Balance Sheet 1.6.49 --Continued
	Goodwill	..	..	..	..			256,983	00	
	Motor Vehicles :—									
	Balance brought forward	..	..	..	..	505,123	79			
	Additions	..	..	..	..	303,834	57			
						808,958	36			
	Less Depreciation 25%	..	..	..	..	126,280	95	682,677	41	
	Furniture and Fittings :—									
10	Balance brought forward	..	..	..	..			5,259	75	
	Deposits :—									
	Government Agent, W.P.	..	..	..	..	40,727	91			
	Supreme Court	..	..	..	..	19,350	00			
	Postmaster-General	..	..	..	..	703	60			
	Government Electrical Undertakings	..	..	..	..	40	00			
	Municipal Treasurer	..	..	..	..	500	00			
	Urban Council, Kegalle	..	..	..	..	100	00	61,421	51	
	Investments :—									
20	Ceylon Government 3% National Development Loan 1965/70	..	..	..	..			100,000	00	
	Sundry Debtors :—									
	On open accounts	..	..	..	..			72,033	03	
	Loan :—									
	M. Jayasena	..	..	..	..			45,493	49	
	Cash :—									
	In hand	..	..	..	..			21,927	85	
								Rs. .. 1,245,796	04	

I have audited the accounts of the Company for the year ended 31st March, 1949, and have obtained all the information and explanations I have required. I am of the opinion that the above Balance Sheet is properly drawn up so that it exhibits a true and correct view of the state of the Company's affairs as at 31st March, 1949, according to the best of my information and the explanations given to me and as shown by the books of the Company.

(Sgd.) TERENCE PERERA & Co.,
Certified Public Accountants.

Colombo, 1st June, 1949.

STATEMENT OF SUNDRY CREDITORS AND DEBTORS

Sundry Creditors			Sundry Debtors					
	Rs.	c.		Rs.	c.			
B. J. Bus Service	5	30	Emjay Garages, Ltd.	..	62,960	70
Little Service Co.	32	10	W. M. D. J. Paulis Appuhamy	..	3,043	46
40 L. R. Perera	160	00	S. A. Samarasinghe	..	4,917	27
Emjay Insurance Co., Ltd.	76	00	K. M. Perera	..	196	60
L. A. Perera	5,000	00	D. B. Perera	..	70	00
P. D. Pabilis Appuhamy	5,000	00	P. Thiagarajan	..	230	00
K. K. Kirinelis Appu..	5,000	00	C. C. W. Rodrigo	..	90	00
W. D. R. Goonesekera	8,000	00	P. Vandort	..	25	00
G. D. E. Malawana	9,250	00	D. J. F. Perera	..	500	00
Mrs. Alice Wijeyaratne	3,250	00				
R. A. Sirisena	1,500	00				
W. A. Arnolis Appuhamy	3,500	00				
					Rs.	72,033	03	
50 Continued next page			49,773	40				

Exhibits		Rs. c.	Rs. c.
P 36	B/forward	40,773 40	72,033 03
Balance Sheet	H. M. J. Bandara	5,250 00	
1.6.49	M. G. J. Nanayakkara ..	1,750 00	
—Continued	R. D. Siyaneris	1,500 00	
	Terence Perera & Co. ..	750 00	
		<hr/>	
	Rs. ..	50,023 40	Rs. .. 72,033 03
		<hr/>	
			(Sgd.) Illegibly. 1.6.49.

D 30
Statement of
Accounts
31.3.47

D 30

10

Statement of Accounts

TERENCE PERERA & Co.,

Approved Accountants,
Income Tax.

K. M. PERERA

SRI LANKA OMNIBUS CO., LTD.

Kurunegala Branch

Income and Expenditure Account for the Year
Ended 31st March, 1946.

	Rs. c.	Rs. c. 20
To Petrol	40,964 30	By Gross Takings
„ Lub. Oil	3,731 50	155,840 05
„ Salaries and Wages ..	29,612 75	
„ Repairs	4,090 20	
„ Accessories	22,787 61	
„ Tyres and tubes	7,517 39	
„ Bus rent	4,015 00	
„ Rents and rates	942 00	
„ Commission	15,584 00	
„ Stationery	1,024 55	30
„ Telephone	309 20	
„ Sundries	66 02	
„ Travelling	320 70	
„ Surplus	24,874 83	
	<hr/>	
Rs. ..	155,840 05	Rs. .. 155,840 05
	<hr/>	

We have prepared the above from the books and certify that it agrees therewith.
The Agency was operated by seven buses.

(Sgd.) TERENCE PERERA & Co.,
Certified Public Accountants.

Colombo, 31st March, 1947.

40

D 31
Statement of Accounts

TERENCE PERERA & Co.,
Certified Public Accountants.

Exhibits
—
D 31
Statement of
Accounts
3.4.48

Copy.

K. M. PERERA
SRI LANKA OMNIBUS CO., LTD.

Kurunegala Branch 666

Profit and Loss Account for the Year Ended 31st March, 1947

		Rs.	c.		Rs.	c.
10	To Petrol	43,935	70	By Commission	129,677	55
	„ Oil and grease	5,905	10			
	„ Salaries and wages	22,400	15			
	„ Bonus	420	00			
	„ Repairs	3,340	92			
	„ Accessories	15,915	82			
	„ Tyres and tubes	10,427	73			
	„ Bus rent	4,015	00			
	„ Garage rent and rates	889	04			
20	„ Subscription	462	45			
	„ Postage and stationery	631	25			
	„ Telephone	301	25			
	„ Travelling	614	15			
	„ Legal	845	80			
	„ Net profit	19,572	68			
		Rs. .. 129,677	55		Rs. .. 129,677	55

Adjustments for Purpose of Income Tax

	Balance as above	Rs. 19,572	68
	Additions :—		
30	Subscription	Rs. 462	45
	Legal	845	80
		Rs. 20,880	93

We have prepared the above from the books and certify that it is based thereon.

We have seen vouchers for accessories and tyres and tubes. The bus rent was paid to the Sri Lanka Omnibus Co., Ltd.

Salaries were paid to eight drivers, eight conductors, four inspectors, one supervisor, one time-keeper and one foreman.

The petrol allocation was 1,900 gallons per month. Out of this about 930 gallons were unused.

40 The service consists of seven vehicles.

(Sgd.) TERENCE PERERA & Co.,
Certified Public Accountants.

Colombo, 3rd April, 1948.

Exhibits
D 32
Statement of
Account
16.1.49

D 32
Statement of Account

TERENCE PERERA & CO.,
Certified Public Accountants.

K. M. PERERA
SRI LANKA OMNIBUS CO., LTD.
Kurunegala Branch

Revenue Account for the Year Ended 31st March, 1948

	Rs.	c.		Rs.	c.
To Petrol	43,833	40	By Agency Fees ..	126,397	37 10
„ Oil, grease	5,912	54			
„ Accessories	11,385	76			
„ Repairs	1,417	57			
„ Tyres and tubes	8,071	23			
„ Salaries	31,790	14			
„ Bus rent	3,874	00			
„ Garage and office rent, rates and lights	789	08			
„ Stand licence	761	60			
„ Stationery	720	02			20
„ Postage	466	26			
„ Telephone	344	65			
„ Travelling	658	97			
„ Legal	5,829	90			
„ Income Tax	2,000	00			
„ Bonus	250	00			
„ Surplus	8,292	15			
	Rs. 126,397	27		Rs. 126,397	27

Adjustments for Purpose of Income Tax

Surplus as above	Rs. 8,292	15	30
<i>Add Back</i> :—			
Legal	Rs. 5,829	90	
Income Tax	2,000	00	7,829 90
			Rs. 16,122 05

We have prepared the above from the books and certify that it is based thereon.
The bus rent was paid to the Sri Lanka Omnibus Co., Ltd.
Salaries were paid to 10 drivers, 10 conductors, five inspectors, one foreman, four assistant mechanics, two clerks, one peon and one time-keeper.

The petrol allocation was 1,900 gallons per month of this about 700 gallons were unused. 40

Buses in service—nine buses were licensed six to eight in service.
Legal expenses were incurred in connection with civil cases.

(Sgd.) **TERENCE PERERA & Co.,**
Certified Public Accountants.

Colombo, 16th January, 1949.

D. 19
Agreement

Exhibits
—
D 19
Agreement
29.7.47

THIS INDENTURE made and entered into at Colombo on this twenty-ninth day of July, One thousand Nine hundred and Forty-seven by and between The Sri Lanka Omnibus Co. Ltd., a company incorporated under the Ceylon Joint Stock Companies Ordinance No. 51 of 1938 having its registered office at No. 41½ Victoria Buildings, Norris Road, Colombo (hereinafter sometimes called and referred to as "the company" of the one part and Mr. Kekulawalavidanelage Manuel Perera, No. 7, Morris Street, Kurunegala, of the other part.

WHEREAS the said company is enjoying the Exclusive Licence to run the Omnibus Service between Colombo-Kandy and Colombo-Kurunegala and other routes subsidiary thereto and whereas for the purpose of rendering an efficient service to the Public it is deemed expedient to run the said services through managers in charge of branches.

NOW THIS INDENTURE WITNESSETH and it is hereby mutually covenanted and agreed by and between the said company and Mr. Kekulawalavidanelage Manuel Perera, No. 7, Morris Street, Kurunegala, as follows.

1. The said Mr. Kekulawalavidanelage Manuel Perera, No. 7, Morris Street, Kurunegala, shall be the branch manager of the said company appointed for the branch established at Kurunegala as from twenty-ninth day of July, 1947.

2. The said Mr. Kekulawalavidanelage Manuel Perera No. 7, Morris Street, Kurunegala, shall have under his management the omnibuses described in the Schedule "A" appended hereto and or such other vehicles as from time to time be entrusted to him together with such other things required for the management of the branch and the running of the said omnibuses and motor cabs.

3. The said Mr. Kekulawalavidanelage Manuel Perera No. 7, Morris Street, Kurunegala, shall run omnibuses or motor cabs entrusted to him on the licensed routes mentioned in the Schedule "B" appended hereto or on such other licensed routes and special hires as from time to time be entrusted to him by the said company.

4. The said Mr. Kekulawalavidanelage Manuel Perera, No. 7, Morris Street, Kurunegala, shall maintain at his expense the omnibuses or motor cabs entrusted to him as aforesaid in good and proper order and condition and shall keep them in a state of good repair, clean and sanitary so as to render a highly efficient service to the public.

5. The said Mr. Kekulawalavidanelage Manuel Perera No. 7, Morris Street, Kurunegala, shall be solely responsible for the regular maintenance of passenger transport services of this branch in strict

Exhibits
 —
 D 19
 Agreement
 29.7.47
 —Continued

accordance with the terms and conditions as set forth in Motor Ordinance and its amendments and shall be responsible for all fines, penalties, etc., that may be imposed by reason of any breach of rules and regulations contained therein.

6. The said Mr. Kekulawalavidanelage Manuel Perera, No. 7, Morris Street, Kurunegala, shall use omnibuses and motor cabs belonging to the company on the routes licensed in the name of the company. The said Mr. Kekulawalavidanelage Manuel Perera, Kurunegala, shall pay the company a sum of not less than Rupee one per day for each and every omnibus or cab given to him in charge by the 10 company.

7. The said Mr. Kekulawalavidanelage Manuel Perera, No. 7, Morris street, Kurunegala, shall provide suitable garage accommodation for all vehicles in his charge and shall take the necessary precautions to take good care of them. He shall pay all rents, rates and taxes on such garage accommodation save and except the items excluded in clause No.16 of this agreement. He shall also be liable to indemnify the company for any damage arising by fire or theft or by reason of any negligent act of commission or omission on the part of the said Mr. Kekulawalavidanelage Manuel Perera, No. 7, Morris Street, 20 Kurunegala, or his agent or employee.

8. The said Mr. Kekulawalavidanelage Manuel Perera, No. 7, Morris Street, Kurunegala, on behalf of the company shall employ at his expenses good and competent drivers and conductors, inspectors, time-keepers, checkers and workmen so as to render good efficiency in the service of the branch managed by him. He shall strictly adhere to all labour laws and requirements as to employment provided in the Motor Ordinance and Labour Ordinances and shall be responsible to the company for strict observance of all such laws and shall indemnify the company to the full extent of all fines, penalties and costs 30 and damages incurred by the company arising out of any breach or non-observance of any provision of law. Any such employee found unsatisfactory by the Board of Directors of the Company or the General Manager of the Company shall be forthwith discontinued by the said Mr. Kekulawalavidanelage Manuel Perera, No. 7, Morris Street, Kurunegala, such order of the Board of Directors of the Company or General Manager of the Company shall be conveyed by letter under registered cover to the said Mr. Kekulawalavidanelage Manuel Perera, No. 7, Morris Street, Kurunegala.

9. The said Mr. Kekulawalavidanelage Manuel Perera, No. 7, 40 Morris Street, Kurunegala, shall remit weekly to the company all daily collections received by him from the services and the said Mr. Kekulawalavidanelage Manuel Perera, No. 7, Morris Street, Kurunegala, shall be entitled to a payment of ninety per cent (90%) of the daily gross collections from the branch managed by him for payment

of employees in his branch for repairs, rents of garage, cost of petrol, oil, tyres, tubes, replacing old omnibuses and motor cabs with new omnibuses and motor cabs.

Exhibits
D 19
Agreement
29.7.47
—Continued

10. Time and fare tables controlling the running of services shall be prepared by the company and the said Mr. Kekulawalavidanelage Manuel Perera, Kurunegala, shall run the omnibuses, motor cabs and charge the fares in strict accordance with such tables provided as aforesaid.

11. The company shall have the power to purchase new vehicles which in their opinion is necessary for the efficient running of the services and such vehicles purchased shall be handed over by the company to the said Mr. Kekulawalavidanelage Manuel Perera, No. 7, Morris Street, Kurunegala, who shall pay the company the cost of any such new vehicle purchased but the Company shall remain the sole owner of such vehicle or vehicles.

12. True and proper way bills, and daily returns shall be maintained and faithfully filed on the forms provided according to the specimen way bill and daily return forms provided by the company to the said Mr. Kekulawalavidanelage Manuel Perera, No. 7, Morris Street, Kurunegala. Such way bills and daily returns in original forms supported by duplicate copies of ticket books and issued and used in the course of each day shall be delivered to the company at its registered office weekly. Such way bills, daily returns and tickets shall be filed in the office and inspection if necessary shall be available to the said Kekulawalavidanelage Manuel Perera, No. 7, Morris Street, Kurunegala, at all reasonable times of the day. In the event of any disparity or difference in any amount appearing in the way bills, daily returns and the duplicate receipt books such discrepancy shall be satisfactorily explained by the said Kekulawalavidanelage Manuel Perera, No. 7, Morris Street, Kurunegala, and the amount rectified accordingly.

13. The routine, proper control and maintenance of services shall be guided by the rules and regulations laid down by the Board of Directors of the Company. The said Kekulawalavidanelage Manuel Perera, No. 7, Morris Street, Kurunegala, shall faithfully and efficiently carry out such orders and observe all requirements so as to render maximum efficient service to the public who make use of these bus routes.

14. The said Kekulawalavidanelage Manuel Perera, No. 7, Morris Street, Kurunegala, shall keep, and maintain or cause to be kept and maintained by an efficient staff, true and faithful account books showing all the income and outgoings arising in the course of management and shall have the books regularly and correctly posted up to date. All such books shall be opened to the inspection of the Board of Directors of the Company or any other person or persons duly appointed by the said Board of Directors of the Company and

Exhibits
 D 19
 Agreement
 29.7.47
 --Continued

such person or persons shall be entitled to take copies or make notes that may be deemed necessary and the said Kekulawalavidanelage Manuel Perera, No. 7, Morris Street, Kurunegala, shall give full liberty, afford all assistance and facilities and render full co-operation to such person or persons in the inspection and discharge of duties, and shall render full and faithful explanations if the said Kekulawalavidanelage Manuel Perera, No. 7, Morris Street, Kurunegala, is called upon to give by the Board of Directors of the Company or such person appointed by the Board of Directors of the Company.

15. The said Kekulawalavidanelage Manuel Perera, No. 7, 10 Morris Street, Kurunegala, shall also faithfully maintain all books required to be kept by statute and personally supervise maintenance thereof. Such books also shall be subject to the inspection of the Board of Directors of the Company or of any person duly appointed by the Board of Directors of the Company in the same manner as provided for in the preceding clauses.

16. The company shall pay all annual licence fees and bus-stand fees on all vehicles save and except such rents, rates and taxes agreed to be paid by the said Kekulawalavidanelage Manuel Perera, No. 7, Morris Street, Kurunegala, under clause 7 hereof. The said 20 Kekulawalavidanelage Manuel Perera, No. 7, Morris Street, Kurunegala, shall at his expense carry out all necessary repairs, painting and reconditioning of vehicles prior to the issue of the renewals of licences.

17. The company shall effect Insurance of all vehicles sufficient to satisfy the statutory requirements under the Motor Ordinances and Workmen's Compensation Ordinances, and their or its amendments, and shall only be liable to the Public to the extent and limit covered by the strict construction of the regulation laid down under the said Ordinances and nothing more. The said Kekulawalavidane- 30 lage Manuel Perera, No. 7, Morris Street, Kurunegala, shall be liable to pay all other claims and liabilities arising from any decree of Court or Tribunal constituted by lawful authority and all amounts or claims in excess of the amount that the company may be called upon to pay outside the limits of the operation of the Insurance Policy effected by the Company as aforesaid.

18. The company shall be entitled to terminate this agreement forthwith on the said Kekulawalavidanelage Manuel Perera, No. 7, Morris Street, Kurunegala, committing a breach of any one or more of the conditions or covenants herein contained. It is further agreed 40 that this agreement may be terminated and determined by either party given notice to the other, ninety days previous notice in writing intimating the intention to terminate this agreement. The notice shall be construed to be sufficiently given if the said written notice

is ; posted under registered cover addressed to the Head Office of the Company and if similarly posted addressed to No. 7, Morris Street, Kurunegala, to the last known place of residence on the part of Kekulawalavidanelage Manuel Perera.

Exhibits
D 19
Agreement
29.7.47
—Continued

19. It is further agreed that on the determination of this agreement in any manner aforesaid that the said Kekulawalavidanelage Manuel Perera, Kurunegala, shall hand over all the vehicles to the Company in good order and condition reasonable wear and tear excepted together with all parts, accessories, appurtenances that form the property of the Company. The said Kekulawalavidanelage Manuel Perera, Kurunegala, shall also hand over to the Company all books of accounts and books kept under statute posted up to the time of such determination together with other documents forming part and parcel or auxiliary thereto or kept independently thereof. Provided, however, that in the event of the said requiring inspection of such books or documents, he shall be entitled to do so and take notice thereof at all reasonable times, personally or by agent authorised by him in writing.

20. It is further agreed that in no event or circumstance shall the said Kekulawalavidanelage Manuel Perera, No. 7, Morris Street, Kurunegala, be entitled to pledge the credit of the Company in any manner whatsoever without the express consent in writing of the company having been obtained previously. Any contract or liability arising from any such action without such consent shall not in any manner bind the company.

21. The provisions of this agreement shall bind the parties and their successors and heirs unless and until determined under the provisions contained herein.

IN WITNESSES WHEREOF the said company set its seal and the said Mr. Kekulawalavidanelage Manuel Perera, No. 7, Morris Street, Kurunegala, set his signature hereunto and to three others of the same tenor and date as these Presents on the date and at the Place above written.

(Sgd.) M. JAYASENA

„ B. J. FERNANDO.

Directors of the Sri Lanka Omnibus Co. Ltd.

(Sgd.) K. M. PERERA,

Branch Manager.

Witnesses.

40 (Sgd.) Illegibly.

„ Illegibly.

Exhibits
—
D 19
Agreement
29.7.47
—Continued

SCHEDULE "A" TO AGREEMENT DATED 29th DAY OF JULY, 1947

	<i>Registration Number of the Omnibus or Motor Cab</i>	<i>Make</i>	<i>Number of Passengers</i>	
1.	E 397	Stewart	19	
2.	Q 378	Stewart	19	
3.	Q 925	Dodge	19	
4.	Q 1042	Stewart	19	
5.	W 500	Stewart	19	
6.	X 1340	Dodge	19	10
7.	X 4361	Willy's	19	
8.	X 6742	Bedford	19	
9.	X 8434	Stewart	20	
10.	X 9764	Chevrolet	19	
11.	Z 4295	Dodge	26	
12.	CE 4050	Ford	30	
13.	CY 2387	Chevrolet	14	

(Sgd.) M. JAYASENA,

(Sgd.) B. J. FERNANDO,

Directors of Sri Lanka Omnibus Co., Ltd., Colombo. 20

(Sgd.) K. M. PERERA,

Branch Manager.

Witnesses :

(Sgd.) Illegibly.

(Sgd.) Illegibly.

SCHEDULE "B" TO AGREEMENT DATED 29th DAY OF JULY, 1947

<i>Road Service Licence Number</i>	<i>Route</i>	
323	Kurunegala—Alawwa	
349	Polgahawela—Narammala	30
350	Kurunegala—Giriulla	
351	Katupitiya—Kurunegala	
352	Muddaragama—Kurunegala	
360	Pattalagedera—Kurunegala	
371	Kurunegala—Polgahawela	

(Sgd.) K. M. PERERA,

Branch Manager.

(Sgd.) M. JAYASENA,

(Sgd.) B. J. FERNANDO,

Directors of the Sri Lanka Omnibus Co., Ltd., Colombo. 40

Witnesses:

(Sgd.) Illegibly.

(Sgd.) Illegibly.

P. 37.

Report of Sri Lanka Omnibus Co., Ltd.
SRI LANKA OMNIBUS CO., LTD.

41 1/6, Victoria Buildings,
 Norris Road,

(Colombo, 8th June, 1949.

1948—49

Exhibits
 —
 P 37
 Report of Sri
 Lanka Omnibus
 Co., Ltd.
 S.6.49

General.—This company has been in existence from January, 1943, during which period it has continued to make steady progress and is today one of the largest Transport Companies in the Island.

Accounts.—(a) This company was floated in 1943 with a subscribed capital of Rs. 700,000. It should be noted that this capital was not in money but the value of omnibuses handed over by the Shareholders. Some of these were very old and others not road-worthy. The present value of the fleet of omnibuses inclusive of the goodwill of the company is over Rs. 2,500,000.

It is very creditable that we have been able to make more than double the assets in a short space of six years after paying the annual income tax plus Rs. 611,000 as part of the E.P.D. tax.

(b) For the years 1943-46 the assessed E.P.D. tax of the company is Rs. 986,831·90. This tax is based on the assessment of the incomes of the branches as well. The branch managers have already appealed against the arbitrary assessment of their income. The income of the Company is not disputed by the Commissioner of Income Tax.

During the year 1948-1949 we have paid Rs. 300,000 as part payment of the outstanding E.P.D. tax.

A sum of Rs. 375,831 is still outstanding on account of E.P.D. tax for the period 1943-46. Hence the auditors do not recommend that a dividend be declared for 1948-49.

The gross income of this company for the year 1948-49 is Rs. 3,790,710·24, an increase of Rs. 362,422·46. The collections from branches A, B, C, D, E, and G during the year under review are more than the previous year. There is, however, a decrease in collections from branch "F."

Owing to the present economic conditions there is tendency for a decrease of the number of passengers patronising the omnibuses. 1948-49 may be considered as the peak year for the increase of collections.

We must be thankful to the Commissioner of Motor Transport for allowing us an increase of omnibus fares amounting to 1 cent per mile on the suburban areas and ½ cent per mile for the rural areas. We were compelled to ask for this increase owing to the increased

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cost of operation and maintenance. Our rates, however, are as yet lower than those most other omnibus companies. Our success, we may add, in this matter was in no small measure due to the efforts of Mudaliyar J. Madanayake.

We are glad to record that there has been an over-all increase of incomes; while all branches have shown increases we regret to note that branch "F" alone has shown a decrease.

Branch	1947-48	1948-49	Increase	Decrease
"A"	1,543,422·57	1,578,722·79	35,300·22	
"B"	441,052·99	447,919·40	6,866·41	10
"C"	680,047·55	767,139·60	87,092·05	
"D"	221,213·82	358,691·60	137,477·78	
"E"	195,268·56	209,136·16	13,867·60	
"F"	206,841·00	200,849·20		5,991·80
"G"	140,441·35	228,251·55	87,810·20	
	<u>3,428,287·84</u>	<u>3,790,710·30</u>	<u>368,414·26</u>	<u>5,991·80</u>

Total increase	.. ..	.. Rs. 368,414·26
Less Decrease by branch "F"	.. ..	.. .. 5,991·80
Net increase	.. ..	.. Rs. 362,422·46

Omnibuses.—At the inception of the company branch "F" was 20 given 14 omnibuses and now this branch is in charge of 13 omnibuses. Other branches have increased the number of omnibuses. The following statement will show the comparison of buses licensed for the year 1943-44, 1946-47, 1947-48, 1948-49 according to branches:—

Branch	1943-44	1946-47	1947-48	1948-49
"A"	49	50	54	60
"B"	12	11	12	14
"C"	32	22	26	30
"D"	12	12	17	21
"E"	10	12	15	18
"F"	14	10	11	13
"G"	11	9	11	15
	<u>140</u>	<u>126</u>	<u>146</u>	<u>171</u>

Dividends.—The undermentioned statement of dividends paid will show the progress of the company :—

1943-44	1 ⁰ / ₁₀₀
1944-45	5 ⁰ / ₁₀₀
1945-46	20 ⁰ / ₁₀₀
1946-47	20 ⁰ / ₁₀₀
1947-48	Nil

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No dividend was declared for the year 1947-48 as a sum of Rs. 575,831·90 had to be paid as E.P.D. tax.

10 *Station Waggon and Private Buses.*—This menace continues to exist in spite of all the effort of the Police and all the All-Ceylon Omnibus Companies' Association. The failure to eradicate this nuisance appears to be due to defects in the existing law. Early amendment of the law will therefore will be a great help to us.

Complaints.—A commendable feature of our services have been a reduction in the number of complaints from the travelling public. This has been possible owing to provision of better travelling facilities and improvement of our services. A step that has contributed largely towards eliminating complaints of incivility to passengers is the firmness with which such offenders have been dealt with by the respective branch managers.

Cab Service.—It is regrettable to note that licences continue to be issued to private individuals to ply Cab Service on certain sections of exclusive omnibus routes. The cabs should only be allowed to ply on minor roads, *i.e.* D.R.C. and V.C. roads, as on all P.W.D. roads allowed for heavy traffic there is an omnibus service.

Routes.—The number of route licences for bus and cab services issued to the company by the Commissioner of Motor Transport is 67, out of which twenty licences were issued to us during the year under review.

A large number of inquiries regarding route licences for omnibuses and motor cabs were held by the Commissioner of Motor Transport at Colombo and Kandy. This company was represented with considerable success by the traffic manager.

Express Services.—A decision has been given by the Supreme Court allowing an express service to a company over a route serviced by another. This decision is of considerable importance to us in that it permits two or more operators along the same route, or practical purposes, this means a renewal of competition between operators. We have therefore appealed to the Hon'ble the Minister of Transport & Works to leave no room for such subtle competition when framing legislation as contemplated in the near future. We are confident that this appeal would be given careful consideration.

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Traffic.—During the year under review the services of this company have been considerably improved and the travelling public have been afforded greater facilities

The time tables of the company have been recast further after careful observation of the various services and the starting times from various terminal mutually agreed upon by the directors.

There have been 24 accident reported to us during this year which is a fairly high rate of accidents.

Office.—The office has continued to function efficiently and the accounts maintained accurately and up to date and our thanks are due to the staff in particular to Mr. P. Thiagarajah, the accountant, and Mr. O. C. W. Rodrigo, traffic manager, for their efficient and loyal co-operation. 10

Conculsion.—The Board of directors, viz., Mudaliyar J. Madanayake, Mudaliyar B. J. Fernando, Messrs. W. K. Fernando, S. A. Samarasinghe, L. R. Perera, W. M. D. J. Paulis Appuhamy, P. D. F. Alwis, K. M. Perera and Dr. A. P. de Zoysa continued to act in such a manner that their individual interest were subordinated in the general interest of the company.

Sri Lanka Omnibus Co. Ltd., 20
(Sgd.) VICTOR L. A. PERERA,
Secretary.

L. A. Pabilis Appuhamy, Esq.,
Potuhera.

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EXTRACT FROM THE REGISTER OF MOTOR CARS

Distinctive No. Z 4295.
Make, Class and H.P. of Vehicle : Dodge, Bus, 27-34.
Date of First Registration : 13.9.37.
Names : 30

<i>Names and Addresses of Owners</i>	<i>Date of Ownership</i>
Horadugoda Gamage Romiel Dias, Maharagama, Giriulla	13.9.37
Sri Lanka Omnibus Co., Ltd., 41 2/1, Victoria Buildings, Norris Road, Colombo	13.2.43

I, W. R. O. Fernando, Chief Clerk, Motor Transport Department, certify that the foregoing is a true extract of information as appearing on this date in the register of motor cars in respect of motor vehicle No. Z 4295 and the same is issued on the application of Mr. I. A. B. Thalagama, No. 12, Puttalam Road, Kurunegala. 40

(Sgd.) W. R. O. FERNANDO,
Chief Clerk, Motor Transport Department.

Colombo, 1.9.49.

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Extract from
the Register of
Motor Cars
1.9.49

