

Volume 4

No. 16



Monday

27th September, 1948

PARLIAMENTARY DEBATES

(HANSARD)

HOUSE OF REPRESENTATIVES OFFICIAL REPORT

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GOVERNMENT OF CEYLON

GOVERNOR-GENERAL

HIS EXCELLENCY SIR HENRY MONCK-MASON MOORE, G.C.M.G.

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Minister of Health and Local Government, and Leader of the House of Representatives—The Hon. Mr. S. W. R. D. BANDARANAIKE, M.P.

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Parliamentary Secretary to the Minister of Health and Local Government—Mr. V. NALLIAH, M.P.

Parliamentary Secretary to the Minister of Industries, Industrial Research and Fisheries—

HOUSE OF REPRESENTATIVES

Monday, 27th September, 1948

The House met at 2 p.m., Mr. DEPUTY-SPEAKER [Mr. H. W. AMARASURIYA] in the Chair.

The Clerk read the following *Gazette* Notification summoning a Meeting of the House:

"THE CEYLON (CONSTITUTION) ORDER IN COUNCIL, 1946.

IN pursuance of the provisions of section 22 (2) of the Ceylon (Constitution) Order in Council, 1946, (read with the definition of 'Speaker' in section 3 (1) of that Order) I, Henry Woodward Amarasuriya, Deputy-Speaker of the House of Representatives, do hereby, at the request of the Prime Minister, summon a meeting of the House of Representatives for the 27th day of September, 1948, at 2 o'clock in the afternoon for the transaction of urgent business of public importance.

H. W. AMARASURIYA,
Deputy-Speaker.

Colombo, 20th September, 1948."

MESSAGES FROM THE GOVERNOR-GENERAL

Mr. Deputy-Speaker: The following Messages have been received from His Excellency the Governor-General:

I.

No. C. 21/1948
King's Pavilion,
Kandy, 7th September, 1948.

SIR,—I HAVE the honour to inform you that, in terms of section 36 (2) of the Ceylon (Constitution) Order in Council, 1946, I have this day assented in His Majesty's name to the Bill intituled—

"An Act to make provision for the service of the financial year 1948-49, to authorise the payment by way of advance out of the Consolidated Fund of moneys required during that financial year for Loan Fund Expenditure, and to provide for the refund of such moneys to the Consolidated Fund."

I have the honour to be,
Sir,
Your obedient Servant,
Sgd. HENRY MOORE,
Governor-General.

The Honourable the Speaker,
House of Representatives.

II.

No. C. 21/1948.
King's Pavilion,
Kandy, 8th September, 1948.

SIR,—I HAVE the honour to inform you that, in terms of section 36 (2) of the Ceylon (Constitution) Order in Council, 1946, I have this day assented in His Majesty's name to the Bill intituled—

"An Act to enable the appointment of Commissions of Inquiry, to prescribe their powers and procedure, to facilitate the performance of their functions, and to make provision for matters connected with or incidental to the aforesaid matters."

I have the honour to be,
Sir,
Your obedient Servant,
Sgd. HENRY MOORE,
Governor-General.

The Honourable the Speaker of the
House of Representatives.

III.

No. C. 21/1948.
Queen's Cottage,
Nuwara Eliya, 21st September, 1948.

SIR,—I HAVE the honour to inform you that, in terms of section 36 (2) of the Ceylon (Constitution) Order in Council, 1946, I have this day assented in His Majesty's name to the Bill intituled—

"An Act to make provision for citizenship of Ceylon and for matters connected therewith."

I have the honour to be,
Sir,
Your obedient Servant,
Sgd. HENRY MOORE,
Governor-General.

The Honourable the Speaker of the
House of Representatives.

ANNOUNCEMENT

Mr. Deputy-Speaker: The Clerk Assistant has received the following letter from the Secretary to His Excellency the Governor-General:

Governor-General's Office,
Colombo, 25th September, 1948.

SIR,—I AM directed to inform you that His Excellency the Governor-General has been pleased to appoint you to act as Clerk, House of Representatives, with effect from the 20th September, 1948, until the resumption of duties by Mr. R. St. L. P. Deraniyagala, or until further orders.

I am, &c.,
(Sgd.) J. A. MULHALL,
Secretary to the Governor-General.

B. Coswatte, Esquire,
Clerk Assistant,
House of Representatives.

MESSAGE FROM THE SENATE

Mr. Deputy-Speaker: A Message has been received from the Senate.

The Clerk read the following Message:

"The Senate have agreed, without Amendments, to the Citizenship Bill."

BILL PRESENTED**Parliamentary Elections (Amendment) Bill**

"to amend the Ceylon (Parliamentary Elections) Order in Council, 1946, in order to confer a right of appeal on questions of law from the determination of an election judge in an election petition and to provide for matters connected therewith", presented by the Hon. Mr. S. W. R. D. Bandaranaike, Leader of the House; to be read a Second time upon this day.

BUSINESS OF THE HOUSE

The Hon. Mr. S. W. R. D. Bandaranaike (Minister of Health and Local Government and Leader of the House): I move,

"That notwithstanding the provisions of Standing Order No. 55, the Second Reading of the Parliamentary Elections (Amendment) Bill be proceeded with this day."

Dr. N. M. Perera (Ruwanwella): Are no reasons being given?

Mr. P. G. B. Keuneman (Third Colombo Central): What is the special hurry?

The Hon. Mr. Bandaranaike: I shall explain when moving the Second Reading.

2.06 P.M.

Dr. Perera: I am sorry that the Hon. Leader of the House has not thought it fit to give us any reasons as to why it is necessary to deviate from the normal procedure of giving us seven clear days' notice, as contemplated under Standing Order 55, before the Second Reading of a Bill is taken up in this House. That has been the normal procedure in this House, and that is a salutary provision in the Standing Orders to safeguard the rights of the Members of the Opposition particularly, who want to study a Bill carefully and consider its implications. I think elementary courtesy demanded that the Hon. Leader of the House

should have given us some indication of the reason why the Government consider the passage of this particular Bill so urgent.

The Hon. Mr. Bandaranaike: I shall do that when I move the Second Reading. I cannot make two speeches.

Dr. Perera: If this House decides against the suspension of Standing Order No. 55, then the question of explaining the urgency of considering this Bill does not arise. In moving the Motion to suspend Standing Order No 55, the Hon. Leader should have told us why it was necessary to rush this Bill through in all its stages as is contemplated by this Motion.

You will recollect, Sir, that, on the 2nd of September, when the Government tried to send us home for very nearly three months, we strongly protested against it. We said that there were urgent Bills like the Rent Restriction Bill which required immediate attention. But the Hon. Leader of the House and the Government thought that we could very well have a holiday much against our will. Now, strange as it may sound, the Government have been forced to summon the House; they have been forced to eat their own words and summon hon. Members to hold an emergency meeting.

We are quite prepared to transact any urgent business which is very necessary for the good government of the country, which is necessary from the public point of view. There are a large number of items, such as the question of unemployment, which are urgent and important but which have not been placed before us.

I do not see any urgency for the passage of the Bill that has been placed before us. The fact that we postpone the consideration of this Bill for another week to give not only this House but this country also a chance of considering the implications of this Bill will not have any ill effect on the public of this country. The provisions of this Bill were published only the other day. Nobody knew anything about it. Has there been public opinion on this Bill? I ask whether it is fair that the public and Members of this House should be treated in this cavalier fashion by the Government.

It is the elementary duty of the Hon. Leader and the Government to make the position clear as to why this matter is urgent as against the one hundred and one other things that have to be attended to urgently for the welfare of the people of this country.

I strongly oppose this Motion, particularly because the Government had not the decency or the courtesy to explain the urgency in regard to this matter.

2.12 P.M.

The Hon. Mr. Bandaranaike: In reply, Mr. Deputy-Speaker, only a few words are necessary.

My hon. Friend wants me to give an explanation in respect of the urgency of this measure. I am sure the very fact that an emergency meeting has been called and the circumstances of this case which are generally known to my hon. Friends would convince them,—whether they agree or not is another matter—that, from the point of view of those who bring forward this legislation, it is urgent.

The only question which then arises is, why is the Standing Order, requiring an interval between the presentation of a Bill and the Second Reading of that Bill, being suspended? One of the reasons is that in another week's time a certain number of Ministers who have already committed themselves to be out of Ceylon on public business will not be here.

Mr. W. Dahanayake (Galle): That is not our fault.

The Hon. Mr. Bandaranaike: The circumstances surrounding the introduction of this Bill and its provisions are already known, so that the need for that interval is reduced to a formality. Why, on the merits of this Bill, it had to be brought up at all, apart from the question of the interval of time between its presentation and the Second Reading; why it is urgent at all, are matters which can more appropriately be explained in moving the Second Reading, which I shall do, than on this Motion for suspending the Standing Order. That was the reason why it was not necessary to give a long explanation at this stage for the need of the Motion I have placed before the House.

Question put.

The House divided (under Standing Order 48): Ayes, 52; Noes, 31.

Mr. Deputy-Speaker: I desire to inform hon. Members that if they wish to move Amendments, I should like those Amendments submitted to me before we conclude the Second Reading.

2.15 P.M.

Dr. Colvin R. de Silva (Wellawatta-Galkissa): May I be permitted to point out something in which, I think, on the face of the rush tactics the Government is adopting, we are entitled to ask that at least the Chair do assist us? To ask us to have Amendments ready before the close of the Second Reading of a Bill which we are deliberately not accorded time to consider, to refuse us the advantage of framing any Amendments we wish when the Committee stage of the Bill is taken up in the light of any circumstances that may arise in our minds as a result, is for the Chair itself, quite unwittingly—I am ready to concede, quite unconsciously, but unfortunately objectively—to run the peril of falling into the position of the Government's rush tactics being facilitated. Therefore, I suggest, since the normal Rules of this House have already been suspended to the advantage of the Government, that, in so far as it is within your power to suspend other restrictions upon the Opposition, you will do so because the Government itself is seeking to rush the Opposition into considering this Bill.

The Hon. Mr. Bandaranaike: What does it all amount to? I do not know the exact point of the hon. Member.

Dr. Colvin R. de Silva: I have a right to answer it if you wish.

Mr. Deputy-Speaker: This is not a new procedure. It is a procedure invariably adopted in this House. There is no point to rush the Bill, but it is to facilitate Business that has to be transacted, that any hon. Member who wishes to make any Amendments is asked to do so.

Mr. Keuneman: May I make the submission that, according to the practice that has prevailed in the past, we were allowed to send up Amendments at the

[Mr. Keuneman.]

Committee stage so that we could have the benefit of the Second Reading Debate and know what we are going to do? If we are asked to send up Amendments to the Bill in advance, and if any further Amendments to it are precluded, we may not be able to bring before this House such Amendments as may be necessary later on.

The Hon. Mr. Bandaranaike: From the Government point of view, Mr. Deputy Speaker, we have no objection to that except that certainly it will facilitate Business if hon. Members can send up and are ready with Amendments you mentioned earlier. If they are not ready with certain other Amendments, you can consider them, without ruling them out, at the Committee stage itself. We have no particular objection to that. But, in order to prevent any undue confusion, if the Amendments are ready now, and if, as suggested by you, they are sent in before the Committee stage, it will make matters easier. It could be left to your discretion to consider any Amendments brought up at that stage.

Mr. Deputy-Speaker: I shall entertain any consequential Amendments in the Committee stage.

Dr. Perera: That will restrict us. You should give us the privilege of submitting Amendments during the Committee stage. We will certainly try and help you and send you our Amendments early, but you should not rule out any Amendments although we may submit them at the Committee stage.

Mr. G. R. Motha (Maskeliya): Even in the Citizenship Bill, which was a more complicated one, certain time was allowed us to move Amendments in the Committee stage.

The Hon. Mr. Bandaranaike: You can consider that request, Sir.

Dr. Colvin R. de Silva: In the Committee stage you would be accepting only consequential Amendments.

Mr. Deputy-Speaker: That would be to facilitate Business. Members who wish to make Amendments can send

them up to me in writing before the Second Reading is completed. But at the Committee stage, consequential Amendments can always be considered.

Dr. Perera: But you will rule out other Amendments?

Mr. Deputy-Speaker: I will use my discretion.

SITTINGS OF THE HOUSE

The Hon. Mr. Bandaranaike: I move,

“That, if the Government Business on the Paper be disposed of this day, this House at its rising this day do adjourn until 2 P.M. on Tuesday, 23rd November, 1948.”

I suggest that it is not necessary to move a Motion to suspend the Standing Order requiring the House to be adjourned at 6 P.M., because it is not necessary to do so. Our Standing Orders only refer to ordinary meetings on Tuesday, and so on. For an Emergency Meeting this Standing Order does not apply; otherwise, I would have moved a Motion to enable us to sit today until we finish the consideration of this Bill. In any case, it is the intention of the Government that this Bill be disposed of today. This Motion is moved merely to restore the original date to which we adjourned, namely, 23rd November, 1948, after we finish Business today.

Mr. Keuneman: I am thoroughly opposed to this suggestion. Last August, we were told to go—as the hon. Member for Ruwanwella said—for a holiday with pay. Then, apparently, there has come up urgent public Business which we are going to debate today. But hon. Members also wish to consider other urgent public Business. There are so many important matters like the Rent Restriction Bill which they would like taken up, and I do not see why we should again postpone our Sessions till the 23rd November after the Government has now decided to sit at the end of September. Let us meet sooner than that date, discuss the Rent Restriction Bill and deal with any other important matters, such as the unemployment question, which are much more important questions to the public than the Bill which the Government has brought before the House today.

Dr. Colvin R. de Silva: May I be permitted without any indignation, with the greatest kindness and feeling towards the Government—and it will be in the interest of the Government itself—to suggest to it not to adjourn in this way inasmuch as it is not yet certain that after the present move in respect of this matter has been tried, another situation may arise, and this House may be called upon to try to perfect that situation that may arise?

Dr. Perera: Does this motion mean that we will be sitting after 5.30 P.M. today.

The Hon. Mr. Bandaranaike: We will finish this Bill today.

The Hon. Mr. C. Suntharalingam (Minister of Commerce and Trade): Whatever the time may be?

The Hon. Mr. Bandaranaike: Yes.

Question put.

The House divided: Ayes, 52; Noes, 31.

Mr. Deputy-Speaker: The Motion is carried.

Dr. Perera: Before the Hon. Leader of the House moves the Second Reading of the Bill, there are some points of Order we would like to raise. I do not know at what stage you would like us to raise these points of Order; whether it is after the Hon. Leader moves the Second Reading of the Bill or at this stage.

The Hon. Mr. Bandaranaike: It all depends on what they are.

Dr. Perera: For instance, I should like to submit a point of Order whether this Bill requires a two-thirds majority to pass it. I should like to place the case before you as I feel it is a question that will materially affect the voting of hon. Members of this House on our own attitude towards the Bill.

Mr. Deputy-Speaker: Why should not the hon. Member raise that point of Order at a later stage after the Second Reading of the Bill?

Dr. Perera: It cannot be done after the Second Reading.

Mr. Deputy-Speaker: It will be before I take a Division.

Dr. Perera: Will that not be too late? It might be too late. It will be better to clarify the position before we do that. I think it will be much better for us if we can raise that point of Order now. I also think some other hon. Members want to raise other points of Order after the Hon. Minister has moved the Second Reading of the Bill.

Mr. Deputy-Speaker: Yes.

PARLIAMENTARY ELECTIONS (AMENDMENT) BILL

Order for Second Reading read.

2.26 P.M.

The Hon. Mr. Bandaranaike: I move,
“That the Bill be now read a Second time.”

In moving the Second Reading of this Bill, Mr. Deputy-Speaker, I shall explain briefly, and I trust, clearly, the reasons why this Bill has been brought forward and the particular provisions thereof. I will, first of all, draw the attention of the House to Article 13 (3) (c) of the Constitution Order in Council, 1948. That Article refers to disqualification of Senators and Members of the House of Representatives, and the particular disqualification to which I draw attention is as follows:

“If he, directly or indirectly, by himself or by any person on his behalf or for his use or benefit, holds, or enjoys any right or benefit under any contract made by or on behalf of the Crown in respect of the Government of the Island for the furnishing or providing of money to be remitted abroad or of goods or services to be used or employed in the service of the Crown in the Island.”

This matter has been dealt with in recent Election Petitions by two Judges of the Supreme Court. Mr. Justice R. F. Dias, in dealing with the Colombo South Election Petition, expressed the view that in his opinion holders of shares—shareholders—in companies paying dividends would not come within the purview of this disqualification clause.

The matter was also dealt with by Mr. Justice H. H. Basnayake in the Kayts Election Petition, which, indeed, was concerned solely with the interpretation of this particular sub-clause, where

[Hon. Mr. Bandaranaike.]

he held contra, namely that such a shareholder would be disqualified. It is not my intention here, Mr. Deputy-Speaker, nor do I imagine will it be the function of any hon. Member of this House, to consider whether in law the views of one or the other Judge are correct.

We are not sitting here in judgment to decide legally whether one Judge of the Supreme Court or the other, really, is in law correct in any particular interpretation he chooses to give. We are merely concerned with the fact that, in the interpretation of this particular sub-clause, two Judges of the Supreme Court have expressed contrary views, and the situation that thereafter arises from that fact. Before I deal with the actual situation resulting from the facts that I have just mentioned, I should like, historically, to explain from the point of view of the legislator—those who were responsible for this Order in Council—what the intention of the legislator was.

I will, first of all, refer you to the State Council Order in Council, which deals with a similar disqualification for contracts under the Donoughmore Constitution. Section 9 deals with disqualification for Membership of the Council. There Section 9 (d) says this:

“Directly or indirectly, himself or by any other person whatsoever in trust for him or for his use or benefit or on his account, holds or enjoys, in the whole or in part, any contract or agreement or commission made or entered into with or accepted from any person for or on account of the public service;”

with this proviso:

“provided that nothing herein contained shall extend to any pension or gratuity granted from the public revenue or other funds of the Island in respect of past public service, nor to any contract, agreement or commission entered into or accepted by any incorporated trading company in its corporate capacity, nor to any company consisting of more than ten persons, when such contract, agreement or commission shall be made, entered into or accepted for the general benefit of such incorporation or company.”

These words there which do not occur in the new Elections Order in Council require explanation.

The original Elections Order in Council of 1931, with this proviso which I have just read, incorporated words taken from a very old English Act of 1782. They just copied word for word an

English Act of 1782. Now that English Act of 1782 contained this proviso for this reason, that at that time it was common practice to have Companies which were profit sharing Companies as against dividend paying Companies.

In the case of a profit sharing Company, it was really in the nature of an incorporated partnership where each Member of that Company was an owner of the assets of that Company and directly concerned with every contract, and so on, entered into by the Company on a profit sharing basis. At that time the type of Company we have now of a dividend paying Company where the shareholders are not themselves owners of the assets of that Company but the Company is in itself a separate entity, a separate *persona*, which owns the assets, which can deal with profits or declare a dividend or not, according to the Articles of Association,—that type of Company, which is much common today, was a rarity at the time that the Act of 1782 was passed in England.

It is for that reason that, in the Act of 1782, while that type of profit sharing Company was included in the disqualification, the others were deliberately excluded. But the fact remains that ever since then, in the actual interpretation and so on of the English law, right downwards, it has always been recognized under the English law that shareholders of these dividend paying Companies were not disqualified.

When the new Elections Order in Council was drafted, it was drafted on the assumption that the exemption which was contained specifically under the circumstances which I have just mentioned in the Elections Order in Council, 1931, was implied and implicit without the need of making a special provision, and hence in section 13 (3) (c) there was an omission made of the proviso which occurred in the Elections Order in Council, 1931. Definitely, that was the intention of those who framed this Order in Council, and the legal opinion which was available to the Government, which recommended this Order in Council, was to that effect.

The situation has now arisen where, in the interpretation of that sub-clause, one Judge at least of the Supreme Court holds that there is no exemption for such share-holders. What is the

situation that therefore arises? In the first place, what is the situation in regard to the Supreme Court? There is no authoritative decision now of the Supreme Court on this point, and just as one Judge has differed from another, there may be a certain difference of opinion amongst other Judges also on this point where a Judge hears an Election Petition as provided for under our law.

What is the position regarding Members of Parliament? Members of Parliament *bona fide* believing that they had a justification to so believe it, that the exemption that existed earlier was being continued, have come forward as candidates and have been elected to this House, and have also sat in the other place, for the past one year. Now, Sir, as a result of the decision in the Kayts Election Petition, a large number of Members who may be in this position of shareholders in Companies which may have contracts with Government are affected. There are two ways in which those who wish to question their position may do so: one is, by a *quo warranto* application to the Supreme Court challenging their right to sit, the other, which has already been utilized in one or two instances, is by the bringing of an action in the District Court claiming a penalty for sitting in this House or the other when a person is not duly qualified to sit. What is the result? For instance, with regard to the action in the District Court claiming a penalty, the District Judge will have to hear that case and come to his own conclusion as to what his interpretation of this clause would be. He is not assisted in performing that task by any clear cut and authoritative statement from the Supreme Court, where already one learned Judge appears to have differed from another. After a year, let us say for the conclusion of that case in the District Court, there will probably be an appeal to the Supreme Court which will take another 6 months or a year to decide that. Thereafter, of course, there will be the possibility of an appeal to the Privy Council which would mean, presumably, another delay of at least 18 months; very likely a delay of 2 to 2½ years before it is disposed of in the Privy Council.

Now, Sir, can hon. Members suggest that that is a satisfactory position—

obviously it is not, because, if a large number of Members are so concerned in a matter where they themselves justifiably could have felt that there was no disqualification, when as a matter of fact the legislators did not intend in fact to create a disqualification—that that uncertainty of about three to four years' delay should be tolerated or permitted?

When my hon. Friends therefore ask what is the urgency of this matter, I say, that that is the urgency where there is an opportunity now of getting on this point an authoritative verdict of the Supreme Court, particularly with reference to a case that has already been heard. Therefore, as other cases that have been brought will in the meantime have to be dealt with, it would surely make it desirable, indeed necessary, that this legislation should be brought forward as early as possible. What is it that the Government is doing?

The situation could have been dealt with in two ways, Mr. Deputy-Speaker. One is by an amendment of the Constitution Order in Council which, it is our contention, requires a two-thirds majority while this does not. As a matter of fact, it is still our contention that on the interpretation which we intended or the meaning which we intended that this clause should bear—it is still our contention it should bear—this is not necessarily the most desirable first step to be taken. We would prefer some authoritative verdict of the Supreme Court in the light of which the Government can consider what further action if any, is necessary. In other words, if a Bench of three Judges of the Supreme Court decides that this decision of Mr. Justice Basnayake is not correct, then no further action with reference to this particular point is necessary. If, on the other hand, they uphold that decision, then it will be for the Government to consider the justification of bringing forward an amendment to the Constitution Order in Council to make that position perfectly clear.

Mr. Dahanayake: That is a merry-go-round.

The Hon. Mr. Bandaranaike: Well, Sir, those who cannot go directly would like to go round and round the subject.

[Hon. Mr. Bandaranaike.]

Presumably the hon. Member for Galle prefers that roundabout approach to a subject than something more direct. However that may be, let me point out that this Amending Bill has been necessitated primarily to deal with the point which I mentioned. The Amendments to the Elections Order in Council—there may be many Amendments that it requires—are receiving the consideration of Government, and will be brought forward in due course. As the House knows, there is a Commission now sitting particularly with reference to one special disqualification on which an enquiry is now being held.

Dr. Perera: No.

The Hon. Mr. Bandaranaike: It covers this also in a sense. But the particular reason why that was introduced was in order to enable a consideration of one particular disqualification. That covers this, it is true. All disqualifications will be considered by that Commission, but the particular point of view in the minds of hon. Members who requested that a Commission should be appointed was definitely that. There, of course, it is an Amendment or Amendments that would be suggested which may be considered desirable or necessary. Here it is not so much an Amendment that is brought but an interpretation that is sought from the Supreme Court on a point where the Government itself, those responsible for the legislation, were clear in their minds as to what their intention was.

What are the actual terms of the Bill? The Bill really gives effect to this right of appeal with certain consequential Amendments. Sections 81 and 82 of the Order in Council are repealed and the following sections—I am reading from Clause 3 of the Bill—will be substituted. It is renumbered and so on. It is really Clause 82A which contains the necessary provisions:

“(1) An appeal to the Supreme Court shall lie on a question of law, but not otherwise, against the determination of an election judge under section 81.

(2) Any such appeal may be preferred, either by the petitioner or by the respondent in the election petition, before the expiry of a period of one month next succeeding the date of the determination against which the appeal is preferred.

(3) Notice of the filing of a petition of appeal, accompanied by a copy of the petition, shall, within ten days of the filing thereof, be served by the appellant on the other party or each of the other parties to the election petition and on the Attorney-General. Such service on a party may be effected in any manner prescribed in the Third Schedule to this Order for the service of the notice and copy of an election petition.”

That is a formal provision.

Sub-Clause (4) is also a formal provision.

Sub-Clause (5) reads thus:

“Every appeal under this section shall be heard by three Judges of the Supreme Court and shall, as far as practicable, be given priority over other business of that Court. The Court may give all such directions as it may consider necessary in relation to the hearing and disposal of each appeal.”

Sub-Clause (6) reads thus:

“The Attorney-General shall be entitled to appear or to be represented in any appeal under this section.”

Clause 82B refers to the powers of the Supreme Court in appeals. Clause 82c deals with the transmission to the Governor-General of the Election Judge's certificate and report. Clause 82D deals with the effect of the certificate and report.

Clause 4 of the Bill deals with certain transitional provisions necessitated by this power of appeal that is given. The main provisions of the Bill are contained in Clause 82A, sub-clauses (1) to (6) to which I have already referred.

What the Government is doing, as I said, is providing for this power of appeal on a point of law. If the question is asked why a Bench of three Judges and why not a Bench of five Judges or seven Judges of the Supreme Court, all we can say is that a Bench of three Judges is sufficient for a purpose of this nature, and whether the Bench consists of five, six or seven Judges the same difficulties may exist or may not exist. If the question is raised whether another Bench of three Judges may not hold a different view to one Bench of three Judges which has gone into this question, my answer to that is that that practice, a matter of etiquette as well as practice of Judges, is not followed; there is a phrase which refers to a “judicial comity” which does not permit a decision of this sort being reversed by another set of Judges. The question may be asked, why not also provide for an appeal to the Privy Council? I have

already given the answer to that. That is the delay that will be involved, or that must necessarily be involved, in appeals to the Privy Council which is not considered at all desirable or indeed practicable in a case of this nature. I do not know whether there are any further points I need refer to at this stage. Any other points that occur to my hon. Friends and which they raise in the course of the Second Reading, I shall endeavour to answer in my reply.

I move the Second Reading of the Bill.

Question proposed.

2.50 P.M.

Dr. Perera: May I rise to a point of Order?

I am raising this point of Order because it will materially affect hon. Members who want to vote on this Bill. Their attitude to this Bill might be different if a two-thirds majority is required as against a Bill which requires the normal majority. I am sorry, owing to the rush tactics of the hon. Members of the Government, I have not been able to raise this matter before you earlier. I would have preferred to do that in fairness to you. As it is, I have no alternative but to raise it in this way in this House. Might I refer you to Section 29 (4) of the Ceylon (Constitution) Order in Council, 1946 which reads as follows:

"In the exercise of its powers under this section, Parliament may amend or repeal any of the provisions of this Order, or of any Order of His Majesty in Council in its application to the Island:

Provided that no Bill for the amendment or repeal of any of the provisions of this Order shall be presented for the Royal Assent unless it has endorsed on it a certificate under the hand of the Speaker that the number of votes cast in favour thereof in the House of Representatives amounted to not less than two-thirds of the whole number of members of the House (including those not present)."

The question that arises is whether the words "this Order" refer narrowly to this particular Order in Council or to all Orders in Council appertaining to the Constitution. My submission is that this Amending Order in Council and the Ceylon (Parliamentary Elections) Order in Council, 1946, are part and parcel of the full Constitution. That is the position I want to submit. If you give me two minutes Mr. Deputy-Speaker, I will make the position quite clear.

You will find on page 9 of the "The Constitution of Ceylon", Sessional Paper III. of 1948, the following provisions:

"Whereas by the Ceylon (Constitution) Order in Council, 1946 (hereinafter called "the Principal Order") as amended by the Ceylon (Constitution) (Amendment) Order in Council, 1947, the Ceylon (Constitution) (Amendment No. 2) Order in Council, 1947, and the Ceylon (Constitution) (Amendment No. 3) Order in Council, 1947 (hereinafter together called "the Amending Orders") provision is made for the Government of Ceylon and for the establishment of a Parliament in and for Ceylon: "

The material Section is Section 1 (2).

Sub-section (1) says:

"This Order may be cited as the Ceylon Independence Order in Council, 1947."

Sub-section (2) says:

"The Principal Order, the Amending Orders and this Order may be cited together as the Ceylon (Constitution and Independence) Orders in Council, 1946 and 1947."

In other words, it catches up all the Orders in Council to form the Ceylon (Constitution) Order in Council which is the Ceylon Constitution—not only this one Order in Council which is here but the sum total of the Amending Orders in Council taken together also. That is the position I would like to take up. The Ceylon (Parliamentary Elections) Order in Council, 1946, has been introduced as a result of the Ceylon (Constitution) Order in Council, 1946, following from Section 2 of that Order in Council. Therefore, this Amending Order in Council to the Ceylon (Parliamentary Elections) Order in Council, 1946, must be taken together with the Ceylon (Constitution) Order in Council, 1946. All those together form under Section 1 (2) of the Ceylon Independence Order in Council, 1947, the Ceylon (Constitution and Independence) Orders in Council, 1946 and 1947.

My submission is that in view of that, any Amendment to that Order in Council will require the two-third majority provided for under Section 29 (4) of the Ceylon Independence Order in Council, 1947. Perhaps the Government's legal luminaries have given a particular interpretation, but I do think that hon. Members of this House are entitled to give their own opinion on this matter.

[Dr. Perera.]

This is a matter that should require careful consideration as it involves the rights of hon. Members.

My position has been greatly facilitated after the speech of the Hon. Leader of the House. I am very glad you allowed me leave to move my point of Order after the speech of the Hon. Leader of the House. The Hon. Leader of the House started by making his position clear, that what they are really contemplating is something which actually affects the actual Order in Council—Section 13 (c). My case is strengthened by the speech made by the Hon. Leader of the House and the arguments he developed. This is an important matter, and I would not like you, if I may say so with due deference to you, to give a hasty decision on the matter. I would like you to consider—

Mr. Dahanayake: Take a holiday.

Dr. Perera:—the full implications. There is no alternative but to treat all these Amending Orders in Council as one composite whole, as forming the Constitution of Ceylon. It is not for a Government to circumvent the provisions of the Order in Council by saying that this refers only to the narrow Ceylon Independence Order in Council, 1947. Otherwise it would be possible for this Government or any other Government to get round the various provisions of the Amending Orders in Council and thereby really, in point of fact, amend the operative portions of the Constitution. It will be possible for a Government to do that if we are not careful in seeing that all these Amending Orders in Council form part of the full Constitution.

2.59 P.M.

Dr. Colvin R. de Silva: If it is not impermissible, may I be permitted to say a few words supporting my hon. Friend on my right (Dr. Perera). The Hon. Leader of the House has himself argued that it is a proper means of looking to the interpretation of a law by considering what its likely consequences are. If the contention of the Government is correct, and you, Sir, as Deputy-Speaker of this House, rule that a two-third majority is not necessary in this matter, that is to say if you rule

that this two-third question is confined to the 1947 Order in Council, then one of the necessary consequences of your Ruling is that the universal adult franchise which is supposed to be lodged at the base of our constitutional structure can be removed and overthrown by this Government by a simple majority in this House. Such will be the consequences of an interpretation which you are now asked to give in order that the Government may succeed in its patently rush tactics. I submit that in such a situation it is only if the words, the language, the structure, and so on, of these Orders in Council compel, because no alternative interpretation is possible, to come to the conclusion that a simple majority will do, only then, Sir, will you accord yourself with that view.

The hon. Member for Ruwanwella has drawn your attention to the fact that the latest Order in Council deliberately goes out of its way by Section 1 (2) to catch up all these Orders in Council which, apart from any narrow technical questions, obviously in any true meaning of the word "Constitution" must be read together if we are to discover what our Constitution is.

Sir, in deciding this matter, I submit that not all the decisions and advice of all the legal luminaries, whether in this Government or outside that are available to it, will weigh with you one iota or one scintilla. You are the guardian at present in this Chair not only of the rights of the House in a narrow sense, but of those rights constitutionally which it is the bounden duty of this House to safeguard. By what interpretation, if several Orders in Council are directed expressly to be read together, can you exclude certain sections? This is not a mere legal argument. This is essentially a question whether you will create a precedent today, as Deputy-Speaker presiding over this special Session, by which one of the safeguards which, I presume, this Government also intended to put into the Constitution, will be removed.

The Hon. Leader of the House has argued today that they, when they caused this legislation to be framed, intended that the consequences should not be as Mr. Justice Basnayake has found them to be. Was it then the deliberate intention of the gentlemen, who at

the same time framed these other Orders, to deprive the country of the two-thirds majority safeguard on the subject of universal adult franchise? Will they dare to stand up and say so? You, as Deputy-Speaker, yourself if I may be permitted respectfully and humbly to say so, are bound to agree that nobody could have intended that. If that is so—take the Government on its intentions for the purposes of your interpretation—can you for the purposes of one section of that Order in Council exclude the two-thirds section, and yet hope, for the purposes of the universal adult franchise question, to bring in the same section by some technical legerdemain? Obviously not.

I submit that this is an angle of approach which you, as Deputy-Speaker presiding over the deliberations of this House today, are entirely entitled to take into consideration. In other words, narrow technicalities should not decide your attitude on this matter.

3.03 P.M.

The Hon. Mr. Bandaranaike: May I answer? Apart from all this mis-applied oratory, Mr. Deputy-Speaker, the position seems to be perfectly clear.

Dr. Colvin R. de Silva: It is always clear to you.

The Hon. Mr. Bandaranaike: It is to Section 29 (4) of the main Order in Council that the hon. Member for Ruwanwella referred. It simply says this:

“In the exercise of its powers under this section, Parliament may amend or repeal any of the provisions of this Order, or of any other Order of His Majesty in Council in its application to the Island,”

with a proviso:

“that no Bill for the amendment or repeal of any of the provisions of this Order shall be presented for the Royal Assent unless it has endorsed on it a certificate under the hand of the Speaker that the number of votes cast in favour thereof in the House of Representatives amounted to not less than two-thirds of the whole number of members of the House (including those not present).”

It is as clear as daylight that this proviso requiring the two-thirds majority which is a very special provision where legislation is concerned, the general principle of the power to legislate of an

Assembly like this being understood to be an ordinary majority, is in this case varied with reference to the provisions only of this Order. That, I think, is pretty clear.

Now, the next point that arises is this. What is meant by the phrase “this Order”? Does it include—can it conceivably include—the Order in Council known as the Ceylon (Parliamentary Elections) Order in Council, as opposed to the Order in Council known as the Ceylon (Constitution) Order in Council? It is perfectly clear that it cannot so include.

My hon. Friend the Member for Ruwanwella referred to the Ceylon (Independence) Order in Council, 1947, Section 1 (2)—page 9 of this Sessional Paper—which reads as follows:

“The Principal Order, the Amending Orders and this Order may be cited together as the Ceylon (Constitution and Independence) Orders in Council, 1946 and 1947.”

What is the Principal Order there referred to? It obviously cannot include the Ceylon (Parliamentary Elections) Order in Council. The Principal Order there referred to is the Ceylon (Constitution) Order in Council, to which this was an Amendment.

Dr. Perera: Yes.

The Hon. Mr. Bandaranaike: “Yes”, you say. I am very glad that light is dawning at last.

It is not “the Principal Orders”. It is “the Principal Order”—one only. What are the “Amending Orders” referred to therein? They are the Amending Orders, also contained in this book, the Amending Orders to the Constitution Order in Council. And “this Order” means this particular Order of which this passage happens to be sub-section (2) of Section 1.

Therefore, it is perfectly clear, whatever may or may not be desirable in the opinion of the hon. Member for Ruwanwella or the hon. Member for Wellawatta-Galkissa, that the two-thirds majority provision employed in Section 29 (4) cannot possibly refer to the Ceylon (Parliamentary Elections) Order in Council. It is not a matter for you to consider whether it is desirable or not that it should apply. There is no discretion

[Hon. Mr. Bandaranaike.]
 whatsoever in your hands, Mr. Deputy-Speaker, I respectfully submit, in this matter at all. It is perfectly clear that that is the position.

The point whether it was the intention to subject universal franchise, the red herring that is drawn across the trail, to a two-thirds majority or not, does not arise in the interpretation of the words of this Section. It may be desirable, or not, that the franchise should not be altered without a two-thirds majority. If that is so, special provision will have to be made for that. If the provision regarding the franchise does not occur in the Order in Council to which this two-thirds majority refers, then the question does not arise. It may be very desirable or most desirable that such a provision whether of a two-thirds or any other majority should not be altered at all; but that is not the question on which you, Mr. Deputy-Speaker, are called upon to adjudicate on this occasion. I submit very respectfully that the position is so clear that there can scarcely be any argument about it.

3.08 P.M.

Mr. Keuneman: May I make a submission, Sir, before you make a Ruling—

The Hon. Mr. Bandaranaike: That is not in Order.

Dr. Colvin R. de Silva: You cannot object when the hon. Member asks for permission to speak.

The Hon. Mr. Bandaranaike: You cannot have a debate on a point of Order.

Mr. Keuneman: I did not want to debate. I only wanted to make a submission, and I will abide by the Ruling of the Deputy-Speaker and not that of the Hon. Leader of the House.

Mr. Deputy-Speaker: Do you wish to make a further submission?

Mr. Keuneman: Yes, Sir, a submission to you. I will not take more than a minute. The Hon. Leader of the House placed some arguments before you. My submission is that you should not listen to what he says. The Hon. Leader of the House is trying to meet every single argument brought forward

by the hon. Member for Ruwanwella and the hon. Member for Wellawatta-Galkissa by saying that the matter is perfectly clear, that it is something else. That is all that the Hon. Leader of the House says; but I think it is perfectly clear that there was a time when he passed a piece of legislation on which he was perfectly clear but on which Mr. Justice Basnayake thought differently.

So I submit—

Mr. Deputy-Speaker: Please restrict yourself to the point of Order.

Mr. Keuneman: My submission is that you should not take the arguments of the Hon. Leader of the House into serious consideration.

Mr. Deputy-Speaker: The point of Order raised by the hon. Member for Ruwanwella is undoubtedly an important one, but unfortunately the analogy adduced hardly covers the point of Order that has been raised, because the Bill before the House does not seek to amend the Constitution Order in Council. The Bill before the House is to amend the Ceylon (Parliamentary Elections) Order in Council—

“in order to confer a right of appeal on questions of law from the determination of an election judge in an election petition and to provide for matters connected therewith.”

So that, it is only an interpretation that the House is at present seeking to obtain from me. Therefore I rule that the requirement of Section 29 (4) does not apply in this case.

Mr. Keuneman: Sir, I would like to raise another point of Order.

Mr. Deputy-Speaker: Is it on the same point?

Mr. Keuneman: My point of Order is whether this House is in Order in discussing this matter, the substance of which has already been referred to a Commission to deal with. The Hon. Leader of the House was arguing that this was a case where special circumstances—

The Hon. Mr. D. S. Senanayake (Prime Minister): I rise to a point of Order—

Dr. Colvin R. de Silva: The point of Order does not exist.

Mr. Deputy-Speaker: Order! Order! Let the hon. Member continue.

Mr. Keuneman: As you know, Sir, a Commission has been appointed by this House to deal with Sections 13 (3) (f) and 13 (3) (c) and other necessary changes in the Ceylon (Constitution) Order in Council. Therefore I desire to have a Ruling as to whether we are in order in discussing matters which are within the discretion of the Commission that has been appointed.

The Hon. Mr. Bandaranaike: We are not dealing with those matters.

3.14 P.M.

The Hon. Mr. D. S. Senanayake: If a point of Order had to be raised, it should have been raised when the Second Reading came to be taken up. Whatever it may be, the point that the Hon. Leader of the House raised is that we are not dealing with the Constitution Order in Council.

3.15 P.M.

Dr. Perera: About two or three weeks back in this House the Speaker definitely ruled, when Members of the Opposition raised certain questions about some matters which had already been referred to a Select Committee or a Commission, that we could not raise those questions since they had already been referred to a Select Committee or Commission. That was the Ruling given by the Speaker.

The submission made by the hon. Third Member for Colombo Central is that the subject-matter of this Bill is the same—the amendment of the Constitution—as that now before a Commission, whatever the means or methods adopted to amend this particular Order in Council. This is really an attempt to get over the difficulty of Section 13 (3) (c). That is the subject-matter of the Bill now before the House. Therefore, I submit, that as the matter has already been referred to a Select Committee or Commission that is now sitting, it should not be the subject of discussion in this House.

Dr. Colvin R. de Silva: It was admitted by the Leader of the House that this matter—[*Interruption*—] I think the Deputy-Speaker is quite competent to control the proceedings of this House without interruption from the Front Benches. The Leader of the House admitted in his speech that this is a matter that can quite properly come before that Select Committee—

The Hon. Mr. Bandaranaike: I never said anything of the sort.

Dr. Colvin R. de Silva: He said so.

The Hon. Mr. Bandaranaike: He must accept my denial.

Dr. Colvin R. de Silva: His denial is a convenient form of amnesia—

The Hon. Mr. Bandaranaike: Wishful thinking!

Dr. Colvin R. de Silva: It is for you, Sir, to consider whether this is not a matter that is correctly before that Committee.

Mr. Deputy-Speaker: The fact that a matter is before a Committee or Commission does not take away the right of the Legislature to discuss it.

Dr. Colvin R. de Silva: Now, we are—

Mr. Deputy-Speaker: This is in Order.

Dr. Colvin R. de Silva: Now we are in the position of—

Hon. Members: Order! Order!

Mr. Deputy-Speaker: The question is before the House.

Dr. Colvin R. de Silva: One other point. I wish to raise another point of Order for your disposal, before we start the Debate, which is not the same point of Order as that which the hon. Member for Ruwanwella intends to raise at the voting stage.

I submit that you rule at the beginning, and direct, that no Member of this House who is in any manner interested in the outcome of this decision,

[Dr. Colvin R. de Silva.]

and of the decision of Mr. Justice Basnayake, will be entitled to participate in this Debate, either by words or by presence.

Sir, it is an old and tried tradition of the House of Commons, on which we are supposed to model ourselves, that no person shall be a participant in a decision from which he stands personally to benefit. There is not the slightest doubt that one form of decision on the subject of this Debate must benefit some Members who can participate in this Debate, in the matter of certain actions which are now pending in the Courts, to the tune of Rs. 26,000, Rs. 28,000 and similar sums—

The Hon. Mr. D. S. Senanayake: Is it proper—

Dr. Colvin R. de Silva: The Prime Minister is getting very uncomfortable under the barrage—

The Hon. Mr. D. S. Senanayake: By no means!

Dr. Colvin R. de Silva: That is why he is popping up.

The Hon. Mr. D. S. Senanayake: Is the hon. Member making a speech or rising to a point of Order?

Dr. Colvin R. de Silva: I am subject to your control, Sir, not to that of the Prime Minister.

Mr. Deputy-Speaker: Please confine your remarks to the point of Order raised.

Dr. Colvin R. de Silva: I am doing so. I am attempting to show to you, Sir, amidst all these unnecessary interruptions, why you should rule in the manner I have indicated.

There is no doubt that there are Members in this House, hon. Members, who stand to benefit by this piece of legislation. At least to preserve the appearance of public decency, I submit to you, Sir, that you rule that they are not entitled to participate in this discussion.

Mr. Deputy-Speaker: That is a matter left entirely to the good sense of each Member—whether to participate in this Debate or vote on this Bill.

Mr. A. Reginald Perera (Dehiowita): Where is the good sense on that side?

The Hon. Mr. Bandaranaike: May we proceed with the Debate now?

Mr. Deputy-Speaker: The hon. Member for Ruwanwella.

3.22 P.M.

Dr. Perera: Mr. Deputy-Speaker, we have listened to a very interesting speech from the Leader of the House. He conveniently forgot, or rather skipped, Clause 4 of this Bill. He refrained from mentioning it at all, the worst feature in this Bill, the clause that gives retrospective effect to this Bill. It is that clause which turns this into retrospective legislation. The Leader of the House did not say a word about that, the worst feature of this whole Bill.

In the second place, there has been no attempt made to justify the rush tactics adopted over this Bill. We have not been told why this legislation is so urgently necessary, why the Government could not wait and go through the normal procedure and take up the Second Reading of this Bill next week, or why it was not possible to wait till the House resumed again in the normal course of events on November 23 next.

Before I proceed to deal further with the speech of the Leader of the House, may I say that the Prime Minister appears to have been overtaken by a strange Nemesis in connexion with the Constitution. When it was found that certain Ministers themselves were disqualified under the then existing Constitution, they rushed to England and had an Amending Order in Council passed, in order to safeguard their own position.

That was the first unfortunate reaction to this new Constitution of theirs.

Then, they found that the present Minister without Portfolio and the Member for Maturata had to be rescued.

Now, once again, they find that certain camp-followers of theirs have to be rescued.

It would appear that this Constitution was drafted at a particularly inauspicious time, or *nekata*, for the Prime Minister. We do not know how

many more amendments to this Constitution we shall have to face before we are done with it. If the Bench of three Judges of the Supreme Court decides against the late Member for Kayts, then we shall be faced with another amendment to the Constitution, to safeguard those very Members whom they are now trying to protect.

How many more amendments to the Constitution we shall be asked to pass, I do not know.

What is really the position that we are faced with today? The late Member for Kayts, Mr. Thambiayah, has been adjudged by a competent Court to have had a contract with the Government—may be indirectly. That is not the point at issue here today. The highest tribunal appointed to deal with this type of case has definitely held against the late Member for Kayts, Mr. Thambiayah. That question does not arise, so far as we are concerned.

We are not concerned with the fact that this particular individual has been declared to be not qualified to sit in this House. If that were the only point at issue, I do not think the Government would have bothered one bit. They are not interested in saving the seat for Mr. Thambiayah at all. Mr. Thambiayah is being made a convenient pawn.

We know that two Ministers of this Government were unseated—the former Minister without Portfolio and the former Minister of Industries, Industrial Research and Fisheries. Nothing happened then, and no question of appeal arose then. In fact, one of the Ministers who was unseated was reported to be collecting signatures to a petition appealing to the King! That is the position to which one of the former Ministers in this Government has been reduced, a man who is aggrieved by the decision of the election Judge in his case.

The former Deputy-Speaker, your predecessor in office, was unseated, but there was then no flutter in the U.N.P. dovecots.

But now some strange change has occurred. Fortunately or unfortunately, the repercussions of Mr. Justice Basnayake's judgment seem to be fairly widespread, and have affected a number

of hon. Members, who—fortunately, or strangely!—are all members of the U.N.P. There is nobody on this side affected—

The Hon. Mr. Bandaranaike: Why not?

The Hon. Mr. J. R. Jayewardene (Minister of Finance): Question!

Dr. Perera: Who are they? Give us the name of even one—

The Hon. Sir John Kotelawala (Minister of Transport and Works): Mr. A. Reginald Perera!

Dr. Perera: No.

The Hon. Sir J. Kotelawala: Ask him.

Dr. Perera: There are no contractors on this side. That is the unfortunate, or fortunate, position from our point of view.

What has happened as a result of this decision against the late Member for Kayts? A number of enterprising individuals have gone and filed complaints in the District Court threatening to mulct these Members of a tidy sum—

Dr. Colvin R. de Silva: They are acting in collusion with the Members concerned!

Dr. Perera: Strangely enough, in a good many cases, their own kith and kin, their own proctors, have filed these cases. In order to safeguard their position, these Members have had these cases filed against him—[AN HON. MEMBER: In one case, the complaint has been filed by the brother!]*—[Interruption]*—The hon. Member for Wariyapola says that the wise men of the U.N.P. have done that. He is one of them. Then why not act according to their wisdom, why ask us to help you? Why not find your own method of escape? Do not worry this House to find you a method of escape—

Mr. Ivan T. Dasanaike (Wariyapola): We do not want your help.

Dr. Perera: Then the question does not arise. The hon. Member should ask the Ministers to withdraw this Bill—

Mr. Dasanaïke: You withdraw!

Dr. Perera: The Leader of the House gave away the whole show and completely demolished the case for this Bill by saying that it is possible for any of these Members affected to take the case up to the Supreme Court and get its decision on it, and that all that is provided for in this Bill is the right of appeal. Then, why cannot any of these Members proceed by way of *quo warranto* application to the Supreme Court and get this matter adjudicated in the Supreme Court once and for all?

The Hon. Mr. Bandaranaike: How will that solve the problem?

Dr. Perera: It will not solve the problem. It may mean that some of these people will have to go. If the purpose of this Bill is merely to obtain the opinion of the Supreme Court—

The Hon. Mr. Bandaranaike: An authoritative decision.

Dr. Perera: That can be obtained by way of a *quo warranto* application to a Bench of three Judges—

An Hon. Member: A single Judge in the first instance.

Dr. Perera: That is a matter of procedure. It is possible to get the matter decided on that basis. Why go through this farce of getting a Bill of this nature passed for the purpose?

There is no doubt in our own minds that there is something sinister in the whole make up of this Bill, something sinister in the suggestion that a special Act should be passed for this purpose. I am inclined to believe that some of the Members dare not face the Court and answer charges about their own disqualification. That is perhaps the reason for rushing this Bill through. If that were not so, why hide behind the late Member for Kayts in order to escape from the disqualification imposed on them by the Courts, or likely to be imposed on them by the Courts?

The main feature of this Bill, as explained by the Hon. Leader of the House, is the provision of the right of appeal under Section 2. Now, the Hon. Leader of the House, when he started

introducing this Bill, made the point that this Bill has been deliberately introduced in order to see whether the original intentions of the framers of this Constitution cannot be sustained in Court. That is the sum total effect of what he said. The original intention was to exclude these shareholders, these indirect beneficiaries. Now they find that the Hon. Mr. Justice Senanayake [*Laughter*]
—is it not a fact that many a true word is spoken in jest, Sir? Mr. Justice Basnayake has given a ruling which is contrary to their expectations, and therefore they think it is now necessary to canvass this opinion again before a Bench of three Judges.

The Hon. Mr. Bandaranaike: Because another Judge has expressed a different view.

Dr. Perera: What does it matter, Sir?

The Hon. Mr. Bandaranaike: It matters a lot.

Dr. Perera: What does it matter if by a *quo warranto* application you can get the matter clarified? As a matter of fact, I do not think the Leader of the House is correct. Mr. Justice Dias did not go into the whole question, because he found sufficient evidence in the other factual matters to disqualify the then Deputy-Speaker. I think it was only by the way, that he made this reference to the particular aspect of this matter, that is, Section 13 (3) (c). I have got his judgment here. He indicates that. But I am inclined to believe that it was only a sort of by-the-way reference in his whole judgment. As a matter of fact, I think Mr. Justice Basnayake in his judgment referred to the fact that Mr. Justice Dias had not really gone into the full implications of Section 13 (3) (c).

Dr. Colvin R. de Silva: It was not necessary.

Dr. Perera: It was not necessary for Mr. Justice Dias to do so. I do not want to read all the relevant portions of his judgment. What I am trying to make out is this. Let us for a moment assume that it is necessary to clarify Section 13 (3) (c). There are many

Members here who are prepared to consider that aspect of the question. I think it merits consideration, and very serious consideration. There are a large number of Members who hold different opinions with regard to this matter, and this is an entirely new feature of the election law, this provision of the right of appeal. It did not obtain in Ceylon before this, and it does not obtain in England at the present moment. There, disputed elections are referred to a Bench of two Judges. That is an understandable point of view that can be held by Members. There are various ways of settling this question. If it is a question of amending the section in order to give a right of appeal, if it is this principle that is involved here, that is, whether the right of appeal should be given or not, it is a matter that can be dispassionately considered, because it affects all Members of this House, irrespective of Party. I think hon. Members on both sides of this House will be prepared to consider that question in the normal way, that is, whether we should have the right of appeal, or whether in preference to that, we should have a Bench of two Judges, instead of one Judge, to try election cases, and whether we might not even go a step further and provide a right of appeal to the Privy Council. And there are many Members who might argue, "Why restrict the right of appeal to a point of law"? Many matters of fact may be highly disputatious. Many matters of fact might require elucidation, and two Judges might have two different opinions.

All those questions have to be viewed when we are considering the question of amending this particular item in the Constitution. There has been no case made by my good Friend, the Hon. Leader of the House, that these points of view have been considered at all by the Government. Because, Mr. Deputy-Speaker, I remember not very long ago we had a very interesting Debate in this House. A Motion was moved by the hon. Appointed Member, Mr. Gratiaen. I have somewhere a reference—

Dr. Colvin R. de Silva: Do you want the reference? I have got it here.

The Hon. Mr. D. S. Senanayake: The Motion that he withdrew, is it not?

Dr. Perera: I will refer to that Motion because it is interesting; it referred to Section 13 (3) (f). The then Appointed Member, Mr. Gratiaen, now Mr. Justice Gratiaen, wanted to amend Section 13 (3) (f). I do not want to read the whole Motion, but I will give the reason why he moved it:

"Mr. Speaker—"
says the Appointed Member "the purpose of this Motion which stands in the name of three hon. Members of this House and myself is to sense the views of hon. Members on what we consider to be certain very unsatisfactory features of Section 13 (3) (f) of the Order in Council in its present form, dealing, as it does, with the very important question of disqualification of Members upon conviction in a court of law."

That was the Motion, an utterly innocuous Motion, only for the purpose of getting the points of view of hon. Members of this House, so that if Government wants to amend that section, Government will have a rough idea of what the position is. On that occasion, Mr. Deputy-Speaker, my good Friend, the Hon. Leader of the House, took up very high ground, he stood on very lofty principles. I think he enunciated three principles, if I remember right. We should not make any piecemeal changes—that was his first argument. Secondly, he said, we should not be moved by the fact that this question affects one who is closely associated with us—an hon. Member of this House—but that we should do our duty without fear or favour, without any question of friendship.

The Hon. Mr. Bandaranaike: Are you quoting me or giving a new version of what I said?

Dr. Perera: I am referring to the Hon. Prime Minister at the moment. I will quote you in a moment. Do not be in a hurry!

The Hon. Mr. Bandaranaike: But you said you were quoting me.

Dr. Perera: The third point he made was this. He said that people who indulge in certain acts must be prepared to face the consequences of those acts, must have the courage to face the consequences thereof. Can I ask the Hon. Prime Minister to accept those same arguments when I throw them back at him? Will he stand on those very arguments? I thrust those arguments back

[Dr. Perera.]

on the members of the Government and ask them to consider this Bill also on those very same principles that they advanced.

I will take the first point, that we should not make piecemeal changes. Well, at the present moment there is a Commission of Committee engaged in going into the whole question of Section 13 (3) (c) and Section (13) (3) (f). Pointed questions were put to me, when I went before the Commission, on the question of contracts. So when the matter has already been referred by this House to an independent body to adjudicate upon, to go into the whole question and submit a report on which the Government can take action, is it fair or right, or is it in keeping with the principles which the Hon. Minister has enunciated that he should now come before this House and demand of this House a piecemeal consideration of this Bill which really goes into the fundamentals of the Constitution? [Interruption.] Certainly, it is a fundamental change that is being made—the provision of a right of appeal which has not been provided in any Bill in any election law up to date. That is his own argument so far as that goes.

The second argument is this. I will quote his own words; his own words are always best in these matters:

“It appears that this Motion has been moved because of some disqualification or result likely to affect someone with whom we are closely associated. Whatever political differences may exist between us and one who is a colleague of ours, we feel we have to perform, we are expected faithfully to perform, our duty.”

Mr. Deputy-Speaker, we do hope that they will faithfully perform their duty on this particular occasion. What is that duty? Not to save individuals because they are friends or camp-followers of the U.N.P. That is the whole purpose of this Bill. If that were not so, there is no purpose at all in this Bill. What is the reason for this Bill? Why not let the law take its own course? Why should this Bill be introduced? Rightly or wrongly, two Judges may have differed. But why should the Government rush in and introduce a new Bill, if it was not for the purpose of saving somebody who is behind them?

As a matter of fact, the argument of the Leader of the House was this. “Members have believed”, he said, “That they were immune, that shareholders were immune, they felt *bona fide* that they are not disqualified.” Therefore they are now provided with a means by which they can ensure immunity to them.

The Hon. Mr. D. S. Senanayake: Or not!

The Hon. Mr. Bandaranaike: We want to have something clear-cut.

Dr. Perera: Why is it necessary to have this matter so clarified?

The Hon. Mr. Bandaranaike: There is a difference of opinion.

Dr. Perera: Is this the only matter in which there has been a difference of opinion among Judges of the Supreme Court? There are a number of things on which there have been differences of opinion. A large number of cases have cropped up. What reason is there that this step should be taken only in this particular case, except that they feel that these Members might lose their seats if they go before the courts? No, Sir. I say that in fairness to the position that they have taken up in the past, it is their duty that they perform their obligations towards the people of this country, not with a view to helping friends or Members of one's own Party, but without fear or favour, and in the own words of the Hon. Prime Minister, they must take the consequences of their own action. That is the third principle he enunciated—that people must be prepared, courageously prepared, to take the consequences of their own action.

The argument is that hon. Members had felt, genuinely felt, that they were immune from this particular section, and therefore Government must step in and see that that genuine feeling is sustained. That is the argument of the Hon. Leader of the House. If you have a contract with the Government, you have to take the consequences of having the contract. Why should they not face the consequences of a contract, if they have one directly or indirectly? Looking at the matter factually, I would

like to point out that it is a matter of grave doubt in the minds of very many Members of this House whether certain gentlemen in the Upper House should be safeguarded by us. It is only too well known that a certain Senator is an important director, if not the Managing Director, of Bousteads, and he has got a big contract in the Gal Oya Scheme. Do you think it fair that hon. Members should be asked here and now, in this rush way, to safeguard those particular Senators that we have in mind? Is it fair? Certainly, it may be that—I am prepared to concede it—everything was above board, that the contracts given to Bousteads might have been given in the normal way without any undue influence being exercised. I am quite prepared to believe it. But can you eliminate the suspicion in the mind of the public that everything has not been all right, that unfair influence has been brought to bear because of the fact that they were Senators and members of the Government? Can you eliminate that suspicion?

The Hon. Mr. Jayewardene: Is it relevant?

Dr. Perera: Why not?

Take another Senator who has got a contract with the Minister of Transport and Works on the Railway. All the rights of providing refreshment facilities at Railway stations have been given to him, and he was—it may sound strange—the lowest tenderer, the highest tenderer being somebody outside. And he got the contract.

Mr. A. Reginald Perera: He was the caterer to the Speaker's party.

Dr. Perera: In point of fact, the highest tenderer came to see me and suggested that the lowest tenderer may have been successful because he put a garland worth Rs. 2,500 round the neck of the Hon. Prime Minister. I said that I did not really believe that story.

The Hon. Mr. Jayewardene: Is all this relevant?

Mr. Deputy-Speaker: It is irrelevant.

Dr. Perera: As a matter of fact, I denied it. I said that I could not believe it and that I would not accept that

position. You are giving room for the worst possible suspicions in this country, for all sorts of corrupt ideas forming in this country.

The public have got a serious mis-giving with regard to the position of these hon. Members and various Senators, and by the passage of this Bill we are proving to the public that we are out to safeguard these people as much as possible whenever they are in trouble, to see that their position is secure. That is the meaning of this Bill. We cannot get behind that fact, and it is a very undesirable feature, the most undesirable feature of this Bill. We cannot get behind that fact, and it is a very undesirable feature, the most undesirable feature of this Constitution, that we are going to legislate for the benefit of individuals whenever they fall into trouble. In point of fact, it is very desirable that hon. Members of this House should be, like Caesar's wife, above suspicion. There should not be any suggestion of a suspicion in the minds of the public. We must be very careful in our dealings. That is the position we take up.

I know that there are hon. Members in this House who are on very thin ground at the present moment. I am referring to certain hon. Members here because you will remember that in the last State Council the then Member for Badulla, Sir Henry Kotelawala, was knocked out of his seat because he had a contract with Government in so far as he rented a house to Government for a post office. Because of that fact he was knocked out. There are hon. Members here sitting who have got—

The Hon. Mr. D. S. Senanayake: Not the post office, the Medical Department.

Dr. Perera: The Co-operative Department.

The Hon. Mr. D. S. Senanayake: The Medical Department.

Dr. Perera: Whatever it is, the point is that the contract was with the Government. Is it fair that we should, at this stage, interfere and try to safeguard these hon. Members?

The Hon. Mr. D. S. Senanayake: That is exempted.

Dr. Perera: Precisely. That was exempted. But since the new interpretation came in, you do not know where you stand. That is what has happened now under the new interpretation. They want the interpretation changed.

There is one question that is worrying me in this matter. Why is this Bill being introduced? The Leader of the House made no attempt to answer that question. I have been trying to rack my brain to find out why it is necessary for the Government to introduce this Bill. Nothing the Hon. Leader said can convince me, and I do not know whether any hon. Member is convinced by what he said. As a matter of fact, the lamest possible speech was made by the Hon. Leader. I have listened to magnificent bits of oratory from the Hon. Leader of the House. But on this occasion, I have been thoroughly surprised to hear what he said. Certainly his heart was not in his job. He was not at all sure of his ground. The result was that he completely forgot to mention Section 4. The Hon. Leader said that Section 4 does not provide for retrospective legislation.

Mr. Keuneman: It does.

Dr. Perera: What does it provide for?

The Hon. Mr. D. S. Senanayake: It does not say so.

Dr. Perera: But the effect is the same.

The Hon. Mr. D. S. Senanayake: It gives a period for an appeal.

Dr. Perera: Can you conceive of any legislation, up to date, introduced by this House or any country except during the emergency, which had retrospective effect? I know that when we were arrested the *Gazette* notification followed thereafter and covered the position. That was during the war period. But I think this Bill is unique, and it is the most vicious principle that can possibly be adopted with regard to legislation to cover a particular case, a particular election.

The hon. Member for Kayts is a good friend of mine. But it is not for me to plead his individual case in this House. We must get above personalities when we come to deal with legislation in this House. We must stand above it, and

therein I am following the very good precedent and lofty principles enunciated by the Hon. Prime Minister.

Mr. Keuneman: Not often followed.

Dr. Perera: I was asking the reason for this procedure now. I can only understand it this way, whatever the Government may say. I have not the slightest doubt that they have already fixed upon the Judges they want for the Appeal Court.

The Hon. Mr. D. S. Senanayake: I rise to a point of Order. I think that is quite an improper remark to make, and we should realize that, when we have no right even to criticize the Supreme Court, to make an insinuation in the way the hon. Member did is really undignified.

Mr. Deputy-Speaker: The hon. Member must withdraw the remarks, that he is given to understand that they have already decided as to—

Dr. Perera: If a denial has been made by the Hon. Prime Minister—

Mr. Deputy-Speaker: It is not a question of denial. It is improper to make such remarks.

Mr. Dahanayake: There was a paragraph in the "Times of Ceylon" giving the three names.

Dr. Perera: It is not a question of motive. I am stating a fact. I am stating that the Judges might have already been chosen.

Mr. Deputy-Speaker: That is denied, and I do not think it is proper for the hon. Member to make any reference to this question.

The Hon. Mr. D. S. Senanayake: There is no question of denial.

Mr. Deputy-Speaker: The hon. Member should not make such a statement.

The Hon. Mr. D. S. Senanayake: To cast a slur on the Supreme Court is not by any means fair.

Mr. Dahanayake: Not at all. The "Times of Ceylon" gives it.

Dr. Perera: I said that the personnel perhaps has already been decided upon. The Hon. Prime Minister has raised a point of Order that it is improper to make that statement.

Mr. Deputy-Speaker: The hon. Member cannot argue the point or make reference to personnel or anything of that sort.

Dr. Perera: I am not talking about a decision that the Court will come to. I said that the personnel of the Appeal Court might have been decided. That is all I am saying.

Mr. Deputy-Speaker: Please withdraw that statement.

Dr. Perera: If you, Mr. Deputy-Speaker, think that it is improper for me to say that the personnel has already perhaps been decided on, I withdraw—

The Hon. Mr. D. S. Senanayake: Certainly it is improper.

Dr. Perera:—all that I have stated. They are already assured of the Bill being passed, and they have taken further steps to see that the Bill is implemented in double quick time. That is all I am stating.

The Hon. Mr. D. S. Senanayake: That is improper.

Dr. Perera: I have not stated anything more than that.

The Hon. Mr. C. Sittampalam (Minister of Posts and Telecommunication): As it is, the Supreme Court decides the question of Judges, not the people. By his statement the hon. Member is misleading the public in this matter.

Dr. Perera: That is fiction. The hon. Member knows that is fiction.

Mr. Deputy-Speaker: The hon. Member has already withdrawn his remarks.

Mr. Keuneman: Legal fiction.

Dr. Perera: The position I am trying to make out is this. We want to know why this Bill has been introduced.

No reasons have been given so far as I can surmise. This Bill leaves in the minds of the public no other impression but this, that it is deliberately fashioned for the purpose of saving Members of the U.N.P. Government. Otherwise this Bill is absolutely unnecessary. And what is worse. If the Appeal Court decides against the decision of Mr. Justice Basnayake, that will leave a very bad taste in the mouth of the people outside. They will feel—it is particularly an unfortunate fact; the implication will be there—and I think they can be pardoned for feeling so—that this Bill has been fashioned for the purpose of safeguarding certain hon. Members. That cannot be avoided.

The worst possible principles are introduced in this Bill, and I say that this is opening the way, the flood gates, to all manner of corruption, all manner of unfair influence. And I go so far as to say that the pestiferous odours of this particular legislation will pollute the political atmosphere of this country for a good long time to come. It will be the beginning of a new law in the whole standard of public conduct in this country if we are to accept a Bill which is really *ad hoc* legislation for a specific purpose in order to safeguard certain Members. A worse possible principle cannot be imagined. So far as we are concerned, we are thoroughly opposed to the Bill, and we shall strongly press for a Division and vote against it.

Mr. Keuneman: Shall we adjourn for tea?

Mr. Deputy-Speaker: The Sitting is now suspended till 4.30 P.M.

Sitting accordingly suspended until 4.30 p.m., and then resumed.

4.30 P.M.

Mr. Keuneman: Mr. Deputy-Speaker, this is really a very simple matter. There is nothing at all which is complicated in this Bill. I note that the Hon. Prime Minister agrees with that. I hope he will also agree with my reasons.

As far as I can see, the United National Party has been hoist with its own petard and now wants this House to help to unhoist it. The Prime Minister seems to disagree. I am again glad,

[Mr. Keuneman.]

because I intend to establish that that is the crux of the whole matter.

No amount of glittering moonshine in the speech of the Hon. Leader of the House can camouflage this very simple issue. The Constitution, which is sometimes called the Soulbury Constitution, sometimes called the Senanayake Constitution, sometimes called much ruder names than either of those, was held up as a model in Constitutions, not to speak of a casket in which our freedom was supposed to be enshrined. I think from a number of recent happenings the Hon. Prime Minister must be seriously disputing whether his legal and constitutional advisers have not been concentrating too much on educational affairs and other matters of public importance to the detriment of their knowledge of constitutional law, thereby bringing the United National Party to the parlous position into which it has already fallen.

The Hon. Leader of the House, in a speech of dubious merit, tried to bring forward what he considered cogent arguments in support of this rush legislation which is being thrust upon us like a bulldozer sweeping down the forest of Minneriya. There were two central arguments which were the main themes in the speech of the Hon. Leader of the House. Let me take each of them and let me try and show this country and also hon. Members of this House that there is not a tittle of substance in either of the arguments put forward by the Hon. Leader of the House, that there is nothing in his arguments which can disguise the fact that this Bill is nothing more than an attempt on the part of the Government to help some of its Members who have got into trouble owing to the wording of the Order in Council and particularly the judgment of the Supreme Court.

What was the first argument of the Hon. Leader of the House? The Leader of the House said that this was a very ticklish and undecided question; to use his own words, there was no "authoritative decision" on this matter as to whether a contract with the Government extended to a person who held shares alone in a company which had contracts with the Government. I fail to see that there is any dispute of decisions in this matter.

I followed very carefully the speech of the Hon. Leader of the House. He phrased his speech very carefully indeed so that one might have got the impression, although he never specifically said so, that two conflicting judgments, conflicting decisions, had been made by two learned Judges of the Supreme Court in this matter. But that is not the case. There is only one judgment by the Supreme Court in regard to this matter, and that is an authoritative decision because no more competent part of the Judiciary has passed judgment on this issue.

The hon. Member for Ruwanwella, very rightly, pointed out that Mr. Justice Dias in the Colombo South election case made a remark to the effect that he did not consider that this Section of the Order in Council extended to persons who held shares in a company which had contracts with the Government, but that was not the point to be decided, nor was it a point on which the learned Judge gave a decision. It was pure *obiter dicta*, pure opinion *en passant* of the Judge.

If the Hon. Leader of the House followed the case of his colleague with the same attention as we, on this side of the House, did, he would have realized that Mr. Justice Dias addressed himself to this proposition: whether, in fact, a company, I believe the New Landing and Shipping Co., was the nominee of the former Member for Colombo South, who was charged. It was on that question alone that he gave a decision. That decision was a finding on fact. But the Judge's expression of views on contracts was *en passant*. The views of a learned judge, however much respect we may have for *obiter dicta* of a judge, are not law. Law is authoritative decisions, to use the very phrase used by the Hon. Leader of the House, and Mr. Justice Basnayake is the only one who has expressed an authoritative decision on this matter up to now. So I do not see that there is this tremendous conflict of opinions.

As the hon. Member for Ruwanwella pointed out, Judges of the Supreme Court and of the District Court have often expressed opinions contrary to each other, but we do not find Government running to amend the law every time learned Judges disagree or make passing remarks which contradict the decisions

of other judges. So I do not think that Members of this House or the people of the country can for a moment be taken in by the suggestion, the imputation on the part of the Leader of the House, that there has been a serious conflict between two decisions of Judges, and it is necessary for us to resolve that conflict, to cut this Gordian knot, with the sword of amending legislation. We cannot accept that position set out in the arguments of the Hon. Leader of the House.

I think the Hon. Leader of the House is aware that, even at the present moment under the existing procedure, if a learned Judge of the Supreme Court has any doubt on a question of law, he can refer that matter itself to a Bench of three Judges. I think you will remember the case in which the Hon. Minister of Finance was involved. The very same Judge, Mr. Justice Basnayake, on a very much smaller issue, a question I believe of security, referred the matter, because he had some indecision in his mind, for a decision by a court of three Judges who assisted him by giving a judgment in that case. On the question of contracts, however, the same Judge, Mr. Justice Basnayake, the only Judge who has held anything authoritative on this point, did not think twice but firmly gave a decision while he had the power, if he wanted, to refer this question of law for a decision by a higher court of three Judges.

I feel that by passing this amending legislation the Government is interfering with the Judiciary. That is the point which must be realized by this House. The Judiciary and the Supreme Court are supposed to be independent, to be interpreters of law laid down by this House. But the Government is asking us to usurp the powers enjoyed by the Supreme Court and to interfere in judgments given by Judges who have powers to exercise if they so desire to exercise them. That is why I do not think hon. Members can connive at such a procedure which the Government is asking us to accept.

Now, let me deal with one or two more points in connexion with the arguments brought forward by the Hon. Leader of the House. The Hon. Leader of the House suggested that by this process of giving the right of appeal to a

court of three Judges on a point of law we are going to get a definite opinion, an authoritative judgment; that we are going to avoid conflict of decisions. I am glad he agrees because I do not agree.

The Hon. Mr. Bandaranaike: Why not?

Mr. Keuneman: Surely, the Hon. Leader of the House is more qualified than that. I fully concede that he must be aware of the process of legislation. He must know what sort of Judges are bound by the decisions of what sort of law. A situation can arise like this. Let us take even as an imaginary situation the Kayts Election Petition, which is the one referred to. Supposing Mr. Thambiayah, till recently our colleague, appeals under this Section to three Judges, and the Judges hold in the way the Government thinks the law ought to be interpreted according to the speech of the Hon. Leader of the House. Supposing another person, on another occasion, brings before a single Judge a petition on the same point, that single Judge will be bound, quite correctly, by the three-Judge decision. The single Judge will overrule the petitioner because he is bound by the three-Judge decision, but the aggrieved party, the other person to the dispute, has an appeal. He can appeal to another set of three Judges, and these three Judges are not bound by the decision of the other three Judges. It is possible we shall find them giving entirely conflicting decisions. Then are we going to have further rush legislation? Surely, the legal advisers of the Members of the Government should be so good, so thorough, as to envisage all possibilities, or is it that they have to work at high pressure in producing Bills at this speed to save members of the United National Party that they have to overlook possibilities which can and may develop in administering the law?

I have alleged that this question is a question where hon. Members of the Government are trying to bring in legislation to give benefit to special people who are representatives and members of the United National Party. The hon. Member for Ruwanwella referred to the other thoroughly obnoxious provisions of Section 4 of the Amending Bill. I am not going to deal with the question of

[Mr. Keuneman.]

whether we should enact legislation which is retrospective, which will catch up decisions already made, but in this particular case because of special circumstances and probably because of certain other cases which have been filed, an appealable period of one month prior to the coming into being of this Act is allowed by the Government. This is really very special treatment. Persons who are convicted in a Magistrate's Court have only ten days in which to lodge an appeal. Persons convicted in a District Court have, I think, ten or fourteen days in which to lodge appeals depending on whether it is a criminal or civil case. In an appeal to the Court of Criminal Appeal even on the death sentence, the highest penalty a man can suffer, the appeal has to be lodged within ten days. But, Mr. Deputy-Speaker, in the case of supporters of the United National Party, who may have got into trouble because of careless framing of Constitutions and legislation, one month is given not only after but even before the coming into being of amending legislation. That is the special provision found in this Bill brought forward by the Government.

Mr. T. B. Subasinghe (Bingiriya): Right of exhumation!

Mr. Keuneman: I would also like to remind this House of certain other matters which are pertinent to this Bill and the attitude of the Government. This is not the first time that the Government has had to face the question of changes in the Constitution. The record of the Government is such that it has shown that whereas in the case of amendments and changes which are demanded by public opinion, the policy of the Government is to delay and put off and oppose and fight any such change, where any section of the Constitution operates against the members and supporters of this Government, then there is great haste indeed in getting those sections changed for the benefit of the United National Party.

I would remind hon. Members of this House how the Members of the then Board of Ministers, or their representatives, on their behalf, went by the backstairs to the British Government and got them to amend the Order in Council to allow school managers to

contest seats in the State Council—to allow persons disqualified on the Report of an Election Judge to contest elections—and it was no accident that all those people are supporters or members of the United National Party or are supporters and members of Parties which are now in the Government of this country. That was what was done. But, when it came to amending Section 13 (3) (f), it was an entirely different business. There was no rush legislation.

Ever since that Section came to the notice of the public, there has been widespread public agitation demanding its change and its repeal. Hon. Members of the Government, as I have quoted in previous speeches, have themselves in the past subscribed to that position. But the Hon. Prime Minister and certain others fought a dogged battle to delay that amendment of the law. They ignored decisions of the State Council to change it! The Hon. Prime Minister got up in this very House and said that this House could pass this legislation, but he was not prepared to implement it, and, finally when matters were brought to a clinch, as it were, the matter was shelved by referring it to a Committee of this House where it still is. When it comes to dealing with that type of demand, two years is not too long.

Hon. Members of the Government want time to consider Section 13 (3) (f)—they want time to cogitate; they want time to weigh the pros and cons of the situation. But, when it comes to helping certain Members and supporters of the United National Party who, because of careless wording of Section 13 (3) (c), as admitted by the Hon. Leader of the House, of this Order in Council, have fallen into trouble, then there is remarkable speed by the Government and a remarkable lack of care for ordinary standards of proper conduct in public life by this Government. I think we have a right to protest on this matter.

There is this last point which I should like to refer to in connexion with the speech of the Hon. Leader of the House. The Hon. Leader told us that this laxity of the law was by way of an accident; that it had, all along, been the intention of the legislators when this Constitution was framed, that persons who had shares in Companies

which pay dividends should not be included among those who are prohibited from being Members of either House—the House of Representatives or the Senate. The Hon. Leader of the House by way of an example gave us an interesting discourse on the development of Companies, of the difference between those which are profit earning Companies and those which are dividend paying Companies. He made a very nice, subtle, distinction between them. But, I could not follow why the Hon. Leader of the House recommended this particular procedure at the present moment unless it was that he was not sure of getting the two-thirds majority of this House for changing the law through an amendment of the Order in Council. If it was the case that the intention of the legislators, by careless drafting of the law or some other lapse, had not been properly expressed, in the Order in Council, Section 13 (3) (c), then, surely, it would have been proper on the part of hon. Members of the Government to have brought forward an amendment which would clarify the intention of the legislators and sought the requisite majority in this House to get the Constitution amended. Instead of which, the Hon. Leader of the House makes a virtue out of a necessity.

The Hon. Leader of the House says they do not want to interfere with the Supreme Court; that they will put the matter up to three Judges of that Court for an authoritative decision. But, he also gave us the hint, in his speech, that if the three Judges continued to be of the opinion of Mr. Justice Basnayake, then, the Government, to establish the original intention of the legislators, will be compelled to bring in an Amendment to the Constitution. So, I ask, why go through all this elaborate process? Why go round and round what the hon. Member for Galle referred to as the merry-go-round. Let the Government, if they think it deserving, bring a straightforward proposal to amend the Constitution and get the requisite majority in the House. That would be a much more straightforward way of dealing with this question. That is why we cannot accept the position brought forward by hon. Members of the Government. That is why we cannot, in due conscience, vote for the Amendment.

Bill moved by the Hon. Leader of the House. I would ask all hon. Members of this House who can rise above personal or Party considerations in this matter, to give a resounding vote against this particular Bill and thereby to strike a blow against an attempt at legislation in the interests of special people and special parties in this country.

4.51 P.M.

Dr. Colvin R. de Silva: I am, even now, ready to give way to the speaker of the Government!

Sir, although I have noticed that this Government, in spite of this piece of legislation, has not even had the decency to be shame-faced, I am glad to know that it is too shame-faced to enter into debate on the subject. I am one who, in this House, have got accustomed to being administered shocks by the Government of the day. So accustomed have we been to being administered such shocks by this Government, that we have almost ceased to be able to be shocked by what it does. But, even under that form of inoculation, which is intended by this Government to confer upon us immunity from shock, I confess today to be suffering from a sense of shock as to the attitude of this Government.

Sir, when the hon. Member for Ruwanwella was making a reference to the honourable Supreme Court, the Hon. Prime Minister chimed in with a charge that the hon. Member was seeking to make some form of criticism of the Supreme Court in this House. But, his Government, and his chief speaker in this Debate today, have been guilty of a form of criticism, and, as I shall shortly show, a form of intervention in the course of administration of justice of which this Government, if it is capable of being shamed, ought to be ashamed.

The Hon. Leader of the House said that there is an allegedly difference of opinion between two honourable Judges of the honourable Supreme Court. We shall deal with that matter in a moment. Is it, therefore, the reason why we shall invite a Bench of three Judges to give their decision on a matter such as this? And, he added, if that decision is the same as that from which the appeal is

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sought to be made, then shall we contemplate the necessary legislation. I ask, has there been, in the form of a Ministerial pronouncement, a more flagrant attempt to hold a threatening bludgeon over the heads of three Judges of the Supreme Court? Is it not a means, from the Floor of this House, and from the Front Benches of the Government, of saying to the Supreme Court which should be immune from even the suspicion of threat, that, if they do not conform to the needs of the Government of the day, then the Government of the day will not have hesitation in using a legislative stick with which to beat the Supreme Court? That is the meaning of the speech of the Hon. Leader of the House, and, if anybody therefore has here been guilty of insulting the Supreme Court, it is the Government of the day which purports to be a defender of law and order.

There is one other remark which I should like to make. Of all legislative enactments that have come before this House, never has one come before it which is so completely insulting in its assumption of the Supreme Court of the Island of Ceylon, than this one.

What do hon. Members of the Government purport to say in this House and to this country? That we, in our administrative wisdom, disagree with an honourable Judge of the Supreme Court; that we take it for granted if only a means is provided for appealing from the decision of that single Judge to three Judges, we shall get the result we want. Of all forms of insult to the honourable Judges of this Island, never has anybody been guilty of an insult such as this, and I trust, even if the Government by its steam-roller majority manages to steam-roll this piece of legislation, and, thereafter by going on its knees before Mr. Thambiayah request him to appeal, probably by assisting him out of the inexhaustible funds of the U.N.P., that then, on that occasion, the honourable the Supreme Court will take the opportunity to indicate to this Government what its view is of that assumption which it has made.

We, on this side of the House, are the people who are charged by this Government of not paying proper respect to established institutions. We are certainly subverters of institutions which

deserve to be subverted, but, when a Government which purports to be a defender of the Supreme Court itself is guilty of an immoral assumption of this nature, it undermines the administration of justice in this country as those who openly defy the law—never mind undermining it. That is my first charge against this Government, and the first reason, but not the main reason of my Party, for opposing this piece of legislation.

The second and very important reason why we oppose this measure can be put in very simple terms. This is, Sir, a rank "racket" brought before this House in the guise of a "sham" legislative enactment. The Government says, "We want a decision, so we are facilitating a decision". The Government seeks to argue, through the Hon. Leader of the House, that there is no other speedy way available today to get this decision which it purports to be so anxious to get; but, if the Government would like a little free legal advice from those competent to give it to them, then, let us remind them that there are already actions which bear the stamp of collusiveness filed in the District Courts of this Island in respect of this very matter and bringing this very action into issue. Let those who brought those actions expedite a hearing of those actions by special application.

Since the actions are collusive, it is clear the defendants admit the facts alleged; therefore, all that the District Judge would have to do would be to give his decision on the legal question arising from the agreed and admitted facts, and once that decision is given, if it is a decision against that particular party, let them appeal to the Supreme Court and the Supreme Court is always ready and willing, as this country knows, to expedite, to advance as rapidly as is demanded the hearing of an appeal of such decisive importance, that is, the obtaining of a decision by the Supreme Court with the speed that is necessary, if the law is not intended merely to benefit certain individuals, is easily achieved.

The normal processes of our law permit without the intervention of special legislation to have this matter decided by the Supreme Court of the Island of Ceylon, and, Sir, if the Judges of the Supreme Court who are supposed

to be authoritative enough for this Government when it comes for special legislation will not be authoritative enough when they have reached through the normal processes of the existing Courts, if then they are dissatisfied, let them go to the Honourable the Privy Council since we are proud to be citizens of the British Commonwealth of Nations. That too can be expedited.

It is common knowledge today that the institution known as the Privy Council in England, suffering from a continuous narrowing of the area of its jurisdiction, as one child after another of that supposed Mother country kicks the Mother country in the face, is still only too anxious and willing by making rapidity in decision available to those who still think it is a body worth appealing to. So, Sir, the Government which is anxious on a principle has all the opportunities it demands—here is a piece of gratuitous political advice to Government which I know it will not accept, because it is not intelligent enough to accept it.

Here, Sir, if the Government is worried as to the consequences to those others in respect of whom collusive actions have been filed while this matter is pending, it is always open for our Courts to make an application for the hearing of other matters to be delayed pending an authoritative decision of a test case. Thus, where is the ground on which Government administratively is seeking to stand for supporting this piece of legislation? Not all its special pleadings can persuade this country, even if it is unnecessary to persuade its cohorts that support it, to vote along with it without thought. There is more in this situation, much more and much deeper even from a merely legal point of view than meets the eye and as has been admitted by this Government.

Sir, the Hon. Prime Minister himself in this very House, since my arrival in it, has more than once protested at any effort by this House to interfere in any manner with any matter that is *sub judice*, that is, which is contemporaneously the subject of legal judicial proceedings. In the knowledge of this Government there are pending in the Courts today a series of actions, collusive or otherwise, precisely on this question, that is to say, these are matters of contemporary judicial proceedings.

They have been brought on the basis of accrued rights. This legislation, therefore, is an effort to interfere with the accrued rights of the citizen and subject, by special legislative enactment, in respect of pending judicial proceedings. Sir, if it had been sought to be done by any other body than this body known as the House of Representatives of Ceylon, it would have been guilty of rank contempt of Court, but since we are said to have now the legislative capacity to do everything except change a man into a woman and a woman into a man, apparently, the Government is seeking to use that power to convert people who legally are not Members into Members. That, Sir, is an interference with established law, accrued rights and pending judicial proceedings.

Sir, not even the skill for argument of the Hon. Leader of the House, not even, Sir, his silver-tongued sophistries will be able to get over that situation because it proceeds on the basis of obvious fact. It is said that those who framed this piece of legislation, if I understood the Hon. Leader aright, did not contemplate this consequence, that those who blindly followed an Act of 1782 showed themselves to be more judicious than those who refused to follow it, in other words, he says, it was not their intention to have this law resulting in this consequence, and therefore it is necessary to protect those who suffer from this apparently unexpected consequence from such consequence.

I think I have correctly represented what the Hon. Leader had said in his speech. To put it in another way, it comes to this. There are certain hon. Members of this House—or as it happens, supporters of the Government—unlike in the case of the former Member for Avissawella, who fought their elections knowing of the possibility of a certain disability attaching to them but who in spite of that chose to take a risk. Now having taken that risk, they have managed to link themselves up with those who temporarily occupy what are believed to be seats of power. They demand to be protected, that is, they have asked that their gamble should be on the footing of the old school boy who sought to cheat his inattentive opponent by tossing a coin and yelling

[Dr. Colvin R. de Silva.]

“ Heads I win, tails you lose ”. They gambled, they have lost and another Government is now seeking to load the dice in their favour.

But, Sir, let us look at it from a larger point of view. Even as there were those who were unwise enough to gamble on this matter, there must have been many others who were thoroughly suitable to be Members of this august Assembly, men who probably may well have defeated these very Members in the last elections, but who because of these disabilities attaching to them did not stand as candidates. Are you then going to protect these men from competition with those? That, Sir, is the one-sidedness of the approach of this Government to this question.

Let them legislate for the future. Let them bring in a proper amendment to the Constitution in a proper way and at a proper time, and we shall deal with it in the proper way. But if I may echo someone whom I would like to echo, namely, none other than the Hon. Prime Minister, even if one may approve of an objective in general, one can so object to the method that is particularly sought to be used that one must fight it at that stage.

Sir, this Government in the course of the previous Bill said with a certain abandon that they were ready to go to the country at any time, and from these Benches, we said, “ Resign, and we will take you on.” We found that it was not a threat, but an empty boast. Now that they have been given a chance by the grace of God, much more by the grace of the framers of the Constitution, to indulge in a miniature General Election, they and we will be able to test whether a particular tamasha that was indulged in at Galle Face on a particular day was a particular form of deceit or represented a reality. I invite this Government, instead of bringing in racketeering legislation, to follow the path of honour, to call upon its followers to face up to the consequences of their gambling in the political field even as they face up to the results of similar procedure in other precincts and in other fields. Let them go to the country individually and severally. Let them place the record of this Government at issue in those elections, and let

them give an opportunity to those candidates who could not have come forward because of this disability to fight them, and if they do come back, they would have justified themselves by risking this back-door method of saving themselves from the consequences of their own deliberate behaviour, a behaviour not becoming of hon. Members of an Assembly which claims to be august.

There is more. I wonder if this was a piece of legislation that was subject only to one or two or three disabilities. But this, Sir, is like Mistress Quickly in the Shakespearian play of whom Falstaff said that she is rotund, or as in this case with all its many deficiencies, that you do not know where to have her. You will excuse me. I am quoting Falstaff and not concocting a quotation.

Now this Government, with this piece of legislation brings forward a fabric which, it is clear, wherever you touch it, is plainly rotten. Let us touch it at another point. In a recent piece of legislation the Hon. Prime Minister took unto himself, through the power of his majority in this House, rights and powers of a semi-judicial nature, and one of his colleagues chose to remind us that he was the representative of the people and could be therefore trusted to exercise those powers in a judicial and in a judicious way. Here is a piece of legislation which is acclaimed by the Government as a whole, and not by the Prime Minister alone, in which they do not behave in a judicious manner in relation to a judicial decision. Judging from the fact that it patently accrues to the benefit of its own followers, can we ever come to the conclusion that any Member or Minister of this Government would ever exercise administrative powers in a semi-judicial way?

Here we have the inverted opposition—an effort administratively to intervene in respect of a judicial decision in the guise of a legislative enactment.

Sir, I have, in raising a Point of Order before you, already adverted to another consequence of admitting this piece of legislation—that is the peril to the universal adult franchise. Here I raise it not as a technical point of Order but in relation to one of the probable consequences of this Bill. What do I mean?

This Government is seeking to protect its majority by protecting some of its followers from unseating, that is from another election, that is from their electorates. What is to prevent this Government fortified by this precedent, to come to a stage where, under the pressure of the self-same set of Members, it will seek to change the election laws in order to protect its majority? If we give way to this, we will be laying the road open to that.

Then, there is a matter on which I think you, Mr. Deputy-Speaker, would be able to assist this House with your own long memory of Constitutional precedents. Sir, I have searched my own political and legal memory for a previous precedent for this course of action that this Government is now seeking to take, and it is strange that there is only one precedent, I think, that is known in the recent history of our political development. That is the celebrated precedent known as the Dictionary case. In the twenties of this century when the present Prime Minister was still an acolyte of another and a greater man, there was a gentleman by the name of Mr. D. B. Jayatilaka—later knighted in order to prove that his opinions had become increasingly benighted. He, as a member of the legislature of that day, also made himself the editor of a Sinhalese dictionary in respect of which he received a payment from the Government. He, too, was the subject of an action in our courts of law. He, too, rushed to his bosses of that day. I was a student in England when the Hon. Mr. D. B. Jayatilaka gave the precedent to the Rt. Hon. Mr. D. S. Senanayake. You will remember how an Order in Council was rushed through in order to protect Mr. D. B. Jayatilaka from the consequences of his own breach of the law.

There were those owners of papers, whose editors now write learned technical editorials supporting the Government on this question, who denounced that kind of intervention, not being done legislatively, as being subversive of the morality of this country. This is the next occasion on which such a thing has happened in the history of this country.

This Government purports to be worried about political corruption. This

Government has even agreed to the setting up of a Commission to look into the question of corruption, and I have no doubt that in due course a few of the lesser fry, who have been guilty of a few monetary transactions, will be found guilty and be pilloried before the public; but I submit in all seriousness to this House that nothing is so corruptive of public morality, nothing is so subversive of all desirable and moral and political standards in the public life of this country than this particular piece of legislation whose consequence, if not its intention, is nothing but corruption. What, Sir, is corruption after all? The improper use of the administrative and legislative rights and powers in a country for private improper purposes. When a whole Government is guilty of corruption, it is far worse than a case of one single individual or other being guilty of corruption. Indeed, our political life can withstand the shock of this or that Minister, if he likes, lapsing from the high standards of public morality which we demand of him. But when a whole administration is guilty of the corruption of using its political power to pass legislation to protect its own followers from the consequences of their own illegality, corruption is an insufficient term to use. This is a wangle. This is a racket. This is blackmarketing in legislation. There are a dozen more criticisms that should be brought against this piece of legislation. But, Sir, one must address criticism to the receptive, and to the non-receptive only denunciation.

So, if you will permit, I will end, if I may, in terms whose criticality I trust will be found also to be denunciative.

When I got up this morning I read with interest the report of a meeting in the hamlet of Bentota which I noted the hon. Member for Baddegama has also graced with his presence. I note in that report that that former legal luminary—whom I am sorry now not to see in a seat he was earlier in—who is now the Minister of Justice, had chosen to inform the people of Bentota of a very important discovery by him: that the present Hon. Prime Minister is one of the four or five great contemporary personalities of the Continent of Asia—

Mr. Dahanayake: Of the world.

Dr. Colvin R. de Silva: I beg your pardon—of the world.

[Dr. Colvin R. de Silva.]

The world consists of two aspects. There is a macrocosm on the one hand and a microcosm on the other. It may be that it is because Ceylon, in the view of the Hon. Minister of Justice, is a microcosmic representation of the world, that in that little sphere he finds that the Hon. Prime Minister is one of the four or five great men in this world.

Sir, looking at this piece of legislation I am bound to conclude that that title he was given, he is fully deserving of but not in the sense of the Hon. Minister of Justice, who should have remembered that when he was speaking in Bentota he was speaking within the confines of the electorate known as Ambalangoda-Balapitiya. The Hon. Prime Minister shows himself by this legislation to be indeed great, great in the sycophancy of his more distinguished followers, great in engineering legislative changes that will protect his own, great in treating this little gem set in the Indian Ocean as something that is expected to add lustre only to his private crown.

On the same occasion another speaker has said, "Let us not sham on this occasion." I credit him for that remark. He added, "Let us not pretend that this is a matter merely of Government setting forth its policy but that these are occasions on which we do propaganda for our Government and our Party." That speech was made—if the newspaper report is correct—by one who was more recently elected to this House. I call upon this House to understand and to apply that valuable remark of that hon. Member at Bentota. This Government, while it is purporting to legislate impartially, judicially and judiciously, must have the frankness to tell us, to tell its own followers and to tell the country that it never legislates impartially but always partially; that it legislates only to the extent that it benefits itself and the United National Party with which it is linked and that it will readily misuse the legislative weapon against the Opposition.

Sir, I am entitled to make that submission to this House because I cannot forget the most telling speech that the Hon. Prime Minister, one of the five greatest men in the world, made in this House in a previous Debate. You, Sir, had not the good fortune to be a Member of this House at the time when there was

a Debate on a Motion brought by the then Appointed Member, Mr. Gratiaen, on the subject of Section 13 (3) (f).

I am sorry that the Hon. Leader of the House finds it necessary to glance at the clock—

The Hon. Mr. Bandaranaike: Very.

Dr. Colvin R. de Silva: But it is necessary to glance at the clock when one has to anticipate thunderbolts which are of one's own making. The Hon. Prime Minister on that occasion got up and with that suavity for which he is always distinguished, reminded us: "You must never legislate to fit an individual. You must legislate on principle. You must not seek to benefit a particular person", and he poured all the venom of his borrowed sarcasm on the hon. Appointed Member for seeking to establish a principle where only an individual or individuals were concerned. Sir, will the Hon. Prime Minister remember his own words in that Debate—at least an advice he gave to those, who always unthinkingly say 'yea' when he says 'yea' and 'nay' when he says 'nay', to tell 'nay' on that occasion?

Clause 4 of this Bill contains, what I might call, the cloven hoof. I do not thereby seek to attribute to this Government any bovine characteristics but only Mephistophelean ones. Clause 4 gives a little retrospective touch to this piece of presumably futuristic legislation. If within a month previous to this Bill being passed any one had been found guilty, then he, too, can exercise this right of appeal. Do the framers of this legislation pretend that they have any other thing in mind than the fitting of this Clause to the case of Mr. Thambiayah? It is clear what they are about.

If it was wrong to fit a law to suit a class in which happened to be an individual who was then seated on the right of the hon. Member for Ruwanwella on the Front Bench of the Opposition, if it was wrong to do that in the case of Mr. Philip Gunawardena, how is it right to do it in the case of Mr. Thambiayah? Is it because those who take contracts with the Government are a sanctified sector in our public life? Is it because this Government takes unto itself the special task of defending the monopolists of Big Business? Or is it because in the case of the then hon. Member for

Avisawella (Mr. D. P. R. Gunawardena), it was the case of a man who had consistently been a thorn in the side of the present Hon. Prime Minister, while in the case of the Member recently for Kayts, it is the case of one who but recently purported to cross the Floor in the interests of the purity of our political life?

Sir, by this contract with the Tamil Congress the Hon. Prime Minister has taken on manifestly a series of liabilities. He will find when certain Members, certain recent acquisitions, certain folk who in the past delighted to cross swords with the Hon. Leader of the House, now join him in order to cross swords with us, that he has taken on not an asset but a particularly heavy liability. Here since the Tamil Congress has contracted into his Government, he is not prepared to allow the Supreme Court to contract another sector of his following out of this Government. Well, Sir, no House worthy of the name of being an august Assembly can make itself a participant, nay, a supporter, of this form of action.

The Hon. Prime Minister in that Debate asked the hon. Member for Avisawella to have the courage of his convictions. I took the opportunity then to intervene and say, "Courage in that hon. Member needs no certificate from the Hon. Prime Minister," but now I call upon the Hon. Prime Minister to show to this House that he continues to have the courage of his previous deviations. If you saw a principle then, stand firmly on it now if, indeed, you are what you claim to be.

In every public meeting which the Hon. Prime Minister addresses, the masses are treated to a ranting declaration that he is ready to die for his country. I would call upon him to live for his principles and not to change them overnight as he changes his coat, his tie, or his pair of shoes. But a few months ago you stood four-square, made of granite, like the puny colossus you are, within your own puny Government on a puny little principle which was bristling with prejudice. Now, convert your prejudice into a principle—

Mr. Deputy Speaker: Please address the Chair.

Dr. Colvin R. de Silva: Yes, Sir, I beg your pardon. Through you, I call upon the Hon. Prime Minister to take

out of his pocket the cap he put on that day, and not to substitute a new cap of principle for the old.

Mr. A. Reginald Perera: A pointed one.

Dr. Colvin R. de Silva: Sir, this Government by this piece of legislation is showing the country the meaning of its policies. So, finally, I ask you in your own interests to withdraw this policy. Show yourself, I say to this Government through you, Sir, as capable of being persuaded by arguments to which you manifestly have no answer. Do not mind that you have had to take a debating thrashing on the Floor of this House. Go out to the country and prove to them satisfactorily that you were only testing out public opinion, that you were sampling it, that you put this forward purely to see whether public opinion was agreed on the matter.

And if you want a lesson from your recently acquired colleagues, go up to the City of Jaffna in order that you may by hook or by crook get a crowd whom you can get reported in the papers as 10,000 people, say to them how your heart is overflowing with the milk of human kindness for them—by drinking which milk you have found you are drinking the sweets of office—and finally say, "Since I love you so much, out of the love and affection you bear me, vote for this piece of legislation; and I shall tell the House at least to delay till you do that." For, after all, in your present Organizing Secretary you have a gentleman whom I admire not only for his legal attainments, but for his capacity to put up pageantry and to pass it off as a political demonstration.

5.36 P.M.

The Hon. Mr. D. S. Senanayake: Sir, I do not want to delay the House for any length of time, but there are one or two things which I would like to say.

I do not want to indulge in a lot of oratory making accusations against anyone, but I must admit that there is one thing at which I was rather surprised. When someone in Bentota had thought it fit to say that I was a great giant and that I was one of the five great men living in the world today, my Friend thought that I was a great man not in the world but in this Island which he

[Hon. Mr. D. S. Senanayake.] himself inhabits. I think that is the greatest compliment anyone could have expected from a man who has such a high opinion of himself. Therefore, I thank him for that great compliment he has paid me, though I did not at any time pretend to be a great man.

There is another thing which I wish to say, and that is that I have never at any time said that I wished to give up my life. I do not boast of things which I will do or which, when it becomes necessary, I shall do, like others who always boast of doing things which they will never do. I deny having stated at any time anything of that sort.

Now, with regard to the remarks made all this time, I wish to say that we have listened to accusations made against the United National Party and the supporters of the United National Party. There is not the slightest doubt that there are a number of Members belonging to the United National Party and other bodies who are affected by this judgment; but I honestly cannot say whether the percentage of Members who are affected by the judgment is greater on the Opposition side or on our side.

Mr. H. Sri Nissanka (Kurunegala): No cases have been filed against the Opposition.

The Hon. Mr. D. S. Senanayake: I dare say, there will perhaps be a case against the hon. Member himself when we go a little further.

But there is one thing which I remember very well, which was repeated constantly by my good Friend the Member for Ruwanwella. He wanted a decision from you, Sir, as to whether this is not a question in which a two-thirds majority was necessary. He said, "Our voting will depend on whether there is going to be a two-thirds majority or a bare majority."

Dr. Perera: No, no.

The Hon. Mr. D. S. Senanayake: Well, he did say that.

Dr. Perera: No.

The Hon. Mr. Jayewardene: What did you say?

Dr. Perera: Shall I explain? All that I said was that a decision as to whether what was required was a two-thirds majority or a normal majority, might weigh with Members in their voting. That is not the same thing.

The Hon. Mr. D. S. Senanayake: The only difference is that he has added a "might" which he never mentioned in his speech.

Well, as far as we are concerned, we do not mind their taking all the credit for themselves for passing this piece of legislation and even of saving themselves with its help. We do not mind that.

An Hon. Member: But what is the idea?

The Hon. Mr. D. S. Senanayake: As far as our Party is concerned, we vote according to our convictions, we vote according to what we think is right, not according to what we consider is going to suit us or affect us. That is one thing for which we might always lay claim to your credit.

It has been said that we have changed the law to suit individuals. Well, as far as those critics are concerned, I believe some of them are considered to be lawyers and I expect them at least to know when there is a change of the law. As it is, two different interpretations have been given by two Judges, and we want the Supreme Court itself to interpret the law as it is.

My Friend said, "Oh, this is a threat to the Supreme Court. The interpretation which has been given by one Judge is not finding favour with the present Government. Therefore, beware! This is an attempt to influence your judgment." I am surprised that a Member who is supposed to be an Advocate should think it possible to make men of the calibre who adorn the Supreme Court Bench believe that asking three members of their Bench to interpret a law constitutes a threat to themselves. If any member of the Supreme Court Bench thought it was a threat, I do not think that it would be possible for that member to sit at all.

As we know, there are appeals from Magistrates' Courts to the Supreme Court; from the Supreme Court certain

matters are referred to a Bench of three or five Judges, or even, at times, to the Privy Council. Merely because these judgments are revised or reconsidered, and there is provision for revision, no one would think that was a reflection on any one of those Courts. I dare say, men who believe that only they can think, that there is no one who can do better than themselves, who are so conceited as to feel that they are infallible, may consider that such revision or reconsideration is an insult. I am sorry that a gentleman who has practised so much in the courts, however conceited his inherent qualities may be, should not at least have imbibed some of the qualities of the men before whom he appears.

This measure has been brought forward because there are so many people who are affected. It serves no purpose to attack us for adopting this method. We are told, "Why don't you adopt some other method? There is the possibility of civil remedies being resorted to to try these cases." But we know the length of time that that procedure will take. It is necessary to clarify the position of the Members by the decision of a full Bench, especially as there are two Judges who hold different views. What other action we may take is a different matter, but this is action we consider it necessary to take.

My Friend said that I opposed a certain measure that had been sponsored by them, and that what I had opposed was nothing more than the identical steps that I have now sought to take. He condemned me in all manner of terms, but to all that what I would like to say is this. If this is the identical measure that he and those on his side had proposed which I did not accept at that time, surely he must receive the condemnation first before he seeks to pass it on me. If I was such a bad man, he was a worse man. I see the difference, and I hope he too will see the difference, and that his side also will see the difference. I shall not delay the House any longer. There was nothing said by the other side on this Bill itself. It was all abuse, and there was also an attempt to prove that the Government party was guilty of something improper. We are quite certain that we are doing the correct thing, the right thing, in this matter.

I would have liked it if you had permitted me to move the closure of the Debate so that we could proceed with the remaining stages of this Bill. We want to get on with this Bill, and I want to ask your permission to move the closure of the Debate before I sit down—[Interruption]—I am asking for the permission of the Chair.

Mr. Deputy-Speaker: I accept the Motion.

An Hon. Member: Move it at 6 P.M.

The Hon. Mr. D. S. Senanayake: Very well.

5.46 P.M.

Mr. S. Chandrasiri (Moratuwa): ගරු උප කථානායකතුමනි, මේ ගරු මන්ත්‍රීවරුන් කවියක් කියන්නට ය කියා මගෙන් ඉල්ලා සිටිනවා. කමුත්තාන්සේගෙන් අවසර ලැබෙනවා නම් මා කවියක් කියන්නට කැමතියි.

ශ්‍රී. ඇන්. පී. කාරයන්ගේ නර් උතුල අයිශෝ වුණ —

The Hon. Mr. D. S. Senanayake: I do not know whether it is in Order to recite like that. He is not making certain quotations—

Hon. Members: Order, order!

Mr. Deputy-Speaker: The hon. Member for Moratuwa will please resume his seat as a point of Order is being raised.

The Hon. Mr. D. S. Senanayake: My point of Order is this: I can understand a quotation being made, but I do not think poetry should be recited here. I do not know whether the recitation of poetry is allowed.

Dr. Perera: Is the Prime Minister objecting to verses being recited?

Mr. Dahanayake: Why does the Prime Minister hate poetry?

Mr. Deputy-Speaker: Order, please!

Dr. Perera: I did not quite hear the exact point of Order raised by the Prime Minister. I do not know whether he objects to verses being recited at all—

The Hon. Mr. D. S. Senanayake: There is a definite Ruling by the Chair with regard to the recitation of poetry in this House.

Dr. Colvin R. de Silva: The Ruling was that—

The Hon. Mr. D. S. Senanayake: There was a Ruling to the effect that verses could not be recited here—

Hon. Members: No!

Dr. Colvin R. de Silva: There was a Ruling to the effect that you may not sing in this House, but, Sir, the කවිය is the Sinhalese equivalent of English poetry, and if we, who are supposed to be seeking to develop the කොමන්වෙල්ත් Policy, are to be allowed to quote English poetry but not Sinhalese poetry in the only manner in which it ought to be quoted, in the only place where by quoting it we shall be able to give it some impetus, the question is whether these Government points of Order do not conflict with its points of alleged policy.

Mr. A. Reginald Perera: Good Sinhalese poetry is better than bad English prose.

Mr. Deputy-Speaker: The hon. Member can make a passing reference to the quotation—

[Interruption.]

Mr. Chandrasiri: The hon. Members want me to recite that verse—

An Hon. Member: You can do it outside.

Mr. Chandrasiri:

ශ්‍රී ආචන්. පී. කාරයන්ගේ නරි උතුල
අසියෝ—

The Hon. Mr. Bandaranaike: Order!

The Hon. Mr. D. S. Senanayake: Order! That is not in Order, whether it is said in Sinhalese or in English.

Dr. Colvin R. de Silva: The word "jackal" has not been ruled out as unparliamentary.

Mr. Deputy-Speaker: Three hon. Members are holding the Floor at the same time!

I think it would be better not to recite any more poetry at this stage.

Mr. Chandrasiri:

ශ්‍රී ආචන්. පී. කාරයන්ගේ නරි උතුල
අසියෝ චූණු ගැටිය උන්වම මර උතුල—

Hon. Members: Order!

The Hon. Mr. Bandaranaike: The hon. Member must first withdraw that word.

Mr. Subasinghe: He has not been asked to withdraw.

Mr. Chandrasiri: Cannot I read this Sinhalese verse?

Dr. Perera: There is a definite Ruling by the Speaker that a Member can recite a verse, but not sing it.

The Hon. Mr. Bandaranaike: I rise to a point of Order—

Mr. S. A. Silva (Agalawatta): The Minister of Finance recited from the *Gathas*

Mr. Deputy-Speaker: The hon. Member will please speak to the Motion before the House, and not recite—

Mr. Chandrasiri: I am speaking on the Motion—

Mr. A. Reginald Perera: Let us know what the verse is.

Mr. Chandrasiri: I will read the other two lines:

ජාතක ගැල වෙන්ව අවමන මේ උතුල
උතුලක් වගෙයි පැවරෙන උතුලෙන් උතුල.

The Hon. Mr. D. S. Senanayake: I have already risen to a point of Order. We are discussing now this particular Bill. We are not discussing the U.N.P. or the U.N.P. "ugulas". That expression is quite out of Order, and unparliamentary.

Mr. Deputy-Speaker: The hon. Member will please confine his remarks to the question at issue. He will please speak to the Motion before the House.

Mr. Chandrasiri: This is on the Motion.

Mr. Deputy-Speaker: It is not——

Mr. Chandrasiri: I can compose any number of verses spontaneously——

Mr. Deputy-Speaker: Please speak to the Motion. The hon. Member will please co-operate with me and speak to the Motion.

Mr. Chandrasiri: ගරු උප කථානායකතුමනි, තමුන්ගෙන්ගෙන් අවසරය ලබාගෙන වුවත්, සිංහල කවියක් සාමාන්‍ය ලෙසවත්, කියන්නට ඉඩ නොදෙන, සිංහල භාෂා සාහිත්‍යය සම්බන්ධයෙන් කිසිත් නොදන්නා, ඊට ගරු නොකරන ඊතියා බනපති——

The Hon. Mr. Bandaranaike: Order! You have given a Ruling, Sir, and that Ruling should be accepted.

Mr. Chandrasiri: I have accepted it. The Leader of the House cannot correct me.

The Hon. Mr. Bandaranaike: I am appealing, on a point of Order, to the Deputy-Speaker.

Mr. Deputy-Speaker: Order, please. The hon. Member will proceed, and confine himself to the Motion.

Mr. Chandrasiri: ඊතියා බනපති ඇමති හැකිකරය, කථානායක තුමනි, අප මේ සභාවේදී සිංහලෙන් කථා කරන විට ඔවුන්ගේ යම් යම් දේවල්——

The Hon. Mr. Jayewardene: I rise to a point of Order.

Mr. Dasanaiké: I rise to a point of Order.

Mr. Deputy-Speaker: What is the point of Order?

Mr. Dasanaiké: He used the word “කැතිකරය”

Mr. A. Reginald Perera: That is Portuguese.

Mr. Dasanaiké: That is not Portuguese.

Mr. Chandrasiri: Sir——

Mr. Dasanaiké: I am holding the Floor. He used the words “ඇමති හැකිකරය” This is unparliamentary.

Mr. S. A. Silva: Do you know the meaning of the word “හැකිකරය”?

Mr. Dasanaiké: That is unparliamentary, and should be withdrawn.

The Hon. Mr. Jayewardene: Withdraw!

Mr. Chandrasiri: අද දින මේ සභාව, මේ හදිසියෙන් රැස්කර තිබෙන්නේ——

The Hon. Mr. Jayewardene: Withdraw!

Mr. Deputy-Speaker: Please confine your remarks to the Motion before the House.

Mr. Chandrasiri: මට පෙනී යන හැටියට අපේ ඇමතිවරුන් හෝ ආණ්ඩු පක්ෂය සිංහල දන්නේ නැහැ. හැකිකරය කියන්නේ රංචුවක්, සමූහයක්. මේ ඇමතිවරුන්——මේ බනපති ඇමති මණ්ඩලය——රංචුවක් හෝ සමූහයක් නොවෙයි ද?

The Hon. Mr. Jayewardene: The hon. Member for Wariyapola rose to a point of Order. Are you ruling, Sir, that the word “හැකිකරය” is in Order?

Mr. Deputy-Speaker: The hon. Member should use only parliamentary language.

The Hon. Sir J. Kotelawala: He has withdrawn.

Dr. Perera: “හැකිකරය” means “troop”.

Mr. Deputy-Speaker: The hon. Member for Moratuwa will proceed with his speech.

Mr. Chandrasiri: තමුන්ගෙන්ගෙන් කාලය මා වඩා ගන්නට අදහස් කරන්නේ නැහැ. තමුන් මා සුදුනම් වූයේ මේසේ හදිසියේ, මහා රත්නේ විදුලි පණිවුඩ යවා, හදිසි රැස්වීමක් පවත්වනු පිණිස මේ සාමාන්‍යට අප ගෙන්වා, මේ ඇමති මණ්ඩලය, මේ ආණ්ඩු පක්ෂය, දූන් මේ කරන දේ මොකක් ද යන වග, මේ ඇමති වරුන්ට හෝ ඔවුන්ගේ පිටිපසින් සිටින——ඔවුන්ට තත් අදිමින් සිටින——ඔවුන්ගේ සහකාර යන්ට නොපෙනෙන්නත්, සාමාන්‍ය මහජනයාට පෙනී යන බව කියන්නට යි.

[Mr. Chandrasiri.]

අප කවුරුත් තේරුම් ගත්තා කුමක් කියා මේ විධියෙන් හදිසි පනතක් හදිසියෙන් ඇති කරන්නට මේ ඇමති මණ්ඩලය ලැස්ති වුණ ද කියා. මෙය ආණ්ඩුවේ කොන්ත්‍රාත්වලට, කෙළින්ම හෝ එසේ නැති නම් වෙනත් වාඩිවලින්, සම්බන්ධී සිටින ඒ ඒ උදවියට—විශේෂයෙන්ම ආණ්ඩු පක්ෂයේ සිටින මන්ත්‍රීවරුන්ට—යම් යම් ආරක්ෂක ක්‍රම ලබා ගැනීම සඳහා උපකාර වන අයුරට රටේ නීති සම්ප්‍රදාය කථා-කථා ව්‍යාපාරයක යොදා ගැනීම පිණිස මේ ඊනියා ධනපති ඇමති මණ්ඩලය යොදා තිබෙන දුභි ප්‍රයත්නයක් බව මා කියන්නට සතුටු සි. එසේ නොවන්නේ නම් මෙය කුමක් ද? මේ මන්ත්‍රණ සභාවේදී මීට ප්‍රථමයෙන් මතු වුණ ප්‍රශ්න සම්බන්ධයෙන් මීට වඩා සාවධාන ව ක්‍රියා කිරීම මේ ඇමතිවරුන්ට අයත් යුතු කමක් ව තිබුණේ වී නමුත් ඔවුන් එසේ කළේ නැහැ. ඔවුන් ඒ ගැන කිසි ම සැලකිල්ලක් ඒ අවස්ථාවලදී දැක්වූයේ නැහැ. පිලිප් ගුණවර්ධන මහතා සම්බන්ධයෙන් මතු වුණ ප්‍රශ්නය ගෙන බලමු. ඒ අවස්ථාවේදී 13 වෙනි වගන්තියේ F දරන කොටස සංශෝධනය කරන්නට මේ ඇමති මණ්ඩලයට පූර්වත් කමක් තිබුණේ නැහැ. ඔවුන් ඒ සම්බන්ධයෙන් කිසි ම ප්‍රයත්නයක් දැරුවේ නැහැ. ඔවුන් එය හමස්-පෙට්ටියේ දමා මේ අවස්ථාවේදී අප ඉදිරියට පැමිණ අප රටටත් කැත් කරමින් පූර්වත් කරමි මහත්සි ගන්නවා—ඔවුන්ගේ පක්ෂයේ, ආණ්ඩු පක්ෂයේ, සිටින සමූහයකගේ ආසන ආරක්ෂා කර ගැනීමට.

කසිට්ස් ආසනයේ හිටපු මන්ත්‍රී වන නම්බිසියා මහතා නිසා ඇති වූ මේ ප්‍රශ්නය මුල් කර ගෙන මේ ඊනියා ධනපති ඇමති මණ්ඩලය ඔවුන්ගේ පක්ෂයේ සිටින මන්ත්‍රීන් බේරා ගැනීමට මෙවැනි දුභි ප්‍රයත්න යොදන බව අපට සැම අතින් ම සිතාගන්නට පුර්වති.

මෙවැනි අවස්ථාවකදී නමුත් නාන්සේ විසින් අපට සුර් කාල සීමාවක් කරා කරන්නට අවසර දීමෙන් අවශ්‍ය සෑම කරුණක් ම ප්‍රකාශ කරන්නට නොහැකි වුවත් මා මතක් කරන්නට කැමති සි මේ කාරණය. අපේ ගරු අගමැතිතුමා පසුගිය අවස්ථාවේදී ප්‍රකාශ කරන්නට යෙදුණ යම් කිසි කෙනෙකුගේ පෞද් ගලික වාසිය නිසා මේ සභාවේ දී සටන් කළ යුතු නොවේ ය කියා.

නමුත් එතුමා අද ලැස්ති වී සිටින්නේ එතුමා ගේ කවිටිය, එතුමාගේ පක්ෂයේ උදවිය බේරා ගැනීමට යි. එතුමාගේ කලානාම ඊනියා යු. ඇන්. පී. රංචුව ආරක්ෂා කර ගැනීමට යි. ඔව්, කොහොම නමුත් තමන්ගේ උදවිය බේරා ගැනීමට යි. ඊට මා සමුදායයෙන් ම විරුධ වෙනවා. මා එය මුර්චනින් ම හෙළා දකිනවා.

මහාජනයා වෙනුවෙන් පෙනී සිටිනවා ය කියන මේ ඊනියා එක්සත්-ජාතික-පක්ෂයේ මන්ත්‍රීන් සමහර දෙනෙකු ආණ්ඩුව සමග කොන්ත්‍රාත්වලට කෙළින්ම ඇතුළු වී සිටීම නිසා, නැති නම් ආණ්ඩුව සමග කොන්ත්‍රාත් වලට ඇතුළු වී සිටින වෙළඳ සමාගම්වල කොටස් කාරයන් වී සිටීම නිසා, ඔවුන් ඒ ආසන වලින් ලිස්සා යන්නට වූ විට, රාජ්‍ය පනත් පවා වෙනස් කර ඔවුන් ආරක්ෂා කිරීමට මේ ආණ්ඩුව ලැස්ති වීම පුදුමයට කාරණයක් නොවේ යි. ඔවුන් ආරක්ෂා කර ගැනීමට මෙවැනි අර්ත් නීති නොපැනවුවොත් තමයි පුදුමය. මේ ධනපති ආණ්ඩුවෙන් මීට වඩා යමක් බලාපොරොත්තු විය හැකි ද? ඇත්ත වශයෙන් ම බැහැ. කවරෙකු හෝ වේවා මීට වඩා යුක්ති සහගත යමක් බලාපොරොත්තු වුවහොත් එය ලොකු ම මෝඩකමක්

නමුත් මා එකක් අසන්නට කැමති යි. දෙශපාලන භීරුකරුවන්ට සමාව ලැබෙන පරිදි ජගු මීමිමි මේ ආඥා පනත සංශෝධනය කළ යුතු ය යි යෝජනාවක් ඉදිරිපත් කළ විට, ප්‍රතිපක්ෂී රැකිය යුතු ය කියා, පාර්ලිමේන්තු සම්ප්‍රදාය රැකිය යුතු ය කියා, නීතියේ ගෞරවය රැකිය යුතු ය කියා ගරු අග්‍රාමාත්‍යවරයා උස් හඬින් කියා සිටියා. එවැනි යෝජනාවක් සමඟ වුවත් තමා ඊට අනුව ක්‍රියා නොකරන බව ද කීවා. සභාපතිතුමනි, කෝ අද ඒ උසස් ප්‍රතිපක්ෂී? කෝ අද ඒ සම්ප්‍රදායයේ ශ්‍රේණිකය රැකීම? කෝ අද ඒ නීතියේ යුක්ති සහගත ගෞරවය රැකීම? මෙය ඇත්ත වශයෙන් ම පුදුම ප්‍රජාතන්ත්‍රවාදයක්! තමන්ට විරුධ අය කොත් කරන්නට වුවමනා වූ විට ඊට අවශ්‍ය නීති පනවා ගන්නට පුර්වති. ඒ වාගේ ම තමන්ගේ අය අමාරුවේ වැටුණ විට ඔවුන්ට බේරා ගැනීමට තිබෙන නීති අවලංගු කිරීම පිණිස අර්ත් නීති පනවා ගැනීමටත් පුර්වති. මෙවැනි පක්ෂපාත ක්‍රියා යුක්ති සහගත නැති බවත්, මෙවැනි පනත් පැනවීම

සුප්‍රීම් උසාවියේ නීති සම්ප්‍රදායට කපී නගක් සහ අපහාසයක් බවත්, ඔලය නිසා උමතු වී සිටින මේ ආණ්ඩුවට පෙනී නොගියත්, එය කලාපනා කරන රටවැසියාට පැහැදිලි ව පෙනී යනවා ඇති. ඒ බව මේ ආණ්ඩුව දැනගත යුතු යි.

ගරු මුදල් ඇමතිවරයා ඔරලෝසුව දෙස නොදුවසිල්ලෙන් බලා සිටින්නේ මගේ කථාව කෙටි කළ යුතු යයි දක්වන්නට වෙන්නට ඇති, නමුත් මට තව වේලාව තිසෙනවා.

දැනට පවතින නීතියට පිටිපා තමන්ගේ උදවිය ආරක්ෂා කර ගැනීමට අර්ත් නීති හදිසියේ, බලහත්කාරයෙන් පනවා ගැනීම ශ්‍රේෂ්ඨ ආණ්ඩුවකට මදිකමක් බව සභාපති තුමනේ, නමුත් නාන්සේ දන්නවා ඇති එමෙන් ම තාවකාලික වශයෙන් බලය ලැබුණ පළයට, හිතු මනාපයේ මෙවැනි නීති පැනවීම කම්කරු ජනයාගේ සහ ගොවි ජනයාගේ අයිතිවාසිකම් පැහැර ගැනීමක්, ගසා-කෑමක් බවත් නමුත් නාන්සේ දන්නවා ඇති.

සභානායකතුමා මේ සමබන්ධයෙන් බොහෝ දෙනා ලෙස කථා කළා. ඒ මහතාගේ කථාව කඩදත් ඉතා ම ලක්ෂණ යි. නමුත් මට කනගාටු ඒ මහතාට කොඳු-ඇටය, පිට-නාරටිය නැති එක ගැන යි..... [Interruption.] ඒ මහතාගේ ස්වරූපයෙන් ම පෙනී යනවා ඉහරියෙන් ඉහල එතරම් පණ නැති—

The Hon. Mr. D. S. Senanayake: I rise to a point of Order—

Mr. Deputy-Speaker: The Hon. Member should not indulge in personalities.

The Hon. Mr. D. S. Senanayake: I say that those words are unparliamentary; and they must be withdrawn.

Mr. Deputy-Speaker: The Hon. Member must withdraw those words.

Mr. Chandrasiri: ඒ වචන මා අස්කර ගන්නවා. මය විධියේ කොඳු ඇටය පණ නැති, නාරටිය ඇද වූණ යෝජනාවලට—

The Hon. Mr. D. S. Senanayake: I say it is not in Order to refer to hon. Members in those terms.

Mr. Subasinghe: He is referring to the Motion.

Dr. Colvin R. de Silva: Which is now before the House—

Mr. Chandrasiri: I am referring to the යෝජනාව, the Resolution, not to the Hon. Members.

සභාපතිතුමනි, මට කනගාටු මේ ආණ්ඩුවට සිංහල නොතේරීම ගැන යි. රතු හමුදාව නැති කිරීමට නොයෙක් විධියේ සොයා කරන ගරු අග්‍රාමාත්‍යවරයාගේ තේරීමේ එරෙහිව ගස්වල මල් පිපෙනවාටත් වර්තමාන වේදි ද දන්නේ නැහැ. භාෂාව නගා සිටුවීමට කැගයන, ජාතික සංකෘතියට දිවි පිදීමට මහජනයා ඉදිරියේ ලැසි වන ගරු අග්‍රාමාත්‍යතුමාට සිංහල වචනයක් නොතේරීම ලොකු ම කනගාටුවට කාරණයක්. සිංහල කවියක් කියන හැටි නොදන්න—

The Hon. Mr. Jayewardene: All this is irrelevant.

Mr. Deputy-Speaker: Speak on the Bill please.

Mr. Chandrasiri: මා කථාකරන්නේ හොඳ සිංහල. පිරිසිදු-සිංහල. සභාපතිතුමනේ,—

Mr. Deputy-Speaker: Confine yourself to the Bill please.

Mr. Chandrasiri: අවසාන වශයෙන් මා නමුත් නාන්සේට කියා සිටින්නේ රතු උවදුර ලෙදී ම විනාශ කරන්නෙමු යි කියන යු. ඇත්. පි වත්කිත්ව මින්, එක කම්මුල් පහරට කම්මුල් පහරවල් තුන හතරක් දෙමු යි කියා ගෝල්පේස් පිටිටකියේදී බිරුසන් දුන් මුදල් ඇමතිවරයාගේ නක්කඩ කථාවලට වත්, නමාට රජකම් ලැබුණත් ගොවි කම්කරුවන් මර්දනය බවට මින දෙබ්බ මිනීමරුවන්ගේ මිනීමරු කථාවලට වත් හයින් අප මෙවැනි යෝජනාවලට පස ව කැමැත්ත නොදෙන බව යි. මෙවැනි තර්ජන කරන අය, සොයා කරන අය එසේ කරන්නේ රට ගසා-කෑමට යි. නමුත් එය කොතෙක් කල් කරන්ට ද? එය වැඩි කල් කරන්ට ඉඩ ලැබෙන්නේ නැහැ—

An Hon. Member: Time up, Sir.

Mr. Chandrasiri: මා නමුත් නාන්සේගේ කාලය—

The Hon. Mr. Suntharalingam: Sir, I move the closure. It is 6 o'clock now.

Mr. Subasinghe: You cannot interrupt a speech.

Mr. Deputy-Speaker: I will give the Hon. Member another five minutes.

Mr. Chandrasiri : ඔබ තුමාට සතුටි සි. නමුත් නාන්සේගේ කාලය මා මීට වඩා ගත්තේ නැහැ. මේ ඇමති මණ්ඩලයේ, මේ ආණ්ඩුවේ මේ යෝජනාවට මගේ විරුද්ධතාවය මා මෙයින් ප්‍රකාශ කරනවා. ඒ සමග ම මේ ආණ්ඩුවට මා මේ වචනය පමණක් කියන්නට කැමති සි. මොන මොන විධියේ නීති පනවා ගෙන තාව කාලික වශයෙන් ආණ්ඩු ක්‍රමය පවා වෙනස් කරගැනීමට මේ ආණ්ඩුවට දැනට පූර්වින් වුවත් අනාගතයේදී නම්, මෙරට යොවු ජනයාගෙන් සහ කම්කරුවන්ගෙන් මෙ වැනි අකටයුතු වලට ඉඩ නොලැබෙන බව සි. ඒ සමග ම අපේ ඇමති මණ්ඩලය විසින් සිඬියේ නඩා ගත යුතු විදගම මාතිමියන්ගේ කවියකින් පද දෙකක් පමණක් මතක් කරමින් මගේ කථාව මා අවසන් කරනවා.

“ලිප ගිනි මොළවන තෙක් දිය සැලි ගේ
සැප යන් යයි කකුරුව දිය කෙලි ගේ”

The Hon. Mr. D. S. Senanayake rose in his place, and claimed to move,
“That the Question be now put.”

Mr. K. V. Nadarajah (Bandarawela) rose.

Mr. Deputy-Speaker: I said I would accept the closure Motion at 6 o'clock.

Dr. Perera: Do I understand that you have accepted the closure, Sir? All that I can say, if you will permit a submission, is that there are a number of other Members who wish to speak. There are the Members of the Indian Congress, there are the Independent Members. They have not had a chance yet.

Mr. Deputy-Speaker: All the aspects of the Question have now been fully discussed.

The Hon. Mr. Bandaranaike: There cannot be any further discussion now.

Dr. Perera: I am only making a submission.

The Hon. Mr. Bandaranaike: Order, order! Excuse me, I am rising to a point of Order. The point is, when the Chair has accepted the closure Motion—

Dr. Perera: He has not.

The Hon. Mr. Bandaranaike: He has. That is so.

Dr. Perera: All that I am suggesting is this—

The Hon. Mr. Suntharalingam: I am rising to a point of Order. There is a closure Motion by me, and you have accepted that closure Motion.

Mr. Deputy-Speaker: We have had two speeches from the Government Benches, and a lot of speeches from the Opposition.

Dr. Perera: I submit that there are a number of Groups in this House. It is not only my point of view and the points of view of one or two other Members that we are concerned with. There are the Indian Congress Members and Independent Members who should also be given the opportunity of expressing their points of view. Before you accept the closure, I would make that submission.

Mr. Deputy-Speaker: I have considered it, but I am afraid I will have to accept the closure.

Dr. Perera: Then we can only adopt the procedure we have indicated.

Mr. Deputy-Speaker: I will put the closure Motion first.

Question, “That the Question be now put”, put.

The House divided (under Standing Order 48): Ayes, 51; Noes, 31.

Question, “That the Bill be now read a Second time,” put.

The House divided:

AYES

The Hon. Mr. D. S. Senanayake	Gate Mudaliyar M. S. Kariapper	Major J. W. Oldfield, C.M.G.,
The Hon. Mr. S. W. R. D. Bandaranaike	Mr. V. Nalliah	O.B.E., M.C.
The Hon. Mr. T. B. Jayah	Mr. A. R. A. M. Aboobucker	Mr. S. A. Pakeman, O.B.E., M.C.,
The Hon. Mr. J. R. Jayewardene	Mr. C. E. Attygalle	E.D.
The Hon. Sir John Kotelawala, K.B.E.	Mr. P. L. Bauddhasara	Mr. Albert F. Peris
The Hon. Mr. E. A. Nugawela	Mr. Ivan T. Dasanaike	T. B. Poholiyadde Dissawa
The Hon. Mr. A. Ratnayake	Mudaliyar M. M. Ebrahim	Mr. H. R. U. Premachandra
The Hon. Mr. Dudley Senanayake	Mr. S. U. Ethirammasingham	Mr. D. A. Rajapaksa
The Hon. Mr. C. Sittampalam	Mr. W. Leo Fernando	Mr. T. Ramalingam
The Hon. Mr. C. Suntharalingam	Mr. F. H. Griffith	Mr. J. A. Rambukpotha
The Hon. Mr. H. de Z. Siriwardena	Mr. D. S. Goonesekera	H. B. Rambukwelle Dissawa
Mr. M. D. Banda	Mudaliyar D. P. Jayasuriya	Mr. V. G. W. Ratnayaka
P. B. Bulankulame Dissawa	Mr. D. D. Karunaratne	Mr. H. L. Ratwatte
Mr. G. R. de Silva	Mr. N. H. Keerthiratne	Mr. M. Senanayake
Mr. H. S. Ismail	Mr. Rosslyn Koch	Mr. A. Sinnalebbe
Mr. A. P. Jayasooriya	Mr. V. Kumaraswamy	Mr. S. Sivapalan
Mr. K. Kanagaratnam	Mr. S. H. Mahadiulwewa	Mr. E. E. Spencer
	Mr. J. Aubrey Martensz	Mr. K. V. D. Sugathadasa
	Mr. S. W. Mathew	Mr. H. B. Tenne
	Mr. C. P. Nanayakkara	Mr. C. Vanniasingham

NOES

Mr. H. D. Abeygoonewardane
Mr. Somaweera Chandrasiri
Mr. W. Dahanayake
Dr. Colvin R. de Silva
Mr. P. H. W. de Silva
Mr. Cholmondeley Goonewardene
Mr. D. B. R. Gunawardena
Mrs. Kusumasiri Gunawardena
Mr. D. F. Hettiarachchi
Mr. T. B. Ilangaratne
Mr. P. G. B. Keuneman

Mr. J. C. T. Kotlawala
Mr. P. Kumarasiri
Mr. K. Kumaravelu
Mr. G. R. Motha
Mr. K. V. Nadarajah
Mr. M. H. Peiris
Mr. A. Reginald Perera
Dr. N. M. Perera
Mr. Wilmot A. Perera
Mr. K. Rajalingam
Mr. L. Rajapaksa

Mr. D. Ramanujam
Mrs. Florence Senanayake
Mr. S. A. Silva
Mr. H. Sri Nissanka, K.C.
Mr. T. B. Subasinghe
Mr. S. M. Subbiah
Mr. S. Thondaman
Mr. C. V. Velupillay
Mr. W. P. A. Wickremasinghe

Before the result of the Division was announced—

Dr. Perera: I rise to a point of Order.

The Hon. Mr. D. S. Senanayake: I do not know what right any hon. Member has to prevent the announcement of the voting.

Dr. Perera: This is the time to raise the point of Order. If you will just listen for a moment, this is what *Campion* says:

"The rule that a Member whose 'pocket' will be affected by the result of a division should abstain from voting is well established—"

I am again reading from *Campion*:

"Objection to a vote on the ground of personal interest must be raised immediately after the division, and (a) in the House, in the form of a substantive motion—"

which I am now doing. I move that the votes of the hon. Member for Buttala, the hon. Member for Wariyapola and the hon. Member for Second Balangoda be not counted on the ground that they have 'interest.' I am submitting it to you to reduce—

The Hon. Mr. Jayewardene: What about the hon. Member for Dehiowita?

The Hon. Mr. D. S. Senanayake: On what ground?

The Hon. Mr. Jayewardene: The hon. Member for Bingiriya also.

Mr. Subasinghe: Prove it.

Dr. Perera: There is precedence for this and this is the normal procedure that has been accepted on which ground we are basing our procedure. That has been the accepted practice, and it is for you, Mr. Deputy-Speaker, to accept it or not to accept it.

The Hon. Sir J. Kotlawala: It is out of Order.

Dr. Perera: How many Speakers are we having?

Mr. Deputy-Speaker: The hon. Member will realize that this is a matter that was raised earlier.

Dr. Perera: This is a matter of voting. For your convenience, might I pass on this book?

The Hon. Mr. D. S. Senanayake: Will the hon. Member read the observations again?

Dr. Perera: I will read them—

"The rule that a Member whose 'pocket'—" that is whose interests will be affected

"will be affected by the result of a division should abstain from voting is well established." That is the position *Campion* has taken up.

The Hon. Sir J. Kotlawala: It has to be established.

Dr. Perera: It is well established already.

The Hon. Sir J. Kotlawala: All our pockets will be affected.

Mr. A. Reginald Perera: Your pockets are affected.

The Hon. Sir J. Kotlawala: Your pockets as well.

Dr. Perera: On that basis these three votes—

Mr. Deputy-Speaker: An opinion on this matter was expressed earlier in the day.

Dr. Colvin R. de Silva: That is on the question of participation.

Mr. Deputy-Speaker: It is left to the good sense and honour of each hon. Member.

Mr. Wilmot A. Perera (Matugama): They have neither.

Dr. Perera: By their voting they have proved that they have no good sense. This is procedure that will have to be followed in the future—it is for future guidance. It is very important that hon. Members who are interested—

The Hon. Mr. D. S. Senanayake: There is one thing I would like to say and that is this. For my hon. Friend

[Hon. Mr. D. S. Senanayake.]
to say that "certain Members whose pockets are affected" is to make an assertion which he has got no right to make. Even if there is a case filed against a person in a Court, that does not mean that the case has been proved in the first place. My hon. Friend who pretends that he was a lawyer at some time or other—

Dr. Perera: No fear.

The Hon. Mr. D. S. Senanayake:—tried to make out that a person is not qualified—

Dr. Perera: I am raising a point of Order.

The Hon. Mr. Bandaranaike: If you will permit me, I would like to mention on the point of Order, first that there is no certainty—as the Hon. Prime Minister said—that any case that is brought may succeed or not. We do not know. The other point I wish to make is that this Amendment is only a procedural Amendment of the law. It is, in effect, not protecting anybody; it is only providing procedure for the purpose of an appeal.

Mr. Subasinghe: Affecting somebody.

The Hon. Mr. Bandaranaike: This has a particular object. I do not think in the first place it would apply at all in cases already filed. In the second place, this is not a convention, according to our standards, which is followed.

Mr. Deputy-Speaker: It is left to the discretion of hon. Members.

Mr. Wilmot A. Perera: No honour.

Dr. Perera: There is apparently no honour.

Mr. Deputy-Speaker: The Voting is, Ayes, 55; Noes, 31. The Motion is carried.

The Hon. Sir J. Kotelawala: Two-thirds majority!

The Hon. Mr. Bandaranaike: Now the Clerk has to read the Bill.

Bill read a Second time.

Dr. Perera: Before you go into Committee, I would like to state that in view of the attitude adopted by the Government in steam-rolling this Bill, a Bill which is meant for an *ad hoc*

purpose, we, the Opposition, feel that there is no further purpose served in our participating in this Debate.

Mr. Subasinghe: You would not have it long.

The Hon. Sir J. Kotelawala: Leave the Island.

Dr. Colvin R. de Silva: Before we go out—[*Loud Interruptions*—No, I shall be heard, Sir. I wish to say to you before I go out—[*Loud Interruptions*—and I will be heard—[*Loud Interruptions*] that we walk out also in defence of the best traditions of this House.

Down with you.

The Hon. Sir J. Kotelawala: Go on. Get out.

The Hon. Mr. Bandaranaike: I move that the Bill—

Dr. Colvin R. de Silva: We walk out quietly.

The Hon. Mr. Bandaranaike: I move that the Bill be referred to a Committee of the Whole House.

Mr. Chandrasiri: Cheerio!

Question put, and agreed to.

Bill considered in Committee of the Whole House.

[MR. DEPUTY-SPEAKER *in the Chair.*]

Clauses 1 to 4 ordered to stand part of the Bill.

Enacting Clause and Title ordered to stand part of the Bill.

Bill reported, without Amendment.

The Hon. Mr. Bandaranaike: I move, that the Bill be now read the Third time.

Question put, and agreed to.

Bill accordingly read the Third time, and passed.

ADJOURNMENT

Resolved: .

"That this House do now adjourn."
—[Hon. Mr. Bandaranaike.]

Adjourned accordingly at 6.27 P.M. until 2 P.M. on Tuesday, November 23, 1948, pursuant to the Resolution of the House this Day.

MEMBERS OF THE HOUSE OF REPRESENTATIVES

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Deputy-Chairman of Committees—Mr. J. A. MARTENSZ (Appointed Member)

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Aboobucker, A. R. A. M. (Matur)
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Banda, M. D. (Maturata)
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de Silva, Dr. Colvin R. (Wellawatta-Galkissa)
de Silva, G. R. (Colombo North)
de Silva, P. H. W. (First Ambalangoda-Balapitiya)
de Zoysa, G. A. W. (Second Ambalangoda-Balapitiya)

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Ethirmannasingham, S. U. (Paddiruppu)

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Fernando, W. Leo (Buttala)

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Jayasuriya, Mudaliyar D. P. (Ja-ela)
Jayewardene, The Hon. Mr. J. R. (Kelaniya)
Jayewickreme, Major Montague (Weligama)

Kanagaratnam, K. (Vaddukkoddai)
Kariapper, Gate Mudaliyar M. S. (Kalmunai)
Karunaratne, D. D. (Gampaha)
Keerthiratne, N. H. (Kegalla)
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Kotalawala, The Hon. Sir John, K.B.E. (Dodan-gaslanda)
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Kumaraswamy, V. (Chavakachcheri)
Kumaravelu, K. (Kotagala)

Mahadiulwewa, S. H. (Kalawewa)
Mathew, E. W. (Second Balangoda)
Motha, G. R. (Maskeliya)

Nadarajah, K. V. (Bandarawela)
Nalliah, V. (Kalkudah)
Nanayakkara, V. T. (Matale)
Nugawela, The Hon. Mr. E. A. (First Kadugannawa)

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Pakeman, S. A., O.B.E., M.C., E.D. (Appointed Member)
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Peiris, M. H. (Panadure)
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Perera, Dr. N. M. (Ruwanwella)
Perera, Wilmot A. (Matugama)
Peris, Albert F. (Nattandiya)
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Rajapaksa, D. A. (Beliatta)
Rajapaksa, L. (Hambantota)
Ramalinkam, T. (Point Pedro)
Ramanujam, D. (Alutnuwara)
Rambukpota, J. A. (Haputale)
Rambukwelle Dissawa, H. B. (Minipe)
Ratnayaka, V. G. W. (Deniyaya)
Ratnayake, The Hon. Mr. A. (Wattegama)
Ratwatte, H. L. (Mawanella)

Senanayake, The Hon. Mr. D. S. (Mirigama)
Senanayake, The Hon. Mr. Dudley (Dedigama)
Senanayake, Mrs. Florence (Kiriella)
Senanayake, M. (Medawachchiya)
Senanayake, R. G. (Dambadeniya)
Silva, S. A. (Agalawatta)
Sinnalebbe, A. (Batticaloa)
Siriwardana, H. de Z. (Negombo)
Sittampalam, The Hon. Mr. C. (Mannar)
Sivapalan, S. (Trincomalee)
Spencer, E. E. (Appointed Member)
Sri Nissanka, H., K.C. (Kurunegala)
Subasinghe, T. B. (Bingiriya)
Subbiah, S. M. (First Badulla)
Sugathadasa, K. V. D. (Welimada)
Suntharalingam, The Hon. Mr. C. (Vavuniya)

Tenne, H. B. (Dambulla)
Thambiayah, A. L. (Kayts)
Thondaman, S. (Nuwara Eliya)

Vanniasingham, C. (Kopai)
Velupillay, C. V. (Talawakele)

Wickremasinghe, W. P. A. (Akuressa)

