

1911.

*Present : Lascelles C.J. and Middleton J.***KEKULAWALA v. ATTORNEY-GENERAL.**

340—D. C. Colombo, 31,856.

*Appeal—Crown as party appellant—Security for costs.*

Where the Crown is a party to an appeal the Crown is not bound to give security for respondent's costs.

**A** PPEAL from a judgment of the District Judge of Colombo.

*Walter Pereira, K.C. (with Akbar, C.C.), for Crown, appellant.*

*De Sampayo, K.C. (with Schneider), for respondent.*

November 28, 1911. LASCELLES C.J.—

An objection has been taken against the hearing of this appeal, I think, without any confidence on the part of the objector, that the Crown ought to have given security for costs as a preliminary to the hearing of this appeal. There is no doubt at all as to the practice which has prevailed for a long time in our Courts. It has been the invariable practice, as stated by the learned Solicitor General, for the Crown to dispense with furnishing security for costs if the Crown is the appellant. No instance has been cited to us of any case in which the Crown has given or has been required to give security for the costs of an appeal. The practice that the Crown should not give security for costs is eminently reasonable. The Crown cannot be compelled to pay costs, but it accepts as an act of grace the liability to pay costs if ordered to do so by a competent Court. The respondent would have nothing at all to gain by the Crown being required to give security for costs, and he has, as a matter of fact, a perfect security that his costs will be paid if he is entitled at law to have them. I do not think that the objection has any substance in it, and I think that the appeal ought to be heard.

MIDDLETON J.—I agree.

*Objection overruled.*

