1975 *Present :* **G. T. Samerawickrame, J.** (Chairman)

C. V. Udalagama, J., and S. W. Walpita, J.

In Re.

1. F. J. C. de Mel (2nd Suspect)

2. Thelma de Mel (3rd Suspect)

Case No. 11/75 *C. J. C.* (21)

Criminal Justice Commission—Foreign Exchange Offences—Suspects found guilty under S. 51 (4) *of the Exchange Control Act—Subsequent amendment of S.* 51 (4) *by S.* 13 *of the Exchange Control (Amendment) Law No.* 39 *of* 1973— *whether the suspects liable to punishment under original Act or under the Amending Law providing for enhanced punishment—Interpretation Ordinance S.* 6 (3)—*Rule of Statutory interpretation against retrospective operation of Laws—Statutes affecting substantive law always to be construed prospectively unless by express words or necessary implication—retrospective operation is provided for—Question whether the amending law No.* 39 *of* 1973 *which enhanced the punishment provided for in the original Act is a matter of procedure or substantive law.*

The two suspects were found guilty on their own plea of violating certain Exchange Control Offences punishable under S. 51 (4) of, the Exchange Control Act. The offences were committed between the first day of January 1970 and the 30th day of June 1971. At the time the offences were committed they were liable to punishment under S. 51 (4) of the original Exchange Control Act which provided that on conviction a District Court may impose a term of two years imprisonment or fine or both. Section 51 (4) of the original Act was amended by S. 13 of the Exchange Control (Amendment) Law No. 39 of 1973 which increased the punishment to a term not exceeding five years or to both imprisonment and fine.

Further, by S. 15 (*b*) of the Criminal Justice Commissions Act, it was provided that, if the Commission is satisfied that any person has committed any exchange control offence, it is empowered and required to find him guilty and sentence him to any punishment to which he might have been sentenced, if he had been tried and convicted by a District Court or a Magistrate's Court.

Held, (i) That, in keeping with the cardinal rule of Statutory interpretation that generally statutes are prospective and that they apply only to cases and facts which come into existence after they were passed, the provision for enhanced punishment introduced by the Amending Law No. 39 of 1973 is not applicable to the punishment of offences committed before its enactment. Accordingly, the punishment provided for in the original Act, namely a term of two years' imprisonment or fine or both was applicable to the present case.

(ii) The Interpretation Ordinance Section 6 (3) provides that, whenever any written Law repeals either in whole or part a former written Law, such repeal shall not, in the absence of any express provision to that effect, affect or be deemed to have affected *inter alia* any offence committed under the repealed written Law. The Exchange Control (Amendment) Law repealed Sub-Section 4 of S. 51 and substituted a new Sub-Section. Accordingly, S. 6 (3) of the Interpretation Ordinance would apply and therefore the punishment incurred at the time of the commission of the offence was the punishment that could be imposed.

(iii) That the provision of Law which enhances the punishment for an offence is a question of substantive Law, for the existence and measure of Criminal liability are matters pertaining to the end and purpose of the administration of Justice. Accordingly, the presumption against the retrospective operation of penal Laws applies unless, by express words or necessary and distinct implication such operation is provided for. On this view the Amending Law which provides for increased punishment for an existing offence is not intended to apply to offences committed before its enactment.

(iv) The Exchange Control (Amendment) Law states: "Any person who *commits* an offence under the Act shall on *conviction* .....be liable to imprisonment .....". The word "commits" *prima facie* refers to the present and the future. Under this provision the conditions for liability are two-fold namely, the committing of an offence on or after the date of the enactment, and a conviction. Far from being express language indicating that the provision is retrospective, the language used indicates the contrary.

D. P. P. *v.* Lamb (1941) 2 All. E.R. 499 distinguished.

Mr. Shiva Pasupati, Attorney General with *Mr. E. D. Wikremanayake,* Deputy Solicitor-General and *Mr. Sunil de Silva,* Senior State Counsel and *Mr. Lal Wimalaratne,* State Counsel for the State.

Mr. H. L. de Silva, for the 1st Suspect, *Mr. Sam J. C. Kadiragamar,* for the 2nd and 3rd Suspects, and *Mr. K. N. Choksy,* as Amicus Curiae.

August 19th, 1975

ORDER

The two suspects were charged and found guilty on their own plea of offences punishable under Section 51 (4) of the Exchange Control Act committed between the 1st day of January, 1970 and the 30th day of June, 1971. At the time when the offences were committed the relevant provision in Section 51(4) read :—

"(4) Any person who commits an offence against this Act shall—

(*a*) upon conviction after summary trial before a Magistrate, be liable to imprisonment of either description for a term not exceeding six months or to a fine, or to both such imprisonment and fine, or

(*b*) on conviction before a District Court, be liable to imprisonment of either description for a term not exceeding two years or to a fine, or to both such imprisonment and fine ; "

By Section 13 of the Exchange Control (Amendment) Law No. 39 of 1973 Section 51 was amended, *inter alia,* as follows :—

" (2) by the repeal of subsection (4) thereof and the substitution therefor, of the following subsection :—

' (4) Any person who commits an offence under this Act shall—

(*a*) on conviction after summary trial before a Magistrate, be liable to imprisonment of either description for a term not exceeding eighteen months, or to both such imprisonment and a fine ;

(*b*) on conviction before a District Court, be liable to imprisonment of either description for a term not exceeding five years, or to both such imprisonment and a fine ; "

By Section 15 (*b*) of the Criminal Justice Commissions Act where this Commission is satisfied that any person has committed any offence it is empowered and required to find him guilty and sentence him to any punishment which he might have been sentenced if he had been tried and convicted by a District Court or a Magistrate's Court. The question arises whether it is the provision introduced by the amending Law No. 39 of 1973 or the provision in the original Act which applies in respect of the offences committed by the suspects.

It is a well known rule of interpretation that generally statutes are prospective and operate only on cases and facts which come into existence after they were passed. The rule is based on an ancient maxim which is set out in Justinian's Code 1-14-7 and is expressed in Voet 1-3-17 thus :—

> " It is certain further that laws give shape to affairs of the future, and are not applied retrospectively to acts of the past."

This rule is also part of the, English law. Maxwell Interpretation of Statutes (12th Ed.) p. 215 states—

> "Upon the presumption that the legislature does not intend what is unjust rests the leaning against giving certain statutes a retrospective operation. *Nova constitutio futuris formam imponere debet, non praeteritis.* They are construed as operating only in cases or on facts which come into existence after the statutes were passed unless a retrospective effect be clearly intended. It is a fundamental rule of English law that no statute shall be construed to have a retrospective operation unless such a construction appears very clearly in the terms of the Act, or arises by necessary and distinct implication."

The rule and the exceptions to it are set out thus in 36 Simmonds p. 423 paragraph 644—

> "The General rule is that all statutes, other than those which are merely declaratory, or which relate only to matters of procedure or of evidence, are *prima facie* prospective; and retrospective effect is not to be given to them unless by express words or necessary implication, it appears that this was the intention of the legislature."

The rule has been consistently applied by our Courts, see e.g. *Appuhamy v. Brumpy,* 16 N.L.R. 59, *Akilandanayaki v. Sothinagaratnam,* 53 N.L.R. 385. The *Queen vs* (1) *Fernando* (2) *Carolis* 61 N.L.R. 395, *United Industrial, Local Government and General Workers Union vs. Independent Newspapers Ltd.* 75 N.L.R. 241 at 243.

The next matter we have to consider is whether the rule applies to a provision of law which enhances the punishment for an offence or whether such a provision only deals with a matter of procedure. We were referred by Mr. H. L. de Silva, who addressed us as amicus, to an illuminating exposition of the point by Salmond. In his book on Jurisprudence (11th Ed.) p. 503, it is stated—

> "..... rules defining the remedy may be as much a part of the substantive law as are those which define the right itself. No one would call the abolition of capital punishment, for instance, a change in the law of criminal procedure. The substantive part of the criminal law deals, not with crime alone, but with punishment also. So in the civil law,

the rules as to the measure of damages pertain to the substantive law, no less than those declaring what damage is actionable ; and rules determining the classes of agreements which will be specifically enforced are as clearly substantive as are those determining the agreements which will be enforced at all. To define procedure as concerned not with rights, but with remedies, is to confound the remedy with the process by which it is made available.

What then, is the true nature of the distinction ? The law of procedure may be defined as that branch of the law which governs the process of litigation. It is the law of actions—*jus quod ad actiones pertinet*—using the term action in a wide sense to include all legal proceedings, civil or criminal. All the residue is substantive law, and relates, not to the processes of litigation, but to its purposes and subject matter. "

and later it is stated—

" What facts constitute a wrong is determined by the substantive law ; what facts constitute proof of a wrong is a question of procedure. For the first relates to the subject-matter of litigation, the second to the process merely. Whether an offence is punishable by fine or by imprisonment is a question of substantive law, for the existence and measure of criminal liability are matters pertaining to the end and purpose of the administration of justice.

But whether an offence is punishable summarily or only on indictment, is a question of procedure. Finally, it may be observed that, whereas the abolition of capital punishment would be an alteration of the substantive law, the abolition of imprisonment for debt was merely an alteration in the law of procedure. For punishment is one of the ends of the administration of Justice, while imprisonment for debt was merely an instrument for enforcing payment. "

On the view expressed by Salmond, a law which provides for enhanced punishment for an existing offence, is not intended to apply to offences committed before its enactment. This is also the opinion of Voet. In paragraph 1-3-17 he also states—.

" If a penalty has to be imposed for wrong doing committed before a new law sharpens the penalties then it must be inflicted according to the old and not of the succeeding new law. "

There is a dictum of Chase, J. in the case of *Calder vs. Bull* which is reproduced in the judgment in *Philipps vs. Eyre,* 22 L. T. at 877, which is relevant—

> "Every law that takes away or impairs rights vested agreeably to existing laws is retrospective, and is generally unjust, and may be oppressive, and it is good general law that a law should have no retrospect..... But I do not consider any law *ex post facto* within the prohibition that militates the rigour of the criminal law, but only those that create or aggravate crime or increase the punishment, or change the rules of evidence for the purpose of conviction."

In 36 Simmonds, p. 425, paragraph 645, it is stated—

> "That a statute increasing the penalties for existing offences is not intended to apply in relation to offences committed before its commencement."

Article 11 (2) of the Universal Declaration of Human Rights reads—

> "No one shall be held guilty of any penal offences on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than one that was applicable at the time the penal offence was committed".

Sri Lanka has expressed its adherence to the Declaration, and though it does not control legislation, one may presume, in the absence of anything suggestive of the contrary, that our legislature ordinarily desires to act in accordance with, rather than contrary to, the Declaration.

Mr. Choksy submitted as a further reason that under Section 6 (3) of the Interpretation Ordinance, the penalty for offences already committed, was that provided for, by the repealed provision.

Section 6 (3) reads—

> "(3) Whenever any written law repeals either in whole or part a former written law, such repeal shall not, in the absence of any express provision to that effect, affect or be deemed to have affected—
>
> (*a*) the past operation of or anything duly done or suffered under the repealed written law;

(b) any offence committed, any right, liberty, or penalty acquired or incurred under the repealed written law ;

(c) any action, proceeding, or thing pending or incompleted when the repealing written law comes into operation, but every such action, proceeding, or thing may be carried on and completed as if there had been no such repeal. "

He submitted that Section 6 (3) (*b*) applied and that the punishment incurred at the time of the commission of the offence was the punishment that could be imposed.

The learned Additional Solicitor-General, Mr. E. D. Wikramanayake submitted that following Lamb's case there was a series of decisions that a law providing for enhanced punishment on conviction applied to both offences committed before the enactment of the law as well as offences committed thereafter. In *Director of Public Prosecutions v. Lamb,* 1941, 2, A. E. R. 499,—

"The four defendants were charged with certain currency offences committed between Sept. 3, 1939 and May 11, 1940 and pleaded guilty. The information was dated August 17, 1940. The regulation in force at the time of the commission of the offences limited the penalty for each offence to a fine of £100 or imprisonment for a term not exceeding 3 months or both. On June 11, 1940, an order in council came into force providing for a further alternative penalty of a maximum fine equal to three times the value of the currency in question. The terms of this order were : " Where any person is convicted of an offence against " those regulations, " the maximum fine which may be imposed on him shall be ..... a fine equal to three times the value of the security.... "

Held : the language of the order in council was clear and unambiguous, and was retrospective so as to impose the higher penalty in a case where the offence was committed before, but the conviction was after, the date of the coming into force of that order in Council.

The interpretation Act, 1889, s. 38 (2) did not apply to this case, since there had been no express or implied repeal of any Act."

Humphreys, J. said—

> "The doctrine to which his attention was called, as one gathers from the authorities which, are said to have been quoted to him and some of which have been quoted to us is very well known indeed. I think that it may be put in these words—namely, that where a statute alters the right of persons, or creates or imposes obligations upon persons and thereby alters the law, such a statute ought not to be held to be retroactive in its operation unless the words are clear, precise and quite free from ambiguity. For such a proposition there is the most ample authority ..... That doctrine, while I fully subscribe to it, and would willingly give full effect to it in any case where it was possible to do so, to my mind has no effect at all in a case where the language of the statute, or as in this case, of the order in Council, is plain and can only mean that which it says."

Tucker, J. said—

> "In my view, the words are clear, and, although I do not altogether like the idea of punishments being increased after the offences have been completed, nonetheless, if the language is clear, and if that is the result, I think that it is impossible to escape from the consequences of the language which has been used."

In the statute which was considered in Lamb's case, there was no repeal. There was only provision for the imposition of an alternative penaltly. In the Exchange Control (Amendment) Law the word 'repeal' is expressly used. In the former case the Interpretation Act was held not to apply. In the present case prima facie, Section 6 (3) would apply. But the chief point of difference is in the language used. The English Statute states, "Where any person is *convicted* of an offence .... the maximum fine which may be imposed on him shall be ....." It was held that from the language it was clear that the provision applied to a conviction for an offence committed before the enactment. Section 51 (4) in the Exchange Control (Amendment) Law states,

"Any person who *commits* an offence under this Act shall on *conviction* ..... be liable to imprisonment ....." The word "commits" prima facie refers to the present and the future. Under this provision the conditions for liability are two fold, namely, the committing of an offence on or after the date of the enactment and a conviction. Far from being express language indicating that the provision is retrospective, the language used indicates the contrary.

Mr. Wikramanayake submited the word "commits" is not used with reference to time and he relied on the decision in *Ex Parte Pratt*, 1888, 12 Q.B.D. p. 334. The Bankruptcy Act 1883 replaced an earlier Act of 1869. There was express provision to keep alive all proceedings which were pending at the commencement of the Act of 1883 under the earlier Act of 1869. There was no express provision in respect of an act of bankruptcy committed under the Act of 1869 for which no proceedings had been commenced. Section 5 provided, "Subject to the conditions hereinafter specified, if a debtor commits an act of bankruptcy, the Court may on a bankruptcy petition being presented ... make an order, in this Act called a recovering order for the protection of the estate." It was held that an act of bankruptcy referred to in this section would include an act of bankruptcy committed before the Act. The Court appears to have been influenced by the consideration that to take any other view would have resulted in no action being available in respect of a large number of acts of bankruptcy committed before the Act was enacted. Bowen L. J. said—

> "This would cause great inconvenience for the result of it would be simply to pass a sponge over a number of acts of bankruptcy committed while the Act of 1869 was in operation simply because no proceedings had been taken during that period ..... I think that the more the Act is studied the more it will be found that it is framed in a very peculiar way. I do not mean to say that it is inartistically framed ; I think it is framed on the idea that a bankruptcy code is being constructed and when the present tense is used, it is used, not in relation to time, but as the present tense of logic. I think that is the true view of it."

Fry, L.J. said—

> "I entirely agree with Bowen L. J. as to the present tense in this section ; it is used, I think, to express a hypothesis, without regard to time, just as in stating the proposition 'if

A is B, then B is C '. It is equivalent to saying " If at the time when the petition is presented the debtor shall have committed an act of bankruptcy. This construction of the Act appears to me convenient and just ".

The provision in Section 5 of the Bankruptcy Act 1883 dealt with a matter of procedure. Having regard to that and the unjust result that would have resulted from any other interpretation the Court may have been justified in straining the language to arrive at a construction which is just and convenient. In a penal statute such as is under consideration by us in the present order, it is not permissible to place such a construction having regard to the presumption against retrospection in respect of a penal statute. The case of *Ex parte Pratt* was considered in *Re School Board of Education for the Borough of Peterborough, Bourke v. Nutt,* 1894, 1 Q. B. 725. Dealing with another section of the Bankruptcy Act the majority declined to apply *Ex parte Pratt.*

Davey L. J. said—

> " In *Ex parte Pratt* the Court had to construe other sections of the Bankruptcy Act expressed in different language and with a different context, and there were very strong reasons of policy and convenience for adopting the construction placed on the Act by the Court. I do not think it is any authority in the present case ".

Lopes L. J. said—

> " *Ex parte Pratt* which was cited, is also distinguishable. The construction adopted did not impose any new liability or disability ; it only gave effect to that which would have happened if the Act of 1883 had not been passed. "

Esher, L. J. who wrote a dissenting judgment and applied *Ex parte Pratt* was at pains to point out that the statute concerned was not to be treated as penal so as to exclude it being construed retrospectively.

We are of the view that it is not possible to read the word ' commits ' as ' shall have committed ' as was done in the case of *Ex parte Pratt.* We are also accordingly of the view that the provision in Section 51 (4) is significantly different to the provision which was considered in *Lamb's* case and that the decision and reasoning in that case are inapplicable.

The case of *Director of Public Prosecutions v. Lamb* was followed in *Rex. v. Oliver* 1943, A. E. R. 800. The relevant part of the regulation read. "Any person guilty of an offence against this regulation..... shall be liable....." It was held that in the context 'guilty' could only mean 'found guilty'. Accordingly, it was held that the language of the provision made it clearly retrospective. The judgment stated—

> "We were pressed with statements contained in Maxwell's Interpretation of Statutes (8th Edn., p. 190) following a quotation from the judgment of Wright, J. in *Re Athlumney* (11) :
>
> > It is chiefly where the enactment would prejudicially affect vested rights, or the legality of past transactions or impair contracts, that the rule in question prevails. Every statute, it has been said, which takes away or impairs vested rights acquired under existing laws, or creates a new obligation or imposes a new duty or attaches a new disability in respect of transactions or considerations already past, must be presumed, out of respect to the legislature, to be intended not to have a retrospective operation.
>
> We accept this statement for which authority is to be found in many cases, some of which were cited to us (see *Re Pulborough, Bourke v. Nutt* (12) and *Barber v. Pigden* (13), Our decision is based on the language of the paragraph we have to construe."

In *Buchman v. Button,* 1943, 2 A. E. R. 82 at 84, Charles, J. said—

> "The matter is absolutely free from ambiguity, for read in its ordinary connotation in regard to the word 'guilty' must mean "found guilty". I cannot, myself, see that it makes sense otherwise."

The cases of *Re Oliver* and *Buchman v. Button* are to be distinguished from the case under consideration for the reasons stated by us in respect of Lamb's case.

Mr. Wikramanayake further submitted that the words 'penalty incurred' in Section 6 (3) *b* would include only a punishment already imposed. We think that punishment for an offence is

incurred at the time the offender commits the offence. He then becomes liable to punishment though whether the punishment is imposed or not depends on proof of the commission of the offence, mitigating circumstances and other like matters. It has been held that by reason of Section 6 (3) b of the Interpretation Ordinance repealed enactments were properly applied to the prosecution and punishment of offences after the repeal, vide *Ramalingam v. Jaffna Central Bus Co. Ltd.*, 56 N. L. R. 501, *Peter Fernando v. Abeynayake*, 57 N.L.R. 262, the *Queen v. (1) Fernando* (2) *Carolis* 61 N.L.R. 395.

Mr. Wikremanayake submitted that the amendment formed part of an ex post facto legislative scheme to deal with a special situation that had arisen in regard to Exchange Control frauds, and should, therefore, be given retrospective operation. In this connection, he invited us to read the speech of the acting Minister when he introduced the bill in the National State Assembly. There can be no question that the original Criminal Justice Commissions Act was ex post facto legislation in the sense that a special tribunal was set up with authority to adopt a procedure, largely to be devised by it, but in conformity with the principles of natural justice ; and that the tribunal was not bound by the provisions of the Evidence Act. However, the definition of the offences and the punishments for them that already existed in law were unaltered. Moreover, even where a Court deals with legislation that is retrospective no larger degree of retrospectivity is to be given than is plainly shown to have been intended by the legislature. It is sometimes stated that the maxim against retrospectivity is applicable whenever you reach the line at which the words of the enactment cease to be plain, vide Craies on Statute Law (7th Ed.) p. 390. The amendment of Section 51 (4) may have been intended as a deterrent and a warning to would-be transgressors of Exchange Control rules that in the future any infractions of the provisions of the Act would be seriously dealt with. In the past, many persons who had no intention to traffick in foreign exchange, and did not traffick in it, have nevertheless lightly entered into transactions involving small amounts which contravened the provisions of the Act. Apart from the fact that these transactions, any one of which cannot be considered grave. mount up, in the aggregate, to a considerable wasting away of

foreign exchange ; they have enabled a few large manipulators to deal in sums involving foreign exchange of the value of hundreds of thousands and even millions of rupeees. The amendment introducing the higher penalties may therefore have been intended to operate in terrorem against the future commission of these offences. There is nothing in the provision to indicate an intention that it should apply to past offences.

It has been laid down that, "The intention of Parliament is not to be judged by what is in its mind but by its expression of that mind in the statute itself."—per Lord Thankerton in *Wicks v. Director of Public Prosecutions* (1947 A. C. 367). It is very rarely that the speech of a Minister introducing a Bill would be of assistance in the construction of the law that is ultimately enacted by Parliament. It is unnecessary to consider in what circumstances, if any, recourse to the speech of the Minister would be justified and whether such circumstances exist in this case. We have in fact perused the speech of the Minister and find nothing in it that will incline us to give a retrospective effect to the amendment.

Mr. Wikramanayake submitted that the amendment did no more than increase the penalty and substitute a new provision embodying the enhanced penalty ; that provision has to be read as one with the principal Act. It is no doubt correct that the provision has to be read as one with the principal Act but from the date of the amendment and not from the date of commencement of the principal Act,—vide *Ram Narain v. S. B. & Co.* 1956, A.I.R. S.C. 614 at 621.

We were referrred to the judgment of G.P.A. Silva, J. in *Karunaratne v. The Queen,* 76 N.L.R. 121. He expressed the view that the quantum or mode of punishment does not have any bearing on the act that constitutes the offence. There is no reason to disagree with this ; but the provision that sets out the quantum of punishment is substanive law and will not be applicable to offences committed before its enactment. The learned Judge has also stated, "I might add that it is one of the occupational hazards of crimes or offences that those committing them may find themselves being made liable at the time of trial for more severe penalties than what the law had already prescribed at the time

they were committed ....." Such alteration in the penalty which is contrary to Article 11 (2) of the Universal Declaration of Human Rights ought not to be so common as to be described as an occupational hazard faced by those committing offences. Further if the learned Judge intended to suggest that alteration of penalty and alteration of procedure are on the same footing we must with respect disagree.

On the grounds set out by us we hold that the provision for enhanced punishment introduced by amending law is not applicable to the punishment of offences committed before its enactment, in respect of such offences the punishment that may be imposed is that provided for in the original Act. The original Act provided that on conviction a District Court may impose a term of two years imprisonment or fine or both. The Commission is empowered to impose any punishment to which a person found guilty might have been sentenced if he had been tried and convicted by a District Court. We have not heard arguments on the point and we therefore do not decide it but we are inclined to the view that the limit imposed by Section 17 of the Criminal Procedure Code to the aggregate punishment does not apply to a sentence to be passed by this Commission. Unlike the provision in the amending law, the original Act did not make imprisonment mandatory. Though we have held the amendment is not retrospective and therefore inapplicable, we cannot overlook the view of the Legislature manifested by the enactment of the amending law that it takes a serious view of these offences. The less serious contraventions of the Exchange Control Act are compounded by the Central Bank by the imposition of a penalty and do not come before this Commission at all. Accordingly, we would ordinarily impose a sentence of imprisonment or make an order for detention in lieu thereof on persons found guilty. In this case, however, there are many circumstances of mitigation. There has been no trafficking in foreign currency by these suspects. They had arranged for their own money to be transferred to them abroad because of their special need : they had to incur expenses for the care of a retarded child and for medical expenses of the 2nd suspect who had suffered a heart attack. They admitted the commission of the offences when questioned, arranged to be represented before the Commission as soon as they

were aware that proceedings had been instituted and tendered a plea of guilt. In the circumstances, we think a fine will meet the ends of justice. We impose on the 2nd suspect a fine of Rs. 2,000 on count one and a fine of Rs. 500 on count 3 and we impose on the 3rd suspect also a fine of Rs. 2,000 on count one and Rs. 500 on count 3.

As the point of law that arose for decision was one that would arise in every case in which a suspect is found guilty, we heard Mr. H. L. de Silva and Mr. K. N. Choksy, Attorneys-at-law, who each as amicus, presented an argument. We are indebted to both of them and to Mr. Kadiragamar and Mr. Wikremanayake for the carefully prepared, helpful and learned arguments which they made.