



# පාර්ලිමේන්තු විවාද

(හැන්සාඩ්)

## නිල වාර්තාව

(අශෝධිත පිටපත)

### අන්තර්ගත ප්‍රධාන කරුණු

නිවේදනය :

කථානායකතුමාගේ සහතිකය  
ස්ථාවර නියෝග පිළිබඳ කාරක සභාවේ වාර්තාව  
ප්‍රශ්නවලට වාචික පිළිතුරු  
පෞද්ගලික දත්විමෝන් ඇසූ ප්‍රශ්නය  
එතු කමිසරු වැඩ වර්ජනය

නාවිකයන්ගේ සුභසාධක අරමුදල පනත් කෙටුම්පත  
පළමුවන වර කියවන ලදී

අග්‍රවිනිශ්චයකාර, රාජනීතිඥ ගරු එන්. ඩී. ඇම්. සමරකෝන් මහතා කළැයි  
කියන කතාව පිළිබඳ විශේෂ කාරක සභාව

ප්‍රශ්නවලට ලිඛිත පිළිතුරු



# சுருதி ஓசைமொழி

(மொழி)

சென்னை

(சென்னை)

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# பாராளுமன்ற விவாதங்கள்

(ஹன்சார்ட்)

அதிகார அறிக்கை

(பிரைமே திருத்தப்படாதது)

பிரதான உள்ளடக்கம்

அறிவிப்பு :

சபாநாயகரது சான்றிதழ்

நிலைக்கட்டளைக் குழு அறிக்கை

வினாக்களுக்கு வாய்மூல விடைகள்

தனியறிவித்தல் வினா :

தொட்டத்தொழிலாளர் வேலைநிறுத்தம்

கடலோடிகள் நலன்புரி நிதியம் சட்டமூலம் :

முதன்முறை மதிப்பிடப்பட்டது

பிரதம நீதிஅரசர் கௌரவ என். டி. எம். சமரக்கோன், கியூ. சி.,

ஆற்றியதாகக் கூறப்படும் உரைமீதான தெரிசூழ்

வினாக்களுக்கு எழுத்துமூல விடைகள்

Volume 28

No. 9

Tuesday  
3rd April 1984

## PARLIAMENTARY DEBATES

(HANSARD)

OFFICIAL REPORT

(Uncorrected)

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(பார்வை)

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பிரைவட்டி

பிரைவட்டி

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**පාර්ලිමේන්තුව**

பாராளுமன்றம்

**PARLIAMENT**

1984 අප්‍රේල් 3 වන අඟහරුවාද

செவ்வாய்க்கிழமை 3, ஏப்ரில் 1984

Tuesday, 3rd April 1984

අ. හ. 3 ට පාර්ලිමේන්තුව රැස් විය. නියෝජ්‍ය කථානායකතුමා (නෝමන් වොයිලන් මහතා) මූලාසනාරූඪ විය.

பாராளுமன்றம் பி. ப. 3 மணிக்குக் கூடியது. பிரதிச் சபாநாயகர் அவர்கள் [திரு. நோமன் வைத்யரத்ன] தலைமை வகிந்தார்கள்.

The Parliament met at 3 p.m. MR. DEPUTY SPEAKER (MR. NORMAN WAIDYARATNA) in the Chair.

**නිවේදනය**

அறிவிப்பு

**ANNOUNCEMENT**

කථානායකතුමාගේ සහතිකය  
சபாநாயகரது சான்றிதழ்

**SPEAKER'S CERTIFICATE**

නියෝජ්‍ය කථානායකතුමා  
(பிரதிச் சபாநாயகர் அவர்கள்)  
(Mr. Deputy Speaker)

I wish to announce that the Hon. Speaker has under the provisions of Article 79 of the Constitution of the Democratic Socialist Republic of Sri Lanka, endorsed the Certificate on the following Bill on 29th March, 1984.

Computer and Information Technology Council of Sri Lanka.

**ලිපි ලේඛනාදිය පිළිගැන්වීම**

சமர்ப்பிக்கப்பட்ட பத்திரங்கள்

**PAPERS PRESENTED**

Report of the Associated Newspapers of Ceylon Limited for the year ended 31st December, 1982. - (Mr. M. Vincent Perera, on behalf of the Prime Minister and Minister of Local Government, Housing and Construction and Minister of Highways.)

A set of Regulations made under section 25 of the Sri Lanka Tea Board Law, No. 14 of 1975. - (Mr. M. Vincent Perera, on behalf of the Minister of Public Administration and Minister of Plantation Industries.)

The 12 months' Report and Accounts of the Ceylon Oils and Fats Corporation upto 31.12.1981. - (Mr. M. Vincent Perera, on behalf of the Minister of Rural Industrial Development.)

Convention between the Government of the Democratic Socialist Republic of Sri Lanka and the Government of the Kingdom of Sweden for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, entered into on 23.2.1983. - (Mr. M. H. M. Naina Marikar, Acting Minister of Finance and Planning.)

Report and Accounts of the Government of Sri Lanka, Successor to the Business Undertaking of Ceylon Oxygen Limited for 1981. - (Mr. M. Vincent Perera on behalf of the Minister of Industries & Scientific Affairs.)

Reports of the Competent Authority of the Government owned Business Undertaking of Ceylon Silks Limited for the period from 11.3.76 to 31.12.78. - (Mr. Wijayapala Mendis - Minister of Textile Industries.)

සහමේසය මත තිබිය යුතු යයි නියෝග කරන ලදී.  
சபாபிடத்திதில் இந்நகக்க கட்டளைபிடப்பட்டது.

Ordered to lie upon the Table.

**පෝත්සම්**

மனுக்கள்

**PETITIONS**

නියෝජ්‍ය කථානායකතුමා  
(பிரதிச் சபாநாயகர் அவர்கள்)  
(Mr. Deputy Speaker)

Hon. Member for Kaduwela. - (Pause). Not here.

රිචඩ් පතිරණ මහතා (අත්මිමන)  
(திரு. ரிச்சட் பத்திரான -- அக்மீமனா)  
(Mr. Richard Pathirana Akmeemana)

ගරු නියෝජ්‍ය කථානායකතුමාහි, අත්මිමන ගතේගොඩ, කනටගහවත්තේ ජේ. ඒ. ඩේවිඩ් මහතාගෙන් ලැබුණු පෝත්සමක් මම ඉදිරිපත් කරනවා.

මහජන පෝත්සම් කාරක සභාවට පැවරිය යුතු යයි නියෝග කරන ලදී.  
பொதுமனுக் குழுவுக்குச் சாட்ட கட்டளைபிடப்பட்டது.

Ordered to be referred to the Public Petitions Committee.

**ස්ථාවර නියෝග පිළිබඳ කාරක සභාවේ වාර්තාව**  
நிலைக் கட்டளைக் குழுவின அறிக்கை

**REPORT OF THE COMMITTEE ON STANDING ORDERS**

නියෝජ්‍ය කථානායකතුමා  
(பிரதிச் சபாநாயகர் அவர்கள்)  
(Mr. Deputy Speaker)

"On behalf of Mr. Speaker, Chairman of the Committee on Standing Orders, I present under Standing Order No. 123, the Report of the Committee on Standing Orders on addition of new Standing Orders Nos. 78A, 78B, 106A and 132A and amendment of Standing Orders Nos. 106 and 111."

සහමේසය මත තිබිය යුතු යයි නියෝග කරන ලදී.  
சபாபிடத்திதில் இந்நகக்க கட்டளைபிடப்பட்டது.

Ordered to lie upon the Table.

**ප්‍රශ්නවලට වාචික පිළිතුරු**

வினாக்களுக்கு வாய்ப்புல விடைகள்

**ORAL ANSWERS TO QUESTIONS**

එච්. ඩබ්ලිව්. ඇක්මන් පිරිස් මහතා : විශ්‍රාම වැටුප් ප්‍රතිලාභ  
திரு. எச். டபிள்யூ. எக்மன் பிரிஸ் : ஓய்வூதிய நன்மைகள்

**MR. H. W. EKMON PEIRIS : RETIREMENT BENEFITS**

532/83

- සරත් මුත්තේවටුවෙගම මහතා (කලවාන)  
(திரு. சரத் முத்தேட்டுவெகம — கலவான)  
(Mr. Sarath Muttetuwegama - Kalawana)  
අග්‍රාමාත්‍යතුමා සහ පළාත් පාලන, නිවාස හා ඉදිකිරීම් ඇමතිතුමා සහ මහාමාර්ග කටයුතු පිළිබඳ ඇමතිතුමාගෙන් ඇසූ ප්‍රශ්නය :  
(අ) එච්. ඩබ්ලිව්. ඇක්මන් පිරිස් මහතා 1970. 03. 25 දිනැති ලිපියක් මගින් ගොඩනැගිලි දෙපාර්තමේන්තුවේ අතියම් වටු කාර්මිකයෙකු වශයෙන් පත් කොට, වැටුප් අංක රත්නපුර 163 හා රත්මලාන 2531 යටතේ, රත්නපුර කනිෂ්ඨ කාර්මික විද්‍යාල ගුමියා අනුයුක්ත කරන ලද්දේද ?



sympathetic consideration of an appeal made by him, he has been re-employed as a new casual hand, with effect from 01.02.1980.

- (c) No.
- (d) No.
- (e) Mr. H. W. Ekmon Peiris had made a request not by a letter dated 16.09.1980 but by a letter dated 16.05.1980.
- (f) Yes.
- (g) A reply has been sent by letter dated 18.07.1980.
- (h) No Circular bearing No. ක / පොදු / 82 dated 15.03.1982, had been issued. But a Circular entitled "සිය කැමැත්තෙන් ඉල්ලා අස්වන සේවකයන්ට පාරිභෝගික හෙවිම්" bearing No. 1/11 and dated 15.03.1983 has been issued. Mr. Peiris is entitled to claim the benefits made available by it.
- (i) Does not arise, in view of (h) above.

සරත් මුත්තේටුවෙගම මහතා  
(திரு. சாத் முத்தேட்டுவெகம)  
(Mr. Sarath Muttetuwegama)

I have a supplementary question because this answer is most spurious. The question (e) was whether Mr. Peiris wrote to the Secretary protesting about his status as a new employee on the 16th of May 1980. Your answer to that was "Yes". Your answer to (f), whether the Secretary replied is also "Yes".

What was the necessity to reply to a letter of that sort if he had already been discontinued on the 11th of March 1978, as you say in answer to (b) ?

එම්. වින්සන්ට් පෙරේරා මහතා  
(திரு. எம். வினசன்ட் பெரேரா)  
(Mr. M. Vincent Perera)

No, 11th of February 1978.

සරත් මුත්තේටුවෙගම මහතා  
(திரு. சாத் முத்தேட்டுவெகம)  
(Mr. Sarath Muttetuwegama)

What was the use of writing a reply to the letter in 1980 protesting about his new status ?

එම්. වින්සන්ට් පෙරේරා මහතා  
(திரு. எம். வினசன்ட் பெரேரா)  
(Mr. M. Vincent Perera)

He has been employed as a new casual hand with effect from 1.2.1980.

සරත් මුත්තේටුවෙගම මහතා  
(திரு. சாத் முத்தேட்டுவெகம)  
(Mr. Sarath Muttetuwegama)

New casual hand ?

එම් වින්සන්ට් පෙරේරා මහතා  
(திரு. எம். வினசன்ட் பெரேரா)  
(Mr. M. Vincent Perera)

Yes.

නියෝජ්‍ය කථානායකතුමා  
(பிரதிச் சபாநாயகர் அவர்கள்)  
(Mr. Deputy Speaker)

Order, please.

පුවකවත්ත, කොටදෙනියාව : බද්ද  
புவக்வத்த, கொட்டதெனியா : குத்தகை  
PUWAKWATTA, KOTADENIYAWA : LEASE

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2. ලක්ෂ්මන් ජයකොඩි මහතා (අත්තනගල්ල)  
(திரு. லக்ஷ்மன் ஜயக்கொடி — அத்தனாகல்ல)  
(Mr. Lakshman Jayakody-Attanagalla)  
අග්‍රාමාත්‍යතුමා සහ පළාත් පාලන, නිවාස හා ඉදිකිරීම් දෙමතිකුමා සහ මහාමාර්ග කටයුතු පිළිබඳ දෙමතිකුමාගෙන් දැනු ප්‍රශ්නය :  
(අ) ගම්පහ දිස්ත්‍රික් සංවර්ධන සභාවට අයත් අංක 23 කොටදෙනියාව උප කාර්යාලයට අයිති පුවකවත්ත කැමැති පොල් ඉඩම බදු දීමට කරන ලද තීරණය එතුමා සහායක කරනවාද ?  
(ආ) බදු ගැනීම සඳහා ඉදිරිපත් වූ අයගේ තම සහ ලිපිනයන් ද මවුත් ඉදිරිපත් කළ මිල ගණන් ද එතුමා සඳහන් කරනවාද ?

பிரதம அமைச்சரும், உள்ளூராட்சி, வீடமைப்பு, நிர்மான அமைச்சரும், பேருவிதிகள் அமைச்சருமாவரைக் கேட்ட வினா :

- (அ) கம்பஹா மாவட்ட அபிவிருத்திச் சபையின் 23 ஆம் இலக்க கோட்டதெனிய, உப அலுவலகத்திற்குரிய "புவக்வத்த" என்னும் தென்னங்காணியைக் குத்தகைக்கு விடுவதற்காக வெளியிட்ட அறிவித்தலை அவர் சமர்ப்பிப்பாரா ?
- (ஆ) குத்தகை எடுப்பதற்கு முன்வந்தவர்களின் பெயர், முகவரி இவர்கள் சமர்ப்பித்த விடல் ஆயிரவற்றைச் சமர்ப்பிப்பாரா ?

asked the Prime Minister and Minister of Local Government, Housing and Construction and Minister of Highways :

- (a) Will he table the notice published for the leasing out of the Coconut land called Puwakwatta, belonging to the Kotadeniyawa Sub Office No. 23 of the Gampaha District Development Council ?
- (b) Will he state the names and addresses of those who applied for the lease of the land and the prices quoted by them ?

එම්. වින්සන්ට් පෙරේරා මහතා  
(திரு. எம். வினசன்ட் பெரேரா)  
(Mr. M. Vincent Perera)

I answer on behalf of the Prime Minister and Minister of Local Government, Housing and Construction and Minister of Highways.

(a) Yes. The notice is tabled.

(b) Yes, as follows :

Name	Address	Price quoted
(i) Mr. K. M. G. Gunawardene	Navana, Mirigama	Rs. 2,400/-
(ii) Mr. M. K. Sugath Padmasiri	Navana, Mirigama	Rs. 2,100/-





ராக எந்தவொரு முறைப்பாடும் உள்நூராட்சித் துணைக்களத்திற்குக் கிடைக்கவில்லையென்பதையும் அவர் அறிவாரா?

(ஆ) ஒருவித காரணமுமின்றி 1978.04.10 ஆம் திகதி முதல் உடனடியாக செயற்படுத்தக்கூடிய விதத்தில் இவர் யாழ்ப்பாணம் மாநகர சபைக்கும், 1978.09.01 முதல் ஹிங்குரங்கொட பட்டினசபைக்கும் இடமாற்றம் செய்யப்பட்டாரென்பதை அவர் அறிவாரா?

(இ) 1980.03.26 ஆம் தேதி எழுத்துமூல அறிவித்தலின் மூலம் 3 நாட்கள் விடுமுறை பெற்றிருந்தபோது திரு. சமரவிக்ரமவின் சேவை 1980.03.29 ஆம் திகதி முதல் இடைநிறுத்தப்பட்டதென்பதை அவர் அறிவாரா?

(ஈ) இவரது சேவை இடைநிறுத்தப்பட்டதற்கான காரணம் யாது?

(உ) இவரது சேவையை இடைநிறுத்துவதற்கு உத்தரவு வழங்கிய உத்தியோகத்தர் யார்?

(ஊ) 1980.07.23 ஆம் திகதியன்று திரு. சமரவிக்ரம மீண்டும் சேவையில் சேர்த்துக்கொள்ளப்பட்டாரென்பதை அவர் அறிவாரா?

(எ) தனது சேவை இடைநிறுத்தப்பட்டதை எதிர்த்து திரு. சமரவிக்ரம கோரிய விசாரணையை நடந்தாமல் மீண்டும் இவரை சேவைக்கு அழைப்பதற்கும், வேலையற்றிருந்த காலப்பகுதிக்கு சம்பளம் வழங்க இயலாதெனவும் முடிவெடுத்த உத்தியோகத்தர் யார்?

(ஏ) திரு. சமரவிக்ரமவுக்குரிய சம்பள நிலுவையை வழங்க அவர் நடவடிக்கை எடுப்பாரா?

asked the Prime Minister and Minister of Local Government, Housing and Construction and Minister of Highways :

(a) Is he aware that Mr. K. M. A. Samarawickrema had served in Colombo Municipal Council and in the post of Shop Supervisor in the Local Government Service from 10.11.1952 to 10.04.1978 and that during this period no complaint had been received by the Department of Local Government Service against him?

(b) Is he aware that he had been transferred to the Jaffna Municipal Council with effect from 10.04.1978 and the town Council, Hingurakgoda, with effect from 01.09.1978, without any cause?

(c) Is he aware that Mr. Samarawickrema's service had been suspended on 29.03.1980 while he was on three days leave from 26.03.1980 obtained under written notice?

(d) On what reason has his service been suspended?

(e) Who is the officer who ordered the suspension of his services?

(f) Is he aware that Mr. Samarawickrema has been re-employed on 23.07.1980?

(g) Who is the officer who decided that Mr. Samarawickrema be recalled to service without holding the inquiry asked for by him and that he is not entitled to arrears of salary for the period he was under suspension of service?

(h) Will he take steps to pay Mr. Samarawickrema arrears of salary due to him?

சி. வினசென்ட் பெரேரா  
(திரு. எம். வினசென்ட் பெரேரா)  
(Mr. M. Vincent Perera)

I answer on behalf of the Hon. Prime Minister, and Minister of Local Government, Housing and Construction and Minister of Highways.

(a) I am aware that Mr. K. M. A. S. Samarawickrema had served in Colombo Municipal Council as a Grade III Overseer from 10.11.1952 to 4.3.1955 and as a Market Supervisor from 5.3.1955 to 3.4.1978.

(b) I am aware that this officer who had served continuously over 25 years in Colombo Municipal Council, had been transferred to the Jaffna Municipal Council with effect from 4.4.1978. I am also aware that he had later been transferred to Hingurakgoda Town Council with effect from 24.8.1978.

(c) & (d) He had absented himself from duty from 27.3.1980 without having duly obtained prior approval for such absence. He had, therefore, been treated as having vacated his post, in terms of the provisions of the Establishments Code.

(e) The Director of Local Government Service, who is his Appointing Authority.

(f) Yes.

(g) On considering the explanations tendered by Mr. Samarawickrema consequent to his being served with the vacation of post notice, the Director, Local Government Service had ordered the reinstatement of Mr. Samarawickrema without back wages. Mr. Samarawickrema's appeal for salary for the period during which he had vacated post had been considered by the Local Government Service Disciplinary Board which had upheld the Director's decision not to pay salary for the period commencing from the date of vacating post upto the date of reinstatement.

(h) Does not arise in regard to (g) above.

පොළ : උඩුවල්පොල පාර, කුරුණෑගල  
 சந்தை : உடுவல்பொல வீதி, குருநாகல்  
 "POLA": UDAWALPOLA ROAD, KURUNEGALA

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5. ලක්ෂ්මන් ජයකොඩි මහතා  
 (திரு. லக்ஷ்மன் ஜயக்கொடி)  
 (Mr. Lakshman Jayakody)

අග්‍රාමාත්‍යතුමා සහ පළාත් පාලන, නිවාස හා ඉදිකිරීම් ඇමතිතුමා සහ මහාමාත්‍ය කටයුතු පිළිබඳ ඇමතිතුමාගෙන් ඇසූ ප්‍රශ්න:

- (i) කුරුණෑගල, උඩුවල්පොල පාරේ කඳුරුගස් හත්දොස අසල පවත්වන පොළ නගර සභාව විසින් ආරම්භ කරන ලද්දේ කවදද ?
- (ii) එහි නාවකාලික ගොඩනැගිලි ඉදිකරන ලද්දේ කවදද සහ ඒවා වෙනුවට දැනට පවතින ස්ථිර ගොඩනැගිලි ඉදිකරන ලද්දේ කවදද යන්නත් එතුමා සඳහන් කරනවාද ?
- (iii) මෙම පොළ 1971 දී විවෘත කරන ලද්දේ කවුරුන් විසින් කෙදිනකද සහ 1982 දී ස්ථිර ගොඩනැගිලි සහිතව එම පොළ විවෘත කරන ලද්දේ කවුරුන් විසින් කෙදිනක ද යන්න එතුමා සඳහන් කරනවාද ?

இந்த அமைச்சரும், உள்ளூராட்சி, கிடாயம், நிர்மாண அமைச்சரும், பெருவிதிகள் அமைச்சருமானவரைக் கேட்ட வினா :

- (i) குருநாகல், உடுவல்பொல வீதியில் உள்ள கருணகம் சந்திக்கு அண்மையில் மாநகர சபையினால் ஒரு சந்தை எடுப்பாது ஆரம்பிக்கப்பட்டது என்பதையும் ;
- (ii) தற்காலிக கட்டடங்கள் எடுப்பாது இடப்பட்டன என்பதையும், அவற்றுக்குப் பதிலாக தற்போதைய நிலையான கட்டடங்கள் எடுப்பாது கட்டப்பட்டன என்பதையும் ;
- (iii) 1971 இல் யாரால், எந்த தேதியில் இச் சந்தை திறந்து வைக்கப்பட்டது என்பதையும், 1982 ல் நிலையான கட்டடங்கள் யாரால், எந்த தேதியில் திறந்து வைக்கப்பட்டன என்பதையும், அவர் கறுவாரா?

asked the Prime Minister and Minister of Local Government, Housing and Construction and Minister of Highways :

- Will he state—
- (i) when was the "Pola" started by the Municipality close to the Kadurugashandiya of Udawalpola Road, Kurunegala ;
  - (ii) when were the temporary structures put up and when were they replaced by the present permanent buildings ; and
  - (iii) by whom and on what date was this Pola opened in 1971, and with the permanent buildings in 1982 ?

එම්. වින්සන්ට් පෙරේරා මහතා  
 (திரு. எம். வினசன்ட் பெரேரா)  
 (Mr. M. Vincent Perera)

I answer on behalf of the Prime Minister and Minister of Local Government, Housing and Construction and Minister of Highways :

- (i) On 22nd June, 1971.
- (ii) Yes.

Temporary buildings were constructed in 1971. Permanent buildings were constructed during the years and 1982.

(iii) Yes.

In 1971 this Pola was declared open by the then Member of Parliament for Kurunegala while in 1982 this Pola with the permanent buildings was declared open on 02.12.192 by the Hon. the Minister of Local Government, Housing and Construction.

අයි. ඒ. ප්‍රැන්සිස් මහතා : විශ්‍රාම වැටුප් ප්‍රතිලාභ  
 திரு. ஐ. ஏ. பிரன்சிஸ் : ஓய்வூதிய நன்மைகள்  
 MR. I. A. FRANCIS : RETIREMENT BENEFITS

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6. ආචාර්ය ධම්මච්චි. දහනායක මහතා (ගාල්ල)  
 (கலாநிதி டபிள்யூ. தனுநாயக்க — காலி)  
 (Dr. W. Dahanayake - Galle)

චාර්ය ඇමතිතුමාගෙන් ඇසූ ප්‍රශ්න :

- (අ) ශ්‍රී ලංකා ගුවන් විදුලි සංස්ථාවේ 2 වන ශ්‍රේණියේ රිටර් තනතුරක් දරමින් සිට 1983 සැප්තැම්බර් 12 වන දින විශ්‍රාම ගිය අක්මීමන නොටගොඩ අමතවන්නේ අයි. ඒ. ප්‍රැන්සිස් මහතාට තවම මහුගේ විශ්‍රාම වැටුප හෝ පාරිභෝගිකය හෝ ලැබී නොමැති බව එතුමා දන්නේද ?
- (ආ) ප්‍රැන්සිස් මහතාට ගෙවිය යුතු සියලු මුදල් වහාම ගෙවීමට එතුමා කටයුතු කරන්නේද ?
- (ඇ) කටයුතු නොකරන්නේ නම්, ඒ මන්ද ?

இராஜாங்க அமைச்சரைக் கேட்ட வினா :

- (அ) அகமீமன, தோட்டக்கொட, அம்பககாவத்த வாசியும் இலங்கை ஒலிபரப்புக் கட்டுத்தாபனத்தின் இரண்டாம் தர 'ரிகர்' தொழிலாளியாக கடமையாற்றிய வருமான திரு. ஐ. ஏ. பிரன்சிஸ், 1983 செப்டம்பர் 12 ஆம் திகதியன்று இளைப்பாறியபோதும் இவ்வரைக்கும் தனது ஓய்வூதியத்தையோ நன்கொடையையோ பெறவில்லையென்பதை அறிவாரா?
- (ஆ) திரு. பிரன்சிஸ்க்குச் சேர வேண்டிய தொகைகளை உடனடியாகக் கொடுப்பதற்கு தலையகார்த்து நடவடிக்கை எடுப்பாரா?
- (இ) இல்லையெல், ஏன்?

asked the Minister of State :

- (a) Is he aware that Mr. I. A. Francis of Ambegahawatte, Totagoda, Akmeemana, who was a Grade 2 Rigger in the Sri Lanka Broadcasting Corporation, retired on 12th September, 1983, but has not yet received his pension or gratuity ?
- (b) Will he be pleased to pay Mr. Francis all other dues at once ?
- (c) If not, why ?

එම්. වින්සන්ට් පෙරේරා මහතා  
(ති.රු. எம். வின்சன்ட் பெரேரா)  
(Mr. M. Vincent Perera)

I answer on behalf of the Minister of State :

- (a) Yes. Mr. Francis has been paid the gratuity to which he is entitled.
- (b) Does not arise.
- (c) Does not arise.

ඩබ්ලිව්. ඩබ්ලිව්. හින්නිහාමි මහත්මිය : විශ්‍රාම වැටුප් ප්‍රතිලාභ  
திருமதி டபிள்யூ. டபிள்யூ. ஹின்னிகாமி : ஓய்வூதிய நன்மைகள்  
MRS. W. W. HINNIEHAMY, RETIREMENT BENEFITS

551/83

7. ආචාර්ය ඩබ්ලිව්. දහනායක මහතා  
(கலாநிதி டபிள்யூ. தஹநாயக்க)  
(Dr. W. Dahanayake)

කෘෂිකාර්මික සංවර්ධනය හා පර්යේෂණ පිළිබඳ ඇමතිතුමා සහ ආහාර හා සමුපකාර ඇමතිතුමාගෙන් ඇසූ ප්‍රශ්නය :

- (අ) ලබුදුව ගොවිපලෙන් විශ්‍රාම ගිය ගාල්ලේ මාඉට්ටේ 3 වන පටුමෙන් "නාග සෙවනේ" ඩබ්ලිව්. ඩබ්ලිව්. හින්නිහාමි මහත්මියට විශ්‍රාම වැටුප්, පාර්නේෂික, අත්තිම මාසයේ වැටුප හා අතිකුත් මුදල් ගෙවීමට එතුමා ක්‍රියා කරන්නේද?
- (ආ) ක්‍රියා කෙරෙන්නේ නම්, ඒ මන්ද?

விவசாய அபிவிருத்தி, ஆராய்ச்சி அமைச்சரும்  
உணவு, கூட்டுறவு அமைச்சருமானவரைக் கேட்ட வினா :

- (அ) காலி, மாயிட்டிப்பே மூன்றாம் ஒழுங்கை "ந செவன" வாசியும் லபுதுவ பண்ணையிலிருந்து இளைப் பாரியலருமான திருமதி டபிள்யூ. டபிள்யூ. ஹின்னி ஹாமி என்பவருடைய ஓய்வூதியம், பணிக்கொடை, இறுதி மாதச் சம்பளம் மற்றும் சேர்மதிகளை அவ ருக்குச் செலுத்த தயவுசெய்து நடவடிக்கை எடுப்பாரா?

(ஆ) இல்லையெல், ஏன்?

asked the Minister of Agricultural Development and Research and Minister of Food and Co-operatives :

- (a) Will he please take steps to pay pension, gratuity, last months' pay and other dues, to Mrs. W. W. Hinniehamy "Nagasevana", 3rd lane, Maitipe, Galle, who retired from the Labuduwa Farm?
- (b) If not, why?

එස්. එස්. අබේසුන්දර මහතා (கிஸேசர் கෘෂිකාර්මික සංවර්ධනය හා පර්යේෂණ පිළිබඳ ඇමතිතුමා)  
(திரு. எஸ். எஸ். அபேசுந்தர் — விவசாய அபிவிருத்தி, ஆராய்ச்சிப் பிரதி அமைச்சர்)

Mr. S. S. Abeysondera-Deputy Minister of Agricultural Development & Research

- (අ) මව.
- (ආ) තුරු.

ආචාර්ය ඩබ්ලිව්. දහනායක මහතා  
(கலாநிதி டபிள்யூ. தஹநாயக்க)  
(Dr. W. Dahanayake)

When was the payment made?

එස්. එස්. අබේසුන්දර මහතා  
(திரு. எஸ். எஸ். அபேசுந்தர்)  
(Mr. S. S. Abeysondera)

Mrs. W. W. Hinniehamy, female labourer, attached to the Labuduwa Farm, retired from service on 20.9.83. Payment of her pension and gratuity has been authorized by the Director of Pensions. In addition, the refund of her PSTF contribution has been made. A sum of Rs. 2,782.72 has been paid as a refund of the PSTF contribution on 21.12.83.

වයි. ජී. නෝනහාමි මහත්මිය : විශ්‍රාම වැටුප් ප්‍රතිලාභ  
திருமதி வை. ஜி. நோனாஹாமி : ஓய்வூதிய நன்மைகள்  
MRS. Y. G. NONAHAMY : RETIREMENT BENEFITS

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8. ආචාර්ය ඩබ්ලිව්. දහනායක මහතා  
(கலாநிதி டபிள்யூ. தஹநாயக்க)  
(Dr. W. Dahanayake)

කෘෂිකාර්මික සංවර්ධනය හා පර්යේෂණ පිළිබඳ ඇමතිතුමා සහ ආහාර හා සමුපකාර ඇමතිතුමාගෙන් ඇසූ ප්‍රශ්නය :

- (අ) ලබුදුව ගොවි පොළේ ගැහැණු කම්කරුවකු වශයෙන් සේවය කොට 1982 ජනවාරි මස විශ්‍රාම ගිය අත්තිමක කොටතොට අඹගහවත්ත කොලනියේ වයි. ජී. නෝනහාමි මහත්මියට, මෙතෙක් විශ්‍රාම වැටුප හෝ වෙනත් හිමිකම් ගෙවා තැනි බව එතුමා දන්නේද?
- (ආ) ඇයට කොපමාව මෙම ගෙවීම් කරන්නේද?
- (ඇ) එසේ කෙරෙන්නේ නම්, ඒ මන්ද?

விவசாய அபிவிருத்தி, ஆராய்ச்சி அமைச்சரும்  
உணவு, கூட்டுறவு அமைச்சருமானவரைக் கேட்ட வினா :

- (அ) அகம்மீனா, தொட்டுகொட, அம்பகஹவத்த குடியேற்றத் திட்டத்தைச் சேர்ந்தவரும், லபுதுவ பண்ணையில் பெண் தொழிலாளியாக வேலைபார்த்தவருமாகிய திருமதி வை. ஜி. நோனாஹாமி 1982 ஜனவரியில் ஓய்வுபெற்றபோதும் இவருடைய ஓய்வூதியம் மற்றும் சேர்மதிகள் இன்னும் கிடைக்காததுள்ளதை அவர் அறிவாரா?

(ஆ) இவருக்கு உடனடியாக இக்கொடுப்பளவுகள் வழங்கப்படுமா?

(இ) இல்லையெல், ஏன்?

asked the Minister of Agricultural Development and Research and Minister of Food and Co-operatives :

- (a) Is he aware that Mrs. Y. G. Nonahamy of Ambagahawatta Colony, Fotagoda, Akmeena, female labourer, Labudawa Farm, retired on January, 1982, but has not yet received her pension and other dues?
- (b) Will she be paid at once?
- (c) If not, why?

එස්. එස්. අබේසුන්දර මහතා  
(திரு. எஸ். எஸ். அபேசுந்தர்)  
(Mr. S. S. Abeysondera)

(අ) වයි. ජී. නෝනහාමි මහත්මිය 1981.07.06 දින විශ්‍රාම ගිය බවත් පාර්නේෂික දීමනා, හා රාජ්‍ය සේවා අර්ථසාධක අරමුදල ඇයට ලැබී තැනි බවත් මම දනිමි.

(ආ) අද ලබුදුවාරිත් විසින් අනුමත කළ වහාම පාර්නේෂිකය හා රාජ්‍ය සේවා අර්ථසාධක අරමුදල ඇයට ගෙවනු ඇත.

(ඇ) අද ල කෙවේ.



සරත් මුත්තේවෙගම මහතා  
(திரு. சரத் முத்தேட்டுவேகம்)  
(Mr. Sarath Muttetuwegama)

There are different ways of asking questions. I must explain the question. The question is coming—(Interruption). Do not worry. It is coming slowly.

Sir, the position today is that, in answer to a strike called by the Ceylon Workers' Congress—incidentally its president is represented in the Cabinet—plus 13 or 14 other unions belonging to the Joint Committee of Plantation Trade Unions, 600,000 workers on the plantations have come out on strike. As a result of this the Government is losing in terms of revenue from the plantations a sum of nearly Rs. 6 lakhs a day. That is in terms of clean revenue.

Now, Sir, the demand that has been made is not a wage demand *per se*. It is really a demand that the allowances given to the other sectors of employees in the country be extended to the plantation workers also.

The demands briefly are these. One is that decision on the cost of living allowance which was arrived at on the 18th of February 1983 by the wages board dealing with the tea trade—recommending an increase of Rs. 15.02 for males as a cost of living allowance—be granted to them immediately. Both the JEDB and the SLSPC, which are today the largest employers, have refused to carry out the decision of the wages board and through their representatives in the wages board have tried to sabotage that decision?

Then there is a price wage supplement, which was calculated by the state corporations at Rs. 5.30, which is not being given.

Then there are the three proposals contained in the revenue proposals of the Hon. Minister of Finance. In 1980 there was a Rs. 70 wage increase granted to all sectors of employees. It has not been given to the plantation workers. In January 1982 there was a Rs. 45 increase which has not been given to the plantation workers. Then there is cost of living allowance increase in August 1983, when the cost of living index was frozen at Rs. 123; there was a wage increase of Rs. 246 which has not been given to the plantation workers. The demand of the workers at the moment, the unions on strike, is that at least the wage increases given by way of allowance to other sectors—that is, the cost of living allowance, the price wage increase and the other allowances given to the other workers—should be given to the estate workers also.

Now, Sir, the Government has made a big virtue out of the fact—

தீயேரர் கப்தானகவது  
(பிரதிச் சபாநாயகர் அவர்கள்)  
(Mr. Deputy Speaker)

Order, please! Please ask the question because this also has to be treated as any other question.

සරත් මුත්තේවෙගම මහතා  
(திரு. சரத் முத்தேட்டுவேகம்)  
(Mr. Sarath Muttetuwegama)

The only thing is, Sir I cannot ask that question in the way that I have formulated it because it will be meaningless unless I give the background to it.

தீயேரர் கப்தானகவது  
(பிரதிச் சபாநாயகர் அவர்கள்)  
(Mr. Deputy Speaker)

Order, please! You have said sufficient now.

සරත් මුත්තේවෙගම මහතා  
(திரு. சரத் முத்தேட்டுவேகம்)  
(Mr. Sarath Muttetuwegama)

I will be brief. I am not going to take a long time. I am not going to make a speech. What I want to say is that the Government has made a virtue out of the fact that it has made an equality of pay scales of the males and the females. This is, Sir, something that the ILO Convention ratified in 1953, that there should be equal wages for equal work—(Interruption). Yes, all governments from 1953 up to now have not done it. I congratulate the Government for having done it. But it is nothing to be so proud about because it is 30 years too late as far as Sri Lanka is concerned—(Interruption) No, no, we have always agitated for it. Even when we were in the government, I can tell you, I had a Private Member's Motion on this matter.

Then, Sir, on the 23rd of November 1983 the conference of the plantation trade unions including the CWC and a large number of unions which are not in the Government, wrote to the Hon. President and to the Government asking for certain demands. And that is why I say that the Government committed an act of criminal folly in calling only the Lanka Jathika Estate Worker's Union for this discussion, and about this Rs. 2 wage increase.

I want to ask the Hon. Minister, what steps are being taken to settle this strike, what negotiations you are carrying on and whether you will discuss with all the unions that are involved in the strike and give them the demands which are really nothing more than what the other sectors of the working class people in this country have already obtained.

ලක්ෂමන් ජයකොඩි මහතා (අත්තනගල්ල)

(ශ්‍රී. ල. ලක්ෂ්‍යයන් ඉගැන්වීම — අත්තනගල්ල)  
(Mr. Lakshman Jayakody-Attanagalla)

ගරු නියෝජ්‍ය කථානායකතුමනි, මේ ප්‍රශ්නය පිළිබඳව කථා කිරීම විනාඩි දෙකකින් අවසන් කරන්නට කීපයක් අද උදේ කල සාකච්ඡාවේදී තමුන්ගේ මතය ප්‍රකාශ කර ඇත. මා නගන ප්‍රශ්නය ගැනම කලවාන ගරු මන්ත්‍රීතුමා (සරත් මුත්තේවෙට්ටම මහතා) දීර්ඝ ලෙස කථා කල නිසා මා එම ප්‍රශ්නය ගැන කථා කරන්න යන්නේ නැත. තමුන් මෙහි එක තර්කයක් තිබෙනවා. ලංකා ගමනාගමන මණ්ඩලය, දුම්රිය වැනි ආයතනවලට මේ වැටුප් තලයේ වැඩිවීම දිගටම අවුරුද්දෙන් අවුරුද්ද දිගෙහි ඇවිත් තිබෙනවා.

නියෝජ්‍ය කථානායකතුමා

(චිරාතිස් සභානායකර් අවුරුද්ද)  
(Mr. Deputy Speaker)

Order, please !

ලක්ෂමන් ජයකොඩි මහතා

(ශ්‍රී. ල. ලක්ෂ්‍යයන් ඉගැන්වීම)  
(Mr. Lakshman Jayakody)

අද උදේ වැටුප් තලයේ සාකච්ඡාවේදී මා තමුන්ගේ මතය ප්‍රකාශ කර ඇත. මට විනාඩි දෙකක් පමණක් දෙන්න.

නියෝජ්‍ය කථානායකතුමා

(චිරාතිස් සභානායකර් අවුරුද්ද)  
(Mr. Deputy Speaker)

Order, please ! You have not given notice of any other question than what the hon. Member for Kalawana has given notice of.

හැරල්ඩ් හේරත් මහතා (ඇමතිතුමා සහ නියෝජ්‍ය ජනතා වතු සංවර්ධන ඇමතිතුමා)

(ශ්‍රී. ල. හරාල්ඩ් හේරත් — අනාමස්ඡරුම ඉගැනා තොර්ට්ටා  
අවිච්චිතත්වය පිරිනි අනාමස්ඡරුම)  
(Mr. Harold Herath—Minister and Deputy Minister of Janata Estates Development)

I have had no notice.

ලක්ෂමන් ජයකොඩි මහතා

(ශ්‍රී. ල. ලක්ෂ්‍යයන් ඉගැන්වීම)  
(Mr. Lakshman Jayakody)

There is one more point which I mentioned to you in the morning, Sir, and you said that I can take it up when the hon. Member for Kalawana finishes.

නියෝජ්‍ය කථානායකතුමා

(චිරාතිස් සභානායකර් අවුරුද්ද)  
(Mr. Deputy Speaker)

But have you given notice to the Hon. Minister ?

ලක්ෂමන් ජයකොඩි මහතා

(ශ්‍රී. ල. ලක්ෂ්‍යයන් ඉගැන්වීම)  
(Mr. Lakshman Jayakody)

No, Sir ; it is the same thing.

නියෝජ්‍ය කථානායකතුමා

(චිරාතිස් සභානායකර් අවුරුද්ද)  
(Mr. Deputy Speaker)

If it is the same thing, why repeat it ?

ලක්ෂමන් ජයකොඩි මහතා

(ශ්‍රී. ල. ලක්ෂ්‍යයන් ඉගැන්වීම)  
(Mr. Lakshman Jayakody)

It is only one more point, where I want to say that there are certain productive sectors which need a wage increase. Now there are servicing sectors and productive sectors. This is a very important productive sector. Secondly, Sir, I cannot understand the point in these wage increases that has been published in the press today, and, as the hon. Member for Kalawana said why are you treating the coconut industry workers in a very slipshod manner, in the sense that they are not being paid their due wages according to the other sectors ?

නියෝජ්‍ය කථානායකතුමා

(චිරාතිස් සභානායකර් අවුරුද්ද)  
(Mr. Deputy Speaker)

Order, please ! I am sure the Hon. Minister has no notice of anything that you are stating now.

ලක්ෂමන් ජයකොඩි මහතා

(ශ්‍රී. ල. ලක්ෂ්‍යයන් ඉගැන්වීම)  
(Mr. Lakshman Jayakody)

But, surely, it was decided in the morning tht we are going to raise the same matter.

නියෝජ්‍ය කථානායකතුමා

(චිරාතිස් සභානායකර් අවුරුද්ද)  
(Mr. Deputy Speaker)

No. He must have notice.

ලක්ෂමන් ජයකොඩි මහතා

(ශ්‍රී. ල. ලක්ෂ්‍යයන් ඉගැන්වීම)  
(Mr. Lakshman Jayakody)

Anyway I hope he will answer that.

අ. හ. 3.24

හැරල්ඩ් හේරත් මහතා (ඇමතිතුමා සහ නියෝජ්‍ය ජනතා වතු සංවර්ධන ඇමතිතුමා)

(ශ්‍රී. ල. හරාල්ඩ් හේරත් — අනාමස්ඡරුම ඉගැනා තොර්ට්ටා  
අවිච්චිතත්වය පිරිනි අනාමස්ඡරුම)  
(Mr. Harold Herath—Minister and Deputy Minister of Janata Estates Development)

ගරු නියෝජ්‍ය කථානායකතුමනි, මම කලවාන ගරු මන්ත්‍රීතුමාගේ (සරත් මුත්තේවෙට්ටම මහතා) ප්‍රශ්නයට පමණක් උත්තර දෙන්නේ. මොකද, ඒ ප්‍රශ්නය ගැන මට දැනුම් දී තිබෙන නිසා. ඒ පිළිතුර රාජ්‍ය වැටුප් සංස්ථාව වෙනුවෙන්, ජනතා වතු සංවර්ධන මණ්ඩලය වෙනුවෙන් මම මේ ගරු සභාවට ඉදිරිපත් කරන්න සතුටුයි. ඒ ප්‍රශ්නය අනන්ත ප්‍රථම කලවාන ගරු මන්ත්‍රීතුමා ඒ ගැන විස්තරයක් කිරීමට අවශ්‍යයි කියල, මේ වැඩවර්ජනය විසඳන්න රජය ගෙන තිබෙන මූලික පියවර බොහෝම බොලොදයි කියා කීවා. විරුද්ධ පාර්ශ්වයේ, විශේෂයෙන්ම කලවාන ගරු මන්ත්‍රීතුමාට වැඩි අයගේ දේශපාලන දර්ශන මත එවැනි වැඩවර්ජන ඇති කරන්න දක්ෂතාවයක් තිබෙන බව කිසිම ප්‍රශ්නයක් නැතිව අපට පිළිගන්න පුළුවන්. තමුන් වැඩවර්ජන නිරාකරණය කිරීම විකල්පයක් අමාරුයි. ඒ මොකද, මේවා නිරාකරණය කිරීමට සාකච්ඡා ඇති කරන්න සිදු වෙනවා ; ඒ අයගේ ඉල්ලීම් ගැන සලකා බැලීමට සිදු වෙනවා. ඒ වාගේම ඒ අයගේ වේතන වැඩි කරන විට රජයට වියදම් දැරන්නට සිදු වෙනවා. මේ රජය බලයට පැමිණි පසුව මා හිතන්නේ වතු කම්කරුවන්ගේ වේතන කිහිප විටක්ම වැඩි කර තිබෙනවා. මා හිතන්නේ එය එකකියා ගැටකින් පමණ වැඩි කර තිබෙනවා. 1977 ට වඩා.

සරත් මුත්තේට්ටේගම මහතා  
(திரு. சரத் முத்தேட்டுவெகம)  
(Mr. Sarath Muttetuwegama)  
පොල්වල මිල කීයද ?

හැරල්ඩ් හේරත් මහතා  
(திரு. ஹால்ட் ஹேரத்)  
(Mr. Harold Herath)

දත් ඒකක් ප්‍රශ්නයක්ද ? අද පොල්වල මිල කීයද ? ඕක ගැනම කියල කියල අද රුපියල් 2.50 යි පොල් ගෙඩිය.

සරත් මුත්තේට්ටේගම මහතා  
(திரு. சரத் முத்தேட்டுவெகம)  
(Mr. Sarath Muttetuwegama)

ඒ කොහේද ?

හැරල්ඩ් හේරත් මහතා  
(திரு. ஹால்ட் ஹேரத்)  
(Mr. Harold Herath)

මුළු ලංකාවේම.

ලක්ෂ්මන් ජයකොඩි මහතා  
(திரு. லக்ஷ்மன் ஜயகொடி)  
(Mr. Lakshman Jayakody)

ඒ රු. 2.50 න් කම්කරුවාට කීයක් දී තිබෙනවාද ?

හැරල්ඩ් හේරත් මහතා  
(திரு. ஹால்ட் ஹேரத்)  
(Mr. Harold Herath)

I will answer. One donkey at a time, please.

ගරු නියෝජ්‍ය සභානායකතුමනි, මේ උදවියට දත් වියල කැක්කුමක් තිබෙනවා වතු කම්කරුවන් ගැන. අපි එය පිළිගත්තවා. මොකද ? වර්තමාන බලාපොරොත්තු ගැන කොවෙයි. අනාගත බලාපොරොත්තු ඇතිව වතු කම්කරුවන් ගැන වියල කැක්කුමක් ඒ අය තුළ වැඩිවේගෙන එනවා. අපි පිළිගත්තවා ඒක. නමුත් අපට මේ උදවිය ගැන කැක්කුමක් ඇති වුණේ අපි බලයට පත් වූ ද සිටියි. ඒ නිසා තමයි අපි දස දහස් සංඛ්‍යාත ප්‍රමාණයක් වූ මේ වතු කම්කරුවන්ගේ කුලීය වැඩි කර සැහෙන තරම් දුරට ඔවුන්ගේ නිවාස ප්‍රශ්නයන් විසඳ අධ්‍යාපනය සම්බන්ධව සෞඛ්‍ය සම්බන්ධව ඒ උදවියට විශේෂ තැනක් දී ඇත්ත වශයෙන්ම ඔවුන්ට මේ සමාජයේ තැනක් දුන්නේ. වතු කම්කරුවන්ට තැනක් දුන්නේ මේ රජය තමයි. තමුත්තාන්දේලාගේ කාලයේ බැරෑරුම්ක වගෙ ලයිත් කාමරවල දමල ජීවත් කරවූ වතු කම්කරුවන්ගේ නිවාසවලට අද ජල නල පහසුකම් තිබෙනවා. වතු කම්කරුවන්ගේ දරුවන්ට අද හොඳ පාසල් තිබෙනවා. ඒ වාගේම දිස්පෙන්සරී තිබෙනවා. දොස්තරවරු ඉන්නවා ඔවුන්ට අසතිපයකදී ප්‍රතිකාර ගන්නට. වතු කම්කරුවන්ට දතට සැහෙන පඩියකුත් ලැබෙනවා.

මන්ත්‍රීවරයෙක්  
(அங்கத்தவர் ஒருவர்)  
(A Member)

අවුරුදු හතක් මඤ්ඤෝක්ක කොල කැට්ටි.

හැරල්ඩ් හේරත් මහතා  
(திரு. ஹால்ட் ஹேரத்)  
(Mr. Harold Herath)

මොන මොන කොල කැට්ටියද මම දන්නෙ නැහැ. නමුත් අපි තමුත්තාන්දේලා ගැන අනුකම්පා කරනවා මේ පෙන්වන කැක්කුම ගැන. ඇත්ත වශයෙන්ම දේශපාලනය කරන තමුත්තාන්දේලාට මොකක් හරි කැක්කුමක් ඇති වෙන්නම ඕනෑ හැබැයි. මේ වතු කම්කරුවන් ගැන තමුත්තාන්දේලාට වඩා කැක්කුමක් අපට තිබෙනවා හේතු රාශියක් මත. මේ වතු කම්කරුවන් අපේ රජයට අපේ ජනාධිපතිතුමාට වියල වශයෙන් සහයෝගය දී තිබෙනවා. ඒ නිසා අපේ කැක්කුම. කෙලෙහිගුණ සලකන

රජයක් හැටියට වතු කම්කරුවන් ගැන නියම කැක්කුමක් ඇති රජයක මැති ඇමතිවරුන් හැටියට අපි ක්‍රියා කරන්නේ. අවස්ථාවාදීව යම් දෙයක් බලාපොරොත්තුවෙන් තමයි තමුත්තාන්දේලා තුළ කැක්කුමක් ඇති වෙන්නේ. ඊට පස්සෙ ඒ කැක්කුම නැහැ.

සරත් මුත්තේට්ටේගම මහතා  
(திரு. சரத் முத்தேட்டுவெகம)  
(Mr. Sarath Muttetuwegama)

මම රජයේ ඇමතිවරුන්ගේ අවස්ථාවාදීකම ගැන—

හැරල්ඩ් හේරත් මහතා  
(திரு. ஹால்ட் ஹேரத்)  
(Mr. Harold Herath)

I never disturbed you.

සරත් මුත්තේට්ටේගම මහතා  
(திரு. சரத் முத்தேட்டுவெகம)  
(Mr. Sarath Muttetuwegama)

ප්‍රශ්නයට උත්තර දෙන්න. තැන්තම මේක විවාදයක්.

හැරල්ඩ් හේරත් මහතා  
(திரு. ஹால்ட் ஹேரத்)  
(Mr. Harold Herath)

තමුත්තාන්දේයි මේක විවාදයක් කළේ.

සරත් මුත්තේට්ටේගම මහතා  
(திரு. சரத் முத்தேட்டுவெகம)  
(Mr. Sarath Muttetuwegama)

තමුත්තාන්දේ කොයි විධියේ අවස්ථාවාදීයෙක්ද කියල මම කීවෙම නැහැ. තමුත්තාන්දේත් අවස්ථාවාදීයෙක් එහෙම නම්. මම කියන්නම් ඕනෑ නම් ඒ ගැන විකක්.

හැරල්ඩ් හේරත් මහතා  
(திரு. ஹால்ட் ஹேரத்)  
(Mr. Harold Herath)

තමුත්තාන්දේගේ හිත රිදුණා නම් මම ඒක ඉල්ලා අස්කර ගන්නවා. ඒ වාගේම වචනයක් පිට වුණා නම් තමුත්තාන්දේට සිත් වේදනාවක් ඇති වුණා නම් සමා වෙන්න.

නියෝජ්‍ය සභානායකතුමා  
(பிரதிச் சபாநாயகர் அவர்கள்)  
(Mr. Deputy Speaker)

Why not reply to his question ?

හැරල්ඩ් හේරත් මහතා  
(திரு. ஹால்ட் ஹேரத்)  
(Mr. Harold Herath)

I will reply.

මේ වතු කම්කරුවන් ගැන මේ ගෝල්පට්ටේ වඩා අපට කැක්කුමක් තිබෙනවා. මොකද, අපි කෙලෙහිගුණ සලකන නිසයි. ඔවුන් අපට ආධාර කර තිබෙනවා. ඔවුන් අපේ රජයට අපේ ජනාධිපතිතුමාට අපේ පක්ෂයට ආධාර කර තිබෙනවා. මේ අය කැක්කුමක් පෙන්නුවාට ඇත්ත වශයෙන්ම අපටයි කැක්කුම තිබෙන්නේ. එම නිසා වතු කම්කරුවන් වෙනුවෙන් කරන්නට පුළුවන් සෑම දෙයක්ම මේ රජය කරනවා. පඩීන් වැඩි කරනවා.

Now, I will reply to the question. The answer is this.

The Trade Unions representing estate workers made certain requests for increases in the wages of estate workers. The Government has taken into account the

[சார்லிமேன் மொழி]

representations of the Trade Unions and has examined the financial resources of the JEDB and SPC and announced the following wage increases :

- (1) A historic equalisation of the wages of male and female workers on all Government-owned estates. This will cost the JEDB and SPC an additional Rs. 429 million annually.
- (2) Wage increases all round for all workers together with the equalisation mentioned above. This will cost an additional Rs. 674 million annually.
- (3) An assurance of six days work per week which will involve an additional expenditure of Rs. 252 million annually.
- (4) The total wage package referred to above will cost the Government about Rs. 1 billion more annually.
- (5) In addition, the Festival Advances for workers have been increased from Rs. 300 to Rs. 500 per worker.
- (6) Further the Government has promised a Committee consisting of Trade Union representatives as well to go into any further requests of the Trade Unions. The report of the Committee is expected to be ready by 1st September.

All these wage increases have been discussed with all the unions which have significant representations on the Estates.

மொண்டேயு ரமணசாமி மொழி (புது சர்க்காரை சார்லிமேன் மொழி)

(திரு. மொண்டேயு ரமணசாமி — பொது நிர்வாக அமைச்சரும் பெருந் தோட்டத்தொழில் அமைச்சரும்)

(Mr. Montague Jayawickrema—Minister of Public Administration and Minister of Plantation Industries)

As the Minister for Plantation Industries, I was present at the first conference with my hon. Friend.—(Interruption) Never mind who replied I am going to enlighten the House with further facts. I congratulate the Hon. Minister for such an explicit statement as the one he has made to the House.—(Interruption) I am enlightening the House because I was present. His Excellency the President was also present. I was also invited to be present. Representatives from the JSS were present. Officials from the SPC and the JEDB were present. For the first time in the history of this country, both men and women were given equal rights. If a male worker on a tea estate is paid Rs. 21 per day, a female worker is also paid the same amount, which is an increase of Rs. 8 per day.

May I ask the hon. Member for Kalawana whether the Sri Lanka Freedom Party did that? Did you give equal wages for both men and women in the plantation sector?

சார்லிமேன் மொழி  
(திரு. சரத் முத்தெட்டுவெகம்)  
(Mr. Sarath Muttetuwegama)

Sir, will I be given a chance to reply, because the Hon. Minister is asking me a question?

தலைவர் கூறியிருக்கிறார்  
(பிரதிச் சபாநாயகர் அவர்கள்)  
(Mr. Deputy Speaker)

Order, please! At this stage, only the Minister can give a reply.

லக்ஷ்மன் ரமணசாமி மொழி  
(திரு. லக்ஷ்மன் ஜயக்கொடி)  
(Mr. Lakshman Jayakody)

Can we not reply, Sir?

மொண்டேயு ரமணசாமி மொழி  
(திரு. மொண்டேயு ரமணசாமி)  
(Mr. Montague Jayawickrema)

Sir, I am only making a statement of fact.

சார்லிமேன் மொழி  
(திரு. சரத் முத்தெட்டுவெகம்)  
(Mr. Sarath Muttetuwegama)

I have no notice of the question.

மொண்டேயு ரமணசாமி மொழி  
(திரு. மொண்டேயு ரமணசாமி)  
(Mr. Montague Jayawickrema)

Then do not ask those questions, for you have not complied with what we have complied with. That is how the so called guardians of the workers treated them. Sir, in short, this Government has created history.

சார்லிமேன் மொழி  
(திரு. சரத் முத்தெட்டுவெகம்)  
(Mr. Sarath Muttetuwegama)

In many ways!

மொண்டேயு ரமணசாமி மொழி  
(திரு. மொண்டேயு ரமணசாமி)  
(Mr. Montague Jayawickrema)

We have given equal wages to both men and women. As my hon. Friend said, we have increased the wages of women workers by Rs. 8 per day commencing from 1st April.

Sir, that is all I have to say. Rs. 1 billion is involved in the wage rise. That is Rs. 1,000 million.

What has happened, Sir, is, there are certain areas like Hatton, Bandarawela, Nuwara Eliya and a few places where people are striking. I have not the slightest doubt that once labourers get to know of this tremendous wage increase, they will come back to work.





எழுதினியவகார, ருபநிதிடி றர், பத். பி. பி.  
 ஸமரகூத் மஹா கலூபி கிண கபாப பிபிபெடி  
 வினேஷ காரக ஸபாப

பிரதம நீதியரசர் கௌரவ என். டி. எம். சமரக்கோன்,  
 கியூ. சி. ஆற்றியதெனக் கூறப்படும் உரைதமீன தெரிசுபூ

**SELECT COMMITTEE ON ALLEGED SPEECH  
 OF HON. N. D. M. SAMARAKOON, Q.C.,  
 CHIEF JUSTICE**

ஈர். ப்ரேமடிட மஹா (ஈபூமாதலு, பபூத் பால, திபாட னா ஓடிக்கீழ்  
 ஈபூதினூ, மஹூப்த கபடினூ பிபிபெடி ஈபூதினூ ஸ பார்லிமென்டுபி  
 ஸபாபகனூ)

(திரு. ஆர். பிரேமதாசு — பிரதம அமைச்சரும் உள்ளூராட்சி,  
 வீடமைப்பு, திர்மாண அமைச்சரும் நெடுஞ்சாலைகள் அமைச்சரும்  
 பாராளுமன்றச் சபை முதல்வரும்)

(Mr. R. Premadasa—Prime Minister, Minister of Local  
 Government, Housing & Construction, Minister of Highways, and  
 Leader of the House of Parliament)

I formally move motion No. 1, standing in my name  
 for the appointment of a Select Committee.

வெர்சலாப :

பிரேரணை :

Motion :

“WHEREAS the Hon. N. D. M. Samarakoon, Q.C., Chief  
 Justice, has in a speech delivered at the Annual Awards Ceremony  
 of the Sinnathuray Commercial Tutory held at the Sea View Hotel,  
 Kollupitiya, on Wednesday the 14th March, 1984, said among other  
 things.

“I do not agree that what took place in July, last year, was racial  
 in that sense”.

“Resentment was building up not only against the terrorists but  
 against the establishment itself that was not taking proper action  
 against them”.

“People were driven to take a hand themselves and in effect they  
 told the terrorists, what you can do we can do better and they did”.

“They told the establishment specially one man in the  
 establishment if you can't stop it we will stop it. And they did it”.

“It is unfortunate that the means to an end was racial. If there  
 was another way of doing it, it would have been done”.

“The job Bank sends me once a month or so five or ten people who  
 have got on to the Job Bank lists through their MPs. Half of them  
 are unemployed. Some of them are supposed to be typists but they  
 cannot type a word. They can't spell. But we have to employ them.  
 Some of them have the impertinence to bring letters from MPs  
 which I throw to the waste paper basket. I cannot employ them and  
 I am finding it very difficult to run the establishment.

“I am telling you all this to illustrate that the employable  
 educated youth of this country are unable to get jobs outside the  
 Job Bank. The Job Bank is a fraud on the youth of this country”.

“Today its only the rich and may be the MPs who can live well”.

“These are words created by politicians to hoodwink the people”.

“I read sometime ago in the “SUN” paper that the President has  
 said that his salary is a pauper's salary, and that he is living on the  
 poverty line. I am surprised he is an elected representative of the  
 people. He has all the powers. All the palaces in Nuwara Eliya and  
 Kandy. They are paying a hell of a lot of money to keep him in  
 poverty”.

“I know it is difficult now even to join the public sector or the  
 private sector to maintain ourselves the way we should be  
 maintained. I am referring to this as I find our people are taking  
 bribes. I cannot blame them”.

That this Parliament is of opinion that a Select Committee of  
 Parliament be appointed to inquire into and report to Parliament  
 on—

(1) whether any or all of the statements attributed to the  
 Hon. N. D. M. Samarakoon as reported in the Press were  
 made by him at the Annual Awards Ceremony of the  
 Sinnathuray Commercial Tutory held at the Sea View Hotel,  
 Kollupitiya, on Wednesday, the 14th March, 1984.

(2) If such statements were made, whether such statements—

(i) constitute improper conduct or conduct unbecoming of  
 the holder of the Office of Chief Justice ;

(ii) refer to matters of a political nature, or refer to matters  
 involving political issues or controversies and matters  
 which could form the subject of proceedings before him  
 or other judicial personnel ;

(iii) affect the dispensation of impartial justice ;

(iv) afford grounds for allegations of bias by parties to  
 proceedings ; and

(v) tend to bring the entire Supreme Court and particularly  
 the Office of the Chief Justice into dispute ; and

(3) whether the Committee is of opinion that these  
 circumstances warrant any further action and if so, to  
 recommend what action be taken.

That the Committee shall—

(a) have the power to fix its quorum ;

(b) have the power to summon any person to appear before it, to  
 require any person to produce any document or record, to  
 procure and receive all such evidence, written or oral, as the  
 Committee may think it necessary for the fullest  
 consideration of the matters referred to above ; and

(c) have the power to report from time to time and to sit  
 notwithstanding any adjournment of Parliament.”

புலவ ஸதரிஜூவ கரவ ஓடி.

கிண எடுத்தியம்பப்பெற்றது.

Question proposed.

ஈபிடி மூக்டிஹ மஹா

(திரு. அனில் முனசிங்ஹ)

(Mr. Anil Moonasinghe)

I rise to a point of Order on the Hon. Prime  
 Minister's Motion.

The question is whether you are raising it under  
 Standing Order 78 of our Standing Orders or whether  
 you are raising it under Standing Order 78 read with  
 Standing Order 94. May I address you on this matter ?

திவெர்ச கபாபகனூ

(பிரதிச் சபாநாயகர் அவர்கள்)

(Mr. Deputy Speaker)

Yes.

கா. சே. மூர்த்தி  
(திரு. ஆர். பிரேமதாசு)  
(Mr. R. Premadasa)

Standing Orders 78 and 94.

சு. சி. மூர்த்தி  
(திரு. அனில் முனிசிங்கம்)  
(Mr. Anil Moonesinghe)

These are the only two Standing Orders under which this Motion could be brought in. Standing Order 78 states :

“78. The conduct of the President, or acting President, Members of Parliament, Judges or other persons engaged in the administration or justice shall not be raised except upon a substantive motion ;

I believe that this is being brought under that Standing Order read with Standing Order 94 which is about the appointment of Select Committees. The point I am raising is this ; first of all, may I read Standing Order 94 ?

“94. If it is desired to enable a Select Committee to whom a Bill or matter has been referred to hear evidence thereon, Parliament may by resolution empower that Committee to send for persons, papers and records and any Committee on whom such powers have been conferred shall have leave to report their opinions and observations together with the minutes of evidence taken before them to Parliament and to make a special report of any matters which they think fit to bring to the notice of Parliament.”

Now, Sir, the matter that is being raised today is about the conduct of the Chief Justice of the Supreme Court. There we are governed by Article 107 of the Constitution, the heading of which is “Independence of the Judiciary”. Article 107 (3) states ;

(3) Parliament shall by law or by Standing Orders provide for all matters relating to the presentation of such an address, including the procedure for the passing of such resolution, the investigation and proof of the alleged misbehaviour or incapacity and the right of such Judge to appear and to be heard in person or by representative.

This Motion purports to carry out an investigation :

“That this Parliament is of opinion that a Select Committee of Parliament be appointed to inquire into and report to Parliament”-

It is a judicial matter to inquire into something and to report. I want to say here that according to Standing Order 78 a number of people are involved in respect of whom you have to bring a substantive motion merely to raise some matter—not to go into the adjudication but to raise some matter—and I say, therefore that you cannot appoint a Select Committee under this Standing Order. Why do I say that ? Because, as far as the limb saying, “judges”—leave aside the judges ; take “or other persons engaged in the administration of justice shall not be raised except upon a substantive motion ;” that means, people other than Judges, Judges of the Appeal Court, Judges of the Supreme Court, that is, other persons engaged in the administration of justice—their conduct cannot be referred to in Parliament except on a substantive

motion. Now, it may be argued that the substantive motion includes the Select Committee. That is the point I am trying to deal with. It cannot include that.

Article 112 (1) of the Constitution says :

“There shall be a Judicial Service Commission (in this Chapter referred to as the “Commission”) which shall consist of the Chief Justice who shall be the Chairman, and two Judges of the Supreme Court appointed by the President of the Republic”.

That means there is the Judicial Service Commission. Then Article 114 (1) says :

“The appointment, transfer, dismissal and”-

This is the operative part-

“disciplinary control of judicial officers, and (notwithstanding anything to the contrary in Chapter IX) of scheduled public officers, is vested in the Commission.”

In other words, under Article 114 of the Constitution, the only body that can go into the impropriety, unbecoming conduct or otherwise, of a judicial officer who comes under the Judicial Service Commission is only the Judicial Service Commission. Therefore my argument is, as far as persons governed by the Judicial Service Commission are concerned, no Select Committee of this House can be appointed to inquire into any of those grievances. That is one limb of the argument.

The other limb of the argument is that in regard to the President himself, if you want to refer to His Excellency the President in this House, you must bring it on a substantive motion. You cannot bring in this House a Motion which includes a Select Committee to be appointed in regard to the President, because the President is governed by Article 38 of the Constitution. That is the gravamen of my argument.

Article 38 (2) (a) of the Constitution says :

“Any Member of Parliament may, by a writing addressed to the Speaker, give notice of a resolution alleging that the President is permanently incapable of discharging the functions of his office by reason of mental or physical infirmity or that the President has been guilty of-

- (i) intentional violation of the Constitution,
- (ii) treason,
- (iii) bribery,
- (iv) misconduct or corruption involving the abuse of the powers of his office, or”-

சு. சி. மூர்த்தி  
(பிரதிச் சபாநாயகர் அவர்கள்)  
(Mr. Deputy Speaker)

Order, please ! That is to remove the President.



I want to say that the British House of Commons has a different standard. If you want to say that the principles of the British House of Commons apply here—(Interruption) All I want to say at the moment is that it cannot come under Standing Orders 78 or 94.

ආර්. ප්‍රේමදාස මහතා  
(ති.රු. ආර්. பிரேமதாச)  
(Mr. R. Premadasa)

තුරි සිව්සේස—  
எழுந்தார்.  
rose

සරත් මුත්තේවෙගම මහතා  
(ති.රු. சரத் முத்தேவகம)  
(Mr. Sarath Muttetuwegama)

Sir, the Hon. Prime Minister can reply to both our arguments, those of the hon. Member for Matugama (Mr. Anil Moonesinghe) and mine.

ආර්. ප්‍රේමදාස මහතා  
(ති.රු. ආර්. பிரேமதாச)  
(Mr. R. Premadasa)

Sir, this is not fair. I can handle only one matter at a time.

Mr. Deputy Speaker, we are not discussing the merits or the demerits of the Motion at this juncture. The hon. Member for Matugama (Mr. Anil Moonesinghe) has questioned the procedure regarding these matters. I hope I am correct. He wanted to say that the procedure we have adopted in introducing a Motion of this nature is not correct. But I would like to tell him that we are only following the precedents of this legislature in matters like this. May I also tell him that under our Constitution everybody is subordinate to Parliament. That will have to be accepted. Even though the President, is elected by the people, it is only this House that can remove him.

අනිල් මුණසිංහ මහතා  
(ති.රු. அனில் முனிசிங்ஹ)  
(Mr. Anil Moonesinghe)

That is agreed.

ආර්. ප්‍රේමදාස මහතා  
(ති.රු. ආර්. பிரேமதாச)  
(Mr. R. Premadasa)

Then that is also subordination. There is no power under the sun or moon, in Sri Lanka, that is not subordinate to the will of the people which is expressed through Parliament. They were blaming us and saying that we were trying to devalue Parliament. It is they who are trying to devalue Parliament! Anyway, that is beside the point.

There have been Motions of this nature in this House before. You, Sir, would be aware that there have been several Motions coming down from early days — even during the days of the Legislative Council

— to probe into various matters. This House has an inherent right to probe into any matter. This is only a motion to appoint a Select Committee to find out whether certain things are true or not and to submit the report of that Committee to Parliament. That is all. I think the hon. Member was going beyond that, beyond that situation. The hon. Member was trying to compare the position of the President with that of others, but I would like to point out to him that in regard to the judiciary there is a separate section in the Constitution, as he quite rightly pointed out — Article 107 of the Constitution. There a course of action is enumerated if you want to deal with a judge. The procedure is laid down there. It says :

“ Every such judge shall hold office during good behaviour, and shall not be removed except by an order of the President made after an address of Parliament, supported by a majority of the total number of Members of Parliament (including those not present) has been presented to the President for such removal on the ground of proved misbehaviour or incapacity : ”

There is a separate procedure for that. This Motion has nothing to do with that. This is a very simple Motion and it only seeks to appoint a Select Committee to find out whether these things are true or not.

අනිල් මුණසිංහ මහතා  
(ති.රු. அனில் முனிசிங்ஹ)  
(Mr. Anil Moonesinghe)

Under the Constitution, can you appoint a Select Committee to inquire into matters concerning the other judiciary also ?

ආර්. ප්‍රේමදාස මහතා  
(ති.රු. ආර්. பிரேமதாச)  
(Mr. R. Premadasa)

I am coming to an important point. Let us forget the other judiciary for the moment and let us deal with the point of Order that you have raised.

You referred to Standing Order 78 and also to Standing Order 94. Before you refer to the Standing Order read the subject of the Standing Order.

Standing Order 78 refers to Rules of Debate :

“ The conduct of the President, or acting President, Members of Parliament, Judges or other persons engaged in the administration of justice shall not be raised except upon a substantive motion ; ”

That is about Rules of Debate. It is not about presentation of Motions. This is a presentation of a Motion. I will show you where the Standing Orders deal with presentation of Motions.

Then Standing Order 94 is about Select Committees.

(At this stage recording was interrupted due to a power failure.)

ලක්ෂ්මන් ජයකොඩි මහතා

(திரு. லக்ஷ்மன் ஜயக்கொடி)

(Mr. Lakshman Jayakody)

We cannot hear you !

ආර්. ප්‍රේමදාස මහතා

(திரு. ஆர். பிரேமதாச)

(Mr. R. Premadasa)

Why can you not hear me ? I am loud enough. I have spoken to larger crowds than this at a time when you people were disturbing our meetings. There was a time when they got their supporters to hoot at our meetings. I had to speak louder than those hoots. I am trained in this game. The hon. Member for Attanagalla knows that very well. Do not worry !

Standing Order 94 refers to Select Committees :

“ If it is desired to enable a Select Committee to whom a Bill or matter has been referred to hear evidence thereon, . . . . . ”

Sir I think these two Standing Orders are irrelevant as far as this point is concerned. May I refer him to Standing Order 23 (3) :

“ All motions, of which notice has been received by the Secretary-General, shall, unless Mr. Speaker rules the motion out of order, be included in the Order Book, . . . . . ”

This is the relevant Standing Order. The Government has submitted a Motion to the Secretary-General, and the Speaker has accepted it. It appears on the Order Paper. There is nothing out of order. Please do not go beyond the Standing Order. Do not bring in any personalities and their conduct into this Motion. Here it is a fact-finding Select Committee. This House has the inherent right to probe any matter. That is the position.

සරත් මුත්තේටුවෙගම මහතා

(திரு. சரத் முத்தேட்டுவெகம்)

(Mr. Sarath Muttetuwegama)

තුඹි සිරිසේන-

எழுந்தார்.

rose.

ಶಿ‍යෝ‍ජ්‍ය කථනා‍යකතුමා

(பிரதிச் சபாநாயகர் அவர்கள்)

(Mr. Deputy Speaker)

Order, please ! Is it on this same point ?

සරත් මුත්තේටුවෙගම මහතා

(திரு. சரத் முத்தேட்டுவெகம்)

(Mr. Sarath Muttetuwegama)

Not on the same point, but you were going to give the Order.

ಶಿ‍යෝ‍ජ්‍ය කථනා‍යකතුමා

(பிரதிச் சபாநாயகர் அவர்கள்)

(Mr. Deputy Speaker)

The hon. Member for Matugama has raised a point of Order in regard to Item No. 1 on the Order Paper. I refer the House to Standing Order 33 which states :

“ It shall be competent for any member to propose any motion on any matter of public interest and such motion shall be debated . . . . . ”

Accordingly, in terms of Standing Order 23 (3) this motion has been tendered and the Hon. Speaker has said that it is in Order.

මන්ත්‍රීවරයෙක්

(அங்கத்தவர் ஒருவர்)

(A Member)

Who ?

ಶಿ‍ಯෝ‍ජ්‍ය කථනා‍යකතුමා

(பிரதிச் சபாநாயகர் அவர்கள்)

(Mr. Deputy Speaker)

The Hon. Speaker.

ලක්ෂ්මන් ජයකොඩි මහතා

(திரு. லக்ஷ்மன் ஜயக்கொடி)

(Mr. Lakshman Jayakody)

You have not read the entirety of that particular Standing Order. It says :

“ It shall be competent for any member to propose any motion on any matter of public interest and such motion shall be debated, or otherwise disposed of, according to these Standing Orders.”

ಶಿ‍ಯෝ‍ಜ்‍ಯ කථනා‍යකතුමා

(பிரதிச் சபாநாயகர் அவர்கள்)

(Mr. Deputy Speaker)

This Standing Order refers to Standing Order 23 (3). All the requirements of that Standing Order have been complied with. Notice of this Motion has been given and this Motion has been stated to be in Order by the Hon. Speaker, and therefore it is in the Order Book. There is also no Standing Order which says anywhere that a Motion to appoint a Select Committee cannot be brought before this House. I therefore rule that this Motion is in Order.

සරත් මුත්තේටුවෙගම මහතා

(திரு. சரத் முத்தேட்டுவெகம்)

(Mr. Sarath Muttetuwegama)

I rise to another point of Order, and that relates to a matter which is much more fundamental. The House and the Hon. Speaker, I say with respect, will not entertain a Motion that runs counter to the Constitution of the country. My respectful submission is that this Motion, if it is tabled, if it is debated, if it is passed, and if the consequences that the Motion envisages, that is, the appointment of a Select Committee, takes place, it will be a complete violation of the Constitution of the country.

ಶಿ‍ಯෝ‍ಜ்‍ಯ කථනා‍යකතුමා

(பிரதிச் சபாநாயகர் அவர்கள்)

(Mr. Deputy Speaker)

Order, please ! Now we are not dealing with a point of Order.

ஈரன் இன்னைப்பிலை அஃதா  
(திரு. சரத் முத்தெட்டுவெகம்)  
(Mr. Sarath Muttetuwegama)

No, no. It is a point of Order.

தினேர்ச கப்தாசகனூலா  
(பிரதிச் சபாநாயகர் அவர்கள்)  
(Mr. Deputy Speaker)

We are really dealing with this Motion, and if you can convince hon. Members of the House —

ஈரன் இன்னைப்பிலை அஃதா  
(திரு. சரத் முத்தெட்டுவெகம்)  
(Mr. Sarath Muttetuwegama)

No, Sir. I am saying that you as Speaker will not allow a debate on something that runs counter to the Constitution. I will show you. This Motion runs counter to the Constitution. For example, suppose somebody were to bring a Motion, which is in the form of a Motion under Standing Order No. 33 or under Standing Order No. 23 but it is something that violates the Constitution of this country. For example, if one were to introduce a Motion in this House to the effect that all people who subscribe to the Christian religion will not be given the right to vote, it would be a Motion—

தினேர்ச கப்தாசகனூலா  
(பிரதிச் சபாநாயகர் அவர்கள்)  
(Mr. Deputy Speaker)

Order, please! Then that Motion will not be ruled in Order by the Hon. Speaker and it will not come on the Order Book.

ஈரன் இன்னைப்பிலை அஃதா  
(திரு. சரத் முத்தெட்டுவெகம்)  
(Mr. Sarath Muttetuwegama)

Precisely. That is exactly what I am saying.

தினேர்ச கப்தாசகனூலா  
(பிரதிச் சபாநாயகர் அவர்கள்)  
(Mr. Deputy Speaker)

But once it is on the Order Book the Motion must be debated, and certainly you can convince this House that it should be rejected.

ஈரன் இன்னைப்பிலை அஃதா  
(திரு. சரத் முத்தெட்டுவெகம்)  
(Mr. Sarath Muttetuwegama)

No, Sir. With the greatest respect I say—

தினேர்ச கப்தாசகனூலா  
(பிரதிச் சபாநாயகர் அவர்கள்)  
(Mr. Deputy Speaker)

But the Hon. Speaker cannot take the responsibility of testing whether Motions are inconsistent with the Constitution and go on another voyage of discovery. That is too much of a responsibility for any Speaker. Is there anything in this Motion itself which is objectionable according to the Standing Orders?

ஈரன் இன்னைப்பிலை அஃதா  
(திரு. சரத் முத்தெட்டுவெகம்)  
(Mr. Sarath Muttetuwegama)

You must allow me to try and convince you that there is.

தினேர்ச கப்தாசகனூலா  
(பிரதிச் சபாநாயகர் அவர்கள்)  
(Mr. Deputy Speaker)  
Very well.

ஈரன் இன்னைப்பிலை அஃதா  
(திரு. சரத் முத்தெட்டுவெகம்)  
(Mr. Sarath Muttetuwegama)

If I convince you, then you will rule the Motion out of Order.

Now, the position is this. You will see that the Motion—I do not want to read it; it is a long Motion—refers to a speech alleged to have been made by Hon. N. D. M. Samarakoon, Chief Justice. Then it sets out the relevant passages, the passages complained of as it were. Then it says, whether any or all of these statements were made, and if they were made, whether they constitute improper conduct; whether they refer to matters of a political nature, or refer to matters involving political issues or controversies and matters which could form the subject of proceedings before him or judicial proceedings; whether they affect the dispensation of impartial justice, and so on. Now, I say that the moment you go to have a Motion on those lines and go to look into speeches made in various parts of the country by various people, you are running counter to certain fundamental rights guaranteed by the Constitution of this country. One of the fundamental rights guaranteed by the Constitution is contained in Article 4(d) of the Constitution. Article 4(d) of the Constitution is a unique provision which you find only in our Constitution. As far as I can see, it is not even in the Indian Constitution. It says that “the fundamental rights which are by the Constitution declared and recognised shall be respected, secured and advanced by all the organs of government, and shall not be abridged, restricted or denied, save in the manner and to the extent hereinafter provided.”

தினேர்ச கப்தாசகனூலா  
(பிரதிச் சபாநாயகர் அவர்கள்)  
(Mr. Deputy Speaker)

Order, please! If there is a breach or if any act has been done against the fundamental rights the form is not this.

ஈரன் இன்னைப்பிலை அஃதா  
(திரு. சரத் முத்தெட்டுவெகம்)  
(Mr. Sarath Muttetuwegama)

No, no. That is another matter. If this House is committing a breach of the fundamental rights there is no other forum. We cannot go to the Supreme Court and canvass it.

நியோசர் கபாநாயகர்  
(பிரதிச் சபாநாயகர் அவர்கள்)  
(Mr. Deputy Speaker)

That is why this Parliament is supreme.

ஈரன் மூன்றெடுவெலம் மறை  
(திரு. சரத் முத்தெட்டுவெகம்)  
(Mr. Sarath Muttetuwegama)

I will show you that Parliament is not supreme in that sense.—(Interruption). May I finish? I will not take long.

Then, Sir, that is the fundamental right that 4 (d) sets out—the *defensor*. Now, the problem arises when you try to equate the sovereignty of Parliament to the sovereignty of the people. They are two different concepts altogether. The sovereignty of Parliament is not the same as the sovereignty of the people, although it is the people who have elected the Members of the Parliament and although the Parliament constitutes, in a sense, a body which is acting for and on behalf of the people. In terms of our Constitution they are not the same thing, because in our Constitution you will see that there are certain things that Parliament cannot do but the people can do. For example Mr. Deputy Speaker, there are certain laws which this Parliament cannot pass, or rather, which this Parliament may pass but will not become law without the sanction of the people at a Referendum. So in that sense there is a sovereignty of the people which is higher than and above the sovereignty of Parliament in regard to that matter. There is also the provision where if this parliament were to reject a Bill – any Bill – the President has the right to refer it by way of a referendum to the people, and if the people pass that Bill, notwithstanding the fact that the Parliament has rejected it that becomes law. Therefore, in our Constitution you cannot equate the sovereignty of Parliament to the sovereignty of the people. The sovereignty of the people is higher than the sovereignty of Parliament.

I will show you that this Constitution enacted in 1977 under a mandate of the people reserved certain areas one area for the Executive, one area for the Legislature, one area for the Judiciary. But I am not on that at the moment. That is a matter for a substantive motion. What I say is, this is unconstitutional for this reason.—(Interruption). I will come to that. Article 4 (d) guarantees certain fundamental rights.

ஈர். ட்ரேமடாசா மறை  
(திரு. ஆர். பிரேமதாசா)  
(Mr. R. Premadasa)

What is this particular fundamental right that you are referring to now?

ஈரன் மூன்றெடுவெலம் மறை  
(திரு. சரத் முத்தெட்டுவெகம்)  
(Mr. Sarath Muttetuwegama)

The right of speech, freedom of speech.

ஈர். ட்ரேமடாசா மறை  
(திரு. ஆர். பிரேமதாசா)  
(Mr. R. Premadasa)

Can you quote that –

ஈரன் மூன்றெடுவெலம் மறை  
(திரு. சரத் முத்தெட்டுவெகம்)  
(Mr. Sarath Muttetuwegama)

Yes, I will quote it if you can give me a few minutes.

ஈர். ட்ரேமடாசா மறை  
(திரு. ஆர். பிரேமதாசா)  
(Mr. R. Premadasa)

—because we want to follow you.

ஈரன் மூன்றெடுவெலம் மறை  
(திரு. சரத் முத்தெட்டுவெகம்)  
(Mr. Sarath Muttetuwegama)

Now, Article 27 of the Constitution again goes to extend the concept of fundamental rights. It says :

“ Directive principles of State policy and fundamental duties ”

நியோசர் கபாநாயகர்  
(பிரதிச் சபாநாயகர் அவர்கள்)  
(Mr. Deputy Speaker)

Order, please! Is it not too premature to discuss these, because we are setting up this Committee to find out whether there was such a speech made?

ஈரன் மூன்றெடுவெலம் மறை  
(திரு. சரத் முத்தெட்டுவெகம்)  
(Mr. Sarath Muttetuwegama)

No, no. The point is not whether there was such a speech—

நியோசர் கபாநாயகர்  
(பிரதிச் சபாநாயகர் அவர்கள்)  
(Mr. Deputy Speaker)

Of course, to go into the facts.

ஈரன் மூன்றெடுவெலம் மறை  
(திரு. சரத் முத்தெட்டுவெகம்)  
(Mr. Sarath Muttetuwegama)

It is not so. If you read the Motion you will find that it is not whether there was such a speech made. Look at the wording of the Motion.

நியோசர் கபாநாயகர்  
(பிரதிச் சபாநாயகர் அவர்கள்)  
(Mr. Deputy Speaker)

Very well. You can carry on.



සරත් මුත්තේවෙගම මහතා  
(திரு. சரத் முத்தேவகம)  
(Mr. Sarath Muttetuwegama)

It says,

"Whereas the Hon. N. D. M. Samarakoon, Q.C., Chief Justice, has in a speech delivered at the Annual Awards Ceremony of the Sinnathuray Commercial Tutory held at the Sea View Hotel, Kollupitiya, on Wednesday the 14th March, 1984, said among other things . . . ."

தியேட்டர் உறுப்பினர்  
(பிரதிச் சபாநாயகர் அவர்கள்)  
(Mr. Deputy Speaker)

Did he say this? The Select Committee is appointed to find out that fact. At least that has a basis. I am trying to cut short this unnecessary—(Interruption).

සරත් මුත්තේවෙගම මහතා  
(திரு. சரத் முத்தேவகம)  
(Mr. Sarath Muttetuwegama)

Now, Sir, if I can get on with my argument. Chapter VI deals with Directive Principles of State Policy and Fundamental Duties. Article 27 (2) sages :

"The State is pledged to establish in Sri Lanka a democratic socialist society, the objectives of which include—

(a) the full realization of the fundamental rights and freedoms of all persons ;

(b) the promotion of the welfare of the People by securing and protecting as effectively as it may, a social order in which justice....."

Then we go back to what the fundamental rights are, and that is set out in the Constitution. That is set out in Article 14 (1). Among the fundamental rights that have been guaranteed to the people is this :

"14 (1) (a) the freedom of speech and expression, including publication ;"

Now, Sir, I want to say that our Constitution recognizes a certain set of fundamental rights. It also recognizes certain inhibitions in the larger interests of society, and those are also set out. For example, if our Constitution had said that there is a right of free speech but somewhere else it was said "but judges of the Supreme Court shall not talk about politics", then that fundamental right is inhibited by that, because that is exactly what has been done in certain cases in this Constitution.

Look at Article 15. Article 15 (8) states :

"The exercise and operation of the fundamental rights declared and recognized by Articles 12 (1), 13, and 14"

Those include the right of free speech—

"shall, in their application to the members of the Armed Forces, Police Force and other Forces charged with the maintenance of public order, be subject to such restrictions as may be prescribed by law in the interests of the proper discharge of their duties and the maintenance of discipline among them".

Those are the only categories of people who are restricted from the fundamental right of free speech which is guaranteed by Article 14 (1) (a). Therefore, Sir, I say that if some Brigadier in the Army—(Interruption). There is nothing in Article 15 (2). Article 15 (2) is different ; It says :

"The exercise and operation of the fundamental right declared and recognized by Article 14 (1) (a) shall be subject to such restrictions as may be prescribed by law in the interests of racial and religious harmony or in relation to parliamentary privilege, contempt of court, defamation or incitement to an offence"—(Interruption).

There is nothing to laugh at. There are people who defame other people. Therefore you have the law of Defamation. If you make statements which are criminally defamatory you are subject to prosecution under the Penal Code. That is not a restriction of the fundamental right of free speech. The only restriction is where members of the armed forces, police, etc., are restricted from saying certain things.

Now, Sir, the fundamental rights that are in our Constitution are taken from the Declaration of Human Rights of the 10th of December, 1948 and as such the Constitution in this sense prevents you. Mr. Deputy Speaker. I say respectfully, from taking cognizance of this Motion, from allowing it to be publicly debated and from allowing it to pass into the statute book and into law.

ආර්. ප්‍රේමදාස මහතා  
(திரு. ஆர். பிரேமதாச)  
(Mr. R. Premadasa)

The hon. Member was raising a point of Order, but I thought that it was not a point of Order because he has not drawn your attention to the Standing Orders ; he is making a constitutional point whether this Motion is going counter to the Articles of the Constitution. That is an important question he has raised, but I must say it is not valid. I can prove that. His point is not valid on the basis of the Motion itself. The operative part of this Motion is where it says :

"That this Parliament is of opinion that a Select Committee of Parliament be appointed to inquire into and report to Parliament on"

The earlier part of the Motion is just a preamble. That is not the opinion of this Parliament ; it is quoting some statements that had appeared in some newspapers, statements supposed to have been made by the Hon. Chief Justice. Whether they were true or not or whether they were in fact made or not is not the opinion of the Parliament. That is why we are appointing this Select Committee. The most operative part of this Motion starts from this point.

"That this Parliament is of opinion that a Select Committee of Parliament be appointed to inquire into and report to Parliament on—

(1) Whether any or all of the statements attributed"

[සර. ප්‍රේමදාස මහතා]

'Attributed'—that word is very important; this Parliament is not passing any judgement—

"to the Hon. N. D. M. Samarakoon as reported in the Press were made by him at the Annual Awards Ceremony of the Sinnathuray Commercial Tutory held at the Sea View Hotel, Kollupitiya, on Wednesday, the 14th March, 1984."

Now, Sir, this Parliament is not going to pass any judgment on this matter. It only wants to ascertain whether these statements were in fact made—also, this Select Committee is being asked to study and consider all these views that the hon. Member is putting forward here and the views that were expressed by the hon. Member for Matugama (Mr. Anil Moonesinghe)—and whether if these statements were made they would constitute improper conduct or conduct unbecoming of the holder of the Office of Chief Justice. All those things will have to be considered.—(Interruption). No Judgment. No Select Committee can pass judgment. I will come to the judgment part, just give me a little time. I will show you where the judgment part comes.

So, it is not fair by this House or, for that matter, not fair by the Government to say that we are passing judgment on anybody. It is not so. It is true that there were various views expressed by various quarters in regard to this matter, but the Government, as a responsible Government, decided that we must in the first instance ascertain the facts, go into all aspects of this matter, find out the various procedures, and all those things are to be gone into, not by a committee of Government but by a Select Committee of the House where the hon. Members of the Opposition are also going to serve. So, I want to dispel this misgiving that we are trying to pass judgment on anyone. In point of fact, Mr. Deputy Speaker, that is why I just got up and formally moved this Motion. The Government has an open mind on this matter. I have an open mind. We all have an open mind. As responsible Parliamentarians, we must not pass judgment on anybody without hearing all aspects of the matter. So the Government thought, as in the past in matters of this nature, that a Select Committee should go into this matter and report to this House.

Now, in regard to disciplinary matters, there is a separate section governing the procedure. That is stated in Article 107 of the Constitution. What does it say? It lays down the procedure that should be adopted; that is, no action can be taken to remove a judge without an "address of Parliament". That is what the Constitution says. This Motion is not an address of Parliament. This is just an innocent Motion for the appointment of a Select Committee.—(Interruption). I say 'innocent' because we are not passing judgment on anybody arbitrarily or

*ex parte*. That is why I say it is an innocent Motion. It is very simple and very reasonable. As I pointed out, as far as the removal of a judge is concerned, Article 107 of the Constitution provides that not only you have to pass a Motion, an address of Parliament, but it has to be supported by a majority of the total number of Members of Parliament including those not present, and then only it shall be presented to the President.

Sir, the hon. Member for Kalawana was telling us that this Motion is going counter to fundamental rights. That is also very interesting. We must examine that too. He referred to Chapter 1 of the Constitution: "The People, the State and Sovereignty" — Article 4 (d) which states:

"the fundamental rights which are by the Constitution declared and recognized shall be respected, secured and advanced by all the organs of government."

He quoted that. So let us go to the Fundamental Rights. Article 10 under "Fundamental Rights" states:

"Every person is entitled to freedom of thought, conscience and religion, including the freedom to have or to adopt a religion or belief of his choice."

So, where is it denied here? (Interruption) — No, no. Under the Motion where have we denied somebody's freedom of thought, conscience and religion or the freedom to adopt a religion or belief of his choice? Please show me! Does this Motion say that the Hon. Chief Justice will not enjoy the fundamental right in Article 10, that he cannot have freedom of thought, conscience, religion or belief of his choice? Where does it say here?

සරත් මුත්තේවිටේගම මහතා

(திரு. சரத் முத்தேவீடுவெகம)

(Mr. Sarath Muttetuwegama)

Article 14, the fundamental rights I read. There is no point in reading the others.

ආර්. ප්‍රේමදාස මහතා

(திரு. ஆர். பிரேமதாச)

(Mr. R. Premadasa)

Let us take Article 14 (1) (a) — "the freedom of speech and expression including publication." Show me where that is denied in this Motion! You can just quote, but you must prove it. Where does it say that it is denied? We uphold the Constitution. We will be the first to come here and vote against any Motion that denies these fundamental rights. The hon. Member went to the extreme of saying, "Sir, can a Motion be introduced in this House denying religious rights of the Christians, or whatever it is?" But the hon. Member would know quite well that you may pass a Motion of that nature in this House but you cannot implement it. — (Interruption) — No, no, even if you

pass such a Motion, you will have to bring legislation and when you bring legislation you have to gazette such legislation ; when you gazette that legislation, it has to go before the Supreme Court which is the Constitutional Court. At that stage the Court will point out, " Look, this Bill is against the Constitution." It falls through. So, where does it say that this Motion is going counter ?

You mentioned Article 14 (1). What does that say ?

" Every citizen is entitled to-

- (a) the freedom of speech and expression including publication ; "

Show me where it is denied in this Motion ? If it does so, of course, this Motion would be out of order because it would go counter to the Constitution and if we pass this Motion, it would be invalid, it would be useless. Where does it deny ?

What is the other Section you mentioned ? Article 10 :

" Every person is entitled to freedom of thought, conscience and religion, including the freedom to have or to adopt a religion or belief of his choice. " - (Interruption) -

All right, then I will drop that. So you quote only Section 14 (1) (a) - " the freedom of speech and expression including publication." In point of fact we are trying -

සරත් මුත්තේවෙලම මහතා  
(திரு. சரத் முத்தேவலகம்)  
(Mr. Sarath Muttetuwegama)

This Motion curbs, in effect, the right of certain categories of people to make speeches.

ஈர். ப்ரேமடாசா மஹா  
(திரு. ஆர். பிரேமதாசா)  
(Mr. R. Premadasa)

How ? It is a ridiculous argument, I am sorry to say. Where does it say so ? You prove it under this !

தீயேட்டர் கதாநாயகர்  
(பிரதிச் சபாநாயகர் அவர்கள்)  
(Mr. Deputy Speaker)

He is presuming that these speeches were made.

ஈர். ப்ரேமடாசா மஹா  
(திரு. ஆர். பிரேமதாசா)  
(Mr. R. Premadasa)

Let us study the operative part of the Motion :

" Whether any or all of the statements attributed to the Hon. N. D. M. Samarakoon as reported in the Press were made by him at the Annual Awards Ceremony "

of such and such a place. This is not curbing the freedom of speech. Where does it say ?

" If such statements were made, whether such statements constitute improper conduct or conduct unbecoming of the holder of the office of Chief Justice."

Where does it curb fundamental rights unless you say that improper conduct is constitutional ? Are you taking up that position ? I cannot see in the fundamental rights any one of these privileges. To indulge in " improper conduct " is not in the Constitution. That is not a privilege guaranteed by the Constitution. To be " unbecoming of the holder of the Office of Chief Justice " - that is not a privilege given in the Constitution. So, is it wrong for a Select Committee to look into these matters ? Where does it violate the Constitution, the fundamental rights ? Then it says :

"(ii) refer to matters of a political nature, or refer to matters involving political issues or controversies and matters which could form the subject of proceedings before him or other judicial personnel ;

(iii) affect the dispensation of impartial justice " .

What is wrong in studying these things, considering these aspects and making a report to this House ?

" (iv) afford grounds for allegations of bias by parties to proceedings ; and

(v) tend to bring the entire Supreme Court and particularly the Office of the Chief Justice into disrepute "

These are not fundamental rights ! How does it go counter to the Constituion ? In point of fact we are trying to uphold the rights and privileges guaranteed by the Constitution - the freedom of thought, the freedom of speech, the freedom of behaviour and all that. Surely, Sir, if you say there is freedom of behaviour, I cannot go across and slap one of those Opposition Members. Am I to say that is my freedom and that is guaranteed by the Constitution ? The normal law will take its own course then. I will be charged at the bar of this House or may be outside-that is a different matter. But simply because I am enjoying fundamental rights, I cannot misbehave, I cannot misconduct myself. Therefore, I do not think the hon. Member is correct in saying that this Motion goes counter to the Constitution. In point of fact, this Motion is upholding the rights and privileges guaranteed by the Constitution.

தீயேட்டர் கதாநாயகர்  
(பிரதிச் சபாநாயகர் அவர்கள்)  
(Mr. Deputy Speaker)

Do you want to speak on this Motion ?

ஈனில் மூனசிங்கம்  
(திரு. அனில் முனசிங்கம்)  
(Mr. Anil Moonesinghe)

I can speak after tea. - (Interruption). Sir, before the clarification I would like to rebut certain points. - (Interruption). I am on the point of Order. I want a reply to the point of Order.

தீயேட்டர் கதாநாயகர்  
(பிரதிச் சபாநாயகர் அவர்கள்)  
(Mr. Deputy Speaker)

Are you taking five minutes ?

ஈதிர் இக்கூறு மறு  
(திரு. அனில் முனிசிங்ஹ)  
(Mr. Anil Moonesinghe)

I will not take five minutes.

திரு. அனில் முனிசிங்ஹ  
(பிரதிச் சபாநாயகர் அவர்கள்)  
(Mr. Deputy Speaker)

Very well !

ஈதிர் இக்கூறு மறு  
(திரு. அனில் முனிசிங்ஹ)  
(Mr. Anil Moonesinghe)

The Hon. Prime Minister said –(Interruption). No, no, I am rebutting what you said on the point of Order. My rebuttal is on the Hon. Prime Minister's statement. He said that this Select Committee is appointed as a fact-finding Commission. Let us assume that it is a fact-finding Commission. Whether this statement was made or not, there is some meaning in that. It is a fact finding Commission, although I do not agree because there is a fundamental matter involved. But I am going on the statement of the Hon. Prime Minister that, "if such statements were made", that is, after finding out whether they were made or not, they would consider whether such statements :

"(i) constitute improper conduct or conduct unbecoming of the holder of the Office of Chief Justice".

Sir, therefore with all due respect, I say that that is a decision that has to be made of a judicial nature. Sir, you are quite aware of judicial decisions as opposed to non-judicial decisions. This is a judicial decision. You have to make a judgment. In English, you say it is a judgment ; whether the conduct is improper or not is a judgment that has to be made. Then the others also in a similar vein, "affect the dispensation of impartial justice". Then again it is judgment.

Then the third point :

"whether the Committee is of opinion that these circumstances warrant any further action and if so, to recommend what action to be taken."

Sir, therefore there is a question of a judgment to be made and after that judgment is made, in consequence of that judgment, a certain course of action also has to be given by this Select Committee.

I therefore say that as far as the Hon. Prime Minister's contention is concerned it is wrong, but as regards the constitutional point, I will take it up in the course of the debate.

ஈர். ஸ்ரீமதம் மறு  
(திரு. ஆர். பிரேமதாசு)  
(Mr. R. Premadasa)

Please give me two minutes to answer this point. I do not think the word "judgment" is correct in this instance. It is only a recommendation. No Select

Committee can pass a judgment. That is an inappropriate word –(Interruption). No judgment. You are following the court procedure.

ஈதிர் இக்கூறு மறு  
(திரு. அனில் முனிசிங்ஹ)  
(Mr. Anil Moonesinghe)

No, I am talking of the meaning of the word "judgment".

ஈர். ஸ்ரீமதம் மறு  
(திரு. ஆர். பிரேமதாசு)  
(Mr. R. Premadasa)

Parliamentary procedure is different to court procedure. So, I want to point out to him, in making a recommendation this Select Committee has to follow a course of action in the same way that in the courts, where judgments are passed, there is a legal course or procedure to be followed. The hon. Member must realize that in Parliament too there is a procedure to be followed.

They have been laid down.

ஈதிர் இக்கூறு மறு  
(திரு. அனில் முனிசிங்ஹ)  
(Mr. Anil Moonesinghe)

Precisely.

ஈர். ஸ்ரீமதம் மறு  
(திரு. ஆர். பிரேமதாசு)  
(Mr. R. Premadasa)

They have been laid down. If you read the Privileges Act –

ஈதிர் இக்கூறு மறு  
(திரு. அனில் முனிசிங்ஹ)  
(Mr. Anil Moonesinghe)

I have read it.

ஈர். ஸ்ரீமதம் மறு  
(திரு. ஆர். பிரேமதாசு)  
(Mr. R. Premadasa)

You have read it ?

ஈதிர் இக்கூறு மறு  
(திரு. அனில் முனிசிங்ஹ)  
(Mr. Anil Moonesinghe)

Under what Section of the Privileges Act are you speaking ?

ஈர். ஸ்ரீமதம் மறு  
(திரு. ஆர். பிரேமதாசு)  
(Mr. R. Premadasa)

You must allow me to speak. The privileges Act enumerates the privileges that this House enjoys. Not only that. Just see what this Motion itself says. The hon. Member stops at a point. He says that I have now proved that this does not go counter to the Constitution, and he is not arguing that point again. I am very happy about that.

**ஏதிரித் துணைமொழி**  
 (திரு. அனில் முனசிங்கம்)  
 (Mr. Anil Moonesinghe)  
 No, I did not say that.

**கார. ப்ரேமதாசு மொழி**  
 (திரு. ஆர். பிரேமதாசு)  
 (Mr. R. Premadasa)  
 You are not arguing.

**ஏதிரித் துணைமொழி**  
 (திரு. அனில் முனசிங்கம்)  
 (Mr. Anil Moonesinghe)  
 I am not arguing it at this moment.

**கார. ப்ரேமதாசு மொழி**  
 (திரு. ஆர். பிரேமதாசு)  
 (Mr. R. Premadasa)

That is the point. How can you argue? Because the operative part of this Motion does not go counter to the Constitution because improper conduct unbecoming of positions is not a privilege under the Act. I have proved that aspect. Now I have to prove that when making a recommendation a Select Committee has to follow a procedure. That procedure too is here and he, maybe intentionally or unintentionally, did not read that part.

**ஏதிரித் துணைமொழி**  
 (திரு. அனில் முனசிங்கம்)  
 (Mr. Anil Moonesinghe)

I read that also.

**கார. ப்ரேமதாசு மொழி**  
 (திரு. ஆர். பிரேமதாசு)  
 (Mr. R. Premadasa)

"The Committee shall (a) have power to fix its quorum, (b)the have the power to summon any person to appear before it, to require any person to produce any document or record, to procure and receive such evidence, written or oral, as the Committee may think it necessary for the fullest consideration of the matters referred to above; (c) and have the power to report from time to time and to sit notwithstanding any adjournment of Parliament."

These are laid down procedures of Parliament. This Committee has to go into the matter and when it submits its report to this House it must say "we heard so and so, we gave an opportunity to So and so, we examined the following papers, the papers are in this report, they are annexures, these productions were made, and in the opinion of the committee"—it reports to the Speaker in point of fact—"or this committee thinks as follows and makes the following recommendation."

It is a matter for this House to accept it or reject it. It is not a judgment. It is only a recommendation. Therefore, the hon. Member must not labour under that misgiving.

**லெட் கௌன்ஸ் துணைமொழி** (உரிமை காரணம் பிழைப்பு எழுந்தது) மையிலே உயர் காரணம் எழுந்தது)  
 (திரு. லலித் அத்தலத் முதலி—தேசிய பாதுகாப்பு அமைச்சரும் பிரதீபு பாதுகாப்பு அமைச்சரும்)

(Mr. Lalith Atulath Mudali—Minister of National Security and Deputy Minister of Defence)

Sir, there was a similar Motion in this House on 8th March 1983. That is the Motion at Column 585 of *Hansard*, for a select Committee to inquire into representations made by Mr. K. C. E. de Alwis. The same kind of Select Committee was proposed, the same kind of objections were raised and I think, maybe yourself, Sir, held that the objections had no merit. I have not heard anything today extra which changes the position. Parliament's right to set up a Select Committee cannot be hindered. The hon. Member for Kalawana, made a rather constitutional point; it is very interesting. He says that the freedom of speech is unqualified. So that means according to him regarding whatever any person protected says, nothing ever can be inquired into or done about it. On that basis Standing Order 78 which relates to the conduct of a member means that whatever a Member says, on the ground of Article 14 of the Constitution, he can never be reprimanded by this House.

I think the position is very clearly set out. Under Article 74, (2), Parliament is entitled to do exactly what it is proposing now. If there is any difficulty I would suggest that the earlier ruling be gone into and the matter can be disposed of very shortly.

**தீயெசு கரணமொழி**  
 (பிரதீபு சபாநாயகர் அவர்கள்)  
 (Mr. Deputy Speaker)

Order, please! I hold that this Motion is not contrary to any of the Standing Orders or the Constitution. I say that this Motion is in Order.  
 Sitting is suspended till 5.10 p.m.

**உயர்மொழி சபை** கௌன்ஸ் துணைமொழி என்னைபடி படி, ௫. 10 0 கௌன்ஸ் சபைபடி படி.  
 ஆகவே ௫. 10 ௫. 10 மணிவரை துணைமொழி துணைமொழி துணைமொழி.  
*Sitting accordingly suspended till 5.10 p.m. and then resumed.*

**மகரம் துணைமொழி**  
 (திரு. சரத் முத்தெடுவேகம)  
 (Mr. Sarath Muttetuwegama)

Mr. Deputy Speaker, I do not want to speak at this stage. But I wish to move an amendment to the resolution. I will reserve my right to speak later, but I would like to move the amendment now so that the amendment is also before the House for discussion by the whole House. May I do that, Sir?

**தீயெசு கரணமொழி**  
 (பிரதீபு சபாநாயகர் அவர்கள்)  
 (Mr. Deputy Speaker)

Yes.

ஊரன் இன்னைப்பெறும் மனம்  
(திரு. சரத் முத்தெட்டுவெகம்)  
(Mr. Sarath Muttetuwegama)

The motion has been moved. I wish to move an amendment which will then (*Interruption*). No. You put it to the House at the end.

நியைர்சு கபர்ணாயகர்  
(பிரதிச் சபாநாயகர் அவர்கள்)  
(Mr. Deputy Speaker)

Can you give it to us in writing ?

ஊரன் இன்னைப்பெறும் மனம்  
(திரு. சரத் முத்தெட்டுவெகம்)  
(Mr. Sarath Muttetuwegama)

I have given it.

நியைர்சு கபர்ணாயகர்  
(பிரதிச் சபாநாயகர் அவர்கள்)  
(Mr. Deputy Speaker)

May I have that.

ஊரன் இன்னைப்பெறும் மனம்  
(திரு. சரத் முத்தெட்டுவெகம்)  
(Mr. Sarath Muttetuwegama)

The amendment, which I wish to move is this—The motion is a long one.

“Whereas the Hon. N. D. M. Samarakoon, Q.C., Chief Justice, has in a speech delivered”

Then, “said among other things,” the following things. They are listed.

Then the next stage of the motion is—

“That this Parliament is of opinion that a Select Committee of Parliament be appointed to inquire into and report to Parliament on—

(1) whether any or all of the statements attributed to the Hon. N. D. M. Samarakoon as reported in the Press were made by him at the Annual Awards Ceremony of the Sinnathuray Commercial Tutory held at the Sea View Hotel, Kollupitiya, on Wednesday the 14th March, 1984.”

My amendment is, instead of the present (2), I propose the following new paragraph (2) :

“whether if any or all of the statements were made by the Hon. N. D. M. Samarakoon, any or all of those statements were in fact true.”

Then my new para (3) is :

“Whether in the course of this speech, if any opinions have been established to have been expressed by the Hon. N. D. M. Samarakoon, such opinions were warranted by the prevalent situation in the country.”

நியைர்சு கபர்ணாயகர்  
(பிரதிச் சபாநாயகர் அவர்கள்)  
(Mr. Deputy Speaker)

Order, please ! Are you moving that amendment ?

ஊரன் இன்னைப்பெறும் மனம்  
(திரு. சரத் முத்தெட்டுவெகம்)  
(Mr. Sarath Muttetuwegama)

Yes. I am moving the amendment and I reserve my right to speak on both, the amendment and the motion, later.

நியைர்சு கபர்ணாயகர்  
(பிரதிச் சபாநாயகர் அவர்கள்)  
(Mr. Deputy Speaker)

Someone will have to second it. Otherwise it will lapse.

ஊரன் இன்னைப்பெறும் மனம்  
(திரு. சரத் முத்தெட்டுவெகம்)  
(Mr. Sarath Muttetuwegama)

It might be seconded later on.

நியைர்சு கபர்ணாயகர்  
(பிரதிச் சபாநாயகர் அவர்கள்)  
(Mr. Deputy Speaker)

Order, please! As it has not been seconded the amendment lapses.

எநிர் இன்னைப்பெறும் மனம்  
(திரு. அனில் முனசிங்ஹ)  
(Mr. Anil Moonesinghe)

It is my privilege today to oppose the Motion standing in the name of the Prime Minister. I feel that this is a very serious Motion that has been brought in the history of this Legislature and the history of this country. Sir, I want to point out that there is a history behind the separation of powers that developed in England and consequently later in Sri Lanka—the separation of powers between the executive, the legislature and the judiciary. Now, Sir, in England at the very beginning the king exercised all three functions, but gradually in the course of history the functions began to be divided and Parliament itself, during the period of the Civil War and Cromwell, decided to challenge the right of the executive, the king, and it arrogated to Parliament all the functions which were formerly exercised by the king, and the king became a constitutional king. Later on, clearly, the function of the judiciary also began to be separated from the legislature and the executive, which now became the Cabinet, and gradually, although the legislature and the executive merged into each other with Party Government and Cabinet Government, the judiciary continued to be a separate limb of government—an independent judiciary. And that is why, Sir, in England since 1830 there has been no impeachment of a judge. In Britain, Parliament is supreme. Parliament can impeach a judge, because Parliament established its right by the Civil War to control all limbs of Government. Now we are not in that position. We did not have a civil War—(*Interruption*). I will come to that. I will tell you how.

In England, Sir, the Constitution is not written. The English Parliament is supreme. It can do anything it likes, but our Parliament is not supreme in that way. Our Parliament is not supreme because there is a written Constitution. It is a Constitution that determines the rights, privileges and powers of this Parliament.

Now, Sir, if we look at the Indian Constitution, it is even clearer because in India the separation of powers is an important part of the Constitution because, unlike in our country which is a Unitary State, there is a certain separation of powers there between the central power and the state powers. Then there is a central Supreme Court and a state Supreme Court. Therefore, the Indian Constitution is very clear in working out these separation of powers, so much so, Sir, that this very clearly stated in "Practice and Procedures of Parliament" by M. N. Kaul and S. L. Shadkar, Third Edition, Volume 2 at page 907. It says—

"The powers of each one of the three organs have to be exercised as fundamentally subject to the provisions of the Constitution relating to those organs, individually as well as to the provisions relating to other organs. It is the respect that is accorded by one organ of the state to the others that ensures that healthy working of the Constitution, which is the acid test of its merits whatever the paper values of its provisions. Both Parliament and state legislatures are sovereign within the limits assigned to them by the Constitution. The supremacy of the legislature and the written constitution, as observed by the Supreme Court, is only within what is in its power but what is within its power and what is not when any specific act is challenged, it is for the courts to say."

Therefore, in India the courts are the adjudicators of the Constitution. The extreme case, as you know, Sir, is in the United States of America where there is complete separation of power.

In the Constitution of Sri Lanka there is a separation of powers and this separation is explained very well in Article 4 of the Constitution. It says—

"The Sovereignty of the People shall be exercised and enjoyed in the following manner :—

- (a) the legislative power of the People shall be exercised by Parliament, consisting of the elected representatives of the People and by the People at a Referendum ;"

Therefore I would like to tell the Hon. Minister of Agricultural Development and Research that Parliament is not supreme ; it is the people who are supreme. Parliament's supremacy is tramelled by, first of all, the action of the Supreme Court in deciding whether an act is constitutional or ultra vires the Constitution and, secondly, by the reference to the People through a Referendum, which this Constitution brought about in 1978.

The Article further says—

- "(b) the executive power of the People, including the defence of Sri Lanka, shall be exercised by the President of the Republic elected by the People ;
- (c) the judicial power of the People shall be exercised by Parliament through courts, tribunals and institutions created and established, or recognized by the Constitution, or created and established by law...."

Therefore, from the very Constitution itself you will see that although the Hon. Prime Minister said, "Parliament is supreme, we can do anything we like, we can appoint any Select Committee to do anything", that is not so. You cannot appoint a Select Committee to go into the rights or wrongs of a member of the minor judiciary. That is done by the Judicial Service Commission. If you say that you can decide on whether the conduct of a member of the minor judiciary can be adjudged by a Select Committee of the House, then you are going straight into an unconstitutional act.

Similarly, as I argued, this House can remove the President and can remove a judge, but it can only do so under certain circumstances as provided for by law. Therefore, the sovereignty of Parliament in these areas is determined by the Constitution, the Constitution which can be interpreted by the courts.

There is a hiatus and I admit that. The hiatus is here ; Parliament is supreme. No court can inquire into the powers and privileges of Parliament, including its right to appoint a Select Committee, including the laying down of procedure, and no court can come here and ask us, "Are you doing the right thing or the wrong thing ?" Therefore, Parliament is able to act, as in this case, and in my opinion unconstitutionally, but Parliament has the power to do so. But, in the long run, who will decide whether you did right or wrong ? It is the people. That is our position. In the long run the people will determine whether you acted rightly or wrongly in these circumstances.

Unfortunately, Sir, I do not have the time, otherwise I will really go deeply into this question. On the independence of the judiciary there are many aspects which have been argued out both here in this House and in the Constituent Assembly that was established by the previous Government to determine the new Constitution of 1972. There are statements made by hon. Members opposite who were members of that Constituent Assembly, and those statements are very important because hon. Members opposite today constitute the executive ; constitute the legislature, and one of the hon. Members of that Constituent Assembly is today His Excellency the President of this country. Therefore, what he said is very important because today the executive, like in many countries in

[சுதந்திரப் படைப்பை உதவ]

the world today, is becoming stronger and stronger, very strong indeed, and sometimes it has taken over the legislature.

It is not the legislature today that controls the executive; through the party system the executive is tending to control the legislature. That is why I say, with all due respect to you, Sir, and hon. Members of the Government, that it is a very serious situation. Do not allow this situation to develop. Have all the checks and balances. Do things in the proper way and we will support you. Do things in the proper way and do not go into the area where the independence of the judiciary becomes weak and disappears.

Now, Sir, I can do no better than quote from His Excellency the President when he was a Member of the Constituent Assembly. I quote from column 2836 of the Constituent Assembly proceedings :

“(Mr. J. R. Jayewardene)

Of course, if there was the complete separation of powers in the sense we visualized it, that object would have been achieved, we hoped. But since the Assembly has decided not to accept our amendments, let us see how far the Resolutions and amendments the Hon. Minister is moving,

that is Dr. Colvin R. de Silva,

and such amendments as he may adopt in the drafting of the Constitution, will achieve that end.

It is quite clear from what has happened during these days when the Assembly has been sitting and from the Hon. Minister's own speeches that he and the Government wish that the judiciary should be as independent as we wish it to be. There is no conflict I see now in the way he is thinking and in the way that we are thinking.

The way the judiciary can be made independent falls under various heads. One would be the method of appointment of judges. We have had the assurance in this House – it was not in the original Basic Resolutions – that the judges of the highest court, now the Supreme Court – I do not know which will be the highest court later – will be appointed by the President on the advice of the Prime Minister.

Then he goes on at page 2837 –

“I can see, from his way of thinking, that while keeping the supremacy of Parliament,

this is the point the Hon. Minister of Agriculture made.

“the Minister wishes to see that there is no political, governmental or any outside pressure of influence brought to bear on a proper choice. So we are in accord with that too.

In other words, in the appointment of judges the Prime Minister is going to be responsible for the appointment of judges by advising His Excellency the President, the then Constitutional President, about who is going to be in that post.

“Then with regard to removal, again he has gone very far to see that Parliament does not unnecessarily use its powers or unnecessarily harass judges . . . . .

“because elaborate procedure has been laid down whereby a judge, if he does not conform to convention and precedents and standards, should be removed.”

That is, if he does not stand by the conventions of our society, the conventions of his post as a judge, and so on, he will be removed.

“I think it is very rarely that such an event will happen, that Parliament is called upon to decide that a judge should not hold his office. It has never happened as far as I know in this country, and very rarely in other countries too. I only know that to my knowledge there was an attack on a judge in this House on one or two occasions, but as far as I know no resolution was actually moved and discussed.”

Now, in the British House of Commons since 1813 there has been no discussion about the conduct of a judge. So here Mr. J. R. Jayewardene –

சுதந்திரப் படைப்பை உதவ  
(திரு. லலித் அத்துலத்முதலி)

(Mr. Lalith Athulath Mudali)

With all respect to the hon. Member, he says that there has been no discussion in the British House Of Commons about judges since 1813. That is not correct. I will give two cases as recent as 1973 where there have been such discussions.

சுதந்திரப் படைப்பை உதவ  
(திரு. அனில் முனசிங்ஹ)

(Mr. Anil Moonesinghe)

Removal of judges ?

சுதந்திரப் படைப்பை உதவ  
(திரு. லலித் அத்துலத்முதலி)

(Mr. Lalith Athulath Mudali)

No. You said that there has been no discussion about the conduct of judges.

சுதந்திரப் படைப்பை உதவ  
(திரு. அனில் முனசிங்ஹ)

(Mr. Anil Moonesinghe)

No, impeachment, removal of judges.

சுதந்திரப் படைப்பை உதவ  
(திரு. லலித் அத்துலத்முதலி)

(Mr. Lalith Athulath Mudali)

Impeachment, yes.

சுதந்திரப் படைப்பை உதவ  
(திரு. அனில் முனசிங்ஹ)

(Mr. Anil Moonesinghe)

“Then the next method in which independence is secured is with regard to the fixing of the salary. . . . .

The third matter is freedom from criticism in the Assembly” –

Mr. Deputy Speaker, I hope you will note what I am saying here.



"The third matter is freedom from criticism in the Assembly and protection of a judge whilst sitting in his judicial seat. That too I think need not be in the Constitution, but let it be by legislation."

By law.

"Already legislation exists. By Standing Orders we can secure those ideal objects."

Now, Sir, Mr. J. R. Jayewardene went on to say at Column 1413 :

"The present Constitution" -

That is, the Constitution that existed before the new Constitution of 1972.

"The present Constitution makes it quite clear that judicial power vests in the judiciary. Because the Supreme Court is created under the present Constitution, appointments are made independent of the legislature and the executive by the Judicial Service Commission independently created."

Now, the whole gamut of his argument is that there should be independence of the judiciary and that can come only with the exercise of the separation of powers. So much so that an amendment was moved in which Mr. J. R. Jayewardene said that a separation of powers should be brought about. I quote from Column 1402 now.

"Our amendment reads as follows :

"There should be a separation of powers so that -

- (a) the legislative power of the People shall vest in the National Assembly but that upon a declaration of an emergency by the President, he may make regulations capable of overriding the Constitution and/or laws passed by the legislature ;
- (b) that the judicial power of the People shall vest in the Judges ; and
- (c) the executive power of the People shall vest in the Council of Ministers . . . ."

Then he says :

"The idea behind our Resolution is not to take away the sovereignty of the people but to see that the independence of the judiciary is ensured, secured and protected."

You see, that was the argument put forward in the Debate in the Constituent Assembly by hon. Members opposite and their Leader at that time. One of their Leaders at that time was Mr. Dudley Senanayake. He was also there. They said that there should be a separation of powers to see that the judiciary was properly protected.

In the present case what is the actual situation ? The actual situation is that the Chief Justice has gone on to make accusations against His Excellency the President, Members of Parliament and the Government. So who is the accused as far as the Chief Justice is concerned ? The Government, the Executive and the Legislature. Now, who is going to be the judge

in this particular case ? It is a wrong principle of law, it is a wrong principle of jurisprudence that the accused people should be judges of the accuser. If you have a person who is accused of a certain wrong and if he is going to be judged by himself, naturally he will acquit himself. On the contrary, if you say, "No, we are going to judge the Chief Justice," there too you get a wrong idea. That is, the legislature and the executive are getting together and deciding whether the Judiciary is right or wrong.

Sir, earlier too I adduced the argument that the minor judiciary is protected by the Constitution, where if a member of the minor judiciary, which includes the High Court, does some wrong he is judged by a commission of three people, which is a judicial commission. If that is good enough for the minor judiciary if they have done wrong, then if the major judiciary, the judges who have to be protected and their independence secured, cannot be judged in that way and you are making them liable to the executive and the legislature, that is all wrong in principle. That is the main line of argument that I am trying to develop.

Mr. Deputy Speaker, with regard to the independence of persons administering justice, in the previous Constitution, which was criticized in the Constituent Assembly, they did not make any difference between a judge of the Appeal Court or the Supreme Court and the other judges. They put the whole lot together and stated thus in Article 131 (1) :

"Every Judge, state officer or other person entrusted by law with judicial powers or functions shall exercise such judicial powers and functions without being subject to any direction or other interference proceeding from any other person, except a superior court or institution entitled under law to direct or supervise such judge, state officer or person in the exercise or performance of such judicial powers and functions."

There you would see very clearly that in the previous Constitution all judges got this independence, security, from being gone into by a tribunal which was not elected for that purpose by law. That is why I say that the Government is not going along the right path. The Hon. Prime Minister said that they are not going to judge. What are they going to do then if they are not going to judge, if they have a Select Committee to decide the propriety or the impropriety ? He is abusing the English language. When you judge whether a person has acted right or wrong, that is a judicial judgment, that is a judgment of what he has done, whether he has done right or wrong. What ever language you would like to use, that is a judicial function which this House must not exercise.

[சிறிட்டு இன்ஹிஸ்டரி மெம்பர்]

Now, Sir, I want to say that the independence of the judiciary is protected by Article 107 (1) of the Constitution, which deals with appointment and so on. Article 107 (3) states :

"Parliament shall by law or by Standing Orders provide for all matters relating to the presentation of such an address,"—

That is, the address for the removal of a judge—

"including the procedure for the passing of such resolution, the investigation and proof of the alleged misbehaviour or incapacity and the right of such Judge to appear and to be heard in person or by representative."

Now, this Government has been in power for a long time since the promulgation of this Constitution but hon. Members opposite, the Government party or the Leader of the House did not make any effort to give meaning to this Article 107 by bringing in a substantive law, as they have done in India where there is an Inquiry of Judges Act. Whenever anybody makes a complaint or an address, that matter is referred either by the Speaker of the Lok Sabha or the Chairman of the Rajya Sabha under the Inquiry of Judges Act to a tribunal which consists of a Chief Justice of the centre, a Chief Justice of the state courts and two eminent jurists. This is the language. What have you done? You have done nothing. And suddenly, overnight, because a certain matter has arisen—this is very bad—you bring *ad hoc* into this House and present today an amendment to the Standing Orders because of your lacuna in doing so. You have been in this quandary, and that is why you had to resort to *ad hoc* measures like bringing a Select Committee on a matter on which no Select Committee could be brought. So, Mr. Deputy Speaker there is a lacuna on the part of the Government. Be honest about it, admit that you have not done your job properly and you are faced with a problem like in the Sepala Ekanayake case where overnight you had to bring legislation here to see that that man was properly apprehended and brought before the courts of this country. Do not do things like this. That is not proper because you are not sitting here only for today; you are sitting here for tomorrow and the day after tomorrow—(Interruption).

மன்றத்தினர்

(அங்கத்தவர் ஒருவர்)

(A Member)

To hang Somarama? That was good.

சிறிட்டு இன்ஹிஸ்டரி மெம்பர்

(திரு. அனில் முனசிங்கம்)

(Mr. Anil Moonesinghe)

Right! Right! Mr. Deputy Speaker, I do not want in any way to defend any act. If we did wrong, certainly I do not want to defend it. That is why I am asking you, learn from our mistakes.

You have brought a new Constitution in which you say that you guarantee the independence of the judiciary. You made this Constitution better than our Constitution. You were worried, when our Constitution was being brought, that the independence of the judiciary would suffer, and it was in consequence of that that you brought your Constitution, which is a far better and more enlightened Constitution according to your way of thinking. Hon. Members opposite will understand when I say that Parliament is supreme and it exercises its powers in certain defined ways. Please stick to that. Certainly there is a problem. Supposing tomorrow the Chief Justice is asked to come before a Select Committee of the House and he says, "I will not come." What do you do? You create a first-class constitutional crisis. Can you compel him, and how? Supposing he goes to the Supreme Court to protect his fundamental rights?

மன்றத்தினர்

(அங்கத்தவர் ஒருவர்)

(A Member)

Still a report will be prepared.

சிறிட்டு இன்ஹிஸ்டரி மெம்பர்

(திரு. அனில் முனசிங்கம்)

(Mr. Anil Moonesinghe)

All I am saying is this. I am not against your bringing before this House an address where you charge a Judge of the Supreme Court or of the Appeal Court with doing something wrong. Please do that. If there is something like that, bring an address, then appoint a Committee. My own opinion is that you should never appoint a Committee of this House. You should appoint a judicial committee because it is a fundamental principle of our Constitution that there should always be a separation of the judiciary and the judiciary should be protected. If you have the judiciary at the mercy of this Assembly every time something happens, what is there to prevent your going into a case and saying, "We want to appoint a Select Committee in regard to the conduct of this judge?"—(Interruption)

No, I did not because, basically, we have the right to remove him. I am not saying that we should not remove him. Do whatever you want with him. But there are certain methods of doing it. Please follow those constitutional procedures. Do not go charging like a bull in a china shop in this matter. Do not forget this: what you are doing today is very unpopular. I want to say very frankly that what you are doing is very unpopular even amongst your own party members, amongst your own supporters. I am telling you that that is the situation in the country today. So, therefore, you must try as much as possible to act in a

responsible way. That is why I want to go back, to hark back to the past the whole time. Once again I am going to quote—

සිංග්ලර් කථනායකතුමා  
(பிரதிச் சபாநாயகர் அவர்கள்)  
(Mr. Deputy Speaker)

How long are you going to take? The Party Leaders decided to take the vote at 8 p.m.

අනිල් මුණසිංහ මහතා  
(திரு. அனில் முனசிங்ஹ)  
(Mr. Anil Moonesinghe)

I will be as short as possible. I only want to quote the speech of Mr. J. R. Jayewardene in the HANSARD of 11th June, 1971 at column 1408.

“Now, there are various ways in which a judiciary can be made independance, and I am glad to see that in one of the Basic Resolutions the Constitution-makers are anxious to see that the courts should be independent. I saw it in one of these sections—Basic Resolution 21 :

‘The independent of persons administering justice shall be secured.’ ”

Then at column 1409 Mr. J. R. Jayewardene says,

“Firstly, the method of appointment. We will come to those details later. Then the fixing of a judge’s salary, and his not being subservient either to the legislature or to the executive.”

“His not being subservient either to the legislature or to the executive.” Where is your supremacy? There it is in Mr. J. R. Jayewardene’s statement.

“Thirdly, permanency of tenure of a judge through good behaviour, his removal to be only after most careful consideration and not necessarily dependent on the executive or the legislature.”

“And not necessarily dependent on the executive or the legislature.” What does that say? He has gone beyond what we are for—that his removal should not be dependent on the executive or the legislature. I am quoting from the speech of Mr. J. R. Jayewardene :

“Next the protection of a judge from criticism, particularly by the legislature. Various methods like that are used in constitutions and in our existing Constitution to protect and to see that the judiciary is independent. Another way is to see that there is a separation of powers.”

Now, over and over again we come across the same things : separation of powers, independence of the judiciary, holding of office or tenure during good behaviour.

Then in the same column he quotes a reputed case of 66 N.L.R., page 265.

“One of the counsel who argued that there is a separation of powers is now the Secretary of this Constituent Assembly, Mr. Walter Jayawardana, Q.C.”

The late Mr. Walter Jayawardana, Sir.

4-A 076119 (84/04)

“The Privy Council held thus :

‘Although no express mention is made in the Constitution of vesting in the Judicature the judicial power which it already had and was wielding in its daily process under the Courts Ordinance, the provisions of Part 6 of the Constitution manifest an intention to secure in the judiciary a freedom from political, legislative and executive control.’ ”

This is quoted approvingly by Mr. J. R. Jayewardene :

“The constitution’s silence as to the vesting of judicial power is consistent with its remaining where it had lain for more than a century, in the hands of the judicature.’ ”

Please remember that.

“‘It is not inconsistent with any intention that henceforth it should pass or be shared by, the executive or the legislature.’ ”

Hon. Minister of Agricultural Development, Hon. Minister of National Security, what do you say to that? There was no intention and—it is quoted approvingly—that there is no intention that the power of the judiciary do pass on to the executive or the legislature.

“‘Accordingly, there exists a separate power in the judicature which under the Constitution as it stands cannot be usurped or infringed by the executive or the legislature, and in so far as any Act passed by Parliament without recourse to section 29(4) of the Constitution purports to usurp or influence the judicial power, it is *ultra vires*.’ In other words if we are seeking in these draft Basic Resolution upon which the new Constitution is to be based, to erode into the judicial power, if we are seeking by such a measure to in any way reduce the independence of the judiciary, we are doing something unconstitutional. . . .”

My good Friend the hon. Member for Kalawana (Mr. Sarath Muttetuwegama) was arguing about the constitutionality, and the Prime Minister, without any recourse to the history of this country, to the statements of his own Leader, went on to say, “We are supreme ; do not worry, we can do anything, we can have a Select Committee to determine anything or anybody.” That is the point. Mr. J. R. Jayewardene must have thought of the Hon. Prime Minister, of people like that who try to diminish the power of the judicature, when he made that statement at that time. He went on to say :

“If we are seeking by such a measure to in any way reduce the independence of the judiciary, we are doing something unconstitutional, something against the Constitution that exists today and something which would be as dangerous and unwise as taking away universal franchise.....We admit the people’s sovereignty and we like them to be sovereign. But if they wish the judiciary to be independent, one way in which that independence has been secured in various countries is by the separation of powers.”

So I can go on like this but I do not want to stress the obvious ; that is that the independence of the judicature or the judiciary is a fundamental right of our country, just as much a fundamental right as Mr. J. R. Jayewardene says is universal franchise.

[சார்லி மூனசிங் மொழி]

Anybody who diminishes universal franchise, Sir, is diminishing the rights of democracy, the rights of the people and the sovereignty of the people. That is why we would appeal to the Government in this instance : Please do not rush into this ; you have plenty of time to think over this matter and bring forward your amendments to the Standing Orders or it is a much better way if you can bring a substantive law to preserve the independence of the judiciary.

When judges make remarks—sometimes, Sir, as you know, even in the course of judgments they make statements which are not relevant to the matters in issue, but that is a right that has always been there. When we criticise them under a substantive motion—a substantive motion is not a motion to appoint a Select Committee ; a substantive motion is one which is brought in this House if this House feels that a judge, a member of the secondary judiciary, has done something wrong. Then this House has the right to bring in a motion saying. “We deprecate the act of that particular judge, the statement of that judge” or something to that effect. That is all that you can do. When you say bring a substantive motion, that is all that you can do. In the case of a judge or a member of the junior judiciary, you cannot bring a Select Committee. Although I am not going to canvass your view, Sir, your view was that—

மன்றிபரமேன்  
(அங்கத்தவர் ஒருவர்)  
(A Member)  
Of the Speaker.

சார்லி மூனசிங் மொழி  
(திரு. அனில் மூனசிங்ஹ)  
(Mr. Anil Moonesinghe)

Once the Speaker has ruled that the Motion is in order, we cannot canvass that. Of course there is an element of truth in that. But beyond that, you as the present guardian of the rights and privileges of this House, of the constitutionality of the Constitution, and cognizant of the various checks and balances that are being placed under our Constitution, should recognize that the legislature and the executive must act with propriety as far as the judiciary is concerned.

Before I wind up I would just mention that our country has had the privileges, the history, of democracy as established in Great Britain, of Anglo-Saxon methods of a judiciary, an executive and a legislature. Now there are many countries that follow that same pattern, perhaps not so much in Asia today, perhaps not at all in Africa. We are one of the few countries that continue to maintain some standards of democracy. Sir, we are one of the few countries in the world today, together with India,

where a man is generally free to express his opinion, is free to do many things. Therefore, Sir, all I am asking you is, please preserve that system of jurisprudence ; please preserve those great liberal sentiments expressed by one of your leaders at the time, Mr. J. R. Jayewardene ; have that same liberal spirit, because once you determine that the judiciary is under your control, then that is the beginning of the end of democracy in this country.

சார்லி மூனசிங் மொழி (சார்லி மூனசிங் மொழி)  
தலைவர் அவர்களின் கவனத்திற்கு (சார்லி மூனசிங் மொழி)

(திரு. லலித் அத்துலத் முதலி—தேசிய பாதுகாப்பு அமைச்சரும், பிரதீப பாதுகாப்பு அமைச்சரும்)

(Mr. Lalith Atulath Mudali—Minister of National Security and Deputy Minister of Defence)

Mr. Deputy Speaker, I noticed a new strength in the voice of the Member of Matugama (Mr. Anil Moonesinghe), presumably strengthened by a judicial decision. So I naturally understand why he was able to be polemic about the defence of the judiciary. If I may be permitted I must compliment him on keeping this debate at a high level that it must necessarily be. This is an occasion where Parliament must conduct itself with the highest standards of dignity that Parliament can display.

I was listening to him and I found that there is very little I can disagree with him because what we are seeking to achieve is the same thing. He said we must preserve the independence of the judiciary. That is exactly what we want to do. But independence of the judiciary is not a slogan. It involves a variety of rights and obligations.

I want to say, in discussing this Motion that I do not even want to refer to the person named in the Motion because the issues can be discussed at this stage independent of the individual.

The independence of the judiciary is something which we all accept and we all want to preserve. The question is, what is it that has to be done to preserve it ? The Hon. Member for Matugama set out some of the provisions in the Constitution which relate to the judges and the judiciary.

If you look at the Constitution, you will see that the Judges have been given certain privileges. No doubt the Judges are privileged persons under the Constitution. If I may cite a few examples, judges are appointed only by His Excellency the President—I am talking of the Judges of the superior court—under Article 107. And incidentally Constitutions have articles and not sections. Under Article 107, removal is only on the ground of proved misbehaviour or incapacity. Under Article 108

“(1) The salaries of the Judges of the Supreme Court shall be determined by Parliament and shall be charged on the Consolidated Fund.

“(2) The salary payable to and the pension entitlement of a Judge of the Supreme Court shall not be reduced after his appointment.”

As the hon. member mentioned, Article 112 protects the minor judiciary. Article 117 protects the members of the Judicial Service Commission who are also members of the superior court. Articles 15 and 116 make it an offence to interfere with the judiciary or with the Judicial Service Commission. These latter provisions have been taken directly from the Constitution of 1972.

In addition to those constitutional provisions, there are provisions in the Standing Orders. Standing Order 84(6) prevents us from discussing any matter which is sub judice. Standing order 78 really makes judges immune from Parliamentary criticism, judges can only be dealt with by substantive motion. Now, why is all this? It is designed to protect the independence of the judiciary. It is because we believe in the Anglo Saxon system of jurisprudence, and I can quote to you what Sir Winston Churchill said in a debate in the House of Commons in 1954 about the judiciary. He said :

“The complete independence of the Judiciary. . . . is the foundation of many things in our island life. . . . It is perhaps one of the deepest gulfs between us and all forms of totalitarian rule. . . .”

That, we stand by. That is why those rules are there.

But what the hon. Member for Matugama did not mention is that the independence of the judiciary does not rest merely on the provisions of the law which Parliament has conferred on the Judges. There is in every system of jurisprudence the duty on the judges to respond and carry out certain duties and obligations. This is not a one-sided thing. The judges have certain standards of conduct and behaviour which they have to uphold. If you give them all this legal protection and the judges behave differently you cannot preserve the independence of the judiciary. I will give you the quotations on that, what they have to do.

“The problem arises for Parliament only when that concomitant duty on the part of the judiciary has not been fulfilled or does not appear to have been fulfilled.”

I will take a simple example. In this Motion itself there is a statement which refers to, I think, something about Members of Parliament. I will get the exact reference to that. There is a reference where this gentleman mentioned here, is supposed to have said—and that is a matter we have to inquire into—purely for the sake of my argument I am assuming that. “Today it is only the rich and maybe the MPs who can live well. These are words created by politicians to hoodwink the people.” Now once that

happens, once a person holding judicial office is said to have said that, what is there to prevent a political person contradicting that, denying that, attacking that and attacking the person who said it? Would you have an independence of the judiciary if you start having a “slinging-match” between those in political power and those holding judicial office. Once you breach that by your own act, you imperil the independence of the judiciary. The privileges of the judges are given because they are not expected to enter into such controversy. It is where judges enter into fields which are not allowed to them that Parliament is compelled to intervene. Just as Parliament must not interfere with the independence of the judiciary, the judiciary must do everything to protect its independence by its conduct.—(Interruption)—You will have it in the next speech. Please let me finish my speech. I will explain the options available to Parliament. At the end of my speech I will explain the three options available to Parliament, and why we selected this rather than the other two.

I want to establish the simple point that the independence of the judiciary rests as much on Parliament as on the conduct of the judges. We cannot have a one-sided, lop-sided protection of the independence of the judiciary. The result of the judges having privileges is that they have duties. These are not set out in a written code. But they are part of convention, part of tradition, part of practices, part of undertakings which have been established over the years. The standards of behaviour of judges in judicial activities, in extra judicial activities have been commented upon right through the ages. A judge cannot behave like a politician. A judge cannot behave like a householder. A judge cannot behave like an ordinary citizen or a person who goes and makes political or commercial speeches.

I will quote to you, Sir, what a great English Prime Minister said about this. Sir Winston Churchill had to deal with this problem in a very famous debate in the British House of Commons. He said this on the behaviour of judges.

If you want the reference it is in the House of Commons Debate Col. 525 of the 23rd March, 1954.

Sir Winston Churchill dealing with a similar problem spoke on the standards of conduct of the judiciary.

As to what is required of judges, he said as follows :

“A form of life and conduct far more severe and restricted than that of ordinary people is required from judges and, though unwritten, has been most strictly observed. They are at once privileged and restricted.”

[ලලිත් ඇතුළත් මුදලි මතක]

Privileged because Parliament protects them, and restricted because they have concomitant duties. Then he goes on :

"They have to present a continuous aspect of dignity and conduct.

Far more freedom is granted by the convention of our way of life to Members of Parliament to Ministers or to Privy Councillors. But the judges have to maintain, though free from criticism [in Parliament], a far more rigorous standard than is required from any other class that I know of in this Realm."

And he went on humourously to suggest an example. To illustrate the stricter judicial standards, Churchill asked :

"What would be thought of a Lord Chief Justice if he won the Derby? Yet I could cite a solid precedent where such an act has been perpetrated by a Prime Minister who, on the whole, got away with it all right."

The point is that members of the judiciary have to observe higher standards than even people in politics.

අනිල් මුණසිංහ මතක

(ති.රු. අනිල් මුණසිංහ)

(Mr. Anil Moonesinghe)

Who is the Prime Minister?

ලලිත් ඇතුළත් මුදලි මතක

(ති.රු. ලලිත් අත්තුලත් මුදලි)

(Mr. Lalith Athulath Mudali)

Some old Prime Minister of England. I think it was Palmerston, if I remember right. Then commenting on the conduct of the judges, this is what he said :

"It is equally incumbent upon judges to avoid activities which might attract adverse public comments or raise controversy. Such activities may affect, or seem to affect, the impartiality of the judge and may impair public confidence in the judiciary as a whole and the dignity and prestige of the judicial office. These considerations tend to exclude judges from non-judicial activities and lead to strict standards of conduct in private life".

That is what we are talking about today. Parliament is not trying to remove any of the privileges that judges have. Parliament is faced with a situation where prima facie there is an alleged speech which if in fact was made by the person concerned appears on the face of it to raise issue of whether the normal standards of conduct expected from the judiciary has been violated. That is the issue. Because if they are violated and they continue to be violated, your independence of the judiciary will be a mere shell. You will have a whole host of judges making political speeches. (*Interruption*) I am coming to that question whether you must have it or not. We will come to that. I am now on the question that the independence of the judiciary requires high standards from the judges. You agree with that.

Then, there is another quotation I have from a famous Scottish Judge, still very old. He says :

"As a general rule, judges should be allowed to indulge in extra-judicial activities either for family or personal reasons."

If there is a small family matter he can go outside the courts and deal with it.

"When none of these interests is served, any hazard involved in extra-judicial activities, even slight, should be avoided by a judge"

Then, Sir, there are so many restrictions which have been placed on judges. Even giving lectures, even being paid for lectures, even writing books, even teaching in universities—all these things are severely restricted to judges. Because if they move out of it, if they go into other things directly or indirectly, public confidence in the system of the judiciary is adversely affected.

Let me take one or two examples purely for matter of convenience because they are here on this Order Paper. I am asking this one simple question.—(*Interruption*). No, no ; I am only using this as an example. But I will rise another example if you like. All right, let us say, not here, but one judge said, "I can understand if people take bribes because the cost of living is high". Say some judge said it, not here. Now what would happen, Sir, if that judge were to sit in judgment over a bribery case? I can say this as a lawyer ; if I appeared before him, in mitigation of sentence, I will cite his speech. So that means we are able to use his speech as a mitigating factor before his own court. I am asking whether that is the kind of public confidence you can have in a judiciary in that situation. Thinking for myself, used to an Anglo-Saxon system of jurisprudence, I would say that would be extremely unfortunate indeed.

Then, Sir, let us look at the other restrictions placed on the judges. These are all the practices that we have. We must not lose sight of this. The hon. Member for Matugama said what we are trying to do is unpopular. May be it is unpopular, may be—but I do not think that Parliament should avoid its duty at this moment. Are you simply saying that this alleged speech, if has been made, should be ignored. If you ignore it, then you are saying that others can do it.—(*Interruption*). You do not think it can be ignored? I agree. You know that a problem has been created by this alleged speech, if it has been made.

These are some of the matters on the standards of judicial behaviour that are expected, which I think we should record.

One—

"the judge is guided in his behaviour by his individual sense of caution and his anxiety to avoid putting himself into positions which might give rise to professional embarrassment or attract adverse comments"

Then there is another nice remark about how judges should behave.

"an attempt to formulate written rules for judicial conduct might fall short of producing a set of meaningful guidelines. The result might be a compilation of biblical injunctions, custom, common sense, and "Caesar's wife's admonitions to be above reproach,"

These are the difficult areas which judges have to traverse but they are special people capable of dealing with those problems.

I have with me the autobiography of one of the most famous English judges, Lord Justice Slesser. In his book called "Sir Henry Slesser - Judgement Reserved" published in 1941, at page 267 he says what he did when he became a judge. He started from politics and then went on to the judiciary. He says at page 267-

"When I became a judge, naturally I resigned from all political and semi-political associations, and even in church matters, I felt it right not to take part in any work of a markedly polemical nature, so that my retirement from the world really took place in 1929. After that date my only public contacts or utterances were in court."

That was the standard of Anglo-Saxon jurisprudence which protects the independence of the judiciary by the conduct of judges themselves. He continues -

"Some judges go very far indeed to avoid even the slightest entanglement with politics. A Law Lord told this writer that since his appointment as a High Court judge he had never cast a vote in a general election."

That is the extent to which they go to protect the independence of the judiciary.

ஈரன் மூத்தெடுவெடுதல் மனன  
(திரு. சாரத் முத்தெட்டுவெகமா)  
(Mr. Sarath Muttetuwegama)

..... might have quoted that at the Referendum.

லலித் அத்துலத் முதலி மனன  
(திரு. லலித் அத்துலத் முதலி)  
(Mr. Lalith Athulath Mudali)

May have, and probably voted correctly.

He says further -

"A full-time professional judge cannot associate himself in any manner with a political party."

(*Interruption*) That is past history. (*Interruption*) If the card is found, that is wrong.

The hon. Member for Matugama (Mr. Anil Moonesinghe) quoted a lot about Anglo-Saxon jurisprudence and I agree there. (*Interruption*) You agree? Then our areas of disagreement are very narrow.

I would also like to quote what an Attorney-General of Great Britain had to say in a Debate in the House of Commons on 5th May, 1959. He said very very clearly-

"Judges are not only excluded from taking part in political partisan activities in any form, but it is also clearly understood and firmly established 'that Her Majesty's judges do not state their views in public on political matters'.

In practice the limitations upon judges are stricter than that. Judges do not express their views on general issues whether or not they are political. They do not write articles to the Press nor give interviews to journalists, nor do they appear on radio or television programmes."

Then there was a famous judge called Lord Hewart who did not agree with this, and the then Prime Minister of England Mr. Stanley Baldwin when asked in Parliament about Hewart's press articles said :

"It is obviously undesirable that His Majesty's judges should write for publication on matters of political controversy or on questions upon which they may have to decide judicially, but the limit of action in this respect must be left to the good sense of each individual judge."

That is again reported in the House of Commons Debates of 24th June 1935.

ஈகிரல் மூத்தெடுவெடுதல் மனன  
(திரு. அனில் முனசிங்ஹ)  
(Mr. Anil Moonesinghe)

They did not bring any Select Committee ?

லலித் அத்துலத் முதலி மனன  
(திரு. லலித் அத்துலத் முதலி)  
(Mr. Lalith Athulath Mudali)

But they brought in a censure motion.

I am going on to Donaldson's case. The hon. Member for Matugama said there was no impeachment procedure since 1800 odd. This is not an impeachment procedure that we are doing. Please understand that. But the House of Commons has from time to time passed censure motions on judges.

ஈகிரல் மூத்தெடுவெடுதல் மனன  
(திரு. அனில் முனசிங்ஹ)  
(Mr. Anil Moonesinghe)

That is what I am saying.

லலித் அத்துலத் முதலி மனன  
(திரு. லலித் அத்துலத் முதலி)  
(Mr. Lalith Athulath Mudali)

Wait till I give the quotation.

ஈகிரல் மூத்தெடுவெடுதல் மனன  
(திரு. அனில் முனசிங்ஹ)  
(Mr. Anil Moonesinghe)

That was on a substantive motion.

ලලින් ආතුලන් මුදලි මහතා  
(திரு. லலித் அத்துலத்முதலி)  
(Mr. Lalith Athulath Mudali)

I will come to your substantive motion.

In 1911 there was a gentleman by the name of Mr. Justice Grantham who violently criticised the House of Commons for the charges made against him and after they passed the censure motion in 1906, he waited five years and then attacked the Parliament. That was a censure motion for his removal.

In Parliament Mr. Asquith, the Prime Minister, in a reply to a question, ruled out any disciplinary measure against the judge and expressed the hope that 'this unanimous verdict of censure may prevent the recurrence of an incident so inconsistent with judicial character and the best traditions of the Bench.'

Immediately after that, 10 years later Mr. Justice McCardie's case. This again a censure motion, and Mr. Justice McCardie departed from the Bench in rather unfortunate circumstances. So, I do not want to detail that. A more recent one was in 1973.

The issue of the propriety of a judge's response to parliamentary proceedings against him, came up again in 1973 in the controversy surrounding the motion for an address to remove Sir John Donaldson. In a public speech Sir John defended the decision of his Court for which he was attacked. This attracted strong criticism in Parliament and was viewed with disfavour in the legal press.

Those are matters which —(Interruption)

අනිල් මුණසිංහ මහතා  
(திரு. அனில் முனசிங்ஹ)  
(Mr. Anil Moonesinghe)

They brought a motion of censure.

ලලින් ආතුලන් මුදලි මහතා  
(திரு. லலித் அத்துலத்முதலி)  
(Mr. Lalith Athulath Mudali)

They brought a motion of censure.

අනිල් මුණසිංහ මහතා  
(திரு. அனில் முனசிங்ஹ)  
(Mr. Anil Moonesinghe)

That is right. They did not remove him. They did not appoint a Select Committee. That is precisely my point.

ආචාර්ය ආනන්දතිස්ස ද අල්විස්  
(கலாநிதி ஆனந்ததிஸ்ஸ த அல்விஸ்)  
(Dr. Anandatisa de Alwis)

Wait till he finishes. We are better than them. Before we bring a motion of censure we are trying to find out. That is more just.

අනිල් මුණසිංහ මහතා  
(திரு. அனில் முனசிங்ஹ)  
(Mr. Anil Moonesinghe)

You are quoting all the things for me.

ලලින් ආතුලන් මුදලි මහතා  
(திரு. லலித் அத்துலத்முதலி)  
(Mr. Lalith Athulath Mudali)

Now, we have the situation where I can even cut short my speech, because the hon. Member for Matugama agrees that the independence of the judiciary rests not only on the legislature provisions made by Parliament but upon the conduct of the judges themselves, that both are required to maintain the independence of the judiciary. He also agrees that there appears to be a speech which, *prima facies* appears to depart from the standards of conduct required as judges. He says that the only differences now is "Do not appoint a Select Committee. Pass a Censure Motion".

අනිල් මුණසිංහ මහතා  
(திரு. அனில் முனசிங்ஹ)  
(Mr. Anil Moonesinghe)

If you want to remove him go ahead under Article 107.

ලලින් ආතුලන් මුදලි මහතා  
(திரு. லலித் அத்துலத்முதலி)  
(Mr. Lalith Athulath Mudali)

Right. Then, therefore, there are three options available. The first is, in such a situation there is nobody who can act other than Parliament. That is the first thing. In our system of Constitution, in the United Kingdom system of Constitution, there is nobody who can act other than the Parliament. So, your argument about accusers being judges, of judges who have been accusers, cannot arise. No, it does not arise.

අනිල් මුණසිංහ මහතා  
(திரு. அனில் முனசிங்ஹ)  
(Mr. Anil Moonesinghe)

You do not understand my point. I said that in England Parliament is supreme. It can do anything. But our Parliament is trammelled by certain Articles of the Constitution.

ලලින් ආතුලන් මුදලි මහතා  
(திரு. லலித் அத்துலத்முதலி)  
(Mr. Lalith Athulath Mudali)

Yes, the Article of the Constitution says very clearly that power to remove judges is in Parliament.

අනිල් මුණසිංහ මහතා  
(திரு. அனில் முனசிங்ஹ)  
(Mr. Anil Moonesinghe)

Agreed.

ලලින් ආතුලන් මුදලි මහතා  
(திரு. லலித் அத்துலத்முதலி)  
(Mr. Lalith Athulath Mudali)

So, in this situation, the toughest remedy is still in Parliament. Right. So, if we move a Motion to remove him under Article 107, your argument about accused being the accusers falls flat.



சிறீ மூலகம மஹா  
(திரு. அனில் முனசிங்ஹ)  
(Mr. Anil Moonesinghe)

There is provision under Article 107 where investigation is permitted, and investigation need not be by Members of this House. You can appoint another body to do the investigation.

சென் டீவலுன் டிரீ மஹா  
(திரு. லலித் அத்துலத்முதலி)  
(Mr. Lalith Athulath Mudali)

So, you are asking Parliament to give away its powers to somebody else? Your whole act of settlement was to say, in this situation only Parliament can remove the judges.

சிறீ மூலகம மஹா  
(திரு. அனில் முனசிங்ஹ)  
(Mr. Anil Moonesinghe)

That is in England, but here there is a written Constitution.

சென் டீவலுன் டிரீ மஹா  
(திரு. லலித் அத்துலத்முதலி)  
(Mr. Lalith Athulath Mudali)

So, under a written Constitution also it is Parliament that ultimately removes. You can appoint anybody to investigate, but ultimately it is you who remove.

சிறீ மூலகம மஹா  
(திரு. அனில் முனசிங்ஹ)  
(Mr. Anil Moonesinghe)

Agreed.

சென் டீவலுன் டிரீ மஹா  
(திரு. லலித் அத்துலத்முதலி)  
(Mr. Lalith Athulath Mudali)

So, you can appoint investigators, you can reject the investigation, accept the investigation or modify an investigation. You can go in a circle, but ultimately you come to Parliament and Parliament removes. If that happens your argument about accusers being accused and vice versa falls flat.

சிறீ மூலகம மஹா  
(திரு. அனில் முனசிங்ஹ)  
(Mr. Anil Moonesinghe)

No.

சென் டீவலுன் டிரீ மஹா  
(திரு. லலித் அத்துலத்முதலி)  
(Mr. Lalith Athulath Mudali)

Because it is, in these circumstances, no other person other than Parliament who can remove.

சிறீ மூலகம மஹா  
(திரு. அனில் முனசிங்ஹ)  
(Mr. Anil Moonesinghe)

It is the same in India.

சென் டீவலுன் டிரீ மஹா  
(திரு. லலித் அத்துலத்முதலி)  
(Mr. Lalith Athulath Mudali)

It is the same everywhere in the world.

சிறீ மூலகம மஹா  
(திரு. அனில் முனசிங்ஹ)  
(Mr. Anil Moonesinghe)

In India, under the Judges of Inquiry Act, they appoint a judicial body. You say, therefore, that the Parliament of India is supreme?

சென் டீவலுன் டிரீ மஹா  
(திரு. லலித் அத்துலத்முதலி)  
(Mr. Lalith Athulath Mudali)

No, it is not a question of the supremacy of Parliament. I do not want to go into the esoteric theories of sovereignty. The simple practical question is, who removes in the end, whichever way you go? It is Parliament who removes in the end.

சிறீ மூலகம மஹா  
(திரு. அனில் முனசிங்ஹ)  
(Mr. Anil Moonesinghe)

Even in India.

சென் டீவலுன் டிரீ மஹா  
(திரு. லலித் அத்துலத்முதலி)  
(Mr. Lalith Athulath Mudali)

In India, England, America, everywhere it is the legislature that removes. Because it was an old traditional conflict between the executive and the judiciary they said "Therefore the Parliament is the arbiter".

சிறீ மூலகம மஹா  
(திரு. அனில் முனசிங்ஹ)  
(Mr. Anil Moonesinghe)

Who determines whether they are right or wrong?

சென் டீவலுன் டிரீ மஹா  
(திரு. லலித் அத்துலத்முதலி)  
(Mr. Lalith Athulath Mudali)

Parliament determines whether they are right or wrong.

சிறீ மூலகம மஹா  
(திரு. அனில் முனசிங்ஹ)  
(Mr. Anil Moonesinghe)

Not in India.

சென் டீவலுன் டிரீ மஹா  
(திரு. லலித் அத்துலத்முதலி)  
(Mr. Lalith Athulath Mudali)

Of course, in India.

சிறீ மூலகம மஹா  
(திரு. அனில் முனசிங்ஹ)  
(Mr. Anil Moonesinghe)

No. Here, I got a copy of the Inquiry of Judges Act under which if a judicial body decides that a judge has not committed any wrong then you cannot bring an Address and remove him.

லீட் சேனலர் பூரீ மனா  
(திரு. லலித் அத்துலத்முதலி)  
(Mr. Lalith Athulath Mudali)

That is not correct.

சுபீர் இன்டின மனா  
(திரு. அனில் முனசிங்ஹ)  
(Mr. Anil Moonesinghe)

Here, I have got the Indian Act.

லீட் சேனலர் பூரீ மனா  
(திரு. லலித் அத்துலத்முதலி)  
(Mr. Lalith Athulath Mudali)

There is an Act. That provides only for a course of investigation.

சுபீர் இன்டின மனா  
(திரு. அனில் முனசிங்ஹ)  
(Mr. Anil Moonesinghe)

Yes.

லீட் சேனலர் பூரீ மனா  
(திரு. லலித் அத்துலத்முதலி)  
(Mr. Lalith Athulath Mudali)

But by that Act, the Indian Parliament has not given up its power to remove judges.

சுபீர் இன்டின மனா  
(திரு. அனில் முனசிங்ஹ)  
(Mr. Anil Moonesinghe)

Of course, if that body says that a judge has not—(Interruption).

மன்றிபர்மென்ட்  
(அங்கத்தவர் ஒருவர்)  
(A Member)

மேலே குறிப்பிட்ட வினாக்கள் பற்றி விவாதம் செய்தல்

சான்றக் கணினி மனா  
(திரு. ஆனந்த தஸநாயக்க)  
(Mr. Ananda Dassanayake)  
வழிமுறைப்படி வினாக்கள்

லீட் சேனலர் பூரீ மனா  
(திரு. லலித் அத்துலத்முதலி)  
(Mr. Lalith Athulath Mudali)

In any case, my reading of the Act may differ from yours, but the simple point is, under our Constitution, even if we give it to some third party, ultimately Parliament cannot give up its power to remove. That is very clear. That is in Article 107. That is the inevitable nature of all constitutions. You cannot change that—(Interruption).

மன்றிபர்மென்ட்  
(அங்கத்தவர் ஒருவர்)  
(A Member)

There it will be canvassed whether you brought it in good faith or not.

லீட் சேனலர் பூரீ மனா  
(திரு. லலித் அத்துலத்முதலி)  
(Mr. Lalith Athulath Mudali)

You can canvass that but that is not the issue. The issue is, who removes in the end? So Parliament removes in the end, you cannot say, because somebody attacked the Members of Parliament they cannot remove. The accuser—accused argument does not operate. In the Privileges of Parliament what happens? Members of Parliament may be attacked. Members of Parliament are sitting in judgement. That is the unfortunate thing of being a Member of Parliament. You have to judge even in such difficult circumstances. Fortunately, judges are excluded from that problem. But judges get into problems, unfortunately, when they depart from the judicial and get into the political. Then, what can Parliament do? Clearly there is no dispute that Article 107 applies, that you can operate under Article 107. That is the most severe remedy. All that we have to do is to pass the Standing Orders tomorrow, create another Committee under Article 107, get a report from that Committee in a period of time and move an address in this House, if that is what you want to do. If we really wanted to do the worst thing possible that is what we must do. But this Government is not motivated by such things.

The second thing we could have done is what you are advocating, and that is to move directly under Standing Order 78 and bring a substantive motion of censure. That is what you want to do, or rather—(Interruption). All right. But what does that involve? If you go straightaway, a long jump into Standing Order 78, what you would do is, you presuppose the facts—(Interruption). No. we are short-stepping.

சுபீர் இன்டின மனா  
(திரு. அனில் முனசிங்ஹ)  
(Mr. Anil Moonesinghe)

You are determining it now.

லீட் சேனலர் பூரீ மனா  
(திரு. லலித் அத்துலத்முதலி)  
(Mr. Lalith Athulath Mudali)

Now, look, the first thing is to find out the facts—(Interruption). Well, I know that you have some midnight dreams about goose-stepping! But we are trying to find out the facts. You are saying: "Forget about the facts. Without going into inquiry, all the Members of Parliament can be great judges and move a substantive motion." You are arguing for a substantive motion, but I cannot understand the logic of that. A few minutes ago you said: "Oh, Members of Parliament must not be judges. You are the accused." Now you are saying: "Move a substantive motion, be the judges. Do not inquire into the facts. Censure the judge." I mean, this is a *chaang choong* argument. What is the meaning of this?

சுபீர் நீதிமன்ற மன்றம்  
(திரு. அனில் முனிசிங்கம்)  
(Mr. Anil Moonesinghe)

When you bring a substantive motion you are not judging, you are accusing. That is all.

சுபீர் நீதிமன்ற மன்றம்  
(திரு. லலித் அத்துலத்முதலி)  
(Mr. Lalith Athulath Mudali)

You are saying, "The accused are now accusing and passing a censure motion"—

சுபீர் நீதிமன்ற மன்றம்  
(திரு. அனில் முனிசிங்கம்)  
(Mr. Anil Moonesinghe)

Yes, but you are not judging.

சுபீர் நீதிமன்ற மன்றம்  
(திரு. லலித் அத்துலத்முதலி)  
(Mr. Lalith Athulath Mudali)

You are judging the facts, you are presupposing in the facts.

சுபீர் நீதிமன்ற மன்றம்  
(திரு. அனில் முனிசிங்கம்)  
(Mr. Anil Moonesinghe)

You judge your facts.

நியோகம் கமிட்டியை  
(பிரதிச் சபாநாயகர் அவர்கள்)  
(Mr. Deputy Speaker)

Order, Please! Please permit the Hon. Minister to finish.

சுபீர் நீதிமன்ற மன்றம்  
(திரு. லலித் அத்துலத்முதலி)  
(Mr. Lalith Athulath Mudali)

All what we have done is the least that one can do. We have said: "We want to preserve the independence of the judiciary. We have the legal provision, but unfortunately the conduct of the judge appears to fall short of the standards of conduct of a judge. Parliament unfortunately has to perform this role. If we ignore it we undermine the independence of the judiciary. If we ignore it, more judges might say these things. If we go on ignoring it people will start replying to judges, Members of Parliament will start attacking judges". What will happen if one MP comes and says, "Your salary is more than mine"? Then we will create utter chaos in this country. So Parliament had to act. If Parliament kept quiet we would be opening the doors for every judge to be making politically controversial speeches. We want to stop that. We want to protect the judiciary. We want to maintain the highest standards of conduct of the judiciary.

Now, we do not want to pass judgment on this. We do not want to decide on the facts fully. If we have an inquiry, when this inquiry is over, maybe the person concerned has an explanation as to what happened,

maybe the newspaper report was inaccurate, maybe one sentence has been knocked out—(Interruption). To the best of our knowledge there appears to be an authenticity to the report, and to the best of my knowledge there has been no contradiction of the report by the person concerned. But because the person concerned is a person who holds such high judicial office we must not jump to conclusions. We must inquire into the facts in an organized, sensible way. Maybe he has some explanation. Maybe in the course of his explanation he himself appreciates that what has been said may not be quite what a judge ought to say. Maybe we can work out a system by which we can get over most of these problems. But we cannot get over these problems by doing nothing. We cannot get over these problems by seeming to protect the independence of the judiciary by remaining like an ostrich in the sand when the judiciary themselves appear to pass out of the standards of conduct expected of them. On the other hand, we do not want to go as far as you want to go at the beginning. We want to look into it very carefully.—(Interruption). We the Parliament. They, the SLFP, want to have a substantive motion of censure.

சுபீர் நீதிமன்ற மன்றம்  
(கலாநிதி அனந்ததிலிஸ்ஸ த அல்விஸ்)  
(Dr. Anandatissa de Alwis)

The SLFP wants a vote of censure.—(Interruption.)

சுபீர் நீதிமன்ற மன்றம்  
(திரு. லலித் அத்துலத்முதலி)  
(Mr. Lalith Athulath Mudali)

Their associates of the former decade.—(Interruption.)

சுபீர் நீதிமன்ற மன்றம்  
(கலாநிதி அனந்ததிலிஸ்ஸ த அல்விஸ்)  
(Dr. Anandatissa de Alwis)

In your case you would have shot them in the Soviet Union.

சுபீர் நீதிமன்ற மன்றம்  
(திரு. லலித் அத்துலத்முதலி)  
(Mr. Lalith Athulath Mudali)

Independence of judiciary does not mean that the judges have the right to say anything anywhere. Independence of the judiciary does not mean that members of the judiciary have freedom unrestricted in any way. Independence of the judiciary, the privileges of the judiciary, mean that the judges have greater restrictions placed on them in ordinary life than you and I. That is what we are trying to uphold. Independence of the judiciary will only be preserved by Parliament action, and Parliament is only taking the minimum steps necessary. We do not like this crisis, we did not create this situation, but we cannot wish it away, we cannot jump to conclusions, we

[உலக அமைதிக்காக]  
cannot mouth slogans. We have to protect the independence of the judiciary from the very judiciary themselves if they have made these speeches. That is why I say that in all the circumstances the correct, proper thing to have done was to move towards this Select Committee.

Thank you.

தலைவர் கவனத்தை  
(பிரதிச் சபாநாயகர் அவர்கள்)  
(Mr. Deputy Speaker)

Order, please! The Deputy Chairman of Committees will now take the Chair.

சபையின் தலைவர் கவனத்தை இரண்டாவது முறையாகக் குறிப்பிட்டு, தலைவர் கவனத்தை ஈடுபடுத்தி [பிரதிச் சபாநாயகர் அவர்கள்] இரண்டாவது முறை.

ஆளுநர், பிரதிச் சபாநாயகர் அவர்கள் அக்கிரமத்தில் விளக்கிய அமைதி, குழுப் பிரதித் தலைவர் அவர்கள் [திரு. எம். மாரவிக்ரெமா] தலைமை வகிப்பார்கள்.

Whereupon MR. DEPUTY SPEAKER left the Chair, and MR. DEPUTY CHAIRMAN OF COMMITTEES (MR. EDMUND SAMARAWICKREMA) took the Chair.

சபைத் தலைவரின் கவனம் (உலக அமைதி)  
(திரு. சரத் முத்தேவகமா - கலவான)  
(Mr. Sarath Muttetuwegama-Kalawana)

Mr. Deputy Chairman, I am very glad to follow the Hon. Minister of Nationalised Services—(Interruption). I am sorry, National Defence. My humblest apologies. That was absolutely a slip of the tongue. I am referring to the Hon. Minister of National Security. I think this is the first important Debate that he has participated in after he assumed office as Minister of National Security.

I am glad to see him, Sir, in such good forensic form. He displayed all the skills that he displayed when he was a lawyer arguing his cases for his clients. Today he did as well as he normally does when he handles a bad brief. I am glad that he retains his forensic skill because at the rate this Government is going we may not have a government for a Minister of National Security before long. The way this Government is going. I do not know how soon and where it will end.

There is an old story, Sir, that some people are born great, some people achieve greatness, and some people have greatness thrust upon them. It is the same with government. Some governments are born with trouble, some Governments acquire trouble, and some governments, like this Government of the present day, thrust trouble upon themselves. This is what they are doing by this Motion.

We have a situation which does not warrant this Motion. After all, we are dealing with a Constitution which you enacted, a Constitution which on paper

reads quite well, a Constitution which has many salutary provisions built into it. I had occasion to refer to some of those provisions in the earlier argument on the points of Order that were raised.

We have fundamental rights written into the Constitution. Under Article 126 of the Constitution any person who feels that his fundamental rights are violated can go by way of writ procedure to the Supreme Court, and if the Supreme Court finds anybody guilty of violating those fundamental rights they are dealt with. Of course, the people who promulgated the Constitution have done some curious things when the Supreme Court had dealt with people who violated fundamental rights. I have had occasion, time and again, to refer to those things.

When Mr. Udugampola was held to have violated the fundamental rights of Rev. Dharamitipola Ratanasara, when the Supreme Court held that under your Constitution, by recourse to Article 126, Rev. Ratanasara had proved that Mr. Udugampola had violated his fundamental rights, what did the executive do? The executive, which is part of the trilogy, the triangle—the judiciary, the executive and the legislature—the executive said, “We do not care for what the judiciary has said: we will give him a promotion and pay the fine.” They did the same thing in respect of another man who was guilty of having violated fundamental rights under Article 126—Mr. Ganeshanathan.

Constitutions are, after all, pieces of paper. Constitutions depend for their implementation on the people who implement them, and in this particular case it is the executive and the Government that has to implement the Constitution. It is not merely the letter of the Constitution that you have to implement, it is the spirit of the Constitution.

What happened in 1977? The United National Party was returned with an unprecedented majority. The euphoria of that majority was still present when this Constitution was drafted. The Constitution therefore contained provisions in the context of that euphoria which guaranteed the most liberal provisions in most written Constitutions that you find. But what has happened? One by one Article after Article of that Constitution you are converting into a dead letter by ignoring certain provisions, by flouting decisions of the courts or by deliberately working up conventions which will make that Constitution and unworkable piece of paper.

It is only five years after we enacted that Constitution. Five years is a short time in the history of a country, it is true but your Constitution has been referred to as a periodical because it has been

amended so many times. But be that as it may, let us take the Constitution, let us be serious about it. Five years in the history of a Constitution, in the history of a country, in the history of a people, in the lifetime of a generation, is not a long time. You who have the duty to govern this country under this Constitution are new enacting conventions which will be there for ever.

You started on the wrong foot with the K. C. E. de Alwis Commission of Inquiry. We have argued that case, Sir. The whole proceedings are there. A lot of speeches were made. What happened in essence at that point? What happened was that a person who was a judge but who was a party to a proceeding complained about a judgment. He complained among other things that some of the judges who worked in that case were partisan. Anyway I do not want to go into that for certain other reasons. A Select Committee was appointed after a long debate. Now we have come with another Select Committee. I want to say that these are the conventions that you have established.

Sir Ivor Jennings is a person whose statements on Constitutions have often been quoted. Talking about the Constitution of Ceylon, he says :

"In Britain the conventions are useful for they keep in touch with the growth of ideas. The constitution does not work itself. It has to be worked by men. It is an instrument of national co-operation and the spirit of co-operation is as necessary as the instrument. The constitutional conventions are the rules elaborated for effecting that co-operation."

Now, in these five years we have been making the conventions. What are you doing? Take your Constitution. Take Article after Article. There are guarantees given. I do not want to go into all these things. It will take time for me to read them. But the guarantees become a dead letter if you are going to bring legislation like this which will make it impossible for an independent judiciary to function. Look at the position today. Whom are you bringing before this Select Committee? It is the Chief Justice of the Supreme Court of the country. Tomorrow, if there is any case coming up before the Supreme Court, it is this same Chief Justice who has to constitute the bench that will hear that case. If there is a case where somebody comes and says his fundamental rights have been violated by somebody from the President downwards—not the President but any part of the executive—it is this same Chief Justice whom you propose to sit in judgment over who has to constitute the bench that will hear that case. Very often there are pending cases where the Chief Justice himself has got to decide between the State and an individual. I am not saying that he will not do it independently. What I am saying is, are you contributing to an atmosphere that will make it easy for him to do it?

I want to ask, Sir, particularly the Hon. Minister of National Security, one simple question. All he said is that this speech, if made, entails certain problems. Now, suppose the Chief Justice had not made that speech at that place, that is, at the Sinnathuray Commercial Tutory, suppose he did not make it at that place but he wrote the contents of that speech into a judgment as an *obiter dictum*. Some of those things could be part of an *obiter dictum* in the course of a judgment. Suppose the judge was dealing concretely with the case that was mentioned by the Hon. Minister, a case of bribery, and suppose that he said this in sentencing the man. Suppose it came up before the Supreme Court where this man, who had been convicted for bribery, had been sentenced to a long term of imprisonment and these things were argued on his behalf, particularly as mitigating factors. Suppose the Chief Justice or some judge had said "Well, I cannot really blame this person for taking bribes because his income has been shown to be Rs. 600 in his government office; the cost of living is so much; it has been urged before me that a coconut is Rs. 6; it has been urged before me that the price of flour is so much; it has been urged before me that the Government has failed to bring down the cost of living; therefore, I reduce this man's punishment to a warning and discharge him or ask him to enter into a conditional bond to be of good behaviour." Now, Sir, the judge has said all these things—a large part of these things which are complained of, but he has said it in a judgment not by way of *obiter dicta*, because really they are his reasons for reducing the sentence. What would you have done? Would you have brought this resolution? Supposing a judge says—

உத்தியோகம்  
(அங்கத்தவர் ஒருவர்)

(A Member)

That is in Courts.

சுரன் இளமைப்பெறும் மனம்

(திரு. சரத் முத்தெட்டுவெகம்)

(Mr. Sarath Muttetuwegama)

Yes, it is in Courts. That is not the point. It is not whether it is in the Courts or whether it is at the Sinnathuray Commercial Tutory that is worrying you.

உத்தியோகம்

(அங்கத்தவர் ஒருவர்)

(A Member)

Similar mention was made about a Member of Parliament.

சுரன் இளமைப்பெறும் மனம்

(திரு. சரத் முத்தெட்டுவெகம்)

(Mr. Sarath Muttetuwegama)

It is what was said that is worrying you and not where it was said and how it was said.

மன்றிப்பினி

(அங்கத்தவர் ஒருவர்)

(A Member)

No, no. Similar mention was made about the hon. Member for Matugama.

ஈரன் இரணைப்பினி மறண

(திரு. சரத் முத்தெட்டுவெகம)

(Mr. Sarath Muttetuwegama)

That is my position. I am saying that that is what worries you.

மன்றிப்பினி

(அங்கத்தவர் ஒருவர்)

(A Member)

Similar mention was made against the Member for Matugama. We are not moving a resolution.

ஈரன் இரணைப்பினி மறண

(திரு. சரத் முத்தெட்டுவெகம)

(Mr. Sarath Muttetuwegama)

I do not want to get into an argument with you. You can say anything after I finish. What I am saying is, I am posing a question. It may be rhetorical. I am asking you, supposing all these things were said in the course of an *obiter dicta* or a *judgement* or several *judgements*, it would have hurt you. It would have hurt some people. — (Interruption). You know that different people pardon different things. That is the problem. It may be pardonable to you, it may not be pardonable to others. I do not want to go into that area, because in the old Select Committee Debate on the other matter I said what has happened to you Members of Parliament. Your letters of resignation are somewhere else. If you go and vote against this, your letters of resignation will be there tomorrow. So you must now vote for this to ensure your presence; so do not get into trouble over this.—(Interruption). I have no problem. I have not given my resignation to anybody. Now, Sir, the problem is this.—(Interruption). Yes, Sir I want Sir to dispose of that matter because this has been said several times. The Hon. District Minister for Hambantota says that my appeal is in the Supreme Court. That is true. The hon. Member for Harispattuwa also said that a little earlier in the evening. The other day, in reference to some other matter, the hon. Member for Kaduwela said that. It is true that my appeal is in the Supreme Court. It is not before this gentleman who is now the question of this Select Committee Debate. I want to say that at least give me the credit for believing that I would have said these very things whether I had an appeal in the Supreme Court or not. This is not meant for me to curry favour with anybody. I do not want to go into that. This is not meant for that purpose and I think it is unfair for Member to say that. Well, Sir, on that matter I do not want to say anything more.

What I was saying was, supposing this judgment had contained these very matters, then you would have had to bring a resolution to appoint a Select Committee and find out whether that judgment contained things which were proper or improper, were derogatory and so on and so forth. So, I say that you will be in serious trouble when you do this. You have set conventions which prevent them from speaking their minds. I have shown you, Mr. Deputy Chairman, that the Constitution itself places no restrictions whatsoever on the judges, and there is only one category of persons on whom the freedom of speech is restricted namely under Article 15 (8), that is, army officers and other members of the forces. It is advisably done by you yourselves in the Constitution which you promulgated in 1978. So how can you after that turn round and say, "Well, you know the judges must not say these things" Where do you draw the line?

Supposing another judge goes to a school prize-giving — a school prize-giving is a well known forum for judges; I myself have received a prize from a judge; I have witnessed many others—(Interruption) — There is nothing wrong in that; if you cannot understand what I am trying to say, I am very sorry about it. What I am saying is that supposing another judge goes to a prize-giving, in the course of which he says, "I am sorry, I got late to come for this prize-giving today because the conditions of the road was very bad. I was getting into one rut and coming out of another" and you bring a resolution and say, "this judge has gone and talked about highway." Where do you draw the line? Because this is a terrible thing. That is why I say, Sir, you are creating wrong conventions.

Sir, about three or four years ago, Mr. Michael Dias a gentleman whom some of you may know, who is a brother of a more celebrated Dias — he is a Senior Lecturer in Law at the Cambridge University — came and delivered a lecture at the Law Library. He spoke to certain members of the Bar Council and he gave a lecture and at the end of the lecture he invited the members of the Bar Council to ask him any questions they like. One distinguished gentleman, a senior attorney — now he is a President's Attorney — asked Mr. Dias, "I would like to know whether in your opinion good judges are born". Mind you, this was just after 1977, when there was a lot of trouble. He said, "well, I would not like to answer that question in that way but I can tell you one thing, that bad judges are made". This is what you are trying to do, trying to hold a sword of Damocles over the judges by trying to say, "If you step out of line, we know what to do with you. We will bring you before the House, have a Select Committee," Then do nothing about it but keep the Select Committee going and generally do something. Now, Sir, that is what I say is bad. This entails a lot of Constitutional problems.

You know, Sir, that under the Parliamentary Privileges Act a very curious situation can develop under this very procedure. When you appoint a Select Committee and you summon a judge – in this case may be the Chief Justice or some other judge – and tell him, “Come before us, give us your version of your story or whatever it is.”, Supposing – I am saying this for argument’s sake because we have to look at the picture in its totality—the judge says; “No I am not coming, do anything you like”. Then under the Priviledges Act certain other steps have to follow. A warrant can be issued. Then the judge is arrested upon the warrant. He can, in an extreme case, be committed to prison because he has committed a contempt of this House.

Then the most peculiar thing follows thereafter. If a judge is committed to prison, some relative of his can petition the Supreme Court by way of a Habeas Corpus petition saying, “Release that man because he has been wrongly imprisoned”. Then, Sir, the conflict begins. Who is supreme? But really does it matter? If you want orderly government – and I think you need it badly at this stage; if you need law and if you need order, if you want this country to be governed properly, if you want the people of this country to respect the institutions which have been brought into force, this is not the way to set about it. This is not the way and that is why I say that some governments thrust trouble upon themselves and – that is what you are doing with this.

There was a case in India where this sort of a situation arose, where there was a petition filed and the court had to decide who was supreme. I do not want to go into that. It was the case of the High Court of Uttar Pradesh and the Legislative Assembly of that same State. The judgment was delivered by the Chief Justice called Gajendra Gadkar and he said :

“It is necessary to remember that the status, dignity and importance of these two respective institutions – that is the legislature and the judiciary are derived primarily from the status, dignity and importance of the respective causes that are assigned to their charge by the Constitution. These two august bodies as well as the executive which is another important constituent of a democratic society must function not in antipathy nor in a spirit of hostility but rationally, harmoniously and in a spirit of understanding within their respective spheres, for such harmonious working of the three constituents of the democratic State alone will help the peaceful development, growth and stabilization of the democratic way of life in this country.”

That is all, Sir. I do not want to take too much time. I know that there are inhibitions on the time but I would just like to quote the speech which I quoted last time in this House on the Select Committee Debate on the K. C. E. de Alwis Commission of Inquiry. I will

make a very brief quotation from a speech which was made so eloquently by none other than His Excellency the President J. R. Jayewardene. this is what he said :

“We have those situations arising today”.

He was talking about situations about Bracegirdle and all—

“We have those situations arising today, and they will arise in the future too. All governments and all members of governments may not be as liberal as the Hon. Minister and some of his Colleagues are, or as legal-minded. We may find a different type of people being thrown up in the hustings who do not care or have no respect for those ideas”.

I wonder whether his words of that time have proved prophetic.

“But if you have a limb of the Constitution manned by men who are independent, who do not fear the consequences when they give their decisions, then at least democracy can be saved and salvaged. We know that, ultimately, whatever rules and words you may put into a Constitution, the working of it lies with the men and women who work it. You may have all the precautions to make the judiciary independent, but unless the men who man the judiciary are men of courage, men of wisdom, the judiciary will never be independent. We have had such men in the past. We have such men in the present. Now the object of all of us is to see that in the future too, in the written Constitution, we create the conditions for such men to live, thrive and prosper.”

Then he says—this is the crucial thing :

“If they feel that they will be subject to pressures from government forces or from those elected to Parliament, they will not be able to perform their duty.”

Thank you.

மேல்கண்ட சபைத் தலைவர் (சர்வர் சபைத் தலைவர் அவர்களின் உரையைக் குறித்து)

(திரு. மொண்டேகு ஜயவிக்ரம — பொது நிர்வாக அமைச்சரும் பெருந் தோட்டத்தொழில் அமைச்சரும்)

(Mr. Montague Jayawickrema Minister of Public Administration and Minister of Plantation Industries)

I am glad, Sir, that this is the second time—

திருவாரூர் காவல் துறை

(சுரு உப தலைவர்)

(The Deputy Chairman of Committees)

Order, please! The Leaders of the Parties have agreed to finish this debate at 8 p.m. They have committed to finish this before 8 p.m. You can continue now.

உறுப்பினர் சபைத் தலைவர்

(திரு. லக்ஷ்மன் ஜயக்கொடி)

(Mr. Lakshman Jayakody)

Sir, it is to have been finished off at 8 O'clock but it is obvious that a debate of this nature cannot be finished at 8 p.m. So can we have some more time, Sir? There are so many other Members to speak.

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(The Deputy Chairman of Committees)

Anyway, you also agreed to finish it at 8 p.m. The Hon. Minister can continue now. I just referred to the fact that at the leaders' meeting we agreed to finish the debate at 8 p.m.

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(Mr. Gamini Dissanayake)

It is Government's view that we must stick to that agreement. The hon. Member for Matugama, I am told, has taken 45 minutes. I think it is the longest speech that was made in the House today. We are prepared to stick to the agreement and I think we should expect the Opposition also to abide by that agreement.

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(Mr. Montague Jayawickrema)

Mr. Deputy Chairman, I want to endorse what my Honourable Friend, the Minister of Lands, Land Development and Mahaweli Development said. It was agreed to close the debate at 8 p.m. and we are going to stick to that. As he mentioned, the hon. Member for Matugama made a 45 minute speech. When I, in passing, said, "Why is he making a long speech?" I think a Member of the Opposition said, "We have given our time to him also". Therefore, Sir, *(Interruption)*— I cannot remember who said it but I heard a voice.

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(The Deputy Chairman of Committees)

That is all right. The Hon. Minister can continue. Actually, the Hon. Minister wanted to finish the Debate at 7 p.m. but the Deputy Leader of the Opposition said "We will do it at 8 p.m.". I was at that meeting. Now, you may continue. We will try to finish it at 8. p.m.

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(Mr. Montague Jayawickrema)

I am glad Sir, that this is the second opportunity I am having of following on the speech made by the hon. Member for Kalawana. On a previous occasion too, I had the good fortune of following him, and I made some remarks which I intend recalling shortly about some point raised by him in his speech. But before I do that, I must join with the Hon. Minister of National Security in complimenting the hon. Member for Matugama. His speech was such that it raised the tone of the debate to what the Government has decided to maintain. But I cannot say the same of the Hon. Member for Kalawana. He came out with extraneous matters totally unconnected with the subject. And

strangely enough, the man is not here—*(Interruption)*—Oh, you are in the wrong Chair! On the last occasion he said that he had to go to temple at 7 p.m. and I asked him whether he often goes to the temple.—*(Interruption)*—Now Sir, Where I go at this time?—I am here at this time I do not want to bring this debate to a low level.

I am going to speak on one or two matters which would interest the House. And besides, there is only one hour more and Hon. Gamini Dissanayake is due to follow me at some stage.

Hon. Minister of National Security quoted from a speech made by Sir Henry Slessor and a part of Sir Winston Churchill's speech. I am going to quote something equally important, because it is important that we set standards which should be maintained.

"In Grantham's case in (1906) the Attorney-General suggested that in order to inspire public confidence in the judicial process 'it is all important not only that a judge should be impartial, but that he should seem impartial, that he should not merely be actuated by those principles of justice which he is called upon to administer, but that in the public estimation he should be credited with possessing them.'

In the same case Prime Minister Campbell-Bannerman observed that the judicial bench of this country, and it is one of the greatest blessings we enjoy, has the confidence and the support of the whole community. . . . But the judges have the respect of the country, because and in so far as they respect themselves. When a judge. . . steps down into the lower sphere. . . to make little partisan speeches, he is open to our criticism as any man in the street. If we think any judge by such conduct is lowering the dignity of the Bench. . . it is our duty to express our reprobation of such conduct?"

What he says is that a judge must not misuse the trust that is placed in him. He must know his restrictions, he must not get into a political debate, and if he does get into a political debate, then Prime Minister Campbell-Bannerman observed "he is open to our criticism as any man in the street. If we think any judge by such conduct is lowering the dignity of the Bench...it is our duty to express our reprobation of such conduct."

Now, we are a part of the Commonwealth. Britain has an unwritten Constitution and we have a written Constitution, and we are practising Parliamentary methods of Britain, and we have been maintaining the dignity of our House.

Then there is another part of the speech made by Sir Winston Churchill in 1954. I do not know whether my Friend the Hon. Minister of National Security quoted this. But it is so important that even if he had quoted it, I should reiterate it.

"It is thought necessary to exclude judges from non-judicial activities which are likely to interfere with the performance of their official duties, such as those activities which may require time



energy and of necessity involve some interference with the judge's official function. It is equally incumbent upon judges to avoid activities which might attract adverse public comments or raise controversy"—

**In this case it has raised controversy.**

"Such activities may affect, or seem to affect, the impartiality of the judge and may impair public confidence in the judiciary as a whole and the dignity and prestige of the judicial office. Moreover, judicial involvement in non-judicial activities would often necessitate the disqualification of the judge if a matter in which he has been involved or an organisation with which he has been associated, came before him. The greater the involvement in non-judicial activities, the more likely it is that these problems will be encountered. As disqualification results in inconvenience and possibly additional costs, it is preferable that judges should avoid putting themselves in such a position. These considerations tend to exclude judges from non-judicial activities."

I want particularly to emphasize this to my hon. Friend, the Member for Kalwana :

"These considerations tend to exclude judges from non-judicial activities and lead to strict standards of conduct in private life".

Now, Sir, we do not want to criticize anybody by name. But it is common knowledge that not so long ago some statements were made at a prize distribution of a tutory attended by not more than 200 people. And I understand that they were all teenagers. Why this type of statement should be made to an audience of school children is hard to comprehend? It is very hard to comprehend.

Sir, this Government has the highest respect for the judiciary. His Excellency the President's father was a highly respected judge of the Supreme Court. His Excellency's uncle was a highly respected judge of the Supreme Court. In fact the two brothers, both judges of the Supreme Court, highly respected, created traditions in this country and I can safely say that His Excellency the President will go all out, as you yourself have said in your speeches of what he has said in the earlier period, to safeguard the independence of the judiciary.

That is what we are doing now. We have nothing against any individual, but what we are saying is there are certain limitations and those limitations were enumerated in the first part of Winston Churchill's speech in the House of Commons in 1954. He said, in other words, the restriction on judges is such that Ministers and Members of Parliament have much more privileges than a judge—freedom of expression, freedom of action, and I am glad that my Friend is now agreeing that that is so. (*Interruption*). No, no one is going to curb your freedom. You have the freedom that I have or anybody else. I must also mention—

தினேயர்ஸ் கார்டை வகைப்படுத்துகிறது

(குழு உப தலைவர்)

(The Deputy Chairman of Committees)

**Order, please! The Deputy Speaker will now take the Chair.**

சுனதுர்பு தினேயர்ஸ் கார்டை வகைப்படுத்துகிறது இலாபகரமான ஓபிசெயின், தினேயர்ஸ் கார்டை வகைப்படுத்துகிறது [செயின்செயின்செயின்செயின்] இலாபகரமாக சீல.

அதன் பிறகு, குழுப் பிரதிநிதி தலைவர் அக்கிராசனத்தினின்று அகலவே, பிரதிநிதி சபாநாயகர் அவர்கள் [திரு. நோமன் வைத்யாநா] தலைமை வகித்தார்கள்.

Whereupon MR. DEPUTY CHAIRMAN OF COMMITTEES left the Chair and MR. DEPUTY SPEAKER (MR. NORMAN WAIDYARATNA) took the Chair.

மேன்மைக்கு உதவியாகும் உணர்வு

(திரு. மொண்டேகு ஜயவிக்ரம)

(Mr. Montague Jayawickrema)

Sir, I am continuing my speech. But since there is a limitation of time, I do not propose to digress further. I want to make a few points. Now, what did my hon. Friend, the Member for Matugama say? He tried to argue that Parliament is not supreme. He tried to say that the people are supreme. That is perfectly true. We accept the position that the people are supreme, and it is because the people gave us the mandate and gave us the power to speak on their behalf that we say Parliament is sovereign.

Therefore, certain actions are contemplated and certain issues are before this House. We are not pre-judging. The gentleman concerned who is alleged to have made this speech has, up to now, not contradicted anything which he said on that occasion. We are not sure whether all this is correct. We have to ask him that. He has every opportunity to come before the Select Committee and deny any statement, if he has not made such a statement. We are a strictly impartial Select Committee. There will be hon. Members from the Opposition also in the Select Committee, so let us find out from this person whether he went to this Tutory and said, "I hope I will be properly reported", and whether he made all these statements.

These statements, if true, are very damaging. It is not for a judge—whatever the judge maybe—to open himself to criticism. And here Winston Churchill himself says that if that situation arises, he can be treated like any common man. We do not want members of the judiciary to be treated like common men. We have to respect the judiciary. So let not the judiciary come down to levels where they can be attacked. That we do not want. What more do you want? Is this not a desire to safeguard the judiciary?

This is the first time in the history of this country that a situation like this has arisen. We have had judges for, I do not know how many years, but has one judge in the history and annals of this country even

[මොක්කෙතු ජයවික්‍රම මහතා]

been criticised—leave alone a judge of the Supreme Court or a Chief Justice? We know that there are no such cases. We have to maintain that tradition and let us see that no future Chief Justice of this country opens himself to criticism of this nature.

I would like to conclude by quoting Lord Hailsham, of Marleybone, Lord Chancellor of England who as recently as 1983 said in the 1983 Hamlyn Lectures :

“The limitations which judges and others must accept are that judges should only be employed and should only express opinions upon matters which are both justiciable and properly before them. If they are employed outside this field, they are embarking upon an unknown territory, and, if they generalize on matters not properly before them, they bring the profession of a judge into deserved criticism.”

Judges are competent to deal with certain provisions of law. Judges are not expected to criticize a Government in a tutory of 200 people, all teen-agers. Thank you, Sir, for your indulgence.

නියෝජ්‍ය කථානායකතුමා  
(ධීර්ථිජ් ජපානායක් ඇවර්කර්)  
(Mr. Deputy Speaker)

I recognize the hon. Member for Medawachchiya (Mr. Maithripala Senanayake). I allow him only 10 minutes.

අ. හ. 7.14

මෛත්‍රීපාල සේනානායක මහතා (මැදවව්විය)  
(ශ්‍රී. ආමත්‍රිපාල සෙනෙයායක — මධ්‍යමාච්චි)  
(Mr. Maithripala Senanayake—Medawachchiya)

ගරු නියෝජ්‍ය කථානායකතුමාණෙනි, මේ යෝජනාව හඳුන්වන්න මට සිද්ධ වී තිබෙන්නේ මේ රටේ ඉතිහාසයේ ඉතාමත්ම කනගාටුදායක සිද්ධියක් හැටියටයි. 1977 මහා මැතිවරණය වෙනුවෙන් තිබුණ කල මැතිවරණ ප්‍රකාශනය මඟින්, 1978 දී පැනවූ අලුත් ආණ්ඩුක්‍රම ව්‍යවස්ථාව මඟින් එක්සත් ජාතික පක්ෂය බොහෝම තදින් කීයා සිටියා, අධිකරණයේ ස්වාධීනත්වය ආරක්ෂා කරනවාය කියා.

එක්සත් ජාතික පක්ෂයේ, 1977 මැතිවරණ ප්‍රකාශනයේ “අධිකරණයේ සහ පුවත්පතේ නිදහස යළිත් නගවුරු කරන බවට සහතික වෙමු” යනුවෙන් සඳහන් වෙනවා. දේශපාලන බලපෑමවලින්, ඇඟිලි ගැසීම වලින් අධිකරණය ආරක්ෂා කරන බවට එමඟින් එක්සත් ජාතික පක්ෂය ජනතාවට පොරොන්දු වුණා. මැතිවරණ ප්‍රකාශනයට එවැන්නක් ඇතුළත් කිරීමට එක්සත් ජාතික පක්ෂය කටයුතු කළේ එවකට තිබුණු ශ්‍රී ලංකා නිදහස් පක්ෂ රජයෙන් අධිකරණයේ ස්වාධීනත්වයට හානියක් පැමිණෙනවාය, අධිකරණයට ඇඟිලි ගැසීම කෙරෙහිවූය යන අදහසක් ජනතාව තුළට කාවැද්දීමටයි.

මේ රජය 1978 දී අලුතින් ඇති කල ආණ්ඩුක්‍රම ව්‍යවස්ථාවේ III වැනි පරිච්ඡේදය යේ “මූලික අයිතිවාසිකම්” යටතේ සඳහන් වී තිබෙන්නේ මොනවාද? ඒ පරිච්ඡේදයේ 10 වැනි ව්‍යවස්ථාවේ මෙසේ සඳහන් වෙනවා :

“10. සෑම තැනැත්තකුටම තමන් අභිමත ආගමක් ඇදහීම හෝ වැළඳ ගැනීමේ නිදහස ද ලබාදිය යුතුය. තමන් විශ්වාසයක් දරීමේ හෝ පිළිගැනීමේ නිදහස ද ඇතුළුව සිහිමේ නිදහසට, හෘදය සාක්ෂියේ නිදහසට සහ ආගමික නිදහසට හිමිකම් ඇත්තේය.”

එම පරිච්ඡේදය යටතේම 14 වැනි ව්‍යවස්ථාවේ මේ විධියට සඳහන් වෙනවා :

“14. (i) සෑම පුරවැසියකුටම—  
(අ) භාෂණයේ නිදහසට සහ ප්‍රකාශනය ඇතුළු අදහස් පල කිරීමේ නිදහසට ;

- (ආ) සාමකාමීව රැස්වීමේ නිදහසට ;
- (ඇ) සමාගමයේ නිදහසට ;
- (ඈ) වෘත්තීය සමිති පිහිටුවීමේ සහ වෘත්තීය සමිතිවලට බැඳීමේ නිදහසට ;
- .....
- (ඊ) ශ්‍රී ලංකාව තුළ යම් රජයේ නිදහසට සහ අභිමත ස්ථානක වාසය කිරීමේ නිදහසට ; සහ
- (උ) ශ්‍රී ලංකාවට පෙරළා පැමිණීමේ නිදහසට

හමිකම ඇත්තේය.”  
නමුත් රජය ඉදිරිපත් කර තිබෙන මේ යෝජනාව ආණ්ඩුක්‍රම ව්‍යවස්ථාවෙන් නගවුරු කර ඇති ඒ මූලික අයිතිවාසිකම්වලට පටහැනියි. එම නිසා මා කියන්නේ, මෙය ඉතාමත් කනගාටුදායක අවස්ථාවක්ය කියා. අධිකරණයේ ස්වාධීනත්වය ගැන පුත පුතා අවධාරණයෙන් කථා කරන මේ රජය මේ වන විට තුන් වතාවක් අධිකරණයට අත තබා තිබෙනවා, ඇඟිලි ගසා තිබෙනවා.

විරවන්නී සමරවීර මහතා (නියෝජ්‍ය අධ්‍යාපන ඇමතිතුමා)  
(ශ්‍රී. චීරාමණි ජගරාචාරි — සේවිච්චි ධීර්ථි අභ්‍යාමජ්ජ)  
(Mr. Weerawanni Samaraweera—Deputy Minister of Education)  
නමුත්තාන්සේලායේ කාලයේදී සර්වාංගයම දැමීම.

මෛත්‍රීපාල සේනානායක මහතා  
(ශ්‍රී. ආමත්‍රිපාල සෙනෙයායක)  
(Mr. Maithripala Senanayake)  
අලුත් ආණ්ඩුක්‍රම ව්‍යවස්ථාව ක්‍රියාත්මක කල වහාම එවකට හිටි සියලුම ශ්‍රේෂ්ඨාධිකරණ විනිශ්චයකාරවරුන්ගේ සේවය තතර කොට තමන් කැමති අය පමණක් තැවක පත් කර ගන්නා. ඒ අනුව පලමු වතාවට අධිකරණයට ඇඟිලි ගැසුවා.

විරවන්නී සමරවීර මහතා  
(ශ්‍රී. චීරාමණි ජගරාචාරි)  
(Mr. Weerawanni Samaraweera)  
ජයා පතිරණ ?

මෛත්‍රීපාල සේනානායක මහතා  
(ශ්‍රී. ආමත්‍රිපාල සෙනෙයායක)  
(Mr. Maithripala Senanayake)

අතතුරුව විශේෂ පාර්ලිමේන්තු කාරක සභාවක් පත් කොට ශ්‍රේෂ්ඨාධිකරණ විනිශ්චයකාරවරුන් දෙපළක් ඒ කාරක සභාව ඉදිරියට කැඳවීම මඟින් දෙවැනි වතාවට මේ රජය අධිකරණයට ඇඟිලි ගැසූ බව කනගාටුවෙන් මතක් කරන්න සිද්ධ වී තිබෙනවා.

දැන් මේ රජයේ හයෙන් පහක වැඩි ජන්දයෙන් මෙම යෝජනාව සම්මත වුණාම ඒ අනුව පත් කෙරෙන විශේෂ පාර්ලිමේන්තු කාරක සභාව ඉදිරියට අග්‍ර විනිශ්චයකාරතුමා කැඳවීම මඟින් මේ රජය තුන්වන වතාවට අධිකරණයට ඇඟිලි ගහනවා.

මේ යෝජනාව මඟින් පත් කෙරෙන කාරක සභාව ඉදිරියට කැඳවන්න බලාපොරොත්තු වන මේ අග්‍ර විනිශ්චයකාරතුමා කවුද? මේ රජය අලුත් ආණ්ඩුක්‍රම ව්‍යවස්ථාව ක්‍රියාත්මක කල වහාම කල දෙයක් තමයි, මේ රටේ අග්‍ර විනිශ්චයකාරතුමා හැටියට පලමු වරට අධිකරණ සේවාවෙන් පිටස්තර පුද්ගලයකු පත් කර ගැනීම. ඒ වුණත් විරුද්ධ පාර්ශ්වයේ උදව්‍යවත්, ඒ පත්වීම ගැන කිසිම විරුද්ධත්වයක් පල කළේ නැහැ. ඒ මොකද, එතුමා ගැන පැහැදිලි කළේ තිබුණු නිසා, එතුමා අධිකරණයේ ස්වාධීනත්වය ආරක්ෂා කරයි කියා ජනතාව තුළ විශ්වාසයක්, තිබුණු නිසයි. ඒ බව මේ අවස්ථාවේදී ප්‍රකාශ කරන්නේ සන්නේෂයෙන්. එතුමා යම් විධියක ප්‍රකාශයක් කළාය කියා පනුවල පල වුණා. ඒ කළාය කියන ප්‍රකාශයේ සහභාගියක් තිබෙනවා නම් මා සිතන හැටියට ඡේදය කලයුතුව තිබෙන්නේ මෙවැනි පියවරක් ගැනීම නොවෙයි. අධිකරණයේ ස්වාධීනත්වය ආරක්ෂා කිරීම පිණිස පමණක් නොව අද මේ ආණ්ඩුවට මුහුණපාන්නට සිද්ධ වී තිබෙන ප්‍රශ්නවලට අමතරව — ආර්ථික ප්‍රශ්න, රටේ ස්වෛරීභාවයට තිබෙන ප්‍රශ්න, උතුරේ තිබෙන ප්‍රශ්න, තැගෙනහිර පළාතේ තිබෙන ප්‍රශ්නවලට අමතරව—තවත් ප්‍රශ්න හිස උඩට ඇද ගන්නේ තැනිම මේක අමතක කර මේ විධියේ පියවරක් නොගැනීම යුක්තිසහගතය කියන එකයි මා මේ අවස්ථාවේදී මතක් කරන්නේ. මොකක්ද එතුමා කළාය කියන ප්‍රකාශය? එතුමා සහභාගියක්

ප්‍රකාශ කර තිබෙනවා. ජීවන විඳීම වැඩිය කීවාලු. ඒ විධියේ දේවල් කියා තිබෙනවාලු. එවැනි දෙයක් එතුමාගෙන් කීවාට තිබෙනවා නම් එතුමාගෙන් අහල ඒ ප්‍රශ්න විඳීමට පියවරක් ගන්නවා වෙනුවට මොකක්ද මේ රජය කරන්නේ කියන ප්‍රශ්නයයි අපට අහන්නට සිදුවී තිබෙන්නේ.

ගරු නියෝජ්‍ය කථානායකතුමනි, මා මීට වඩා යමක් කියන්නට අදහස් කරන්නේ නැහැ. සාධාරණව තීරණයට ප්‍රකාශයක් කළ මෙවැනි පුද්ගලයකු සම්බන්ධව සලකා බැලීමේදී—නමුත් තාක්සේලාම පත් කළ පුද්ගලයකු සම්බන්ධව—එතුමාගේ නිදහසට පරද්දක් නොවන විධියට කටයුතු කරන මෙන් මා මේ අවස්ථාවේදී ඉතාම ගෞරවයෙන් ඉල්ලීමක් කරනවා.

**දිනේෂ ගුණවර්ධන මහතා (මහරගම)**

(**ශ්‍රී. නිගෝණි ශ්‍රී. ගුණවර්ධන — මහරගම**)  
(Mr. Dinesh Gunawardene—Maharagama)

ගරු නියෝජ්‍ය කථානායකතුමනි, ප්‍රජාතන්ත්‍රවාදය ආරක්ෂා කිරීමට දිවුරා පොරොන්දු වූ ආණ්ඩුවක් හැටියට වර්තමාන ආණ්ඩුවේ ආණ්ඩුක්‍රම ව්‍යවස්ථාවේ මූලික ප්‍රකාශනයේ මෙසේ සඳහන් කර තිබෙනවා :

" සකල ලෝකවාසීන්ගේ ද අභිමානය සහ සමෘද්ධි සහතික කෙරෙන අප්‍රජාතන්ත්‍රවාදී උරුමයක් ලෙස නිදහස, සමානාත්මතාව, යුක්තිය, මූලික මානව අයිතිවාසිකම් හා අධිකරණයේ ස්වාධීනත්වය සකල ජනතාවට සහතික කරන්නාවූ ප්‍රජාතන්ත්‍රවාදී සමාජවාදී ජනරජයක....."

මෙම ව්‍යවස්ථාව යටතේ ධර්මිෂ්ඨ සමාජයක් බිහි කරන්නට පොරොන්දු වූ ආණ්ඩුවක් මේක.

පසුගිය කාලපරිච්ඡේදය තුළ දී ඇති වූ ඉහළ සිද්ධිවලට අමතරව විශේෂයෙන්, ව්‍යවස්ථාදායකයේත්, විධායකයේත්, අධිකරණයේත් අන්‍යෝන්‍ය ස්වාධීනත්වය මත දිවෙන පාලන ක්‍රමයක් කෙරෙහි විශ්වාසය තබන ප්‍රජාතන්ත්‍රවාදී රටාවේ අධිකරණයේ බලය පාලනය කරන්නට දරණ උත්සාහයක් හැටියට මේ අද ඉදිරිපත් කරන යෝජනාව අපි දකිනවා. මට පෙර කථා කළ ආණ්ඩු පක්ෂයේ මන්ත්‍රීවරුන්ගේ කථාවල ප්‍රධාන තැනක් ගත්තේ බටහිර ලෝකයේ අධිකරණ සම්ප්‍රදායක් හා විනිශ්චයකාරවරුන්ගේ ආචාර ධර්මයන් පිළිබඳව පොත්පත් පෙරළ පෙරලා ඉදිරිපත් කළ නර්කයන්යයි.

නිදහස ලැබීමෙන් පසු අවුරුදු හතක් තිස්සේ අපි ඒ ආචාර ධර්මයන් පිළිබඳව තිබෙනවාද කියන එක සොයා බැලුවොත් අද ජාතික ආරක්ෂාව පිළිබඳ ඇමතිතුමා විසින් කියන ලද ආචාර ධර්මයන් අපේ විනිශ්චයකාරවරුන් විසින් මෙතෙක් පිළිබඳව නැහැ. එහි එක් අවස්ථාවක් පමණක් හැටියට අද මේ අග්‍රවිනිශ්චයකාරතුමාගේ ප්‍රකාශය අරගෙන ඒ ප්‍රකාශය වටා ආචාර ධර්මයන් පද්ධතියක් ඇති කර ගැනීමේ උත්සාහයක් ගැන ජාතික ආරක්ෂාව පිළිබඳ ගරු ඇමතිතුමා කථා කලා. මම හිතන විධියට විනිශ්චයකාරවරුන්ට පුවත්පත්වලට ලිපි ලිවීමේ හෝ දේශන පැවැත්වීමේ අයිතිවාසිකමක් නැත කියන දෙයක් එතුමා ප්‍රකාශ කලා. ලංකාවේ පුවත්පත්වලට, සඟරාවලට විනිශ්චයකාරවරුන් සැපයූ සහ වර්තමානයේත් සපයන ලිපි ලේඛන සහ තිබේද්වයන් පිළිබඳව මේ ආකාරයේ මතයක් පළ කළොත් තවත් විනිශ්චයකාරවරුන් තොගයක් මේ ආකාරයේම විශේෂ කාරක සහාවක් ඉදිරියට ගෙනෙන්නට සිදු වෙනවා.

මම විශේෂයෙන් මේ වික කීවේ මෙන්න මේ හේතුව නිසයි. අද මේ ප්‍රකාශ වී තිබෙන අදහස් පිළිබඳව මගේ අදහස් පළ කිරීමට පෙර මෙන්න මේ කාරණය පිළිබඳව රජයේ අවධානය යොමු කරවන්නට ඕනෑ. නමුත් තාක්සේලාගේ ආණ්ඩුව පසුගිය අවුරුද්දේ අග්‍රවිනිශ්චයකාර තනතුර බාල්ද කිරීම පිළිබඳව විශාල ආන්දෝලනයක් සහ සංවාදයක් පැවතුණි. අධිකරණයේ ආරක්ෂාව සඳහා ස්ථාපිතව තිබුණු, ජනාධිපතිතුමාගේ වැටුපට පමණක් දෙවැනි වූ එකම වැටුප වන අග්‍ර විනිශ්චයකාරතුමාගේ වැටුපට තිබුණු තත්ත්වය නමුත් තාක්සේලාගේ ආණ්ඩුව වෙනස් කලා. ඒ අවස්ථාවේදීත් මේ ආකාරයේම මතවාදයකට ගොදුරු වූහත් මේ තත්ත්වයෙන් නමුත් තාක්සේලා ක්‍රියා කළේ නැහැ. අන්ත ඒ අවස්ථාවේදී අග්‍ර විනිශ්චයකාරවරයා තිබුත් කළ ප්‍රකාශය කියවලා බැලුවොත් කොයි තරම් දුරට අධිකරණය සමච්චලයකට පත් කරන තත්ත්වයකට නමුත් තාක්සේලාගේ ආණ්ඩුවේ ක්‍රියා කළාද කියන අදහස එද තිබුත් වූණි. නමුත් එද නමුත් තාක්සේලාගේ ආණ්ඩුව එහි යම්කිසි සාධාරණත්වයක් මත

වෙන්තට ඕනෑ, මේ විධියට ක්‍රියා කළේ නැහැ. ඒ සම්බන්ධයෙන් යම් ක්‍රියා මාර්ගයක් ගැනීමට ඉදිරිපත් වූහේ නැහැ. නමුත් වර්තමානයේ සිත්තදොරේ පොද්ගලික විද්‍යා පීඨයේ පැවැති තහන ප්‍රදනෝත්සවයකදී පළ කළ අදහස් මාලාව පිළිබඳව සොයා බැලීමට අද මේ විශේෂ කාරක සහාවක් පත් කිරීමට යෝජනාවක් ඉදිරිපත් කරනවා. අධිකරණයේ ප්‍රධානියා හැටියට, අග්‍ර විනිශ්චයකාරවරයා හැටියට එතුමන් ඒ අදහස් ඉදිරිපත් කලාද, යන්න විමර්ශනයකට ලක් කිරීමට අද අවහිරණ වන්නේත්, ගරු ජාතික ආරක්ෂාව පිළිබඳ ඇමතිතුමා කීවාට වූ ඒ විමර්ශනයට ඒ අදහස් ගැබ් කලා වූ කොටසක් වන මන්ත්‍රීවරුන්මයි. මන්ත්‍රීවරුන් හැටියට අප විසින්, අප ගැන සඳහන් කලා වූ කොටසක් පිළිබඳ මේ ආකාරයෙන් තීන්දුවකට අවහිර වීමට උත්සාහ දැරීම කිසිදේත්ම සාධාරණ යුක්තිය ඉටුවීමක් කරා ගමන් කිරීමක් කියා මා හිතන්නෙ නැහැ.

ඒ වගේම එක්සත් ජාතික පක්ෂයේ වර්තමාන කායකත්වය විසින් ද, මේ අග්‍ර විනිශ්චයකාරවරයාගේ ප්‍රකාශය පිළිබඳව යම් යම් මත පළ කර තිබියදී, එක්සත් ජාතික පක්ෂයේ අති මහත් බහුතරයක් නියෝජ්‍යයන් කරන පාර්ලිමේන්තුවක් හැටියට නමුත් තාක්සේලා අනුගමනය කරන බලාපොරොත්තු වන විමර්ශනය කිසිදේත්ම යුක්තියගතව විමර්ශනයක් වන්නේ නැහැ. ඒ වගේම අග්‍ර විනිශ්චයකාරවරයාගෙන් පළ වූන යම් අදහස් තිබෙනවා නම් එම අදහස් පදනම් වූහේ හේතු අපි මීට වඩා ගැඹුරින් තේරුම් ගත යුතුය කියා මා හිතනවා. ඔහු පක්ෂයක් පිළිබඳව හෝ ආයතනයක් පිළිබඳව හෝ කරුණු ඉදිරිපත් කලාද නැද්ද කියන එක නොවෙයි ප්‍රශ්නය. මම විශේෂයෙන් කියන්න උත්සාහ දරන්නේ මේකයි : නීතිය බලපෑම පවතින්නේ එම නීතිය ක්‍රියාත්මක කරන්න පුළුවන් තාක් කල් පමණයි. නීතියක් ක්‍රියාත්මක කරන්න බැරි තත්ත්වයකට රටක් සමාජයක් පරිවර්තනය වෙන විට එම නීතිය කඩදාසි කැබැල්ලකට පමණක් ඉතිරි වෙනවයි කියන සත්‍ය අපි දකින්න ඕනෑ.

**නියෝජ්‍ය කථානායකතුමා**  
(**பிரதிச் சபாநாயகர் அவர்கள்**)  
(Mr. Deputy Speaker)

**Order, please ! Kindly take three more minutes.**

**දිනේෂ ගුණවර්ධන මහතා**  
(**ශ්‍රී. නිගෝණි ශ්‍රී. ගුණවර්ධන**)  
(Mr. Dinesh Gunawardene)

ගරු නියෝජ්‍ය කථානායකතුමනි, අපි වේලාව පිළිබඳව එකඟත්වයකට පැමිණි බව සැබෑයි. අපේ අදහස් ඉදිරිපත් කිරීමේ වැදගත්කමක් මේ අවස්ථාවේදී තිබෙනවා. විරුද්ධ පාර්ශ්වය හැටියට අපි පැමිණි එකඟත්වය කඩන්නට මා උත්සාහ කරනවා නොවෙයි. වෙනම පක්ෂයක් නියෝජ්‍යයන් කරන මම අතීන් මන්ත්‍රීවරුන් පළකළ අදහස් සියල්ල සමග එකඟ නොවෙන්න පුළුවන්. ඒ නිසා මට අදහස් ඉදිරිපත් කිරීමට අවස්ථාව දිය යුතුයි. මේ අවස්ථාවෙන් පසු සමහර විට මේ රටේ ඉදිරිය, අනාගතය වෙනත් මාවතකට හැරෙන්නට පුළුවන්. අපි එය දකින නිසයි විශේෂයෙන් මේ අදහස් වික ඉදිරිපත් කරන්නෙ.

ගරු නියෝජ්‍ය කථානායකතුමනි, මා කියාගෙන ආවේ නීතිය ක්‍රියාත්මක කරන්නට බැරි තත්ත්වයකට රටේ මහජනතාවගේ ජීවිතවලට සම්බන්ධ තත්ත්වය පරිවර්තනය වෙන විට, නීතියේ අර්ථය තුරන් වී යන විට, ඇතිවාරයයෙන්ම ඒ පිළිබඳ අදහස් ඉදිරිපත් වීම කිසිදේත්ම වැරදි දෙයක් හැටියට ආණ්ඩුවක් විසින් නොසැලකිය යුතු බවයි. ආණ්ඩුවේ ප්‍රධාන වගකීම රටේ ජනතාවගේ සමෘද්ධිය නම්, ඒ සමෘද්ධිය තව දුරටත් ගෙන යාමට බැරි තත්ත්වයකට රටේ සමාජයේ ආර්ථිකය පරිවර්තනය වෙමින් යනවා නම්, නීතිය විනිශ්චය බවට පරිවර්තනය වෙනවයි කියන සිද්ධාන්තය අපි තේරුම් කර ගන්නට ඕනෑ.

මට පෙර කථා කළ කලවාන ගරු මන්ත්‍රීතුමා (සරත් මුත්තේටුවගම මහතා) නමුත් තාක්සේලාගේ ආණ්ඩුව විසින් කළ දේවල් ගැන කීවා. මූලික අයිතිවාසිකම් වලට පටහැනිව පැවිදි හඬ සංවිධානයේ කටයුතුවලට බාධා කිරීම සම්බන්ධයෙන් ශ්‍රේෂ්ඨාධිකරණය මගින් වැරදි කරුවන් කරනු ලැබූ අයට උසස්වීම් දී නීතිය සහ අධිකරණය බාල්දුවට පරිවර්තනය කලා. විවිධ ගුණවර්ධන මහත්මිය ඇතුළු ඒ කාන්තාවන්ට කළ අපරාධය පිළිබඳ

**[දිනේෂ ගුණවර්ධන මහතා]**

නින්දාව බාලව පරිවර්තනය කරමින් එම නිලධාරීන්ට උසස්වීම් දුන්නා විනිශ්චයකාරවරයන්ගේ ගෙවල් ඉදිරියේ පෙළපාලි පැවැත්වුවා. මවුන්ගේ ආත්ම තොරවය ගැනවත් කල්පනා කරන්නට ආණ්ඩුව අපොහොසත් වුණා. ඒ ආකාරයෙන් අධිකරණයේ උත්තරීතර තත්ත්වය බාලව පරිවර්තනය කලා. මෑත කාලයේ ගාල්ලේ දිසා විනිසුරුගේ ගෞරව ගල් ගැසීමේ සිද්ධිය, මහනුවර මහේස්ත්‍රාත්වරයා ලවා බලහත්කාරයෙන් නින්දාවක් ඇති කර ගැනීමට තුඩු දීම, පානදුරේ විනිශ්චයකාරවරයාට උද වූ තත්ත්වය, යනාදී කරුණුවලින් අධිකරණය, බාලව විගෙන යන තත්ත්වය බලන විට අධිකරණයේ ප්‍රධානියා ගැටියට යමිකිසි මනසක් පල කරන්නේ, අධිකරණයේ පවතින උත්තරීතර භාවය ආරක්ෂා කර ගැනීමත්, රටට අවශ්‍ය වූ නීති ක්‍රියාත්මක කිරීමට අවශ්‍ය පරිසරය සකස් කර ගැනීමත් අරමුණු කරගෙනයි.

මේ තත්ත්වයට අමතරව අපට දකින්න ලැබුණ තවත් කරුණු තිබෙනවා. රටේ උද්ධමනයක් ඇති කරන මුදල් නෝට්ටු අවිවු ගැසීම ආර්ථික පරිහානියට හේතුවන බව පල කරමින් පාර්ලිමේන්තුවේ කථා කිරීම නිසා මේ රටේ මුදල් ඇමතිකම කාලයක් දැරූ එක්සත් ජාතික පක්ෂයේ ජ්‍යෙෂ්ඨයෙක් ගැටියට කටයුතු කල කඩුවෙල හිටපු මන්ත්‍රීතුමාට ගෞරවයක් සිදු වුණා. අදහස් පල කිරීම නිසා එතුමාට ගෞරවයක් සිදු වුණේ, පානදුරේ මන්ත්‍රී කෙවිල් ප්‍රකාශන මහතාට අදහස් පල කිරීම නිසා ගෞරවයක් සිදු වුණා. මෙන්න මේ වගේ අතීතයකින් තමයි තමුන්තාත්සේලා අද යුක්තිය යොමුකරන බව හදන්නේ ; නින්දා කරන්නට හදන්නේ ; විමර්ශනය කිරීමකට පරිවර්තනය වෙන්නට හදන්නේ. මම මේ අදහස් වික කීවේ, වර්තමානයේ එනම් අද මේ දරන උත්සාහය සාර්ථක වීමෙන් අධිකරණය හා ව්‍යවස්ථාදායකයන් විධායකයන් අතර පවතින සම්බන්ධය කැඩී යාමකට තුඩු දෙන තත්ත්වයක් ඇති වුණොත් ඒ හේතුවෙන් ගෙන උදවන පරිහානී තත්ත්වයට වගකියන්නට වන්නේ මේ ආණ්ඩුවටම බව පෙනවා දෙන්නටයි. එම නිසා ආචාර ධර්ම පද්ධතිය ගැන කතා කරනවා වෙනුවට ආචාර ධර්ම පද්ධතියක් ඇති කරන්නට මේ වාගේ අරමුදලා වෙලාවකදී ආණ්ඩුව වෙතම කොමිටියක් පත්කලා නම්, මේ තත්ත්වය මීට වඩා එතාට යාම වලක්වන්නට තිබුණා. [බාධා කිරීමක්] ජාතික ආරක්ෂාව පිළිබඳ ඇමතිවරයා ගැටියට තමුන්තාත්සේලා තිබෙන ආචාර ධර්ම පද්ධතිය පිළිබඳව රට හොඳකාරව දන්නවා. ඒ ගැන අමුතුවෙන් කියන්නට දෙයක් තැනූ. ඒ ආචාර ධර්ම පද්ධතිය පිළිගන්නා තමුන්තාත්සේලා, ඒ අනුව ක්‍රියාත්මක වෙනවා නම් මීට වඩා හොඳ බව මතක් කරන්න කැමතියි.

**මන්ත්‍රීවරයෙක්**  
**(ආර්ථිකවරයා ඉරුවර)**  
(A Member)  
ඒ නිසා තමයි තමුන්තාත්සේලා මෙතාට ආවේ.

**දිනේෂ ගුණවර්ධන මහතා**  
**(ති.රු. ති.දි.ගුණවර්ධන)**  
(Mr. Dinesh Gunawardene)

ජාතික ආරක්ෂාව පිළිබඳ ඇමතිතුමා කියන්නට යෙදුණා. මේ ප්‍රකාශය ගැන යොයා බැලීමකින් තොරව යන්නට ඉඩ දුන්නොත් රටේ සිටින තවත් විනිශ්චයකාරවරුන් මේ ලෙසටම හැසිරෙන්නට පුළුවන්ය කියා. කෙසේ වුණත් කරන ලදැයි කියන එක්තරා ප්‍රකාශයක් සහරුද කැඳ කියා යොයා බලා ඒ මගින් මෙල්ල කරන්නට හදන දේ පිළිබඳව ඉතා හයානක සැකයක් ඇති වී තිබෙනවා. එම නිසා මෙවැනි අරමුදලා තත්ත්වයක් ඇති කර ගන්නවා වෙනුවට මෙම ආචාර ධර්මයක් පිළිබඳව පැහැදිලි තත්ත්වයක් අධිකරණයෙහි ඇති කර ගැනීම සඳහා වෙනම උත්සාහයක් දරා, මේ වාගේ තත්ත්වයන්ගෙන් අප වැළකුණා නම් මෙයට වඩා හොඳ නොවේද කියා ප්‍රශ්න කරන්නට කැමතියි.

අවසාන වශයෙන්, ප්‍රජාතන්ත්‍රවාදයේ මූලික අයිතිවාසිකමක් වශයෙන් කාලයක් කාලයට මේ රටේ ජනතාවට ලැබිය යුතු මහ මැතිවරණය අපොසි කලා වූ යුගයක, අධිකරණයෙහි ස්වාධීනත්වය දේශපාලන බලයට යටපත් කර ගැනීමේ හයානක උත්සාහයක් මේ තුළ ක්‍රියාත්මක වන බවත් එහි අවසානය ඉතා හයානක තත්ත්වයක් කරා මේ රටේ ගෙන යාමක් බවත් කියන අනතුරු හසවමින් මේ යෝජනාවට අපගේ විරුද්ධත්වය ප්‍රකාශ කරමින් මා තවතිනවා.

**ගාමිණී දිසානායක මහතා (ඉඩම් හා ඉඩම් සංවර්ධන ඇමතිතුමා සහ මහවැලි සංවර්ධනය පිළිබඳ ඇමතිතුමා)**  
**(ති.රු. කාමිණී තිලාත්‍රායක — කාණි, කාණි අධිකාරී ආයතන සභාවේ මහාමාත්‍යවරයා)**  
(Mr. Gamini Dissanayake - Minister of Lands & Land Development and Minister of Mahaweli Development)

Mr. Deputy Speaker, it was the Government's position that though this Debate is of great importance we should abide by the Party Leaders' decision that this Motion should be debated to a close and that a vote should be taken by 8 p.m. I am sorry that I had to stand up for this principle and in the process deprive the House of perhaps two very learned discourses from the hon. Member for Kotmale (Mr. Ananda Dassanayake) and, I think the hon. Member for Baddegama (Mr. Amarasiri Dodangoda) who is an eminent lawyer (*Interruption*). It is the reply.

**අනිල් මුණසිංහ මහතා**  
**(ති.රු. අනිල් මුණසිංහ)**  
(Mr. Anil Moonesinghe)

On behalf of the Government ?

**ගාමිණී දිසානායක මහතා**  
**(ති.රු. කාමිණී තිලාත්‍රායක)**  
(Mr. Gamini Dissanayake)

However, Sir, I think that—

**ලක්ෂ්මන් ජයකොඩි මහතා**  
**(ති.රු. ලක්ෂ්මන් ජයකොඩි)**  
(Mr. Lakshman Jayakody)

Each one of them was given five minutes. The secretary-General came and asked them.

**ගාමිණී දිසානායක මහතා**  
**(ති.රු. කාමිණී තිලාත්‍රායක)**  
(Mr. Gamini Dissanayake)

Let us please stick to the agreement, hon. Member for Attanagalla, because I have to reply.

**ලක්ෂ්මන් ජයකොඩි මහතා**  
**(ති.රු. ලක්ෂ්මන් ජයකොඩි)**  
(Mr. Lakshman Jayakody)

Yes, I know. But it is not fair because the Secretary-General came and asked them.

**ගාමිණී දිසානායක මහතා**  
**(ති.රු. කාමිණී තිලාත්‍රායක)**  
(Mr. Gamini Dissanayake)

I think the Opposition has been very justly and well served by a speech which I did not hear, the speech of the hon. Member for Matugama (Mr. Anil Moonesinghe). The speech of the hon. Member for Matugama, I was told, was full and very ably put together. I should like to congratulate him on that, but I should like to tell him that, while he displayed his very profound knowledge of the English Constitution,

its traditions and conventions, which all his life he has despised, I am sorry to say that here at this moment we are concerned with the constitution of Sri Lanka, with the relationship between the judiciary, the legislature and the executive as they subsist in Sri Lanka today.

And for me, Sir, I like to say at the very inception of my contribution that it is a particularly difficult task because I for five long years, worked in the chambers of the present Chief Justice when he was an eminent Queen's Counsel practising at the bar. But I have been nominated by the Government to reply on behalf of the Government and I shall do so without dealing with personalities and without trying to prejudge whether in fact the learned Chief Justice has made the speech that he has made the speech that he has made, as the hon. Member for Matugama (Mr. Anil Moonesinghe) tried to suggest, and present to this Parliament and to the country that the purpose of this Select Committee is to find out, as the Hon. Minister of National Security said, the facts without which we cannot act.

Sir, we have to be very careful in dealing with judges and the Judiciary. We cannot bring a censure Motion on the basis of some fresh report. We cannot bring a censure motion on the basis of some press report. It is not necessary to summon the Chief Justice, and I do not think we have any right to prejudge as to whether the select Committee is going to summon him or anybody else. They can summon the reporters who were there. They can get evidence to support the verification of the facts which are necessary for this House—I should like to say, to be possessed of—even before we move a Motion of Censure. I think my good friend the hon. Minister of National Security dealt with that matter. There are many courses of action that are open, but the Government, because it wants to be careful, is choosing his procedure as all the parties in Parliament will be represented. The Chief Justice can attend if he wants to attend, and should the committee decide to summon, the normal steps that follow when witnesses are summoned must take place. So there is no magic about this matter (*Interruption*). I do not want interruptions from you. If he does not come, the normal law will take place. Let me explain that there is nothing sacrosanct about this. there is a law in this country and the law will take place.

The relationship between the different organs of government, the executive, the judiciary and the legislature—this is a juridical concept as old as constitutional law. In fact it was a misreading of the English Constitution by Montesquieu which led to the separation of powers in the American Constitution. In other words, the concept that the executive, the judiciary and the legislature should function

separately, as Dr. N. M. Perera once mentioned in this House is, a misreading of the constitutional position by Montesquieu. The hon. Member for Matugama is smiling. I think he deeply appreciates the position—(*Interruption*). I think you stand to benefit more than me.

Therefore, Sir, the main organs of government—the legislature, the judiciary and the executive—have a different role to play, but that does not mean that merely because we call the Supreme Court a Supreme Court that the Supreme Court is superior to the executive or the legislature. They play separate roles, but in so far as an organ of the government is concerned, the 1978 Constitution, as the hon. Member for Kalawana quite correctly said, entrenched the Supreme Court, made the judges independent and provided that the legislature and the executive shall not interfere with the proper functioning of the judiciary. That is the correct constitutional position.

That means, as was done in the past, it was not possible to phone up judges and tell them, “I want this judgment”. It was also not correct to call Judges of the Supreme Court to the President's House and tell them, “You write the judgment like this”. I do not think any Member of the Opposition says that was done, and particularly after the Matugama Election Petition appeal I do not think the Member for Matugama will say—

சுபீம் நீதிமன்றத்தை  
(திரு. அனில் முனசிங்ஹம்)  
(Mr. Anil Moonesinghe)

I will not say that.

தாசிலீ ஜிவானகை மஹா  
(திரு. காமிணி திஸாநாயக்க)  
(Mr. Gamini Dissanayake)

No. You will not say that. Quite right!

Let us be on common ground on that. But let us preserve the judiciary for the future also to function in that way. Now, how are we to ensure that? I said that the Supreme Court is not supreme over Parliament nor over the President or the Cabinet. But if you look at the Constitution, the laws and the conventions, the President can be criticized—and he is criticized openly—Cabinet Ministers can be criticized, Parliamentarians can be criticized, public officers can be criticized, but no Judge of the Supreme Court can be criticized. You step out of this House and call a Judge a rogue and see what will happen to you. You make the criticism that a judge has been corrupt in delivering a judgment and see what is going to happen to you. Let us find out what in fact will happen to you. You will be hauled up for contempt of court. We have provided for that because we want to ensure the continued independence and indeed the impartiality of the judges and the judiciary.

[மாதிரி சிவனாயக மெனா]

I think my good Friend the Member for Kalawana will know that one of the former editors of the "Daily News", in colonial times wrote an editorial entitled, "Justice on Holiday". He said, "This is a colonial practice ; judges want to go and have holidays in Nuwara Eliya, and therefore they have the April recess for one month ; all the cases are piling up and they go and witness the races". What happened ? He was hauled up for contempt of court and was dealt with. I think he was kept in custody for some time.

மன்கிரிபரவென்

(அங்கத்தவர் ஒருவர்)

(A Member)

What he said was also true.

மாதிரி சிவனாயக மெனா

(திரு. காமினி திஸாநாயக்க)

(Mr. Gamini Dissanayake)

My Colleague says that what he said was true. But truth is not the important matter. When it comes to matters of contempt of court, it is the dignity, it is what the judges consider to be the necessary environment and the atmosphere in which they should function, and at that time it was felt that it was necessary for judges to have a holiday in April so that the judgments will be better, although, as my good Friend the hon. Member for Kalawana (Mr. Sarath Muttetuwegama) said, if you have got to go to Nuwara-Eliya today, you have to go through quite a few pot-holes ! But I do not think the judges would grudge that. Therefore, you cannot isolate the different segments of the Constitution and say the judges are like holy cows and that they are like gods. They are not like gods. They may be when you have an appeal and you pay ! But the fact is that these inputs into a system of government, into the fabric of jurisprudence must be carefully weighed and balanced and my submission today is that Parliament, and Parliament alone, must keep a review of the constitutional provisions which go to make a system of government. That was so under your 1972 Constitution and that is so under the 1978 Constitution. Therefore, now let us see what has happened.

I was surprised to see the lucid judgments that my good Friend the Hon. Minister of Public Administration and Plantation Industries quoted, because he not being a lawyer, I was exceptionally happy about his erudition which shows that law is not magic !

மன்கிரிபரவென்

(அங்கத்தவர் ஒருவர்)

(A Member)

He has been properly briefed.

மாதிரி சிவனாயக மெனா

(திரு. காமினி திஸாநாயக்க)

(Mr. Gamini Dissanayake)

Quite right, and I like to follow in the same tradition.

I think the hon. Member for Matugama (Mr. Anil Moonesinghe) dealt with my good friend the Hon. Minister of National Security dealt with judgment *obiter dicta*, judgment. The Hon. Minister of Public Administration dealt with judgments and the hon. Member for Matugama dealt with judgments. But, I like to come back home and mention for the purposes of record what our own judges have said about the conduct of judges. This is what Justice Sansoni had said in analysing judgments of a judge of a lower court.

"I regret that it should be necessary to remind the learned judge that parties to cases are entitled to a judgement written without exaggeration or passion."

This is what Justice Sansoni said before he became the Chief Justice, That even in a judgement a judge should not impose his passion or try to exaggerate matters, and accordingly that judgement was set aside. Justice Stone of the Supreme Court of America said—

"Precisely because judicial power is unfettered judicial responsibility shall be discharged with a finer conscience and humility than that of any other agency of government."

Now, this is all in reference to court conduct. I want to be very clear on that. This does not refer to conduct outside the courts. I will come to that later.

In relation to court conduct, our own Law Reports, 66 N.L.R. on page 138 states :

"The ampler the power the greater the care with which it shall be exercised and the very circumstance that absolute privilege attaches to judicial pronouncements imposes a correspondingly high obligation on a judge to be guarded and restrained in his comments and to refrain from needless invective."

You and I can indulge in invective. In fact, in France, I am told that the chairs of the Members of Parliament are screwed to the ground so that they will not be lifted, because when invective failed, there was a habit of throwing chairs at each other. You cannot do that in courts. These chairs also, I am told by the Hon. Minister of Industries, cannot be removed—(Interruption).

Now, Sir, having referred to what is expected of a judge when he conducts himself in court, the judges themselves have said that their conduct outside court must be even higher. That is important, because judges have to arbitrate in conflicts between citizen and citizen, between citizen and the State, between political parties ; they have got to arbitrate between

different communities. To perform those functions they should not in any way, according to the standards that they themselves have laid down for themselves, enter the ring, they should never express views about political functionaries, should not be vituperative, because we can have different views about cost of living, we can have different views about unemployment, we can have very different views about the Job Bank. I have said so in this House, but if judges enter the arena of the marketplace of politics, what is going to happen? The tomatoes that you and I hurl at each will also be flung at them. I do not think that the jurisprudence of this country which we nurtured from British times—the hon. Member for Matugama can come down, trace the great occasions in history, right up to Bracegirdle, right up to the various writ applications, the Kalawana judgement of the Supreme Court, which we followed, but—(Interruption). No, no; “reluctantly” or not is a different matter; that is a subjective matter for you. You had better read my speech in Parliament on that occasion. Therefore, I do not think it is correct for us to set in motion a chain of events which will ultimately make the judiciary wholly involved in politics, leading to a position where we all will have to say, “Let the judges also be elected by the vote of the people.” Are we prepared for that? We are not. The hon. Member for Matugama quite correctly said that we are not prepared for that, in which case, let us safeguard, with all the problems the present entrenched position of the judges and of the courts. Let us continue these parliamentary traditions with all their faults and perfect parliamentary democracy. I think that is a great challenge before us, and I do not wish anyone of us to prejudge what the Select Committee is going to find out, what they will do and how they will conduct their proceedings. I do not think it is proper for us to decide at this time what the Select Committee will do.

I said earlier that these high standards have been laid down by the judges themselves because they have felt time and time again that the functioning of the judiciary, which is an entrenched sector of the Government, through the Constitution, is something which they have to cherish and safeguard. And if you consider the position of the Chief Justice, there is another aspect which is relevant. That is, he is the head of the Judicial Service Commission. What he says and that he does as the head of the judiciary of this country will influence the entire judicial service of this country. Therefore, if nothing happens here, if somebody does not take cognizance of this, do not be surprised if the Kurunegala District Judge says next week, “This business of MPs giving chits is something which is obnoxious, something which is deplorable and I condemn it. I want to ask the MP or the politician who has given the chit to come and explain to me.”

It is not open to judges while they have the fullest freedom to adjudicate, to dispense with justice, to get embroiled in the day-to-day hurly-burly process of the political life of our society. I think, that is what we should strive to protect. That is the only purpose in moving this Motion: to see that the judiciary will function as an impartial, fair judiciary which will dispense with justice acceptable to all. I think, Sir, that is the quintessence of the matter. There is no question about the supremacy of Parliament or the supremacy of the judiciary or the supremacy of the executive. All that is decided in the Constitution. This Constitution is the Constitution of 1978. As the hon. Member for Kalawana conceded, that is a great step forward from the 1972 Constitution.

සරත් මුත්තේවුටෙගම මහතා  
(திரு. சரத் முத்தேட்டுவெகம)  
(Mr. Sarath Muttetuwegama)

I did not say that.

ගමිණී දිසානායක මහතා  
(திரு. காமிணி திஸாநாயக்க)  
(Mr. Gamini Dissanayake)

Then, what did you say? (Interruption).

So, where does it err in practice?—(Interruption). No. So, therefore, the constitution that reads well on paper works well in practice also, provided you do not make what I would call theatrical, dramatical exercises by saying that the judiciary's independence is going to end. What is the position if a judge says there are pot holes in the road? What is the relevancy? Somebody can say there are mosquitoes. Surely, the issues are fundamentally different.

What is the purpose of this Motion? The purpose of this Motion is to inquire whether certain purported statements have been made by the highest judicial functionary of this country. Is there any Member of the Opposition who says that any judge—leave alone the Chief Justice—should comment about the President's conduct, should comment about the racial problems in this country, rationalize and say that those were justified? If those statements are true—I do not say that they are true—I think it is cause for the gravest concern.

ಶಿವಯ್ಯன் ಕವಿತாಪாತ್ರ  
(பிரதிச் சபாநாயகர் அவர்கள்)  
(Mr. Deputy Speaker)

Order, please! It is two minutes to 8.00.

ගමිණී දිසානායක මහතා  
(திரு. காமிணி திஸாநாயக்க)  
(Mr. Gamini Dissanayake)

Yes, Sir, So that is the spirit in which this Government approaches the moving of this Motion. We do not want to prejudge the learned Chief Justice.

[மாதிரி டீமாவாக மறைய]

We do not want to decide in this atmosphere what we should do. We want a Select Committee to report to us as to what happened. It may be that if the learned Chief Justice comes before the Committee, he will say what happened, and certainly I hope that there will be a happy resolution to this problem, because I think the judiciary in this country should be safeguarded and protected at all costs even from itself.

ஈதனடி டீமாவாக மறைய (கோவ்மலே)  
(திரு. ஆனந்த தஸநாயக்க — கொத்மலை)  
(Mr. Ananda Dassanayake-Kotmale)

நாடு சிபிசேட—  
எழுந்தார்,  
rose.

ஈமரசிரி டேவந்தோடி மறைய (டிடேங்கா)  
(திரு. அமரசிரி தொடங்கொட — பத்தேகம)  
(Mr. Amarasiri Dodangoda-Baddegama)

நாடு சிபிசேட—  
எழுந்தார்,  
rose.

ரீபி பதிரன் மறைய (அக்மீமன)  
(திரு. ரிச்சட் பத்திரன் — அக்மீமன)  
(Mr. Richard Pathirana-Akmeemana)

நாடு சிபிசேட—  
எழுந்தார்,  
rose.

நியைசர் கட்டாவாகமது  
(பிரதிச் சபாநாயகர் அவர்கள்)  
(Mr. Deputy Speaker)

Order, please! I have a note here—

ஈதனடி டீமாவாக மறைய  
(திரு. ஆனந்த தஸநாயக்க)  
(Mr. Ananda Dassanayake)

மரூ நியைசர் கட்டாவாகமது, ஈபிபி கட்டா கரந்தி ஈபிபிபி மது.

ரீபி பதிரன் மறைய  
(திரு. ரிச்சட் பத்திரன்)  
(Mr. Richard Pathirana)  
மபி கட்டா கரந்தி ஈபிபிபி மது. [மொகிரீம]

நியைசர் கட்டாவாகமது  
(பிரதிச் சபாநாயகர் அவர்கள்)  
(Mr. Deputy Speaker)

கரூணாகர வாபீவெந்த. நுத டேனெது ஈபிபி வர கட்டா கரந்தி  
மது.

மந்திரிபெண்ட  
(அங்கத்தவர் ஒருவர்)  
(A Member)

ஈபிபி கட்டா கரந்தி மது. [மொகிரீம]

ரீபிபிபி மறைய  
(திரு. வீரவள்ளி சமரவீர)  
(Mr. Weerawanni Samaraweera)

ஈபிபிபி ஈபிபிபி மது. ஈபிபிபி கட்டா கரந்தி ஈபிபிபி  
[மொகிரீம]

நியைசர் கட்டாவாகமது  
(பிரதிச் சபாநாயகர் அவர்கள்)  
(Mr. Deputy Speaker)

Order, please! I have a note here from the hon. Member for Attanagalle who I think was deputizing for the Leader of the Opposition at the meeting of Leaders where we agreed to take the vote at 8 o'clock. At 7.35 p.m. I called upon the Hon. Minister of Lands and Land Development and Minister of Mahaweli Development to reply and nobody got up.—(Interruption). We can resolve any of these problems. Twenty or thirty minutes in our lives will not make any difference. If it is necessary, certainly I shall recognize the hon. Member for Kotmale and allow him to speak for—normally it was five minutes—ten minutes.

ரீபி பதிரன் மறைய  
(திரு. ரிச்சட் பத்திரன்)  
(Mr. Richard Pathirana)

ஈபிபி கட்டா கரந்தி மது. ஈபிபி கட்டா கரந்தி மது.

ஈமரசிரி டேவந்தோடி மறைய  
(திரு. அமரசிரி தொடங்கொட)  
(Mr. Amarasiri Dodangoda)

ஈபிபி கட்டா கரந்தி மது. [மொகிரீம]

ஈதனடி டீமாவாக மறைய  
(திரு. ஆனந்த தஸநாயக்க)  
(Mr. Ananda Dassanayake)

The list of names was there. Even the Secretary-General came and asked us.

லக்ஷ்மன் ராய்க்கொடி மறைய  
(திரு. லக்ஷ்மன் ஜயக்கொடி)  
(Mr. Lakshman Jayakody)

At 7 o'clock the Secretary-General very kindly came and met us.

நியைசர் கட்டாவாகமது  
(பிரதிச் சபாநாயகர் அவர்கள்)  
(Mr. Deputy Speaker)

I think the House will agree.

ரீபிபிபி மறைய  
(திரு. வீரவள்ளி சமரவீர)  
(Mr. Weerawanni Samaraweera)

மரூ நியைசர் கட்டாவாகமது, ஈபிபிபி ஈபிபிபி கட்டா கரந்தி  
ஈபிபிபி கட்டா கரந்தி மது. [மொகிரீம]

ரகிபிபி மறைய  
(திரு. ரணில் விக்ரமசிங்ஹ)  
(Mr. Ranil Wickremasinghe)

We do not want to listen to this rubbish, Sir. It is a gross violation of the procedure of this House. It is the Government that moved this Motion and we have the right to reply. The Hon. Minister of Lands and Land Development and Minister of Mahaweli Development replied. Now, put the Motion before this House—(Interruption). We cannot go on like this





புரதவலலு சீலின சிலிவுரு

வினாக்களுக்கு எழுத்துமூல விடைகள்

WRITTEN ANSWERS TO QUESTIONS

புரதேசிய ஁வர்டின குமகிவுல : வீதேசிய ஁வர

பிரதேச அபிவிருத்தி அமைச்சர் : வெளிநாட்டுப் பிரயாணங்கள்

MINISTER OF REGIONAL DEVELOPMENT : TRIPS ABROAD

391/83

லக்ஷ்மன் சலகோடி மஹா (அந்தவலலு)

(திரு. லக்ஷ்மன் ஜயக்கொடி — அத்தனகல்)

(Mr. Lakshman Jayakody—Attanagalla)

புரதேசிய ஁வர்டின குமகிவுலவென் குடிர புரதவல :

1977 சூலி மச ஁ 1983 சூகி மச 30 வகிட டவல காலச வுட ச்வுல ஁வ ச்வுலவென் சர்ட்டரக க஁வியலி சி஁ந கரந ருட வீதேசிய ஁வர சிலிவடப சவ஁ ஁டவ஁ சி஁வர ச்வுல ஁டவ஁ கரந்நேட ?

- (i) வீதேசிய ஁வர ஁வ஁ல :
- (ii) சர்ட்டரக க஁வியலி சிலிவரீந்நெ ஁வ வெந் ஁டவெ ஁ல :
- (iii) ஁வ஁லி ஁ ஁லிவ்஁வ஁ :
- (iv) வெந் ஁வர :
- (v) ஁வரவ கல ரலல :
- (vi) ச்஁ ச்஁ ரலலி வ஁ கல டிவ வ஁஁ :
- (vii) ஁ட கல வீதேச சிலிவ ச்வுல஁஁ :
- (viii) சல ஁வரலலல ஁ல ஁ ஁வ஁.

பிரதேச அபிவிருத்தி அமைச்சரைக் கேட்ட வினா :

1977 ஜூலை முதல் 1983 ஜூன் 30 ஆந் தேதி வரையில்—

- (i) அவரால் கடல் கடந்த நாடுகளுக்கு மேற்கொள்ளப் பட்ட பிரயாணங்களையும் ;
- (ii) அவருடன் சென்ற உத்தியோகத்தர்கள், மற்றவர்களின் பெயர்களையும் ;

- (iii) பங்கு பற்றிய மாநாடுகளையும் ;
- (iv) ஏனைய விஜயங்களையும் ;
- (v) விஜயஞ் செய்த நாடுகளையும் ;
- (vi) ஒவ்வொரு நாட்டிலும் தங்கிய காலத்தையும் ;
- (vii) செலவழிக்கப்பட்ட வெளிநாட்டுச் செலாவணியையும் ;
- (viii) அத்தகைய விஜயங்களுக்கான காரணங்களையும், அவர் கூறுவாரா ?

asked the Minister of Regional Development –

Will he state –

- (i) the number of trips abroad made by him from July 1977 until 30th June, 1983 ;
- (ii) his entourage including the names of officials and others ;
- (iii) Conferences attended ;
- (iv) other visits ;
- (v) the countries visited ;
- (vi) the duration of stay in each country ;
- (vii) the foreign exchange spent ;
- (viii) the reasons for such visits ?

஁. ராசுடரே஁ மஹா (புரதேசிய ஁வர்டின குமகிவுல) (திரு. சி. இராசதுரை — பிரதேச அபிவிருத்தி அமைச்சர்) (Mr. C. Rajadurai—Minister of Regional Development)

Answer is given in the Schedule tabled.

\* ஁வலி஁஁ ம஁ ஁வ஁ ருட ஁லி஁஁ :

சபாபீடஞ் ஁வக்கப்பட்ட அட்டவலி஁ :

Schedule tabled :

The committee agreed and the Government said that we intend to abide by that agreement.

That was conveyed to the Chair and the whole House took cognizance of that. We intend to abide by that. Sir, I have replied and the debate is closed.

Order please! (Mr. Deputy Speaker)

(Mr. Anandaramasamy)

(Mr. Rajadurai)

1977 ජූලි මාසයේ සිට 1983 ජූනි මස 30 දා දක්වා වූ කාලය තුළ පරිවාරක කණ්ඩායම් ක්‍රියාත්මක කිරීමේ සහ වෙනත් අයත් නම් කරන ලද විදේශීය සේවක සංඛ්‍යාව

සංඛ්‍යාව සහ වෙනත් සේවක සංඛ්‍යාව වැඩ කළ විදේශීය වැඩකරුවන්ගේ සංඛ්‍යාව සහ වෙනත් සේවක සංඛ්‍යාව

වසර	වැඩ කළ විදේශීය වැඩකරුවන්ගේ සංඛ්‍යාව	වෙනත් සේවක සංඛ්‍යාව	සංඛ්‍යාව සහ වෙනත් සේවක සංඛ්‍යාව	වැඩ කළ විදේශීය වැඩකරුවන්ගේ සංඛ්‍යාව	වෙනත් සේවක සංඛ්‍යාව
1. 1979 අගෝස්තු 18 දා සිට 1979 දැනටමත් 12 දක්වා පිරිසක්	1. ආර්. රාජපුරේ සිට මහත්මිය, පොදුගලික ලේකම්වරයා	2. ඇ. ඩී. මාණික්කඩාවසර මහතා, අතිරේක ලේකම්	3. කේ. සවිච්චානන්දන් මහතා	4. ආර්. දේවේන්ද්‍රන් මහතා	1. ආර්. රාජපුරේ සිට මහත්මිය, පොදුගලික ලේකම්වරයා
2. 1979 දෙසැම්බර් 02 දා සිට 1979 දෙසැම්බර් 12 දා දක්වා	අතිරේක ලේකම්	1. ආර්. රාජපුරේ සිට මහත්මිය, පොදුගලික ලේකම්වරයා			අතිරේක ලේකම්
3. 1980 ඔක්තෝබර් 31 දා සිට 1980 නොවැම්බර් 12 දා දක්වා	පස්වන ජාත්‍යන්තර දෙමළ පර්යේෂණ මහා සම්මේලනය පිළිබඳව මූලික විධිවිධාන සෑදීමට	-			පස්වන ජාත්‍යන්තර දෙමළ පර්යේෂණ මහා සම්මේලනය පිළිබඳව මූලික විධිවිධාන සෑදීමට
4. 1980 දෙසැම්බර් මාසයේ 28 දා සිට 1981 ජනවාරි 18 දා දක්වා	පස්වන ජාත්‍යන්තර දෙමළ මහා සම්මේලනය	(කරුණාකාර 'ඊ' පරිශීලනය බලන්න.) මේ නිකුත්වන සඳහා ගමන් ගාස්තු පමණක් ගෙවන ලදී. මේවා හෙවුයේ මෙරට මුදල් නොවටු වලිකි			පස්වන ජාත්‍යන්තර දෙමළ මහා සම්මේලනය
5. 1981 අගෝස්තු 05 දා සිට 1981 සැප්තැම්බර් 05 දා දක්වා	ලෝක නිකුත් මහා සම්මේලනය පිළිබඳව මූලික විධිවිධාන සෑදීමට	-			ලෝක නිකුත් මහා සම්මේලනය පිළිබඳව මූලික විධිවිධාන සෑදීමට
6. 1981 නොවැම්බර් 15 දා සිට 1981 දෙසැම්බර් 05 දා දක්වා	එම	-			රාජකාරි කටයුතු
7. 1982 අප්‍රියෙල් 03 දා සිට 1982 මාර්තු 10 දා දක්වා	එම	-			රාජකාරි කටයුතු
8. 1982 අප්‍රියෙල් 02 දා සිට 1982 අප්‍රියෙල් 06 දා දක්වා	එම	-			රාජකාරි කටයුතු
9. 1982 මැයි 17 දා සිට 1982 මැයි 23 දා දක්වා	රාජකාරි කටයුතු	1. ආර්. රාජපුරේ සිට මහත්මිය, පොදුගලික ලේකම්වරයා			රාජකාරි කටයුතු
10. 1983 ජනවාරි 14 දා සිට 1983 ජනවාරි 17 දා දක්වා	මුද්‍රණය සඳහා වැඩිදුරටත් මුද්‍රණ මධ්‍යස්ථානයක් පිහිටුවීම	-			මුද්‍රණය සඳහා වැඩිදුරටත් මුද්‍රණ මධ්‍යස්ථානයක් පිහිටුවීම
11. 1983 ජූනි 10 දා සිට 1983 ජූනි 14 දා දක්වා	අතිපාර්ශ්වීය සමාජීය අනුකූලීකරණය	1. ආර්. රාජපුරේ සිට මහත්මිය, පොදුගලික ලේකම්වරයා			අතිපාර්ශ්වීය සමාජීය අනුකූලීකරණය

"ප" පරිච්ඡේදය

- 1. රාජලක්ෂමී රාජපුරෙයි මහත්මයා, පොදුගලික ලේකම්වරයා.
- 2. ඇස්. ඇස්. ඡන්ද්‍රිලිංගම් මහතා, ගඳු ඇමතිතුමාගේ සම්බන්ධතා ලේකම්.
- 3. ජී. පාසකරුද මහතා, දෙමළ භාෂා කටයුතු පිළිබඳ වැඩ බලන අධ්‍යක්ෂක.
- 4. වයි. ආදේසම් මහතා, යාපනයේ දිසාපති සහ යාපනයේ දිස්ත්‍රික් අමාත්‍යතුමාගේ ලේකම්.
- 5. ආචාර්ය ජී. කන්දසාමි මහතා, ශ්‍රී ලංකා විවෘත විශ්ව විද්‍යාලයේ අධ්‍යක්ෂ.
- 6. ඇම්. කනපතිපිල්ලෙයි මහතා, භාෂා පරිවර්තක සහ කෝටුරම් සභාවේ කණි.
- 7. ඇස්. ටී. සිවකාසගම් මහතා, "නිතපති" පත්‍රයේ කණි.
- 8. ජී. මනුරු මව්ලානා මහතා, නියෝජ්‍ය සභාපති, ශ්‍රී ලංකා හොටේල් සංස්ථාව.

- 9. කමල් අනාඩි මහතා, පෞද්ගලික විශ්ව විද්‍යාලය.
- 10. ඩී. ඇස්. සිවිරාජා මහතා, හින්දු සමය කටයුතු පිළිබඳ අධ්‍යක්ෂ.
- 11. ඇම්. ජී. එම්. මහරුජ මහතා, දිස්ත්‍රික් අමාත්‍ය, මන්නාරම.
- 12. ඩේව්‍යා (පර්වි) මීරා ලෙඩ්ඩේ මහතා, මඩකලපුවේ දෙවන මන්ත්‍රී.
- 13. ඩේව්‍යා ඇම්. ජී. ඇම්. ජලල්දීන් මහතා, පොතුච්චිල් පළමුවන මන්ත්‍රී.
- 14. ආර්. පද්මනාදන් මහත්මයා, පොතුච්චිල් දෙවන මන්ත්‍රීවරයා.
- 15. ආර්. නවරත්න රාජා මහතා.
- 16. ඩී. පුලේන්ද්‍රන් මහතා.
- 17. කේ. ගණේශ්ලිංගම් මහතා

377	380	381	382	383	384	385	386	387	388	389	390	391	392	393	394	395	396	397	398	399	400	401	402	403	404	405	406	407	408	409	410	411	412	413	414	415	416	417	418	419	420	421	422	423	424	425	426	427	428	429	430	431	432	433	434	435	436	437	438	439	440	441	442	443	444	445	446	447	448	449	450	451	452	453	454	455	456	457	458	459	460	461	462	463	464	465	466	467	468	469	470	471	472	473	474	475	476	477	478	479	480	481	482	483	484	485	486	487	488	489	490	491	492	493	494	495	496	497	498	499	500	501	502	503	504	505	506	507	508	509	510	511	512	513	514	515	516	517	518	519	520	521	522	523	524	525	526	527	528	529	530	531	532	533	534	535	536	537	538	539	540	541	542	543	544	545	546	547	548	549	550	551	552	553	554	555	556	557	558	559	560	561	562	563	564	565	566	567	568	569	570	571	572	573	574	575	576	577	578	579	580	581	582	583	584	585	586	587	588	589	590	591	592	593	594	595	596	597	598	599	600	601	602	603	604	605	606	607	608	609	610	611	612	613	614	615	616	617	618	619	620	621	622	623	624	625	626	627	628	629	630	631	632	633	634	635	636	637	638	639	640	641	642	643	644	645	646	647	648	649	650	651	652	653	654	655	656	657	658	659	660	661	662	663	664	665	666	667	668	669	670	671	672	673	674	675	676	677	678	679	680	681	682	683	684	685	686	687	688	689	690	691	692	693	694	695	696	697	698	699	700	701	702	703	704	705	706	707	708	709	710	711	712	713	714	715	716	717	718	719	720	721	722	723	724	725	726	727	728	729	730	731	732	733	734	735	736	737	738	739	740	741	742	743	744	745	746	747	748	749	750	751	752	753	754	755	756	757	758	759	760	761	762	763	764	765	766	767	768	769	770	771	772	773	774	775	776	777	778	779	780	781	782	783	784	785	786	787	788	789	790	791	792	793	794	795	796	797	798	799	800	801	802	803	804	805	806	807	808	809	810	811	812	813	814	815	816	817	818	819	820	821	822	823	824	825	826	827	828	829	830	831	832	833	834	835	836	837	838	839	840	841	842	843	844	845	846	847	848	849	850	851	852
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1977 யூலைவிலிருந்து 1983 யூன் 30 ஆம் வரையில் செய்கப் பயணங்களின் எண்ணிக்கை	அவருடன் சென்ற அலுவலர், பிற விஜயங்கள்	பங்கு பற்றிய மகா நாடு	சென்ற நாடுகள்	ஒவ்வொரு நாட்டிலும் தங்கிய காலப்பகுதி	செவ்வழித் த அந்நியச் செலாவணி	ஒவ்வொரு விஜயத்துக்குமான காரணங்கள்
01. 1979.08.18 தொடங்கி 1979.09.12 வரை	அமைச்சராக நியமனம் பெற்றதன் பேரில் இத் தியாவக்குச் செய்த நல் லெணைச் செலவு	(1) திரு.உதி ஆர். இராஜ தமிழ்நாட்டு முதலமைச்சரது உரை, அந்தரங்கச் செய லாளர்	தென்னிந்தியா மட்டும்	25 நாட்கள் ..	6650 ஐக்கிய அமெ ரிக்க டொலர்கள்	நல்லெணைச் செலவு
(2) திரு. எஸ். சி. மாணிக்க வாசகர், மேலதிகச் செய லாளர்						
(3) திரு. கே. சச்சிதானந்தம்						
(4) திரு. ஆர். தேவேந்திரன்						
02. 1979.12.02 தொடங்கி 1979.12.12 வரை	அண்ணாமலைப் பல்கலைக் கழகப் பொன்விழாவில் பங்கு கொள்ள	திருமதி ஆர். இராஜதாஸ், அண்ணாமலைப் பல்கலைக் கழகப் பொன்விழாவில் பங்கு பற்ற	தென்னிந்தியா மட்டும்	10 நாட்கள் ...	1870 ஐக்கிய அமெ ரிக்க டொலர்கள்	உத்தியோக பூர்வமானவை
03. 1980.10.31 தொடங்கி 1980.11.12 வரை	ஐந்தாவது உலக தமிழா ராய்ச்சு மகாநாடு பற்றிய முன் ஒழுங்குகள் தொடர்பாக	இலலை .. ஐந்தாவது உலக தமிழாராய் ச்சி மகாநாடு பற்றிய முன் ஒழுங்குகள் தொடர்பாக	தென்னிந்தியா மட்டும்	13 நாட்கள்	1983 ஐக்கிய அமெ ரிக்க டொலர்கள்	உத்தியோக பூர்வமானவை
04. 1980.12.28 தொடங்கி 1981.01.18 வரை	ஐந்தாவது உலக தமிழா ராய்ச்சி மகாநாடு பற்றிய முன் ஒழுங்குகள் தொடர்பாக	“அ” இணைப்பைப் பார் கவும். இப்போளர்கள் தொடர்பாக அவர்களுடைய பயணச் செலவுகள் மட்டு மே இறக்கப்பட்டது. இது உள்நாட்டு நரணயத்திலா கும்	தென்னிந்தியா மட்டும்	21 நாட்கள்	2260 ஐக்கிய அமெ ரிக்க டொலர்கள்	உத்தியோக பூர்வமானவை
05. 1981.08.05 தொடங்கி 1981.09.05 வரை	உலக இந்து மகாநாட்டுக் கான முன் ஒழுங்குகள் தொடர்பாக	.. உலக இந்து மகாநாட்டுக்கான முன் ஒழுங்குகள் தொடர்பாக	தென்னிந்தியா மட்டும்	1 மாதம் ..	2735 ஐக்கிய அமெ ரிக்க டொலர்கள்	உத்தியோக பூர்வமானவை
06. 1981.11.15 தொடங்கி 1981.12.05 வரை	உலக இந்து மகாநாட்டுக் கான முன் ஒழுங்குகள் தொடர்பாக	.. உத்தியோக பூர்வமான அலுவல் இலலை	தென்னிந்தியா மட்டும்	19 நாட்கள் ..	1835 ஐக்கிய அமெ ரிக்க டொலர்கள்	உத்தியோக பூர்வமானவை
07. 1981.03.03 தொடங்கி 1981.03.10 வரை	உலக இந்து மகாநாட்டுக் கான முன் ஒழுங்குகள் தொடர்பாக	.. உத்தியோக பூர்வமான அலுவல் இலலை	தென்னிந்தியா மட்டும்	8 நாட்கள் ..	948 ஐக்கிய அமெ ரிக்க டொலர்கள்	உத்தியோக பூர்வமானவை
08. 1982.04.02 தொடங்கி 1982.05.23 வரை	உலக இந்து மகாநாட்டுக் கான முன் ஒழுங்குகள் தொடர்பாக	.. உத்தியோக பூர்வமான அலுவல் இலலை	தென்னிந்தியா மட்டும்	5 நாட்கள் ..	499 ஐக்கிய அமெ ரிக்க டொலர்கள்	உத்தியோக பூர்வமானவை

1977 யூலைமீண்டு 1983 யூன் 30 ஆம் வரையில் செய்பத பயணங்களின் எண்ணிக்கை	அவருடன் சென்ற அலுவலர், பங்கு பற்றிய மகா நாடு விஜயங்கள்	பிற விஜயங்கள்	சென்ற நாடுகள்	ஒவ்வொரு நாட்டிலும் தங்கிய காலப்பகுதி	செலவுபடுத்த அந்நியச் செலாவணி	ஒவ்வொரு விஜயத்துக்குமான காரணங்கள்
09. 1982.05.17 தொடங்கி 1982.05.25 வரை	உத்தியோகபூர்வமான அலுவல்	திருமதி ஆர். இராஜசுரை, அந்த தரங்க செயலாளர்	உத்தியோக பூர்வமாக அழுவல்பன்	6 நாட்கள்	1223 ஐக்கிய அமெரிக்க டொலர்கள்	உத்தியோக பூர்வமானவை
10. 1983.01.14 தொடங்கி 1983.01.17 வரை	சென்னையில் நடந்த உலகக் திருவள்ளுவர் விழா வில் பங்குகொள்ள	இல்லை	சென்னையில் நடந்த உலகத் திருவள்ளுவர் விழாவில் பங்குகொள்ள	4 நாட்கள்	349 ஐக்கிய அமெரிக்க டொலர்கள்	உத்தியோக பூர்வமானவை
11. 1983.06.10 தொடக்கி 1983.06.14 வரை	சங்கராச்சாரிய சுவாமிகளது 90 வது பிறந்தநாள் விழா	திருமதி ஆர். இராஜசுரை, அந்தரங்கச் செயலாளர்	சங்கராச்சாரிய சுவாமிகளது 90 வது பிறந்த நாள் விழா	5 நாட்கள்	615 ஐக்கிய அமெரிக்க டொலர்கள்	உத்தியோக பூர்வமானவை

இணைப்பு—“அ” :-

01. திருமதி இராஜலட்சுமி இராஜசுரை, அந்தரங்கச் செயலாளர்
02. திரு. எஸ். எஸ். சண்முகலிங்கம், மாண்புமிகு பிரதமரது இணைப்புச் செயலாளர்.
03. திரு. ஏ. பாஸ்கரதாஸ், பதில் தமிழ் அலுவல் பணியாளர்.
04. திரு. வை. துரைசாமி, யாழ்ப்பாண மாவட்ட அமைச்சின் செயலாளரும், அரசாங்க அறிப்பகம்.
05. கலாநிதி. ஏ. கர்ணதயா, இலங்கை திறந்த பக்கைக்கழக இயக்குனர்.
06. திரு. எம். கணபதிபிள்ளை, மொழிபெயர்ப்பாளரும், கோபுர ஆசிரியரும்.
07. திரு. எஸ். டி. சிவநாயகம், திண்பதி ஆசிரியர்.
08. திரு. ஏ. மருர் மெனவாலை, இலங்கை ஹோட்டல் கூட்டுத்தாபன பிரதித் தலைவர்.
09. திரு. கமால் அலாத்த, பேராசிரியர் பக்கைக்கழகம்.
10. திரு. வீ. என். சிவராஜா, இந்துசமய அலுவல் பணிப்பாளர்.
11. திரு. எம். ச. எச். மஃசூப், மன்னூர் மாவட்ட அமைச்சர்.
12. கலாநிதி யரீத்மீரா லெவ்வை, மட்டக்களப்பு இரண்டாவது பாராளுமன்ற உறுப்பினர்
13. கலாநிதி எம். ஏ. எம். ஜலால்கன், பொத்துவில் முதலாவது பாராளுமன்ற உறுப்பினர்.
14. திருமதி ஆர். பத்மநாதன், பொத்துவில் இரண்டாவது பாராளுமன்ற உறுப்பினர்.
15. திரு. ஆர். நவரத்தினராஜா.
16. திரு. பி. புலேந்திரன்.
17. திரு. கே. கணேசலிங்கம்.

The No. of Trips abroad made from July 1977 until 30th June, 1983	His entourage including the names of Officials and others	Conferences attended	Other visits	The countries visited	The duration of stay in each country	The foreign exchange spent	The reason for each visit
(1) 18.8.1979 to 12.9.1979	Goodwill Mission to India on his appointment as Minister	Discussions with Chief Minister of Tamil Nadu	Nil	South India only	25 days	US \$ 6650	Goodwill Mission
(2) 02.12.1979 to 12.12.1979	To attend the Annamalai University Golden Jubilee Celebration	Annamalai University Golden Jubilee Celebrations	Nil	South India only	10 days	\$ 1870	Official
(3) 31.10.1980 to 12.11.1980	In connection with the preliminary arrangements for 5th International Tamil Research Conference	In connection with the preliminary arrangements of the 5th International Tamil Research Conference	Nil	South India only	13 days	\$ 1983	Official
(4) 28.12.1980 to 18.01.1981	5th Tamil International Conference	5th International Research Conference	Nil	South India only	21 days	\$ 2260	Official
(5) 05.08.1981 to 05.09.1981	In connection with the preliminary arrangements for the World Hindu Conference	In connection with the preliminary arrangements for the World Hindu Conference	Nil	South India only	One month	\$ 2735	Official
(6) 15.11.1981 to 05.12.1981	In connection with the preliminary arrangements for the World Hindu Conference	Official Business	Nil	South India only	19 days	\$ 1835	Official
(7) 03.03.1982 to 10.03.1982	In connection with the preliminary arrangements for the World Hindu Conference	Official Business	Nil	South India only	08 days	\$ 948	Official
(8) 02.04.1982 to 06.04.1982	In connection with the preliminary arrangements for the World Hindu Conference	Official Business	Nil	South India only	05 days	\$ 499	Official

The No. of Trips abroad made from July 1977 until 30th June, 1983

- (9) 17.05.1982 to 23.05.1982  
Official Business
- (10) 14.01.1983 to 17.01.1983  
To attend the Thiru Valluvar International Festival in Madras
- (11) 10.06.1983 to 14.06.1983  
Nineteenth Birthday Celebrations of His Holiness Sangaracharya Swamikal

His entourage including the names of Officials and others	Conferences attended	Other visits	The countries visited	The duration of stay in each country	The foreign exchange spent	The reason for each visit
Mrs. R. Rajadurai, Private Secretary	Official Business	Nil	South India only	06 days	₹ 1223	Official
-	Thiru Valluvar International Festival	Nil	South India only	04 days	₹ 349	Official
Mrs. R. Rajadurai Private Secretary	Nineteenth Birthday Celebrations of His Holiness Sangaracharya Swamikal	Nil	South India only	05 days	₹ 615	Official

ANNEXURE 'A'

1. Mrs. Rajaluxmy Rajadurai  
Private Secretary
2. Mr. S. S. Shanmugalingam  
Co-ordinating Secretary to the Hon. Prime Minister
3. Mr. A. Paskarathas,  
Acting Director, Tamil Affairs
4. Mr. Y. Duraiswamy,  
Secretary,  
District Ministry, Jaffna & Govt. Agent, Jaffna
5. Dr. A. Kandiah,  
Director, Open University of Sri Lanka
6. Mr. M. Kanapathipillai  
Translator and Editor 'Gopuram'
7. Mr. S. T. Sivenayagam,  
Editor, 'Dinapathy'
8. Mr. A. Mashoor Maulana,  
Deputy Chairman, Ceylon Hotels Corporation
9. Mr. Kamal Azad,  
Peradeniya University
10. Mr. V. H. Sivarajah,  
Director, Hindia Affairs
11. Mr. M. E. H. Maharroof,  
District Minister, Mannar
12. Dr. Fareed Meera Lebbe,  
2nd M.P. for Batticaloa
13. Dr. M. A. M. Jalaldeen,  
1st M.P. for Pottuvil
14. Mrs. R. Pathmanathan  
2nd M.P. for Pottuvil
15. Mr. R. Navaratnarajah
16. Mr. P. Pulendran
17. Mr. K. Ganeshalingam







பு. பி.

மேல வாகுவே அலகான மூடனய ஈடனா ஈலகிய கல்வல திவூரடி கல டுது துன் டன்வது ரகி மன்தித் மன் பிபறகக் ணை பகி பீல  
புதுடிபி டன்லா பல் பிபறக துன்லா ஈ-ஈகாரக வற

1984 அபுரல் 17 வற அறையலடி  
தாறகமலா லூவற ஈே பீலய டுதுபி.

### குறிப்பு

அங்கத்தவர்கள் இறுதிப் பதிப்பிற் செய்யவிரும்பும் பிழை திருத்தங்களை அறிக்கையிற்றெளிவாகக் குறித்து  
பிழை திருத்தங்களைக் கொண்ட பிரதியை ஹன்சாட் பதிப்பாளியருக்கு

1984 ஏப்ரல் 17, செவ்வாய்க்கிழமைக்குப் பிந்தாமற்

கிடைக்கக்கூடியதாக அனுப்புதல் வேண்டும்.

### NOTE

Corrections which Members suggest for the Final Print should be clearly marked in this Report and the copy containing  
the corrections must reach the Editor of HANSARD, ,

not later than

**Tuesday, 17th April 1984**

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Contents of Proceedings	: From 3.00 p.m. to 8.06 p.m. on 03.04.1984
Final set of manuscripts received from Parliament	: 7.40 p.m. on 04.04.1984
Printed copies despatched	: 05.04.1984 afternoon

**දයක මුදල් :** පාර්ලිමේන්තු විවාද වාර්තාවල වාර්ෂික දයක මිල රු. 200/- කි. (අශෝඛිත පිටපත් සඳහා නම් රු. 175/- කි). පිටපතක් ගෙන්වා ගැනීම අවශ්‍ය නම් ගාස්තුව රු. 2.50 කි. තැපැල් ගාස්තුව ගත 90 කි. කොළඹ 1, තා. පෙ. 500, රජයේ ප්‍රකාශන කාර්යාංශයේ අධිකාරී වෙත සෑම වර්ෂයකම නොවැම්බර් 30 දාට ප්‍රථම දයක මුදල් ගෙවා ඉදිරි වර්ෂයේ දයකත්වය ලබාගෙන විවාද වාර්තා ලබාගත හැකිය. නියමිත දිනෙන් පසුව එවනු ලබන දයක ඉල්ලුම්පත් භාරගනු නොලැබේ.

சந்தா : ஹன்சாட் அதிகார அறிக்கையின் வருடாந்த சந்தா ரூபா 200/- (திருத்தப்படாத பிரதிகள் ரூபா 175/-) ஹன்சாட் தனிப்பிரதி ரூபா 2.50. தபாற் செலவு 90 சதம். வருடாந்த சந்தா முற்பணமாக அத்தியட்சர், அரசாங்க வெளியிட்டலுவலகம், த. பெ. இல. 500, கொழும்பு 1 என்ற விவரத்திற்கு அனுப்பி பிரதிகளைப் பெற்றுக்கொள்ளலாம். ஒவ்வொரண்டும் நவம்பர் 30 ந் தேதிக்குமுன் சந்தாப் பணம் அனுப்பப்படவேண்டும். பிற்க்கக் கிடைக்கும் சந்தா விண்ணப்பங்கள் ஏற்றுக்கொள்ளப்படமாட்டா.

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