

***Gregory Perera v. The Queen 69 NLR 431 S. C. 1/67-D.C. (Bri.) Colombo, 20, APPEAL from a judgment of the District Court, Colombo. Decided 15/04/1967.***

*[Section 19 (c) – A person who solicits or accepts any gratification shall be guilty of an offence punishable with rigorous imprisonment for a term of not more than seven years and a fine not exceeding five thousand rupees: Provided, however, that it shall not be an offence for a public servant to solicit or accept any gratification which he is authorized by law or the terms of his employment to receive.]*

ABEYESUNDERE, J. with SIVA SUPRAMANIAM J, agreeing.

The appellant was indicted under Section 19 (c) of the Bribery Act, as amended by Act No. 40 of 1958, with having solicited and having accepted a gratification which he was not authorized by law or the terms of his employment to receive. He was convicted on both counts of the indictment and sentenced to a term of 3 years rigorous imprisonment to pay a fine on each count.

**Held;**

Appellant submitted that there was no evidence led by the prosecution to establish that the appellant was not authorized by law or the terms of his employment to solicit or receive any gratification. In establishing a charge under Section 19 (c) of the Bribery Act what the prosecution has to prove is, inter alia, that there is no law authorizing the accused to solicit or accept the gratification mentioned in the charge. It is not possible for any Court to take judicial notice of the absence of such a law. Therefore the appellant was acquitted.

*Appeal allowed.*