

The State Council of Ceylon.

No. 55.

September 3, 1942.



DEBATES

SESSION OF 1942.

CONTENTS:

	PAGE
Ceylonese Brothers of St. Joseph Incorporation Bill	2107
British Soldiers' and Sailors' Institute of Colombo (Amendment) Bill	2107
Vidyalankara Sabha Bill	2107
Defence Regulations: Public Meetings	2108

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STATE COUNCIL OF CEYLON.

Thursday, September 3, 1942.

The Council met at 2 p.m., Mr. SPEAKER [THE HON. SIR WAITIALINGAM DURATSWAMY] in the Chair.

PETITIONS.

Mr. D. M. Rajapaksa (Hambantota): I rise, Sir, to present a petition from A. S. Thuduwewatta of Kahawatta, Beliatta, and 107 other signatories. They pray that the new school at Kahawatta, in my constituency, be recognized and registered.

NOTICES OF MOTIONS.

Mr. H. de Z. Siriwardana (Negombo): I give notice of the following motion:

That this Council is of opinion that, as the projected closing of the Munnakara Bridge and the building of a causeway would cause serious loss and damage to the inhabitants, both of Negombo Town and of the Island of Munnakara, a bridge with a central span of at least 40 feet be constructed.

I also give notice that I shall move the suspension of all relevant Standing Orders to enable me to move this motion at an early date.

SITTINGS OF COUNCIL.

The Hon. Mr. D. S. Senanayake (Acting Leader of the State Council): I move, Sir, that at the conclusion of business this day, Council do adjourn till 2 P.M. on Tuesday, September 22, 1942.

Question put accordingly, and agreed to.

BUSINESS OF COUNCIL.

The Hon. Mr. Senanayake: I move, Sir, that Emergency Standing Order 6 be suspended to enable Private Members' motions to be taken up to-day.

Question put, and agreed to.

Mr. H. E. Newnham (Nominated Member): There are three private Members' Bills which may be taken up first.

CEYLONESE BROTHERS OF ST. JOSEPH INCORPORATION BILL.

***The Hon. Mr. G. C. S. Corea (Minister of Labour, Industry & Commerce):** I rise, Sir, to present, under Standing Order 71 (5), the following report of the Executive Committee of Labour, Industry and Commerce on the Bill intituled

[Note.—An asterisk (*) against the name of a Member indicates that his remarks have not been revised by him.]

“ An Ordinance to incorporate the Society of the Ceylonese Brothers of St. Joseph ”:—

REPORT.

As the Bill uses certain terms and expressions which are not defined in the interpretation clause and which are presumably defined in the Code of the Roman Catholic Canon Law, it was decided that an interpretation clause be added to provide that words and expressions defined in the Canon Law shall have the same meanings when used in the Bill unless the context otherwise requires.

***Mr. E. R. Tambimuttu (Trincomalee-Batticaloa):** I move that the Bill intituled “ An Ordinance to incorporate the Society of the Ceylonese Brothers of St. Joseph be now read a second time.

Question put accordingly, and agreed to.

Bill read a second time, and allocated, under Standing Order 72 (2), to Standing Committee “B” (Mr. E. R. Tambimuttu being temporarily added to the Committee).

BRITISH SOLDIERS' AND SAILORS' INSTITUTE OF COLOMBO (AMENDMENT) BILL.

Mr. Newnham: I move that the Bill intituled “ An Ordinance to amend the British Soldiers' and Sailors' Institute of Colombo Ordinance ” be now read the first time.

The object of this Bill is to allow the present admirable Institution to extend its activities outside Colombo.

Question put, and agreed to.

Bill read the first time, and referred, under Standing Order 71 (5), to the Chief Secretary and to the Executive Committee of Labour, Industry and Commerce.

VIDYALANKARA SABHA BILL.

***Mr. D. Wanigasekera (Weligama):** I move that the Bill intituled “ An Ordinance to incorporate the Vidyalankara Sabha, Kelaniya, ” be now read the first time.

Question put accordingly, and agreed to.

Bill read the first time, and referred, under Standing Order 71 (5), to the Executive Committee of Labour, Industry and Commerce.

DEFENCE REGULATIONS: PUBLIC MEETINGS.

Mr. S. Samarakkody (Narammala): I move the suspension of the rele-

vant Standing Orders to enable me to move and have disposed of forthwith the motion of which I gave notice yesterday regarding the Defence Regulations banning public meetings?

Mr. B. H. Aluwihare (Matale) seconded.

Question put, and agreed to.

Mr. Samarakkody: I move, Sir,—

That this Council protests against the promulgation of the recent order under the Defence Regulations restricting the Right of Public Meetings as uncalled for in the present circumstances as a serious infringement of the Liberty of the Subject and therefore demands the immediate repeal of the said regulations.

Sir, I am indeed grateful to the Hon. Acting Leader of the House for permitting me to move this very important motion to-day in spite of the fact that normally Thursdays are assigned for Government business.

The question raised in this motion, namely the order approved by the Hon. Acting Minister of Home Affairs, an order made under the Defence Regulations restricting the right to hold public meetings in Colombo and in three Provinces was referred to yesterday. Certain comments have been made by various Members of this House, and therefore I do not think it is necessary for me to go at length into the various aspects of this problem.

The one point that I wish to mention and which we must remember is that since the outbreak of war the Donoughmore Constitution—this Constitution—granted certain powers to the elected representatives of the people, and this Council, as a responsible body, are charged, through its Ministers, with the administration of this country, and are responsible for the peace, order and good Government of this Island, subject to certain reservations as far as Defence and certain other matters are concerned, which are in the hands of the Officers of State.

Sir, immediately following the outbreak of war, although in declaring war this country, as a unit of the Empire, had not been consulted, nevertheless, we as forming part of this vast Empire, we in this Council almost unanimously agreed to support the prosecution of the war and help in the war effort. To that end we have voted a large sum of money openly in Council, and have also contributed towards it by means of various

indirect subsidies such as giving our produce at nominal rates and providing men and material for the successful prosecution of the war. But at the same time, we have not failed to raise our voice in protest when it came to a question of the freedom of this land. Such expression of opinion is sometimes taken as an expression of views indicating disloyalty to the Crown. I must here take my stand and say that that expression of view, however strong it may be, should not be taken in that light.

I must first draw the attention of the House to the fact that at the present time we are fighting for democracy. And democracy connotes certain fundamental rights, such as the liberty of the Press, the liberty of free expression of views, the liberty of holding private meetings and doing such other acts as do not contravene the law. As long as we do not contravene the law we can do and say anything we like. If that is the definition of democracy—and I think it is—and if that is what democracy connotes—and I think it does connote it—then we must resign ourselves, as we have done, voluntarily to giving up certain fundamental rights to a limited extent in an emergency such as the present emergency. In England and in Russia the position may be somewhat different. But in Ceylon, we, as a responsible people, will be willing to make sacrifices which we have not already made if an emergency occurs or is about to occur.

But in the matter of promulgating the order restricting public meetings, I must say, however, that I feel that those who are responsible for the Government of this country—I am referring to the chief executive of this country; I am not referring to the Board of Ministers—I say that the Governor and the Commander in Chief are going on the wrong track. For a number of months we have found that various measures have been adopted which indicate a want of confidence or a lack of confidence in the people of this country. That is the sad fact that I have to relate.

I was speaking to the permanent Leader of the House, the Hon. Minister of Home Affairs, the other day, and he said, "I have taken a great deal of trouble to disabuse the minds of the Military authorities in this country of the

idea that the Buddhist clergy and the Buddhist people have a plot to overthrow the British Empire." Sir, I mention this because it is perfectly true that some Military officials of Ceylon had suspected the Buddhist clergy of this country. Why is that so? It is because a few Burmese or Japanese priests have been among the Buddhist clergy. Sir, the permanent Leader of the House told me that he had gone out of his way to try and convince the Military authorities that there was no such thing; and, I understood that the Military have been instructed in all cases to take serious notice of or suspect anybody in a yellow robe. I am just placing these facts before the public, because the whole administration of this country, in time of emergency, is being conducted on suspicion, and I say on false suspicion.

If we are to prosecute this war to a successful conclusion, that attitude must be completely reversed. Either Government must say that they do not trust the people of this country, or they must take the conduct of affairs into their hands and act as they like, whether such action is justified or not, in the name of law and order. As long as the Ministers are functioning, as long as the State Council has not been dissolved, our Ministers must be consulted; our Ministers must be given an opportunity of expressing their opinion and also of consulting their Executive Committees on important matters of principle.

I do not blame only the administrative head of this country. I apportion that blame to a large extent to certain gentlemen occupying the front benches in this House. We find that during the last three years they have acquiesced in, if not silently agreed to, the surrendering of rights granted to the people of this country under the Constitution.

You will remember, Sir, that the Governor has succeeded in bringing pressure to bear on certain Ministers, with the result that they have completely changed their policy, they have completely changed their attitude. Take the case of the permanent Minister of Home Affairs. You will recall the ugly episode in which he figured. He appeared as a witness at an inquiry where the Head of a Department under him

Mr. Speaker: That goes far out of the motion.

Mr. Samarakody: Yes, Sir, it goes far out of the motion, but I shall presently show what connexion it has with the subject under discussion.

At that time we felt that the Minister was right and accordingly we passed a vote of confidence in him. But what did the Minister do? He kept the whole House in suspense. He made us believe that he would resign the office of Minister the moment Mr. Banks returned from England. But he did not do anything of the sort. He ate humble pie, pocketed the insult and remained in office.

As a result, the Minister of Home Affairs has not been able to exert his influence sufficiently and has agreed to various acts which the Head of Department wanted done to curtail the liberty of the subject. Various people have been taken into custody and detained under the Defence Regulations. I should like to know whether the Hon. Minister of Home Affairs had examined those cases. Did he consult his Executive Committee on those cases? Was he satisfied with the action taken? Did he refer those matters to the Attorney-General and find out whether there was a *prima facie* case made out against those gentlemen?

I therefore say that there is not the slightest doubt that the executive is taking advantage of the feeble attitude adopted by the Home Minister. I and many others feel that the permanent Home Minister is really an obstacle to the progress of this country. He has left this Island happily, on a mission to India, and we accepted his successor—an uncompromising critic of the permanent Minister—at least during the brief period he remained in office, to see that the liberties of the people were conserved. We thought that he would surrender the rights of the people only to the extent to which it is absolutely necessary to do so in the present circumstances. But what has he done?

Yesterday the Acting Home Minister made an excuse which I do not think any hon. Member of this House will accept as adequate. He said that he was sent the order under the Defence Regulations and was asked to approve or disapprove

[Mr. Samarakkody.]
of it within a day. He said that he had no time to consult his Executive Committee and that he therefore consulted only the Legal Secretary and the Legal Draftsman. I say that the Hon. Acting Minister was lacking in a sense of his responsibility when he acted in that fashion. He is an elected representative of the people, and he should have consulted the Board of Ministers or at least the Acting Leader of the House if he could not get a meeting of the Board convened to consider the matter.

If you look at the order restricting public meetings in the three Provinces and in Colombo, you will see that it is so wide in its scope, as the hon. Member for Gampola (Mr. R. S. S. Gunawardana) pointed out yesterday, that even harmless meetings—meetings designed for the express purpose of supporting and furthering the war effort—could not be held without previous sanction being obtained. Even processions that are held by village temples on full-moon days are controlled by this order, in the sense that application has to be made and the order of the Home Minister awaited, which order will be made after obtaining the report of the Police.

Is there anything more irksome, is there anything more uncalled for in the present circumstances than that? If the Minister indicates to us that there are a large number of Indians working on the estates in those three Provinces and that as a result of the political activities in India there is bound to be some sort of sympathy with the Indian impasse shown by the Indian labourers in those Provinces, that they might carry on strikes and hinder the war effort in this country, then I say it is for the British Government and the capitalists who are responsible or creating a problem by bringing outsiders here and putting them on estates to tell us really what is at the back of their mind. If this order is designed to curb the activities of those Indian labourers employed in this country, to keep them in check, I ask in the name of justice why do you penalize, under the Defence Regulations, the law-abiding subjects in the three Provinces—Sabaragamuwa, Central and Uva—and in Colombo?

I should like to give a concrete case to show the absurd manner in which the

Defence Regulations are being applied. A few days ago, the Municipal Works Union, comprising the employees in the Colombo Municipal Council, after prior notice and twenty days before this order was issued—[*Interruption.*] They issued notices and handbills that they were summoning a meeting of the Union. It was not a public meeting; it was a meeting of only the Members of that Union. The meeting was to be held at the Municipal Town Hall, and that Hall had been granted free of rent by the Mayor of Colombo for that purpose. There were to have been three speakers at that meeting, and they were members of the Municipal Council. Various items to be discussed at the meeting appeared on the agenda, such items as the appointment of a Committee to go into the question of an increase of salary, a war bonus and various things that affected their immediate interests. But what happened? The Police entered the meeting hall, which is a private building, and prevented the meeting being held.

The Home Minister might say that his policy is different, that he intended something else when that order was passed, that he did not intend to control those matters under that order. In spite of the fact that those who were responsible for getting up that meeting appealed to the Home Minister, nothing could be done to proceed with business at that meeting. The Home Minister was shivering in his boots; he was not prepared to act. If power is given to the Home Minister to grant permission to hold a meeting, why was permission to hold that meeting not granted? What is the use of having Ministers of this type, whether they are permanent or acting? That order denied the elementary right to hold a public meeting even when it is called for a lawful purpose, even for a religious purpose.

I can understand Defence Regulations being used to prevent strikes, lock-outs and various kinds of labour troubles. If the aim of the authorities by issuing this order is to prevent unrest among the estate labour population in these three Provinces, then I say that there is sufficient power under the existing Defence Regulations for the authorities to intervene and bring offenders to book. Hon. Members will see that under the Defence

Regulations certain commodities such as tea and rubber have been declared essential commodities, and any interference with the labour or any organization connected with those essential industries is an offence under the Defence Regulations. As long as that power is there, I cannot understand for a moment, why the Acting Home Minister agreed to the fresh order being made under the Defence Regulations. The worst of it is that in agreeing to the issue of that order, he has not consulted the elected representatives of the people who form the Executive Committee of Home Affairs.

There are one of two things this Council must agree to. If we feel that Defence Regulations are thrust down our throat whether we like them or not, it is very much better for us to ask the Governor and the Commander in Chief to revoke this Constitution, to take power into their hands, to do all that is necessary and be answerable to the people. Under the guise of Ministerial approval, these Defence Regulations are passed. Thereby we ourselves are deceiving the people who think that we have consented to surrender the rights they have won for themselves after a long struggle.

I would commend this motion to the House, and I trust, whatever the Acting Home Minister may say—I understand that he has some pill to offer this House, that he wants some amendment made—that this motion will find acceptance in this House. As a protest against the action he has taken—let us agree to any amendment he may propose at a later stage—I say that every self-respecting Member of this House, every Member who is responsible to the voters of this country, must definitely and emphatically support this motion. The definite warning should be given to the Home Minister that, without the express consent of the people, none of the people's rights should be surrendered and that the people are ever watchful of their actions through their representatives in this Council.

***Mr. Aluwihare:** I second this motion because I feel that the actual restrictions placed on the right of holding public meetings are entirely unnecessary to meet the particular facts of the situation.

I have to some extent tried to understand the circumstances which led to the promulgation of the order in question. As a matter of fact one was surprised that an order formulated as broadly as the one under discussion should ever have been consented to by the particular gentleman who is now the Acting Minister of Home Affairs, because when the question of his election arose many of us advocated his cause in the belief that he would not be stampeded into any foolish act. And when one found that with his consent there had been promulgated an order which covered the whole field of public meetings of any kind at all, one felt that there must have been something which frightened him. Then, in his explanation two days ago, he practically told us what frightened him. He said that some big man came along on the 26th and told him that he must give his opinion on the 28th.

The Hon. Mr. R. H. Drayton (Chief Secretary): No.

The Hon. Colonel J. L. Kotalawala (Minister of Communications and Works): Small man.

***Mr. Aluwihare:** The Hon. Minister of Communications and Works says that it was a small man. Then it must have been a very powerful type of mosquito.

The point was that the Acting Minister said that someone came to him on the 27th and said that he must give his opinion on the 28th, and he consented to the order being made. I know now for a fact that he went in search of the Hon. Minister of Agriculture and Lands in an attempt to have him hold his hand and help him but, unfortunately, the Hon. Minister of Agriculture and Lands was not there. Surely the Acting Minister should have considered the particular facts before him and the act he was asked to do.

What were the particular facts? We are told that there were certain meetings that were to be held on the 28th and the 29th which the Police felt should be stopped, because there might be danger of stoppage of work in what were considered essential industries. If that was the particular trouble that the Police expected, and if that was the immediate difficulty and the Hon. Minister was satisfied that the fears of the Police were well founded, surely the proper thing for the Minister to do was to take such limited action

[Mr. Aluwihare.]

as was necessary to stop those particular meetings and to consider the broader question in a calm atmosphere. Instead of that, he has consented to the passage of a wide prohibition against all public meetings in certain areas of the country.

Of course, as usual, the Tamils, the English and the other communities get together and hit the people in the Kandyan areas.

The Hon. Mr. D. S. Senanayake (Acting Leader of the State Council): Colombo is also included:

***Mr. Aluwihare:** Colombo is an incident. They have prohibited the holding of meetings in our areas unless notice has been given and permission obtained a fortnight beforehand.

What does this wide prohibition include? It includes every little village *pooya* procession; it includes every little wedding party; it includes every meeting howsoever harmless it is. What is the reason for it? Why is it that you suddenly take it into your mind to deny completely to the population of 3 areas the right of holding public meetings? This, to my mind, was a complete declaration of war by the Government against the inhabitants of those areas. To my mind it seemed an act of suppression which was only compatible with a state of affairs where the whole population was against the Government. It was an implied challenge to the people of those three Provinces. I would ask the Hon. Minister to consider for a moment whether the Indian Government has done anything like this against the Congress which has openly declared war against the Government. The Indian Government has done much less against a population which is considered definitely hostile.

Here is a population which has given you no trouble, which has tried its best to co-operate in the war effort, which, in spite of the robbery of a great deal of its land, is trying to raise food crops for you. Here is a vast population which is producing some of the most essential products for your war effort, in so far as Ceylon produces anything essential at all; here is this part of the population singled out for what is really, as it strikes my mind, a complete declaration of war.

The Hon. Acting Minister and the Police do not seem to have realized the effect of this order on the minds of the people. I have often groused in this House against the way in which the Government seems to want to damp the feeling of friendship that the people have for the British in this country. Here again is another instance. With no provocation at all you suddenly declare the most innocent acts of the people illegal. I suppose the Hon. Acting Minister will say that he was there to give his consent to a little *pinkama* on a *poya* day.

The *pinkama* will be over before the letter ever reaches the Hon. Minister. The people will probably be taken before the Magistrate and charged, and their reaction to it will be, "Well, here is 1915 coming on again". The reaction of the people will be one at least of fear, if not of hostility. Then, do you really expect in those conditions feelings of friendship?

What is it that the Government really want to prevent? Surely if it is to prevent a stoppage of work in the essential services, they should say so and direct their legislation to that end. Take the reaction of these regulations on a person like me. There was first this general regulation to stop any trouble among labour in the tea and rubber industries. Our whole contention is that the British have come into our country and subordinated the whole population to their interests of rubber and tea; and simply because you do not want the stoppage of work in these industries, you are prepared to go to the extent of denying the most innocent rights of the whole population of three most populated of the Kandyan provinces. That is merely an index of the extent to which you have subjected us to your interests.

That was my first reaction when I saw these regulations. The Hon. the Chief Secretary who caught me on the first bound knows it, and so does the Hon. Acting Minister.

You really expect people to join enthusiastically in war efforts; in recruiting campaigns; in food drives; to pray for victory, when every act of yours impliedly denies every right to existence. That is my grievance. In respect of every desire to co-operate, to find some way in which we can assert our right to live and yet be friendly with

the British, you wantonly declare war on us. That is the reaction amongst us.

Supposing it was your desire to prevent labour unrest and a stoppage of work in essential industries, must you deny to the working population all rights of assembling and expressing their emotional reaction in other spheres? Here you have a huge working population that you have borrowed from another country for your purposes. What is your mental attitude to that population? To what extent are you going to deny all rights of the ordinary human being? You have to remember that very often it is much better, much safer to allow people an outlet, such as a public meeting, for their emotional reactions than to suppress those emotions.

Whether you like it or not, you have the Indian population to-day very highly moved by what is happening in India, and I say that so long as you deny them the right of public meeting and of expressing their opinions, you are really courting danger since, Sir, suppressed emotions are much more dangerous than those expressed at a public meeting, because, however much you may not like it, you are not going to prevent underground activities which will cripple your services, if they really want to carry on such activities. The Indian population is not in the same ignorant and helpless state that it was in fifteen years ago. They have learned the methods of joint action; they have learned methods of evading Police vigilance; the Police are not so vigilant, not so competent. If you suppress their right to hold public meetings, well, you are compelling them to hold secret meetings, which is much more dangerous to all the essential industries than public meetings and a public expression of their emotions.

The wide demand of the Police from the Hon. Acting Minister of Home Affairs was born of fear and incompetence, because the trouble with the Police is that on every essential occasion they have failed. They are very good at parades—shining brass; lovely khaki—but every time they have been called on to do a first-class job in the last five years they have failed. Take the Bracegirdle affair. Bracegirdle escaped from under their very nose. Take the case of Mr. Leslie Goonewardene. So far as the Police are concerned, he might almost

be a will-o'-the-wisp. Take the Sama Samajists whom they had under their control. The Sama Samajists may almost have been the morning mist. So, Sir, you have to remember that the trouble is that the Police are incompetent, and every time the Police come to you and demand a very wide order to stop all meetings, surely it is your right to demand competence on the part of the Police.

All this suppression in the end is going to lead to thorough indifference towards the war effort. You are frightening people by these regulations; you are frightening people by your prosecutions; you are disgusting people by your administrative action.

Take what I heard to-day. Dr. Wickremesinghe was acquitted of the charges—[A MEMBER: The Mayor of Galle.] I am sorry, Mr. Dahanayake was acquitted of the charges brought against him in the Magistrate's Court.

The Hon. Mr. G. E. de Silva (Minister of Health): Without the defence being called!

***Mr. Aluwihare:** Never mind; whatever it was.

What was the reaction? He was handcuffed and taken back to jail! [MEMBERS: What?]. He was handcuffed and taken back to jail!

The Hon. Mr. G. E. de Silva: To Kandy.

***Mr. Aluwihare:** Now what is the effect of an act like that on the public mind? We know the Prisons Department. We say that they are stupid. But the reaction of the man in the street to this is, "To hell with the whole lot". That is not the attitude we want towards the war. If, as Members of this House have said over and over again, they want to have the country behind the war, if they want enthusiasm created in the minds of the people for a British victory, they must ensure that through administrative stupidity people are not frightened into indifference and sometimes hostility. I feel that all these acts are so criminal, particularly from that point of view.

Question proposed from the Chair, and debated.

***Mr. R. S. S. Gunawardana (Gampola):** I rise, Sir, to support the motion. I do not think any single Member of this

[Mr. R. S. S. Gunawardana.]
House will approve of the order made under the Defence Regulations in the form in which it has been promulgated in the country. On principle I would certainly support the appeal of the hon. Member for Narammala (Mr. Samarakody). This Council can with self-respect do one thing and one thing only, and that is to demand the repeal of the whole order.

***Mr. G. G. Ponnambalam (Point Pedro)**: Failing that?

***Mr. R. S. S. Gunawardana**: It must be done; it is necessary, if we are self-respecting representatives of the people.

***Mr. Ponnambalam**: If you fail, what are you going to do?

***Mr. R. S. S. Gunawardana**: It is a pity that the Kandyan provinces should be affected at every turn. They have gone through various periods of repression from the beginning of the British occupation of this country, and on this occasion too it is a pity that the Kandyan provinces should be subjected to this repression.

As a Member representing a Kandyan constituency, I do feel very strongly that this disqualification should rest with all the inhabitants in my area and the other Kandyan districts merely because the Hon. Acting Minister of Home Affairs and the powers that be want a certain section of the population silenced. There is no denying the fact—nobody is going to be deceived—that this regulation is necessary for the peace and well-being of this country. There is only one point of view that they seem to be thinking of, and that is that the Indian element there should be silenced by some means or other.

In the planting districts there seems to be a certain amount of fear that there may be unrest on the part of the Indian labourers, that events in India may have repercussions in this country. For that purpose the Indian population must be silenced. While doing so, they have attempted to silence not merely the Indian population but also all the law-abiding people in that part of the country. That is a method of approach on the part of any legislative or executive body that I simply cannot understand.

As the hon. Member for Matale (Mr. Aluwihare) pointed out, the right

public meeting, according to all Constitutional principles, is unrestricted and unlimited in theory. If it is necessary to impose any restrictions for any particular purpose, you will not take away the right of public meeting but impose such restrictions as are necessary for the purpose of good administration in the country. If the Acting Minister of Home Affairs and the powers that be had approached the question in that way and said, "While we concede the right of public meeting to all people in this country, certain expressions of opinion would be dangerous to the well-being of this country and therefore such restrictions should be imposed on people with regard to public meetings", I could have understood it. That is not the method of approach adopted. They have started by taking away an elementary right of the people.

I know that the Acting Minister has a number of amendments to the order in view, but that is not the way to approach the question. I can understand it if the Hon. Acting Minister, while conceding the right of public meeting straightaway says, "Public meetings for this purpose are prohibited". But what he has in view is this, "Public meetings are allowed for such a purpose". I say that it must be conceded in regard to all purposes, and if the legislators wish to prohibit a certain kind of meeting, then they must say, "Such meetings are to be prohibited". Therefore, the whole approach of the Hon. Acting Minister and his Committee to this question is entirely wrong, and on principle I feel that this motion should be supported by every Member of this House.

I fully agree with the hon. Member for Matale (Mr. Aluwihare) that this kind of repression can only make the situation much worse. The Indian population themselves would feel that even outside their homes they are subjected to repressive measures, and it would only make them take all steps which they feel were necessary in order to defy the powers that be. If such a situation arises, Sir, we, as representatives of the people, must surely regret it, because so long as they are in our country, any acts done by them are bound to affect the whole country.

I can understand it if His Excellency the Governor makes use of his powers and says that, as the Sama Samaj movement has been banned and the Ceylon Socialist

Sept. 3, 1942]

Party has been banned, the Ceylon-Indian Congress is banned. Not that I am prepared to support it; I can understand that. They are not prepared to do that. Merely to meet the activities of the Ceylon-Indian Congress, the Acting Home Minister and his Committee say, "All meetings should be prohibited except those which come under this category".

Of course, Members are fully placated by the amendments in view. One amendment suggested is that any meeting convened and presided over by a Member of Council should be considered as a lawful meeting which would be permitted with the blessing of the Ministry of Home Affairs.

***Mr. Ponnambalam:** Nothing of the sort.

***Mr. R. S. S. Gunawardana:** I am sorry that that kind of placating will not do. A.R.P. Controllers, Food Production Officers, Government Agents, Assistant Government Agents and Members of Council have been fully placated, but I say that the principle adopted is vicious; and I shall support the motion.

The Hon. Mr. G. E. de Silva: I rise, Sir, to support this motion.

***Mr. Ponnambalam:** Atta boy!

The Hon. Mr. G. E. de Silva: I think it is time hon. Members of this House and the people of the country realized that instead of our receiving any protection from the Police, the whole country is going to be put into a state of turmoil by the Police. I should like hon. Members to bear the fact in mind that for the last 10 years I have followed the mad career of the Police Department. In season and out of season I have cautioned hon. Members of this House, and particularly the Hon. Minister of Home Affairs, that we were heading for disaster.

Assuming that there was an emergency created by a certain action, I would like to see this Constitution and the rights we have under it strictly observed.

I know as a matter of fact that the Inspector General of Police and other high officials of the Police Department have direct access to certain administrators without having to go through the Constitutional channel which has been

created for that purpose. In this particular case, we have to sympathize with the Acting Minister of Home Affairs.

Not that I in any way uphold the decision he had been called upon to make; but I should like hon. Members to bear in mind what has happened in this case. If, for instance, the Police had any information to the effect that the holding of a particular meeting was going to create tension in this country, then it was the duty of the Head of the Police to give that information to the Minister concerned. That is a Constitutional right that we enjoy in this country. If that had been done, the Hon. Minister would have been able to take sufficient precautions, he would have been able to find out whether there was any truth in the information, and whether there was any justification for his acting in the way in which he did act. But here he was denied consultation by somebody else with regard to this impending danger—

***Mr. Ponnambalam:** By whom?

The Hon. Mr. G. E. de Silva: I do not know who consulted him, but I can say this, that the Inspector-General of Police should have consulted him so that he would have been able to consult his Executive Committee. That is the whole point. No man should be able to hold a pistol to his head and say, "You must sign this within 24 hours". If the 24 hours threat had been held out, the Hon. Acting Minister should have told him, "You had better mind your own business. I know my rights; I know the rights of the people, and I am in a position to protect them." That is what I would have done.

But that is not the only point I want hon. Members to bear in mind. I was born in the Central Province; and I can say that if there is one Province where law and order are upheld it is the Central Province. It was only recently that a most unprecedented thing happened in this country; that is, the slight offered to the Buddhists by not allowing them to hold their usual annual Perahera. The Perahera was stopped without anybody being consulted; that was an unprecedented thing. As we all know the Perahera is a religious ceremony that has gone on for 2,000 years or more, and still they were not given the elementary right to have a procession even on the

[The Hon. Mr. G. E. de Silva.]
last day, during day time; they could not have done so without contravening the existing rules.

After all, what is the one prayer of every man and woman in this country? It is a prayer for the successful prosecution of the war. And, Sir, the stopping of a religious ceremony like the Kandy Perahera is bound to create a deep wound in the minds of the Buddhists in this country.

On the other hand, a short time ago the people of Chilaw were allowed to have a procession. When that happened, certain people came to me in a body and asked me, "Is this the way we are going to be treated" and I had no answer to give them. This was done behind the back of these people. They got one or two highly-placed individuals to see the authority concerned, and the authority concerned advised them to do a certain thing, with the result that all these troubles were created.

Sir, is this order necessary? If hon. Members will bear with me for a moment, I shall read to them the Regulations which were published in the *Government Gazette* under "Defence (Miscellaneous No. 3) Regulations" on 3rd June, 1942, under which this order has been made.

"The Governor may, for the purpose of securing the defence of this Island, the public safety, the maintenance of public order or the efficient prosecution of the war, by general or special order prohibit, restrict, or impose conditions upon the holding of or taking part in public processions, meetings or assemblies for such period and in such place or area as may be specified in the Order."

Then, the sub-section reads as follows:

"Any procession, meeting or assembly which is open to the public or to any class or portion of the public whether held in a public or a private place and whether admission thereto is restricted by the issue of tickets or otherwise shall be deemed to be a public procession, meeting or assembly as the case may be."

So the restriction is there. Further, any person who contravenes the order can be prosecuted. What is the necessity for imposing a ban like that? Did anybody think about it or did anybody interpret the existing law with regard to the matter? Merely because somebody has gone mad, has become excited for no reason whatsoever, the Minister is told, "Unless you sign this within so many hours, see what is going to

happen to you." That is my interpretation of it. I may be wrong, but I know what the permanent Minister of Home Affairs has been doing in the country. That is why I say that the same threat was held out to the Acting Minister.

Let us take the meaning of this order. You must apply to the Home Minister for permission to hold the meeting 14 days before the date fixed for it. What does that mean? When an application is made to the Home Minister, would the Minister know anything about it? No. He will send the application to the Inspector General of Police with an endorsement, "Please send me a report as to whether I should grant permission to hold the meeting." Then the Inspector General of Police will refer the application to the Superintendent of Police, and the Superintendent, to the Inspector of Police; if the application is outside the jurisdiction of the Inspector, it will be sent to the Ratemahatmaya; the Ratemahatmaya will send it to the Korala, and from the Korala it will have to go to so many others. In the meantime the 14 days would have elapsed.

If that is the procedure to be followed can one expect to get a reply even within a month? You know that there are devious methods that have to be followed, and unless you are able to please everybody who has to submit a report on the application, you will not be able to obtain a permit even to hold an innocent *pirith* ceremony. This idea of receiving money even for making a report is now inborn in various departments.

Let us consider the kind of meeting that the mover of this motion referred to. A meeting of certain employees of the Municipal Council was to have been held in the Town Hall, with the permission of the Mayor; and the speakers were to be two or three Members of the Council itself. I do not know anything about this meeting, but if the Police knew that they were going to hold a meeting and if they were acting *bona fide*, what was the first thing that they should have done? They should have got in touch with the promoters of the meeting.

Instead of doing that, on the very day that the men came to the place to hold the meeting, they were stopped by the Police. I mean to say, they could have

told Mr. J. R. Jayawardene, who was one of the promoters of the meeting—he is a well-known man and is always accessible on the telephone—that they were going to enforce this order and requested him not to hold the meeting. Instead of doing that, the Assistant Superintendent of Police goes there with a posse of Constables and stops those workers from holding the meeting. What an indignity to them. And they are people who were trying to do something.

Supposing somebody gives information to the Police that a religious ceremony was going to be held, the Police Force would have been sent to the place and all the people there would have been driven away. Do you think that the people will keep quiet? This sort of thing would not appeal to the ordinary man who has nothing against this Government, and who has done nothing to undermine the good government of this country. People will on the contrary see that no support is given to the successful termination of the war.

I am one who has taken up a very strong attitude with regard to this matter from the very start. I know how people will react to this measure. We are not doing the correct thing in multiplying regulations and piling one upon the other in a country like Ceylon. It creates a great deal of animosity, not only among Members of this Council, but among the people outside it as well, and that just at the time when we are trying to get their maximum assistance. I can understand it if any help was being denied them. But when we are getting 99 per cent. of their co-operation we must, I think, proceed carefully and not disturb the position in regard to the co-operation that we are receiving. Human nature being what it is, if you drive these activities underground, people will feel that they are not secure. Perhaps a large number of people do not realize it in that way; but I know, it is affecting them in that way, and, therefore, we should at the earliest possible opportunity remove all such misunderstandings.

Under the existing law, in my humble opinion, we have enough power. But the Chief Secretary may say, "I can explain." Sir, everybody can explain but the fact is it remains to be seen whether there is any substance in the explanation. I know, for instance, that there

are a number of people who are prepared to explain every blessed thing under the sun. I say this because I know what is happening in this country. You have an explanation for every diabolical thing that you do, but the question is whether that is the right attitude for us to take up. I feel that we are using a sledge-hammer to kill a mosquito; I want people to realize that that is not the way to kill a mosquito.

***Mr. Ponnambalam:** The mosquito will fly away!

The Hon. Mr. G. E. de Silva: We have a method of catching them, we have a method of poisoning them, if we find that they are elusive. But all that is not necessary.

I am not second even to the Hon. the Chief Secretary or anybody else in my loyalty to the Crown. I am not second to anybody in the effort that I am putting forward towards the successful prosecution of the war. But what I cannot tolerate is the kind of treatment afforded to the people of this country at every turn. Instead of encouraging the people who come forward to do their duty, you distrust them and you try to create all the troubles which I am trying to avert.

I would, therefore, appeal to hon. Members of this House that while we are receiving 99 per cent. co-operation from the people, we must see that we do not introduce all kinds of legislation which will make the people feel that they are distrusted.

The Hon. Mr. R. H. Drayton (Chief Secretary): Mr. Speaker, the hon. Member for Narammala (Mr. Samarakkody) in moving this motion said, among other things, that, whatever the Acting Minister of Home Affairs might say—I repeat that: "whatever the Acting Minister of Home Affairs might say"—every Member of this House should support the motion. Now, if I thought that every Member of this House was going to take that advice, namely, that they were going to make up their minds on this motion before they had heard the Hon. Acting Minister of Home Affairs, I would not bother to say anything now, because quite clearly it would save everybody's time if immediately the motion had been proposed and seconded, the question had been put. I do not think that that is the attitude of the Members of this

[The Hon. Mr. Drayton.]
Council. I think that they are prepared to listen not only to what the Hon. Acting Minister of Home Affairs may say, but to whatever anybody else may say who feels it is his duty to speak.

Now, one of the things which I must do is to correct the last speaker. He said that there was a law under which action could have been taken, and he read out the Defence (Miscellaneous No. 3) Regulation. He suggested to the House that that regulation was one which constituted the existing law to which he referred, and was a regulation under which action could have been taken. But, although he read paragraph 1 of that regulation, I think he overlooked the words, "The Governor may by general or special order prohibit, restrict or impose conditions upon the holding of public meetings". It is only an enabling regulation, Mr. Speaker, and up to the 28th of August last no order had been made under that regulation; and therefore there was no power of controlling public meetings until an order was made. It is precisely under that regulation that this order has been made.

So that, to this extent, I differ from the last speaker, namely, that there was a law under which action could have been taken, but I agree with him that this is the regulation under which action should have been taken if action should have been taken at all, and it is under this regulation that the order has been made. Therefore there is nothing novel in the order except that no order has been made before under the regulation.

As regards the regulation itself, it is true, as it is true in regard to certainly all important Defence Regulations—perhaps it would be incorrect to say in regard to every Defence Regulation, but certainly with regard to the great majority of Defence Regulations and all important regulations—that there is not one which has not been made without prior consultation with the Minister concerned, or the Ministers concerned, and in a very large number of cases the Minister concerned thought fit to consult his Executive Committee before he gave his advice to the Governor as to whether, in his view, a particular Defence Regulation should or should not be made.

This Regulation No. 3 which was read by the Hon. Minister of Health was a

regulation on which, not only the Minister of Home Affairs, but also the Executive Committee of Home Affairs, was consulted before it was made, and it was with their advice, and in accordance with their advice, that the regulation was made. Therefore, the Minister of Home Affairs and the Executive Committee of Home Affairs have accepted this position—that there may be an occasion on which it is necessary to control public meetings. By advising the Governor that such a regulation as this regulation should be made, they have, Mr. Speaker, committed themselves—and I think every person who thinks on this problem without heat will agree that they have committed themselves rightly—to this extent, that, for the purposes specified in that regulation, it may be necessary to control public meetings. The purposes are the defence of the Island; public safety; maintenance of public order or the efficient prosecution of the war. As I said, the Minister and his Committee have committed themselves to this, that for anyone or more of those purposes it may be necessary to control public meetings.

Now, I would suggest that there is no Member of this Council, not even the Minister of Health who spoke last, who would not agree that the existence of that power for those purposes is necessary so long as the war lasts, and it is under that regulation that this order has been made.

Mr. Speaker, one then arrives at this point; were the circumstances existing immediately prior to the making of that order such as would justify the making of the order? That is the matter of policy to which the Acting Minister of Home Affairs referred on the motion for adjournment, I think, the day before yesterday. He said that this problem could be divided into two parts: the first is the question of policy, and the second is the question of method.

Now, there have been a number of imaginative, and very highly coloured, statements made, as to what moved the Hon. Acting Minister of Home Affairs on Friday last. Some persons say that it was a large man; others say that it was a small man. Mr. Speaker it was no man at all. It was a problem; and it was a large problem that faced the Acting Minister of Home Affairs in his capacity as Chairman of the Executive Committee

Debates.

Sept. 3, 1942]

which, among other things, was responsible for law and order; it was a problem which faced him and with which he had to deal. And he did not shirk his task. It was a problem for which he had to find a solution within a matter of hours, or leave it unsolved. He had no directions, to my knowledge, from anyone. He was simply there to advise the Governor whether the occasion had arisen for the making of an order under a regulation which had been made by the Governor with the approval of his Committee; that was his task, namely, to advise the Governor on that point.

I do not think there is anyone who will dispute the fact that during war-time, certain liberties which are enjoyed to the full in peace-time must be curtailed. I do not, however, think that everyone will agree that, whenever there is any curtailment of any liberty, there must necessarily be imputed to the authority that deems it necessary to curtail that liberty an intention of "declaring war" on the persons whose liberties are curtailed. I think that is a wrong inference to draw.

I am quite certain that it is wholly wrong to draw that inference in this case. To say that the order was made under this regulation with the deliberate intent of giving affront to the persons who are affected by this order, or with the deliberate intention of antagonizing them, or because of any sense of hostility towards them, is to make a suggestion which has no foundation in fact and could not have any foundation in fact. It is inconceivable when one realizes what the attitude of the authorities has been in the past, and what it is today; no one is going to make such an order lightly, and no one is going to make such an order for any of the motives that have been attributed in the speeches that have been delivered up to the present.

Clearly, Mr. Speaker, anyone who has had any concern, directly or indirectly, with the maintenance of public order, or has had at any time to have regard to public opinion, knows quite well that the best safeguard when controversies are raging is complete and unrestricted liberty of expression of opinion. Everyone whose responsibility it is to maintain order knows that that is the basis from which one starts and that the worst thing one can do is to restrict expression of

opinion. Therefore, anybody, who having any experience and any sense of responsibility finds it necessary to cut down any liberty can only do so because he is certain that it must be done; he knows quite well that in doing it he is running a certain risk; otherwise he will not do it.

Now, it is within my knowledge that there was only one object in the mind of any person who was concerned with the making of this order, either by advising that it should be made or in any other capacity, and that was that there was good reason to believe that, as a result of certain meetings, which had been advertised to take place on Saturday, the 29th of August, and on Sunday, the 30th of August, and on later days, there might be a very considerable dislocation among labour in essential services. That was the problem and the only problem with which the Hon. Acting Minister of Home Affairs was faced. Ought that dislocation to be permitted, or ought it not? I would ask hon. Members to think in terms of concrete problems, not in generalities.

One must be careful about exercising one's imagination too freely, but I would put it to hon. Members that, where one is concerned with the question of whether or not a meeting should be permitted, there must be three facts which are of importance, when as I say the sole object of refusing permission in the case of a particular meeting would be that one would fear, as a probable consequence, dislocation in essential services.

Those three facts are these: of whom will the audience at a particular meeting consist? If it consists of householders of Colombo who are in no way concerned with essential services—if the object of the meeting is to induce all persons who have large gardens in Colombo to cultivate half their flower gardens with vegetables—one is not bothered about that particular meeting, because the audience will not consist of persons who are concerned as workers in essential services. The first point then is the audience. The second point is the subject of discussion. What is the meeting to be about? And the third point is, who are the speakers to be?

On the third point we must recognize the fact—do let us be realists in the matter—that there are in Ceylon, just as

[The Hon. Mr. Drayton.]
there are in every other country in the world, irresponsible people, who are particularly irresponsible when they get on a public platform. That is not to say that that state of affairs is peculiar to Ceylon. Every country is faced with that problem. Therefore, I say, the third important fact in considering whether or not one can say "Yes" or "No" to the holding of a meeting is, who are the speakers?

If one looks at the problem from what I suggest would be the more practical and concrete point of view—looking at it with one's feet on the ground—one finds considerable difficulty, in my view in saying that the Minister of Home Affairs was wrong in saying at least this much: public meetings have to be controlled. He could not say otherwise. I would suggest, Mr. Speaker, that every Member of the Council should support the Minister in that respect—that, on the point of policy he was right.

In regard to the method, there are obviously many criticisms that can be made, but, if each Member of this House had spent as much time as the Minister of Home Affairs and his Committee and others have spent on the problem of method, I think hon. Members would be a little more chary than they have been in their criticism from the point of view of method.

It is an extremely difficult question as to how one can control meetings when one has the limited object in view—and there is no other object in view than that of preventing dislocation in essential services—how one can control public meetings without causing inconvenience to persons who are fully responsible, who wish to call meetings for purposes that are quite innocent and contain nothing potentially dangerous, and who intend to address audiences whom one knows will not do anything foolish, whatever resolutions they may pass.

Mr. H. W. Amarasuriya (Galle): I wish to place another aspect of the question for the consideration of the Council, namely, the propriety of our Ministers having anything to do with these Defence Regulations. My hon. Friend, the Minister of Home Affairs, would not have been placed in this most unfortunate and embarrassing position if he had not been called upon to make a quick decision in

regard to the problem that was placed before him.

I wish to recall that these Defence Regulations have been promulgated by His Excellency the Governor on his own responsibility. Under the Emergency Powers (Defence) Act of 1939, Defence Regulations are made by His Excellency the Governor by virtue of the powers vested in him by Section 1 of the Emergency Powers (Defence) Act of 1939 as adopted and modified and extended to Ceylon by the Emergency Powers (Colonial Defence) Order in Council of 1939.

These Emergency powers and Emergency regulations have been forced on this country by an Act of the Imperial Parliament, and at no stage was this Council consulted with regard to these emergency laws or regulations. That being the case, I do not know why our Ministers should associate themselves with any of these emergency regulations. In this instance, the emergency regulation referred to by the Minister of Health and the Chief Secretary reads as follows:

"The Governor may for the purpose of securing the defence of the Island, the public safety, the maintenance of public order, or the efficient prosecution of the war, by a general or special order, prohibit, restrict or impose conditions upon the holding of or taking part in public processions, meetings or assemblies for such period and in such place or area as may be specified in the Order."

"The Governor may. . . ." and my contention is that the responsibility lies entirely with the Governor. In this particular instance, as far as I am aware, His Excellency the Governor did not consult the Minister of Home Affairs at all. A report was sent to the Minister of Home Affairs by the Inspector-General of Police, and it was the Inspector-General of Police who requested the Minister of Home Affairs to act on the report almost immediately. I think the Minister of Home Affairs was really inveigled into the position. The Governor could have either acted on his own, or if he wanted to consult the Minister of Home Affairs, the matter should have been referred to the Minister by the Governor. In this case, as far as I am aware, no such reference was made by the Governor to the Minister of Home Affairs.

***Mr. Ponnambalam:** Is that so?

Mr. H. W. Amarasuriya: Yes: and the Inspector-General of Police did not

make representations to the Governor either. The Minister of Home Affairs had to act on a report that was made by the Inspector-General of Police and the Inspector-General of Police suggested certain remedies and methods of dealing with the situation.

That method did not, of course, appeal to the Minister of Home Affairs. He, evidently, in consultation with the Chief Secretary, decided to take this course of action. I hope I am giving the actual facts and that if I am wrong the Minister of Home Affairs will correct me. The Minister of Home Affairs was called upon to make a quick decision, and, rightly or wrongly, he acted on his own initiative; and the result was that this order was promulgated under Defence Regulation No. 3. The Minister of Home Affairs admits that he did not have the necessary time to consult the Executive Committee of Home Affairs or the Board of Ministers. The consultation only took place this morning.

***Mr. Ponnambalam:** Was the Executive Committee consulted when the original regulations were made?

Mr. H. W. Amarasuriya: I do not know about the original regulations.

***Mr. Ponnambalam:** Were you consulted about them?

Mr. H. W. Amarasuriya: I am not in a position to say whether the Executive Committee of Home Affairs was consulted about those regulations, but with regard to this particular order made under Defence Regulation 3, dealing with the control of processions, meetings, etc., in recommending the particular order the Minister of Home Affairs did not have the time to consult the Executive Committee. I do not think the Committee can in any way be held responsible for the order. I do not think the Minister will associate the Executive Committee with the promulgation of this order.

***Mr. Ponnambalam:** What have you done to-day?

Mr. H. W. Amarasuriya: The Hon. Acting Minister will tell you what was done this morning.

I would like to enter a protest here against our Ministers having anything to do with these emergency regulations. The State Council is not responsible for the promulgation of those regulations

and, that being the case, there is no reason why our Ministers should be associated at all with these regulations.

This particular regulation says:

"The Governor may, to secure the defence of the Island"

If this order has been promulgated to ensure the security and defence of the Island, there was no need to have consulted the Minister of Home Affairs at all, because he is not responsible for the defence of the Island. The proper party to act in that case was the Governor, and if he wanted to consult anybody, he should have consulted the Chief Secretary or any other authority whom he considered should be consulted in regard to the defence of the Island.

Now, the second consideration is public safety. I admit that public safety, the maintenance of public order is certainly a subject that comes within the purview of the Ministry of Home Affairs. I do not know whether this order has become necessary to ensure public safety or the maintenance of public order. I have yet to learn, if these meetings had been allowed to be held, how they would have seriously jeopardized public safety and the maintenance of law and order.

There was something in what the Minister of Health stated. I think the ordinary law of the land should have operated if there was any disturbance or any seditious speeches made at these public meetings, or if there was any attempt to create dissatisfaction among the subjects of His Majesty the King. There was no need for a special order of this kind to prevent the holding of such meetings.

With regard to the order itself, it is so very wide that I am wondering whether meetings of the State Council also would not come within it.

The Hon. Mr. G. E. de Silva: Of course, they do.

Mr. H. W. Amarasuriya: And I wonder whether you, Sir, as Speaker of the State Council, or the Board of Ministers, will have to obtain the permission of the Minister of Home Affairs to hold sessions of the State Council after the 28th August, 1942. Reading this order strictly, it strikes me that even this very meeting could be stopped by the Police.

The Hon. Mr. G. E. de Silva: Why not, they can.

Mr. H. W. Amarasuriya: That is the view I hold with regard to this order.

[There was no reason also why this order should have any reference to processions. I believe the Police already have the power to stop processions. The discretion is vested in the Police, so that if the Police thought that the holding of a certain procession would lead to a disturbance, or that it would create ill-feeling, they could stop it. So that this order need not have made any reference to processions at all.]

With regard to public meetings, I do not know why this order should have become necessary. It is based on groundless premises, on assumptions, surmises and presumptions, that if these meetings were allowed certain serious consequences would follow. But it would have been better if the Police had taken the ordinary course of action and allowed these meetings to be held, and if there was any disturbance or any expression of dissatisfaction or sedition, they could have taken action under the ordinary law of the land.

This is definitely a very wide restriction of the liberty of the subject. Within the last few months, Sir, since the outbreak of the war we have had from time to time instalments of these regulations. At the rate at which these regulations are being introduced in this Council, under the guise of Defence Regulations the time may soon come when the ordinary law of the land—I mean the civil law—will not function at all. The country will be governed by Defence Regulations. If that is the view taken by the authorities, there is no reason why we should enact this farce and why we should have a State Council and Ministers to enact laws, if those laws can be superseded by these emergency regulations.

I am glad, Sir, that the hon. Member for Narammala (Mr. Samarakkody) has brought up this matter. I think every Member who loves liberty will support his motion as these laws of repression should be withdrawn. I do not think that this particular regulation could in any way be improved upon by amendments which are brought up with the object of patching it up.

The Hon. the Chief Secretary in his speech told us that for a meeting three ingredients were necessary, namely, the party that organizes the meeting; the speakers at the meeting; and the subject under discussion or the resolution. He also referred to the audience. Now this order has been made on the assumption that there are mischievous and rabid speakers in this country, and by their irresponsible utterances they can incite the masses to do something atrocious. The object of this order is to prevent such a state of affairs.

Sir, I would ask the Minister of Home Affairs whether we do not often hear similar utterances in this very Council. It was only the other day that the Deputy Speaker was found guilty of certain utterances with the result that he is today bereft of his uniform. Therefore it is not only outside the Council Chamber but also within this very Chamber that we often hear expression of dissatisfaction. Utterances of the type that this order is intended to stop are often made in this very House. So I do not know why only people outside the Council are considered to be rabid speakers who create mischief.

I do not think that at this time anybody would like in any way to disorganize our essential services. I believe, even in regard to essential services, if I mistake not, regulations have already been passed, giving sufficient security and protection; and if there was any shortcoming on the part of those engaged in essential services, they could be brought to book.

I am referring, Sir, to page 17 of Part III. of the Defence Regulations. There is a special part dealing with public order and safety, and section 19 of that part reads as follows:

19 (1) No person shall—

- (a) endeavour to cause disaffection among His Majesty's subjects in Ceylon or among any persons engaged (whether in Ceylon or elsewhere) in His Majesty's service, or in the performance of essential services, or to induce any person to do or omit to do anything in breach of his duty as a person so engaged, or
- (b) with intent to contravene, or to aid, abet, counsel or procure a contravention of sub-paragraph (a) of this paragraph, have in possession or under his control any document of such a nature that

the dissemination of copies thereof among any such persons as aforesaid would constitute such a contravention.

There are provisions already in these Defence Regulations to ensure that nobody in this country should create disaffection among His Majesty's subjects or in any way attempt to interfere with the essential services of this country. Therefore no further order of the kind that has been promulgated was necessary if the main object was to see that the essential services were carried on without interruption. I do not see any reason why such an order should have been promulgated.

So, I strongly support the resolution that the order in question should be repealed altogether. I do not think any attempt to amend it would prove satisfactory. It is no use trying to tinker with this order; it would be very much better to repeal it altogether and to reconsider the whole question. If the Acting Minister of Home Affairs and the Executive Committee feel that further provisions are necessary, they should make such regulations unhampered by any other authority. I oppose these regulations and support the motion, and I do trust that it will be carried unanimously by this Council.

The Hon. Mr. A. Mahadeva (Acting Minister of Home Affairs): Sir, I think I may as well intervene at this stage.

The hon. Member for Galle (Mr. H. W. Amarasuriya) was present at our Committee meeting this morning, and I ought to say that in the case of one proposal that was put before our Committee he was the only dissentient. That proposition was—I think I had better read it out to be accurate—as follows:

“It is desirable to take action in advance to control the activities of people who are quite indifferent about the results of their activities on the essential services of the Island.”

His position was that no action in advance was justified, and it amounted to this: “Let all the evil consequences that may follow take place, and prosecute the men thereafter”.

***Mr. Ponnambalam:** That is the position to-day.

The Hon. Mr. Mahadeva: That is the proposition that the hon. Member wanted the Home Committee to adopt to-day, but I am glad to say, Sir, that that pro-

position did not find sanction with the rest of the Members of the Committee. I explained to the House, when this question was raised by way of adjournment, the need for an immediate decision in the matter, and why I had been unable to consult the Executive Committee. I also added that it was my intention to consult my Committee at the earliest opportunity. I consulted the Committee this morning.

I am glad in a way that the action taken by me without consulting the Executive Committee, has not resulted in widespread damage to Ceylon but has been successful in preventing the holding of certain meetings that were advertised to take place on the 29th and the 30th.

***Mr. Ponnambalam:** For what purpose?

The Hon. Mr. Mahadeva: Let me develop my argument as I like, please.

Now, this matter was considered by our Committee; I think I had better state what were the decisions arrived at by the Committee. They took into consideration all that had been said when the question was debated on the adjournment motion, and they assented to these propositions. The first proposition assented to was that there are people in Ceylon who are quite indifferent about the result of their activities on the essential services of the Island—

***Mr. Aluwihare:** That includes the Police!

The Hon. Mr. Mahadeva: That was the unanimous view of our Executive Committee.

Then the Executive Committee, with one dissentient, assented to the proposition that it is desirable to take action in advance to control such activities.

Then came the question of the method by which such action should be controlled in advance, and the Executive Committee, after a careful and full discussion, agreed, with one dissentient again, that the order previously made, if modified by certain exemptions, was the best method of dealing with the situation.

Then they proceeded to lay down a list of the exemptions that should be made.

Mr. Speaker: The sitting is suspended till 4.30 P.M.

Sitting accordingly suspended until 4.30 p.m. and then resumed Mr. DEPUTY CHAIRMAN OF COMMITTEES [Mr. R. S. TENNEKON] in the Chair.

The Hon. Mr. Mahadeva: Sir, when the Council adjourned for tea, I was referring to the amendments which the Executive Committee of Home Affairs thought were necessary to make this order acceptable. My Committee were of the opinion that this order, if modified by certain exemptions, was the best method of dealing with the situation.

I will first read out the special exemptions they thought would be necessary; that is, those meetings for which it was not necessary to apply to the Home Minister for permission.

1. Food production meetings presided over by the Government Agent or the Assistant Government Agent or convened by the Chairmen of Local Assistance Committees.

2. A.R.P. meetings convened or authorized by the Civil Defence Commissioner, the A.R.P. Controller or the Chief Air Raid Warden.

3. Religious services in places of worship.

4. Public meetings undertaken under the auspices of any Local Authority.

5. Public meetings convened and presided over by a Member of the State Council.

Then, the following addition was necessary because it was impossible to anticipate and collect together in one catalogue all the possible cases which it would be necessary to exempt. This was the addition:

"All such other public meetings as the Minister of Home Affairs will sanction."

***Mr. Ponnambalam:** Can they hold a meeting denouncing the Board of Ministers?

The Hon. Mr. Mahadeva: Sir, before answering the question of the hon. Member, let me state the reasons for granting the exemptions.

You will recall the speech made by the Hon. the Chief Secretary in the course of which he stated that the things that mattered were the responsibility of the speakers at a meeting and the subject-matters that would be discussed at those meetings; and, in compiling this list of exemptions, we felt that the conveners

of the type of meetings which we have mentioned would be responsible people to whom it would not be unsafe to leave the responsibility for organizing meetings, and that they would take care that subjects that were likely to dislocate the essential services would not be permitted. That is the basis on which we compiled this list.

The second point you will notice in the list of exceptions is that in certain cases the subject-matter of the meeting is such that by its very nature it is clear that it will not affect the objects we have in view.

Finally, the Executive Committee decided that this order need not apply to processions.

Mr. H. R. Freeman (Anuradhapura): What?

The Hon. Mr. Mahadeva: That it need not apply to processions.

***Mr. R. S. S. Gunawardana:** It does not refer to processions of all kinds.

The Hon. Mr. Mahadeva: Yes, it refers to any kind of procession.

***Mr. R. S. S. Gunawardana:** Does it refer to processions organized by the Ceylon Indian Congress?

The Hon. Mr. Mahadeva: One of the recommendations is that this order need not apply to any processions organized by the Ceylon Indian Congress or anybody whatsoever, and I will state the reason why. There is already power under the Police Ordinance to deal with processions.

Sir, in considering the position in which I was placed in on 28th August, when I had to make up my mind as to what legislation was called for by the situation, I had in mind the sections of the Police Ordinance. There are provisions in the Police Ordinance which say that for processions, wherever they are held, whatever their character may be, permission must be previously obtained from the Police. But by administrative order there has been exemptions made to it, and the Police now only insist on permits being obtained for processions in urban areas; they do not worry about rural areas.

Similarly, I felt that when an order was made under the regulation of the wide character that was promulgated, it would be possible to make administrative orders in regard to the enforcement of its provi-

sions. The House, very rightly jealous of the rights of the general public insisted that it should be made quite clear as to what kind of meetings were permitted or not permitted. I now have read out the decision of the Executive Committee as to the kinds of meetings that shall be exempted from the operation of this Order. There is also provision here, in case other classes of meetings are brought to my notice, which neither I nor any Member of my Committee could think of at the moment, for such meetings to be added to the list if their object is innocuous, bearing in mind what the object of this order is.

I think, Sir, all I can do is to submit these recommendations, at the wish of the Executive Committee, to His Excellency the Governor for his adoption. It is left to him to decide whether they should be adopted or not. It is not in my power or in the power of any Member to order His Excellency the Governor to do anything. He has always extended his courtesy in consulting us in these matters which are entirely within his province and I hope and trust that he will be guided by the advice which we will tender.

Sir, I do not know whether I need make any reference to several misapprehensions that were in the minds of some speakers. For instance, one hon. Member said that a meeting convened by a Member of the Municipal Council and confined to the members of the Municipal Workers' Union had been refused permission. Mr. Jayawardene saw me on this matter and, as I was anxious to help him as much as possible, I said. I am not a legal authority myself that it was safe to interpret a non-public meeting as one which was confined to members of a particular association.

So that, if that meeting had been confined only to the members of the Ceylon Municipal Workers' Union, to my mind it could, by no conceivable interpretation, be brought under the operation of this order. I believe there was a little difficulty in the matter. They had advertised the meeting not merely for the members of the particular Union; they had invited all Municipal employees who were not members of the Union to attend that meeting. That I believe was the real difficulty in the way of that meeting being held.

***Mr. R. S. S. Gunawardana:** Was it communicated to the Municipal employees that they could hold a meeting of their own?

The Hon. Mr. Mahadeva: All that I can say is this. I said that if that meeting had been confined to the members of the Union only and no one else was expected to attend it, I did not think it would come within the operation of this order.

I have a good deal of sympathy with one of the remarks made by the hon. Member for Matale (Mr. Aluwihare). He felt that there was a slur cast on the people in the Kandyan areas by that order—that it was thought that they were disloyal. Whatever excuse he may have had for entertaining that feeling before the explanation was offered in this House, after the publicity given for the reasons that prompted the issue of that order—after we had said that it was only because we anticipated unrest among the labour engaged in essential services—I think he should have been satisfied and should not have pursued that point any further.

Not much more need be said, except to reiterate the points that have already been mentioned. There are certain elements in this country who are not too cautious in their utterances, and there are certain other elements in this country who are mischievous and who do not care about the effect of their speeches, and there are also certain easily inflammable elements. Our object was not to suppress expressions of opinion but to keep the mischievous elements, which may be compared to fire, a little distance away from the inflammable elements, which may be compared to gunpowder. For that purpose the order was made which the House thinks is somewhat wide in character. After the modification which the Executive Committee of Home Affairs have decided upon, I hope and trust that the House will have no objection whatever to the order in the amended form. I propose to submit that modification to His Excellency the Governor as the considered view of the Executive Committee.

***Mr. R. S. S. Gunawardana:** There is no amendment before the House.

The Hon. Mr. Mahadeva: There is one thing more that I should like to state be-

[The Hon. Mr. Mahadeva.]
fore I sit down. The modification proposed by the Executive Committee will have to be put into legal form, and that will be done by the Legal Draftsman.

Mr. Freeman: Will you cancel that regulation?

The Hon. Mr. Mahadeva: The regulation will stand, with exemption for the class of cases which I have read out.

The Hon. Mr. G. E. de Silva: But even then a licence must be applied for.

The Hon. Mr. Mahadeva: No.

The Hon. Mr. G. E. de Silva: The Police can stop a meeting on their own. [Interruption]: Will you kindly allow me to elicit an explanation from the Hon. Acting Minister. I could not follow what he was driving at. The Hon. Minister said that the Executive Committee of Home Affairs had passed a certain modification of the existing order. He said that there were a number of exemptions made. But if the Police want to do so, they can interfere with a meeting.

***Mr. R. S. S. Gunawardana:** The modification is only a suggestion.

The Hon. Mr. Mahadeva: It is not a suggestion at all. The decision arrived at by the Executive Committee of Home Affairs was this, that the order do stand, that no public meeting shall be held without the permission of the Home Minister, and that in the application for permission the names of the speakers and the resolutions to be moved should be given. That order will have an additional clause added—that in the case of particular classes of meetings the previous provisions of this order shall not apply. So that no one's permission is needed for holding the class of meetings which I have just now read out.

Mr. R. S. S. Gunawardana: But it is only a suggestion.

Mr. G. A. H. Wille (Nominated Member): Although the order may be susceptible of certain modifications, I do not think we can join in this motion to protest against the order which was clearly made in the interests of the public, for the public safety and in the interests of peace and order. [A MEMBER: Who told you so?] Commonsense says so. I cannot read anything else into it. It is necessary that we should look at a matter of this kind as respon-

sible Members of a responsible Council. We should not go off at a tangent saying that this order is nothing but a declaration of war. It is a most strange interpretation to put on an order of this kind.

We have been assured by His Excellency the Governor in this very Council that he has the utmost faith in the loyalty of the people. We have applauded that utterance. Do we now distrust His Excellency's sincerity in the matter? Why should we say, when he issues an order of this kind that he is declaring his want of faith in the people, that he is declaring war on the people. I trust that, especially after the explanation given by the Hon. Acting Minister of Home Affairs and the Chief Secretary, we shall disabuse our minds of the idea that the order was aimed at the people of Ceylon in a hostile spirit.

Too much has been made of this order. It has been said that it was a peremptory order absolutely prohibiting the holding of public meetings. It is quite clear that what is wanted is that permission should be obtained from the Home Minister for holding meetings, so that there may be the assurance that no untoward result would follow from a public meeting. What is asked for is that the names of the speakers at the meeting should be given, the object of the meeting should be stated and also the resolutions to be passed. The Home Minister is a representative of the people and of this House, and if he wishes, he may lay down certain conditions with regard to the manner in which the meeting should be conducted and so forth.

I do not know what the object of this motion is, especially at a time like the present, and when we know that there are certain unruly elements that can be easily roused by persons whom the Minister called mischievous. As the Legal Secretary explained, this order cast no slur on Ceylon, because elements of this kind exist in other countries as well.

It was said that this order was a violation of our liberties. If we wanted to protest against that, we should have done it two years ago, when the regulations were published. This order, as the Hon. Minister of Health himself had to point out when he read the document without seeming to quite appreciate the implications of it, is simply the result of the previous regulation. That previous

regulation said that the Governor could issue orders with regard to particular areas where meetings should not be held. So that, this order is simply what is required in the special circumstances of the case.

We have to remember, with regard to public meetings, that the temper of the public at the moment has to be kept in mind. Even a small section of the public that attend a public meeting might do harm. We have been told a good deal about the right of holding public meetings. All students of Constitutional Law know that there is no such absolute right, that that right is greatly conditional. To put a strong case. Supposing the Salvation Army, a most peaceful body, wants to hold a meeting in public, the Police have the right to prohibit the holding of that meeting if it is feared that some hostile association will cause a breach of peace at that meeting. It is good Constitutional Law that the Police have the right to call upon the Salvation Army not to hold their meeting if they cannot prevent the intending opponents from breaking the peace. These things have to be looked at from a common-sense point of view.

Much has been said against the Police in this matter. We have to remember that they are responsible for law and order. When there are outbreaks and they cannot be handled in a quiet way, the Police are blamed. Under the Police Ordinance one of the duties of the Police is to prevent crimes taking place, to prevent breaches of the peace, to prevent violations of law and order. So that if they have certain information which justifies them in thinking that outbreaks are likely, or even strikes or non-co-operation movements, then they are justified in taking action.

I do not think we should be so very hard on the Police whenever we get an opportunity.

***Mr. D. Wanigasekera (Weligama):** Give them a pat on the back.

Mr. Wille: If some of us were in the Police Force, we should find our duties very difficult considering the emergencies in which the Police have to act and considering the special strain put upon them in emergencies. We have to make allowances for the precautions that they take with the highest authorities who

The Hon. Minister of Home Affairs said that he was going to recommend, with the sanction of his Executive Committee, certain modifications of this rule. I do not mind any modifications that will be appreciated by the public, but we must take care that we do not go too far in this matter.

Take the case of processions. Suppose persons who are prevented from holding a meeting intend to hold a procession with banners on which they display their aggressive sentiments. I understand that one of the meetings that was advertised and on account of which this order was issued was a meeting to express sympathy with the Gandhi movement. Now it is possible for those who are in sympathy with that movement to place something like this on the banners they carry in their procession: "We support Gandhi. Let us non-co-operate; let us stop all work". I wish to know what the effect of slogans like that would be on ill-balanced minds.

We have to remember that in circumstances such as the present we have to act from abundance of caution. It is better to err on the safe side than err on the dangerous side. [A MEMBER: What about liberty?] Of course, liberty is a nice word. But we have to think of the liberty of the greater number of people in this country. It may be that a few persons who are reckless, who do not care so much for the general safety as for the protestation of their own strong feelings, will deprive the larger number of people of their own liberty. The matter has to be balanced in our minds.

I trust that nothing will be done to weaken the hands of authority. One hon. Member went so far as to say that the Acting Home Minister should have nothing to do with these Defence Regulations. That, to put it mildly, will be a counsel of despair. Surely, we are not going to ask our elected representatives, the Ministers in authority, to non-co-operate? What opportunity will they have of representing the views, the feelings of the people, and of modifying the actions that the highest authorities may take? I trust that no such policy will be followed. If we only remember that we are expected, as Members of a Council, and as a Council as a whole, to co-operate with the highest authorities who

[Mr. Wille.]
have a very difficult task at this time, we shall be doing our duty.

Mr. Ponnambalam : As I followed this debate, I must confess that I would have liked to have found some means of making the somewhat uncomfortable position of my hon. Friend the Acting Minister of Home Affairs somewhat more comfortable.

The Hon. Mr. Mahadeva : I am quite comfortable.

***Mr. Ponnambalam :** Really I feel that the issues involved are so large and so fundamental that even he would in his heart of hearts have agreed that the attitude crystallized in this motion is to be commended.

Mr. Deputy Chairman, so much has been said about the war effort; so much has been done in the name of the war effort that one really wonders whether those who are responsible for the issuing of edicts, of decrees are honestly and seriously concerned in furthering the war effort.

I wish to attack this last infringement of our liberties on three grounds. But, primarily, I should attack it as one of the most insensate acts that have been done in this country which would directly impede the war effort.

The fundamental question, Mr. Deputy Chairman, arises: are we, having entered the fourth year of the war, yet to think in terms of a clash of Governments, in terms of clashes of competing ideologies, or is this a war of the peoples? If I may say so with great respect, if I have extended and extend unqualified support to the war effort, it is because I understand it as a war of the people against a particular ideology. I posit the simple question: can you have a war effort supported by the people at large if you are going to deny them the right of public meeting?

The Hon. Mr. Mahadeva : It is not denied.

***Mr. Ponnambalam :** Mr. Deputy Chairman, I want to know, in the elementary analysis, what the difference between this infringement of our right to hold a public meeting in this country which is so closely associated with the United Nations in the furtherance of the war effort and the prohibition of public meetings by the oppressed peoples in

Nazi Europe is. I want to know that. I have been waiting all this time to see whether any hon. Member would address his mind or address his remarks to that point.

When we say that Ceylon is ranged on the side of the United Nations in this war effort, is the public effort to be synonymous with the war effort of Layton and Caldecott and their brown counterparts in the front benches? I want to know that. Or is it a war effort in which the people of Ceylon are closely to be associated? I ask that question.

It is no use indulging in soft-soap talk. I was very sadly disappointed when the Hon. the Chief Secretary indulged in soft-soap pleading about the curtailment of civil liberty in a time of war. If, as the Hon. the Chief Secretary says, the vast majority of the people are behind the war effort, are loyal to a fault, are one in assisting in the furtherance of the war effort, I ask you, is it not a contradiction in terms to prevent a whole category of persons—the vast population in 3 and 4 Provinces including the metropolis—from holding meetings. Can you honestly expect a people to be behind the Government if they cannot get up at an open public meeting and condemn the action of the Government? Can you get intelligent reason, convinced support, for the war effort? I am concerned with that. You cannot; and that is precisely the difference between some of the nations that are concerned? What is the use of our telling the people that we are concerned in putting down Nazism, in maintaining fundamental principles, when, in the prosecution of the war, in the furtherance of this war effort, we indulge in the very thing, the negation which we witness throughout the whole of Nazi-trodden Europe.

Mr. Deputy Chairman, if in these three years the people of the world have learned one lesson it is this, that if this war is to be won, it must be won by a total effort, not by Governmental machinery, not by a junta of the people, not by a coterie or a clique, but by the united effort and voice of the humblest being on a particular side. And you are not going to have it if this is the treatment you are going to mete out; you will be bound to get the extremist. I am not concerned with that. But you are not

going to get the support of the very people you want support from who, in the last resort, are not to be allowed to hold public meetings. Do you then really achieve your object?

To get on to the next point. In the whole of France, in the whole of the occupied countries, meetings are completely banned. Did it on the 14th of July, on the anniversary of the fall of the Bastille, prevent people wearing the tricolour, coming into the streets of Paris and demonstrating against the Nazi Government? Did the iron heel of Nazism prevent it? Can you prevent disaffection by prohibiting, by obliterating external and public manifestations of it? Mr. Deputy Chairman, in the whole of Europe, Germany has driven hostility to Nazism underground. What happens? It manifests itself in sabotage! Is that what the authorities, the powers that be in this country welcome here—the absence of public meetings, but organized or unorganized sabotage with the consequent fall in the rate of production?

Can you compel the worker? In the last resort what does this war depend upon? Upon production; upon the rate of production, upon an all-out production. Well, if it depends on production, it is going to depend upon the last man, who is the producer, upon the last man who is the labourer, the workman. When you prevent a workman from voicing his dissatisfaction regarding wages, regarding the conditions of work in a particular factory, is it going to prevent him from throwing some sand into the machinery; is it going to prevent him from doing less work than the amount to be done in the allotted time? That is precisely what has been happening—we know it—in the last three years?

For anybody to come and advocate the suppression of fundamental liberties, more particularly the right of public meeting, is a completely unintelligent attitude to the whole question. You can prevent the holding of public meetings. I have not the slightest doubt about it. Would you prevent them in the dark, round corners, meeting together and saying, "How shall we thwart these fellows? How shall we achieve our object in our own way?"

I heard falling from the lips of the Hon. the Chief Secretary the words "dislocation of labour in the essential services". I thought we had advanced

from that type of thought, that we had really reached the stage when the very best way of getting the highest and the best in labour was by encouraging them to come together and give expression to their views.

Mr. Deputy Chairman, here again I see a most dangerous analogy between the proposed means of the maintenance of essential services in this country and the Nazi rule for the maintenance of labour in factories, because I believe it is one of the fundamental rules of the German labour-front that in the last resort factory legislation and rules and general welfare should be decided by the owners of the factory, by the capitalists in industry. What we now propose to do is to maintain, not our essential services, but the edicts and the convenience of those who are earning profits from those very labourers. I can even understand it if there was complete nationalization of some of the industries serving the war effort; if there was, I venture to think that even under our present regime there would be no attempt to prevent public meetings. But this is what it comes to. I now propose to put before you the next question, and that is, apart from the question of the war effort, the question of the fundamental liberties of the people.

Mr. Deputy Chairman, if under the shadow of Trafalgar Square, today, to-morrow or the day after, a public meeting can be held to criticize the established Government in England, the Prime Minister and his Cabinet, to criticize the present prosecution of the war as inefficient and as ineffective, and if the people and the Government of the country will not merely not prevent it, but heed those demonstrations and public meetings, I want to know what is the position in this country if we are prevented from holding public meetings? I fired that question at my Hon. Friend the Acting Home Minister for this reason: can you imagine this: a Member of the Board of Ministers is to be the final arbiter as to whether a public meeting is fit and proper or not. That is what it really comes to. Supposing there is a meeting to be held against this very sacrosanct body—the Board of Ministers—what is there to prevent one of the Members of the Board from saying, "Oh, ho; it is too bad. We ought not to allow you to hold a meeting,

[Mr. Ponnambalam.] because that will impede the war effort, we being the people who are the spear-head of the war effort in this country." Where do we end, Mr. Deputy Chairman? Is this a further projection of the theory of the divine rule—not of kings in this case but of Ministers? What is the position?

Then I come to the third question, and that is the Constitutional aspect of the question. When this House by a unanimous vote asked for a Food Ministry to meet the growing volume of dissatisfaction that was being manifested in this country, all kinds of Constitutional hair-splitting was indulged in to show why a Food Ministry could not be created. May I know whether Defence Regulations are within our Constitution? Does any one person who supports this particular enabling order under the Defence Regulations (Miscellaneous) say that Defence Regulations are within our Constitution? I do not think it will be begging the question; it will be readily conceded that Defence Regulations are consequent upon the reserved powers of the Governor to legislate by decree. Very well, to that extent and in so far as we have accepted the Constitution, we are naturally helpless.

I could have understood that position. Defence Regulations have been so far framed, have been promulgated, and I must confess that there has been no volume of opposition certainly manifested in this House to these Defence Regulations, although they were a very definite infringement in several instances of our civil liberties. This is where I want hon. Members to appreciate and see the difference. Here is Defence Regulation No. 3 (I) which enables the Governor by special or general order to prohibit meetings and processions in certain areas or throughout the country. Now in order to give it the colour of democracy—that is what hurts me—in order to give it the clothing of democracy an Elected Minister of this House is made to give an executive fiat to an order made by the Governor.

To my mind, whatever else hon. Members of this House are ready to put up with, this is one of the worst things. It is an absolutely sinister thing, pregnant with the most subversive possibilities, if enabling orders under Defence Regulations are to be countersigned, are

to be initialled by elected representatives of this House, who are functioning as Ministers. Why, then it can be said that it was an executive edict of the Governor. It was not even a fiat issued by the Commander in Chief under the authority he now holds from the War Council in England. It was approved by the Minister after consultation—belated consultation—with his Executive Committee. [MEMBERS: No.] I said, as you will realize if you had listened to me, after "belated consultation" to-day when certain amendments were proposed. I say that even that is wrong, because we are conceding a very vicious principle; and I congratulate the hon. Member for Galle (Mr. H. W. Amarasuriya) on his having stood out against it.

***Mr. E. W. Abeygunasekera (Nuwara Eliya):** What about others?

***Mr. Ponnambalam:** I beg your pardon; I see the hon. Member for Nuwara Eliya is getting rather rattled.

***Mr. R. S. S. Gunawardana:** One dissentient!

***Mr. Ponnambalam:** That is all right. I am certainly willing to accept the word of the hon. Member for Nuwara Eliya; the only point is that it is somewhat contradictory to what the Hon. Acting Minister said—that there was only one dissentient. Apparently the hon. Member for Galle and the Member for Nuwara Eliya changed places.

The Hon. Mr. G. E. de Silva: He may not have been there.

Mr. U. Batuwantudawe (Kalutara): One entity!

***Mr. Ponnambalam:** Probably they are one in two or two in one.

Mr. Deputy Chairman, I want hon. Members to realize—and I am sure hon. Members will be influenced by it—that we must have Defence Regulations—and I am one of those who concede it—at a time like the present. Why, the black-out is a fundamental infringement of our liberty. Why should I be asked to go into the streets at the imminent risk of banging into some bullock cart or some other person even more hardy than a bullock cart? Why should I run the risk of losing my life or limb? That is definitely an infringement of our liberty. We say that it is being done under

the Defence Regulations as the prosecution of the war demands it. But this, I ask you, should influence whom? Supposing to-morrow the labourers engaged in a particular form of industry are not satisfied with their wages, I ask you whether even under the modification now contemplated by the Minister, and his Committee they can hold a meeting.

The Hon. Mr. Mahadeva: Let me answer that question. Every labourer has the freest right to express his view on his labour conditions in his trade union, and that is the manner in which the labourers represent their rights. This order has nothing to do with meetings of trade unions.

***Mr. R. S. S. Gunawardana:** Where do you find that?

The Hon. Mr. Mahadeva: A trade union meeting confined to its members is not a public meeting.

***Mr. Ponnambalam:** I am glad of that assurance of my Hon. Friend—that a meeting of a trade union will not come within the purview of that particular order. Of course, you will appreciate that in these matters all these things are open to interpretation. The Hon. Acting Minister says that a meeting of a trade union is not a public meeting; that is his interpretation. I would only respectfully submit, with some claim to more recent knowledge of legal interpretation, that on that very widely-framed order that was read out to us, as the hon. Member for Galle remarked, I am not at all sure that a meeting of the State Council cannot be prohibited. Not that the world will begin to tremble when it is exercised, if the State Council is stopped from holding its meetings, but I merely mention that for what it is worth.

But what about the labourers who have no trade unions? Trade unionism in this country is not compulsory for all establishments. In fact, I would say that by far the major portion of the labourers are not organizing labour unions or trade unions. Therefore, those men who are outside these trade unions cannot hold meetings or obtain the assistance of those who are ready to assist them to better their conditions.

Then, I want to touch upon the last aspect of this question. That is a thing

that gives me a great deal of sorrow. I have on the Floor of this House said that we have passed from the stage of the Civil Service Raj and that we are going on very fast into the stage of the Police Raj. This regulation confirms that, and it looks as if there is something utterly vicious in this whole business of Police administration in this country. We merely thought that it was the advancing age of the permanent Minister of Home Affairs or his affability or his amiability that made him play second-fiddle to a Departmental chief, because very often—it is well known—it was not the Minister who decides a matter but the Inspector-General of Police. But now, even when a robust critic of that very system has become Acting Minister, the very thing happens.

I was not present here on the last occasion, when the question was raised and when the Acting Minister pleaded that the matter had been brought before him on the 27th, and that he had to make his decision by the 28th of August. I honestly thought that it was the Commander in Chief who had asked him to do that. I honestly did think that the Commander in Chief would have said, "Look here, old chap, either you decide this by to-morrow, or I will take it out of your hands". Would you believe, Mr. Deputy Chairman, I now discover that that Commander in Chief—God bless his soul—had nothing to do with it, but that it was the Inspector-General of Police by way of a report on the 27th August who placed the Minister in this unequivocal and utterly impossible position of having to decide the matter by the 28th August.

I say this—and I say it with a full sense of responsibility; I think it will be endorsed by practically every section of this House—if the Inspector-General of Police and his entire department, with all the tentacles and their myrmidons were not aware, 24 hours before the meetings were due to be held, that the meetings were going to be held, and if they thought it fit to prohibit those meetings and they came to me as the Minister concerned, I would have asked for the resignation of the Inspector-General of Police. The thing is an absolute scandal—that the Head of a Department should come along and

[Mr. Ponnambalam.]
place the Hon. Minister in this unequivocal position. So that in the result, when you get a particular person like the Acting Minister, eventually the question of principle and everything is left in the hands of the Departmental head. That is why I made the observation, a minute ago—that we are fast proceeding towards a Police Raj. It is so.

I repeat now that for the proper furtherance of the war effort, for a reasoned support of anything that is being done for the furtherance of this effort, in order that Constitutional issues may not be burked, in order that Defence Regulations may not be placed in the hands of Ministers, and any of them not be placed in what to him must be the unequivocal position of issuing edicts and decrees on questions of fundamental liberty, and lastly, in order to prevent the coming into being, under the guise of war, of a Police Raj in this country, I give my entire and whole-hearted support to this motion.

It being the hour appointed for the interruption of business—

The Hon. Mr. D. S. Senanayake: I move, Sir, that Emergency Standing Order 2 (4) be suspended to enable the debate on this motion to be continued beyond 5.30 P.M. and concluded.

Question put, and agreed to.

***Mr. Abeygunasekera:** I am sorry that the hon. Member for Point Pedro (Mr. Ponnambalam) should have tried to make out that he is the only patriot in this country. Last week, for instance, on an adjournment motion on the same subject, I criticized the Hon. Acting Minister of Home Affairs, and I endorsed everything that the hon. Member for Galle (Mr. H. W. Amarasuriya) said.

We are not in sympathy with the Minister, because during the time of the permanent Minister, on every occasion on which he tried to act without consulting the Members of his Committee he got into trouble. So with the Acting Minister. He was one of the first men to protest against the action of the permanent Minister, by saying that the Members of the Committee should have been consulted. Anyway we will not harp on that to-day, because the Hon. Acting Minister has modified these rules on regulations.

Although these rules have been modified, yet we do not know whether they would be approved by His Excellency the Governor. That is my fear. My advice, therefore, to the Acting Minister is to see that these rules are withdrawn and that the modified rules are published. If an undertaking to that effect is not given, I am sorry to say I will be compelled to vote for the motion.

Mr. Freeman: There is a saying of a well-known English humorist that it is a good general rule to distrust orators. For that reason I want to know exactly on what information the Home Minister acted when he agreed to this regulation (Defence Order) being promulgated. Whether he could say what this information was now, I do not know, but I wonder whether we could get that information, in secret session. If we could, we had better have it.

At any rate, I have no intention of voting until I know what the complaint was. We have to decide whether it was reliable or whether it was fussy and unnecessary. I do not know whether the Hon. Acting Minister will give us that information or not. I would, if necessary, move the House into Committee to get that information.

The Hon. Mr. Senanayake: I wish to speak a few words on this motion. I might at the very start say that it is not my intention, as has been stated by my hon. Friend, to make the seat of my Hon. Friend the Acting Minister of Home Affairs more comfortable, or the seats of others who find his presence here uncomfortable, more comfortable. It is not my intention to do either of those things. But I only wish to ask this House kindly not to mix up the issues and consider all sorts of imaginary grievances but to consider the present position as it is and come to a decision.

I make that suggestion for this simple reason: We have heard it said that this order was made by some authority outside ourselves; that that authority had mistrusted us, and that if that mistrust continued, he could not have our loyalty. It has been admitted by the Acting Minister of Home Affairs that this order was not made by any authority except himself; that is, he advised His Excellency the Governor to make this order. Well, it

Sep. 3, 1942]

is stated that this order is outside the Constitution and that therefore it was not necessary for the Minister of Home Affairs to have advised the Governor on this occasion.

I believe it was known to us all that there was the Defence Regulations Order in Council giving the Governor executive power outside the Constitution; and we have seen those powers exercised with the advice and consent of the Ministers and in many instances with the advice and consent of the Ministers and the Executive Committees. If any one wants to uphold the position that these Defence Regulations are outside the Constitution and therefore we should not be parties to such regulations, or we should protest, I feel that there is no alternative left but for all of us to clear out. It is no use our remaining here and agreeing to work under the present conditions, to carry on our activities under the present conditions and yet, when any Minister or anyone else does anything by virtue of the position created by those powers, blame that person. I would say without any hesitation that if we feel that our liberty of speech or our liberty in any way has been curtailed, or that our loyalty has been undermined, because of the existence of certain measures, none of us here could blame one person and remain here. I say that that blame must rest with all of us.

My hon. Friend the Member for Point Pedro (Mr. Ponnambalam), who knows that the lighting regulations have been made under a Defence Regulation, says that it is all right our having subjected ourselves to such regulations, but that it is the power given to an outsider to which we should object. If we say that our rights are curtailed in this country, that our liberty is not allowed to us, then we should protest and we should non-cooperate. But without doing that, if we just try to throw stones at one Member or another, I do not think that it is a consistent attitude to adopt. That is one thing I should like to say point-blank at this stage. People may indulge in high-sounding words and long phrases, but I do not think the public will accept them, because their actions are not by any means in keeping with their utterances. I quite agree that any act to suppress the voice of the people in itself undermines the loyalty of the people and will retard the war effort. Inasmuch as that is so

I say even our high-sounding words bring only contempt on us, and will not bring any respect for us from the public.

You know that these regulations were sent to the different Ministers, and some Ministers did consult their Executive Committees. Although it was the opinion of the Minister that was asked for by the Governor, still most Ministers consulted their Executive Committees.

With regard to this matter, I have heard it said that when those regulations were brought before the Home Committee the one Member who was against such power being given was the present Acting Minister of Home Affairs. He was against it, but it was carried by a majority and the regulations were framed. and then when he agreed to accept the office of Acting Minister of Home Affairs, did he do so in order to have his views put forward or honestly to work according to the accepted principles of the Executive Committee of Home Affairs? If he accepted office under false pretences and did not act properly, I would have utter contempt for him for the simple reason that he had no business to be Acting Minister if he was not going to abide by the accepted principles of his Committee. The Committee accepted the curtailment of the rights referred to. The regulation under which this order was made was accepted by the Home Committee. [Interruption]. The order was not accepted by them, but the regulation which enabled the order to be made was accepted by them. That is an enabling regulation giving power to take certain action if an emergency arose.

Mr. R. S. S. Gunawardana: We say that that power is unreasonable.

The Hon. Mr. Senanayake: Even so, the obligation to act under these emergency powers is cast on the Minister of Home Affairs. This obligation was cast on him, not because he wished it to be so, but because a majority of his Executive Committee had decided earlier that the Minister of Home Affairs should have that power, and the present Minister of Home Affairs could not shirk that duty.

The question now is whether he has erred in the exercise of his judgment. That is the only point we have to consider. The line of action was already marked out for him, and the question now is whether, in following that line of action in this particular instance, he has

[The Hon. Mr. Senanayake.]
 erred. He has told us—and in this he is supported by everyone concerned—that the Head of the Police Department made a report to him of certain undesirable meetings about to be held. The Minister gets that information two days before some of the meetings were to be held. He realizes that if these meetings are allowed to be held on those days, there was a possibility of undesirable consequences following. No one here can say that there was no such apprehension in the mind of the Acting Minister. It may be argued that he was mistaken in having those apprehensions—I do not say he was wrong—but the fact remains that he had those apprehensions. Notices had been published that these meetings were to be held, and there was also the apprehension of the Police that if these meetings were held they were likely to lead to certain consequences.

The Acting Minister was not out to curtail freedom of speech, but he felt that there was the possibility of certain events occurring, and that he must gain time for himself to examine the situation and see whether there was any justification for the proposed curtailment of the rights of the individual. He did not prohibit the meetings. He realized that there was a possibility of the meetings upsetting everything. The Minister realized the value of freedom of speech, the value of public meetings, but he did not want to be put in a position, at the last moment, of not being able to examine the situation. All that he thought of doing was this: "Whatever the Police or anyone else may say, I am going to judge for myself, but let me have the time to judge; let me have about fourteen days in which to come to a decision. I can then sift the evidence for myself, and I can see whether the suspicions of the Police are justified. I can examine the situation myself."

All that the Acting Minister wanted was an opportunity to decide for himself. No one else was to make the decision but the Minister himself, in whom everyone has confidence.

It is true that when he found that he wanted fourteen days' notice of meetings, some of the meetings that had already been arranged to be held could not be held, because they could not give the fourteen days' notice. But let us

examine the position and see whether the Acting Minister was in fact trying to take away the liberty of the public, or whether he was merely trying to gain an opportunity for himself to examine the situation and not allow anyone else to interfere with the rights of the people.

***Mr. R. S. S. Gunawardana:** He has taken marching orders!

The Hon. Mr. Senanayake: No, he is responsible for the decisions. Let us remember that while it is the Governor who has the power to make orders, in the order that has been issued in this instance, it is not the Governor or the Head of the Police Department who is to decide whether a permit should be granted or not. The Minister of Home Affairs realizes the absolute necessity for freedom of speech, and in these circumstances he is trying to preserve that freedom of speech by taking power himself to allow or not to allow meetings.

The good intentions of the Minister to meet this situation in an emergency have not been found acceptable to a section of this House; he has been misunderstood, and in those circumstances, he has consulted his Executive Committee. He feels that there should be a number of exemptions, and he has decided to recommend to the Governor to make those exemptions.

Doubts have been expressed as to whether the Governor would accept that recommendation and make those exemptions, but the House must remember that the authority to permit meetings has been conferred on the Minister, and he can, in advance, under that authority, say that meetings of such-and-such a nature would have his prior sanction, and that no application for permit need be sent in such cases.

***Mr. Ponnambalam:** Only if approved by the Governor.

The Hon. Mr. Senanayake: No approval by the Governor is necessary.

***Mr. Ponnambalam:** But the Minister himself admitted it.

The Hon. Mr. Senanayake: It was suggested that these exemptions should be incorporated in the order itself, and that of course must be done by the Governor. But I say that if it is the decision of the Executive Committee to

exempt a certain class of meetings, without incorporating those exemptions in the order, the Minister can give the necessary directions.

***Mr. R. S. S. Gunawardana:** The legal requirement is that fourteen days' notice must be given.

The Hon. Mr. Senanayake: At the same time he can grant the exemptions.

***Mr. R. S. S. Gunawardana:** Can he divine that the meetings are to be held?

The Hon. Mr. Senanayake: As the law stands at present, the Police have the right to stop any processions anywhere, but by an executive order it has been decided that no prosecutions or any sort of interference with processions is to take place in rural areas.

If this order infringes the liberty of the subject—there is no doubt that it does—we must remember that the order had to be passed in haste. One of the meetings was to be held on Saturday, whereas the Executive Committee could not meet till the Thursday following. The Minister knew that when his Executive Committee met on that day, they could go into the whole question and modify the order in such a way as to make it acceptable to everyone.

With regard to the motion before the House, it is immaterial whether it is passed or not, because the Minister of Home Affairs himself says that the order is not to continue to be in force in its present form. So far as he is concerned, he can even accept the motion.

5.50 P.M.—

***Mr. Ponnambalam:** I move, Mr. Deputy Chairman, that the question be now put.

Mr. Deputy Chairman of Committees: Is that the wish of the House?

Members: Aye!

Mr. Deputy Chairman of Committees: I will now put the question. The question is:

That this Council protests against the promulgation of the recent order under the Defence

Regulations restricting the Right of Public Meetings as uncalled for in the present circumstances as a serious infringement of the Liberty of the Subject and therefore demands the immediate repeal of the said regulation.

***Mr. Ponnambalam:** It should be "the said order", not "the said regulation".

The Deputy Chairman of Committees: All right—

"the said Order."

Question put accordingly; and Mr. DEPUTY CHAIRMAN OF COMMITTEES, having collected the voices, declared that the "Ayes" had it.

Members: Divide.

The Hon. Mr. Senanayake: Members who voted for it cannot call for a division unless they are going to—

Mr. Deputy Chairman of Committees: Well, I cannot say who voted "Aye" and who voted "No".

The Hon. Mr. Senanayake: The hon. Member for Galle (Mr. H. W. Amarasuriya) voted "Aye", Sir.

Mr. Deputy Chairman of Committees: Very well, we will have a division.

***Mr. R. S. S. Gunawardana:** It is the European Nominated Member (Mr. Newnham) who called for a division.

Mr. H. F. Parfitt (Nominated Member): Who called for a division, Sir?

***Mr. R. S. S. Gunawardana:** The hon. Nominated Member (Mr. Newnham).

The Council divided—Ayes, 24; Noes, 5; Declined to vote, 7.

AYES.

Rannagara, The Hon.	Ilangantileke, Mr. J. H.
Mr. C. W. W.	Jayasuriya, Mr. A. P.
De Silva, The Hon. Mr.	Kalael, Dr. M. C. M.
G. E.	Kularatne, Mr. P. de S.
Aluwihare, Mr. E. H.	Pereira, Diwan Bahadur
Amarasuriya, Mr. H. W.	I. X.
Amarasuriya, Mr. Thomas	Ponnambalam, Mr. G. G.
Batuwantudawe, Mr. U.	Ratnayake, Mr. A.
De Silva, Mr. G. R.	Ratwatte, Mr. H. L.
De Zoysa, Dr. A. P.	Samarakkody, Mr. S.
Dharmaratnam, Mr. S.	Senanayake, Mr. Dudley
Gunasekera, Mr. D. D.	Siriwardana, Mr. H. de Z.
Gunawardana, Mr. R. S. S.	Wellingam, Mr. S.
Hewawitarne, Mr. Rajah	

NOES.

Griffith, Mr. F. H.	Parfitt, Mr. H. F.
Newnam, Mr. H. E.,	Tambimuttu, Mr. E. R.
C.M.G., V.D.	Whitby, Mr. G. R.

DECLINED TO VOTE.

Senanayake, The Hon. Mr. D. S.	Abeygunasekera, Mr. E. W.
Kotalawala, The Hon. Colonel, J. L.	Jayah, Mr. T. B.
Mahadeva, The Hon. Mr. A.	Natesan, Mr. S.
	Wanigasekera, Mr. D.

ADJOURNMENT.

The Hon. Mr. Senanayake: I move that the Council do adjourn until 2 P.M. on Tuesday, September 22, 1942.

Question put, and agreed to.

Adjourned accordingly at 5.55 P.M. until 2 P.M. on Tuesday, September 22, 1942.