

SRILANKA'S ETHNIC CONFLICT

Can the Indo-Sri Lanka
Agreement provide
a long term solution
to the
ethnic conflict?



SRILANKA'S
WHITE CORAL



SRI LANKA'S ETHNIC CONFLICT
AND
THE INDO-SRI LANKA AGREEMENT



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FOREWORD

This booklet, a product of some joint effort, is dedicated to the memory of those of our youths who have laid down their very lives in the course of our Freedom Struggle. It is also well to remember, on this occasion, the thousands of others who have been killed, the thousands who have been wounded or maimed and the billions worth of our property that has been looted, damaged or destroyed in the ethnic riots that have rocked this Island since 1956, and at the hands of the Sri Lankan, and now, the Indian Armed Forces.

The question facing us today is whether all these sacrifices are to be in vain or not. For, in the name of Peace and Democracy, the Indian Government's mass media are working overtime to sell us the totally un-acceptable Provincial Council Structure, the very heart of the Indo-Sri Lanka Agreement, as a just and fair solution to the Ethnic Problem.

Hence, we have brought out this booklet to educate our people and also to canvass enlightened world opinion for our cause. Since, however, we do not claim this effort to be an exhaustive analysis on the subject, we would welcome other publications. It is our intention to bring out a publication in Tamil, as well, early.

It is unfortunate that the Indian Government by coupling its geo-political interests with its mediation efforts to find a solution to our Ethnic Problem, has allowed our interests to suffer. How else could one explain the numerous instances (we have spotlighted at least eleven such cases in this publication) where the Indian side has "allowed" itself to be duped during the various discussions resulting in the formulation of the Proposals referred to in Clause 2-15 of the Agreement, much to our detriment?

If this booklet would serve to open the eyes of all right thinking people and the Nations at large and particularly those of the Indian and Sri Lankan Governments to the tragic plight to which the Eelam Tamils have been driven, we would have done our DUTY by producing it.

We would welcome comments from our readers.

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02.04.88

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SRI LANKA'S ETHNIC CONFLICT AND THE INDO-SRI LANKA AGREEMENT

This booklet comes in two parts. In order to view the present situation in its correct historical perspective the first part provides a historical background to the claims of the Sri Lankan Tamils for the restoration of their ancient kingdom of (Tamil) Eelam which was conquered by the Portuguese in the year 1619, and the political struggles they have been waging since 1948 because of the genocidal policies the Sinhalese had started adopting against the Tamils, when the country's rule passed from the British to the Sinhalese. This part naturally contains matters dealt with in other pamphlets of this nature and with which readers may be familiar. And the second part examines critically the Indo-Sri Lanka Agreement of 29th July 1987 and attempts to find an answer to the question, "Can the proposed Provincial Council structure provide an honourable and viable alternative to the Tamil People who are struggling to exercise their right of self-determination which is theirs by all canons of International Law?".

*PART I***ANCIENT TAMIL KINGDOM — RELIGIOUS, HISTORICAL
AND GEOGRAPHICAL BACKGROUND****Religious Background**

The Tamils and the Sinhalese have been living in the Island of Sri Lanka for over 2500 years. The Sinhalese claim that it was with the coming of the Aryan Prince Vijaya, the legendary founder of their race, that civilisation was introduced into this country about 2,500 years ago. But, unbiased Sinhalese historians, like Paul E Peiris have stated that long before the arrival of Vijaya, there were already in existence in this country five Easwaran temples, dedicated to Lord Siva, the Supreme Deity of the Hindu Tamils—two in the North (one near Keerimalai and the other at Mathottam), one in the West, near Chilaw, one in the East, at Trincomalee and the fifth, at Dondra Head in the South. According to a Tamil Chronicle, the temple at Trincomalee was built in the year 2589 B. C. by the Cholian King Kulak Kotu Maharajah. Even Sinhalese Chronicles speak of Prince Dutugemunu worshipping at the Skanda Shrine of Kataragama, before his march to Anuradhapura to fight the Tamilian King Elara. The Sinhalese Chronicle Mahavamsa also says that Lord Buddha visited the Island on one occasion to settle a dispute between two Naga (Dravidian) Princes over a gem-studded throne, which surely is a symbol of advanced civilisation.

Geographical and Historical Background

According to the map of Ceylon prepared by Ptolemy, around the year 150 A. D., there was in existence a Tamil Kingdom encompassing the present Northern, Eastern and parts of the North-Western and Southern Provinces. The Arrowsmith map of January, 1803 published in London, probably drawn in conformity with the Treaty of Amiens of 1802,

showing this Tamil Kingdom and the Up-Country and Low Country Sinhalese Kingdoms, is printed on the cover of this booklet. This map must be viewed in the light of the famous "Cleghorn Minute" of 1799 which reads thus: "Two different nations from a very ancient period have divided between them the possession of the Island. First, the Cinghalese, inhabiting the interior of the country in its Southern and Western parts, from the river Wallouve to that of Chilaw, and secondly the Malabars, who possess the Northern and Eastern districts. These two nations differ entirely in their religion, language and manners". ("Malabars" means Tamils).

The Unification of Ceylon by the British Colonial Government

The three Kingdoms were administered separately and it was only in 1833 that the whole Island was unified and brought under a single rule, and for administrative convenience, the Island was divided into five provinces. The Tamil Kingdom with its capital in Jaffna was conquered in 1619 by the Portuguese, its last King being Sankillan. The British colonial government, which in the early stages of its rule was pampering the Tamils, gradually switched their leanings to the Sinhalese with the growth of Tamil nationalism after the First World War, which was evidently inspired by the Freedom Movement in the Indian Sub-Continent. Even while the "Quit India" Movement was on in India, in Ceylon, the local Sinhalese politicians were giving their whole-hearted support for the war effort.

Emergence of Sinhala Racism — Pan Sinhalese Board of Ministers

A State Council elected in 1931 under the Donoughmore Constitution was divided into seven Executive Committees, each headed by a Chairman. From 1936 until the General Election of 1947, the Board of Ministers was composed of Sinhalese only, except for one Tamil appointed in 1942. Ceylon was granted on February 4, 1948 full Dominion Status under the

Soulbury Constitution which provided for an entrenched section, Article 29, prohibiting enactment of laws which are discriminatory between the various ethnic and religious communities.

The First Blow against the Tamils — State-aided Colonisation

Even before the grant of full independence to Ceylon, steps were being taken to reduce the Tamils to a position of a minority in their homeland, and primarily to encircle Trincomalee, considered to be one of the finest natural harbours in the World and of immense strategic importance in the Indian Ocean. The architect of this Machiaveian Scheme was none other than the then Minister of Agriculture and Lands, the late Mr. D. S. Senanayake who later became Independent Ceylon's first Prime Minister. His plan included the setting up of major irrigation schemes encircling Trincomalee and settling Sinhalese people from outside the Northern and Eastern Provinces. After Independence, a major Irrigation Scheme, called the Galoya Scheme, was started in the Batticaloa District and with the influx of thousands of Sinhalese a new Sinhalese electoral district has been carved and the area separated from the Batticaloa District to form the new Administrative District of Amparai. The Sinhalese settlements around Trincomalee have been grouped to form another Sinhalese electorate, called Seruwila.

The Second Blow — Disfranchisement of Estate Tamils

The next blow was directed against the plantation Tamils, who had seven Members in the Parliament of 1947 and significantly influenced the results in 15 other electorates. Within one year of assuming office, the Sinhalese dominated Parliament enacted the Ceylon Citizenship Act No. 18 of 1948 and the Ceylon (Parliamentary Elections) Amendment Act of 1949 and thereby rendered these Tamils stateless and voteless. The Tamil representation in Parliament at Independence was reduced by almost 50% in the subsequent elections. To add insult to injury, these disfranchised people were taken into account for the demarcation of electorates in these areas and the upshot

was that the Sinhalese people who represented about 74% of the population got 84% representation in Parliament, something unheard of in any other democratic country.

Birth of the Federal Party

Once the Sinhalese politicians started on their path of discrimination, the Tamils too reacted politically. The demand for balanced representation voiced through the All Ceylon Tamil Congress was rejected by the Soulbury Commission in 1946. In 1949, following the passage of the discriminatory legislations referred to in the foregoing paragraph, a section broke away from the All Ceylon Tamil Congress and formed the Ilankai Tamil Arasu Kadchi (which came to be known as the Federal Party) with the objective of forming an autonomous Tamil (and Muslim) State within a Federal Framework.

The Third Blow — The Sinhala Only Act of 1956

The next major blow directed against the Tamils was the enactment of Sinhala as the sole official language of the Country by Act No. 33 of 1956 by the late Mr. S.W.R.D. Bandaranaike. Though Mr. Bandaranaike is generally accepted as the architect of the Sinhala Only Act, it must be remembered that the United National Party (U.N.P.) headed by Sir John Kotelawela, in whose Cabinet Mr. J. R. Jayawardene was a Minister, had also reversed its policy of parity of status for both Sinhala and Tamil, a policy accepted in the State Council in 1944, and campaigned to make Sinhala the sole official language of the country, in its General Election Campaign of 1956.

The Dwindling Employment Opportunities

With the passage of the Sinhala Only Act and the entrenchment of a racist government in power, all vestiges of fair play to the Tamils disappeared. In the matter of education,

employment, economic development etc., the Tamils and their homeland suffered discrimination. Employment opportunities dwindled. Open competitive examinations were gradually done away with and political appointments took their place. In the numerous public corporations that were formed after 1956, a mere handful of Tamils got employment. Of approximately 500,000 vacancies filled in the State Corporation Sector after 1977, only about 2% was the Tamils' share in employment. The unemployment rate among young Tamils who passed the G. C. E. A/L Examination is 41% as against 29% among the Sinhalese.

The Final Blow — Media-wise Standardisation for University Admission and the birth of Militant Groups

The final blow came in the form of racial discrimination for entry into the Universities in 1970. According to this pernicious method, the Tamil students had to secure a percentage of additional marks to compete for a place in the various Faculties with a Sinhala student. This pernicious system of standardisation gave birth to the Students' Forum, then the Youths' Forum and finally to the Militants' Organisations which at one time numbered more than twenty. The weaker ones faded away and finally the Liberation Tigers of Tamil Eelam (L. T. T. E.) has emerged as the strongest and the most popular group and it is today accepted by the larger majority of the Tamil people as their Freedom Fighters.

The First Cry for Tamil Eelam

Ironically, the first cry for an Independent State of Eelam was raised by a Tamil who had placed his full faith in the Sinhalese politicians and found, to his dismay, that they were perfidious and that his trust had been mis-placed—Mr. C. Suntharalingam, one of the Tamil Ministers in the D. S. Senanayake Cabinet and ex-professor of Mathematics, who was generally credited with having been the author of the formula for the creation of the Pan - Sinhalese Board of Ministers in 1936. His

Party, The Eelam Tamils United Front, could not evoke any following, as the time was not yet ripe. Next in line was the Eelam Tamils' Liberation Movement formed in 1968 with Mr. C. Suntharalingam as its head. This too did not make any impression on the Tamil public.

The Tamil United Liberation Front

The Eelam Movement received some fillip when the "Tamils' Self-Rule Party" was formed in August 1969 with Mr. V. Navaratnam, who had been earlier elected to the Kayts seat on the Federal Party ticket, as its head. The new Party did gain some support among the youths. The Federal Party, after it left the Dudley Senanayake Government, gradually veered to the idea of an Independent Tamil state and finally formed, along with a section of the All Ceylon Tamil Congress, the Tamil United Front, which later became the Tamils' United Liberation Front in 1972. The liberation struggle of Bangala Desh did give an impetus to the formation of this Front.

The Mandate for Tamil Eelam in the 1977 Elections

The T. U. L. F. sought and obtained a mandate from the Tamils of the Northern and Eastern Provinces in the General Election of 1977 on the basis of their Vaddukoddai resolution of May, 1976 for the "restoration and reconstitution of the Free, Sovereign, Secular Socialist State of Tamil Eelam based on the right of self-determination inherent to every nation", but the leadership's enthusiasm cooled off after the elections. The militant movements were born in the early 1970s, when the youths found that the political leadership of the Tamils was completely ineffective in the face of continued Sinhalese repression. The movements received some filip after the ethnic riots of 1977 and finally burst into prominence with the ambushing of an army patrol in July 1983 and the ethnic riots that followed it in a pre-planned manner.

The Bandaranaike — Chelvanayakam Pact of 1957

Before we come to the present times, mention must be made of the efforts of the Tamil political leaders to secure their demands by peaceful struggles. On 26th July 1957, the then Prime Minister, Mr. Bandaranaike concluded a pact with the late Mr. S. J. V. Chelvanayakam, the Leader of the Federal Party, providing for devolution of some powers through a Regional Council Structure for the Northern and Eastern Provinces. Unfortunately, the Pact was abrogated in the face of very vehement opposition lead by the United National Party with Mr. J. R. Jayawardene in the forefront with his "famous" march to Kandy.

The Dudley — Chelvanayakam Pact of 1965

Again, following the General Elections of 1965 at which neither the coalition led by Mrs. Bandaranaike nor the U. N. P. secured an absolute majority, the then Leader of the U. N. P. Mr. Dudley Senanayake, associated with Mr. J. R. Jayawardene, entered into an agreement with Mr. Chelvanayakam on 24th March 1965 and in return obtained the Party's support to form a Government. The Pact provided for certain concessions on the language issue, granted the F. P.'s demand on the colonisation issue and provided for devolution of power through the District Council's structure. (We shall revert to the clauses in respect of colonisation in the Pact later on). Because of the opposition from the S. L. F. P., in alliance with the Buddhist Clergy, the U. N. P. failed to implement the provisions of the Agreement beyond enacting Regulations for the use of the Tamil Language, which, however, were never implemented, and the F. P. resigned from the Government on a prestige issue concerning its Minister and went into opposition.

The Ethnic Riots

It will thus be seen that from the time of Independence in 1948, the policy of the Sinhalese Parties had all along been aimed at making this land a country for the Sinhala Buddhists

and the efforts of the Tamil political leaders to secure even some of their due rights through peaceful and parliamentary means had come to nought and their efforts had been replied with communal violence in 1956, 1958, 1977, 1981 and finally in July 1983 in all of which thousands of Tamils had lost their lives, many thousands wounded and maimed, hundreds of our women folk raped, and billions of rupees worth of property destroyed. While in the ethnic riots of 1956, 1958 and 1977 the Tamils could find a haven by fleeing to their Homeland, after 1977, with the deployment of Sinhalese armed forces, lakhs of people had to flee to neighbouring and foreign lands as refugees.

No wonder the youths, inspired by the Freedom Movements all over the World, began to pin their faith in the barrel of the gun and resolved to sacrifice their very lives so that at least the future generation may live with honour and dignity by restoring to themselves the Independent Kingdom of their forefathers.

Betrayal by the Marxist Parties

It is also necessary to say something of the role played by the Marxist Parties of Sri Lanka. The Ceylon Communist Party (following the leadership of the Soviet Union) and the Trotskyite Party, the Lanka Sama Samaja Party, opposed the disfranchisement of the estate Tamil workers in 1949 and the Sinhala Only Act in 1956. The Communist Party went one step further, when the Party's General Secretary, Mr. Keuneman, in one of his 1950 election speeches over the State Radio proclaimed that "The Communist Party is the only national party that accepts the existence of two Nations In this Country, the Sinhalese Nation and the Tamil Nation".

The Birth of the Tamil Trade Union Movement

But, unfortunately, their enthusiasm for political steadfastness waned as the years rolled by and the leaders grew old and political opportunism got the better of them. In the Communist Party Weekly, "Forward", columnist "Chitra" (supposed to be

Mr. Keuneman himself) once described the Sinhala Only Act as a progressive piece of legislation. The Government Clerical Service Union which came under the control of L.S.S.P. after the General Strike of 1958 abandoned its opposition to the Sinhala only policy of the S.L.F.P. Government, thereby opening the door for the victimisation of Tamil public servants who had joined service before 1956 and were refusing to acquire proficiency in Sinhala to qualify for their increments of salary. This, in turn, led to the birth of Trade Unions among Tamil public servants on ethnic lines and, in the middle of 1961 was born the first of such Unions, the Arasanka Eluthuvinaignar Sankam (literally, Government Clerks' Union). This Trade Union sponsored a case filed by Mr. C. Kodeeswaran, a pre-1956 entrant to the public service, challenging the stoppage of his increment for failure to acquire the required standard of proficiency in Sinhala. The District Court held in his favour and ruled, *inter alia* that the Sinhala Only Act was *ultra vires* Section 29 of the Constitution and hence Mr. C. Kodeeswaran's increment could not be stopped. The Supreme Court, to which the Government appealed, held against Mr. C. Kodeeswaran on the ground that there was no contract between the Crown and its employee. Mr. Kodeeswaran's appeal to the Privy Council on the question of contract between a public servant and the Crown was successful and the case was referred back to the Supreme Court to decide whether the Sinhala Only Act infringed Article 29 of the Independent Constitution of 1948, the Section which was intended by the Soulbury Commission to safeguard the rights of religious and ethnic minority communities against discriminatory legislations by a Parliament which could be dominated by Sinhala Buddhists. The matter was brought to an end with the promulgation of the Republican Constitution in 1972.

The 1972 Constitution framed without Tamil participation

In 1964 the L.S.S.P. joined the S.L.F.P. Government and in 1968, the two party coalition, with the Communist Party, formed the United Front. This United Front, though it failed to form a Government after the 1965 election, was swept to

power in the General Elections of 1970. It drafted a new Constitution for the Country in 1972. It abolished the Second Chamber, declared the Country a Republic and, consequently, the right of appeal to the Privy Council, and thereby surreptitiously nullified the challenge to the Sinhala Only Act that arose out of the Kodeeswaran case.

Both the Marxist parties had a fine opportunity to live up to their Marxist principles and meet, at least partly, the political aspirations of the Tamil people. But they failed miserably, to the eternal shame of the Marxists the world over. They enshrined the Sinhala Only Act in the Constitution, gave Buddhism "its rightful place as the religion of the majority of the people" and made it "the duty of the State to protect and foster it", and also stipulated that the Republic shall be a Unitary State. The Federal Party kept away from the Constituent Assembly after its amendment to make Tamil also an official language was defeated. And it was during their rule that the pernicious system of media-wise standardisation for admission to the Universities was introduced. The Marxists did not remain in power till the full period of the Government. They were literally kicked out by the right wing in the S.L.F.P.

The U.N.P.'s Promise of a Round Table Conference in the 1977 Election Manifesto

In the General Election of 1977 the U.N.P. was swept to power and all the leftist candidates were ignominiously defeated. It is generally accepted that almost the entirety of the Tamils living outside the Northern and Eastern Provinces voted for the U.N.P. because of its promise, in its election manifesto, to summon an All Party Conference to examine the grievances of the Tamils in the fields of Education, Colonisation, Use of Tamil Language and Employment in the Public Sector and the Corporations and implement its decisions. But, true to the tradition of Sinhalese politicians, this promise was soon forgotten and, instead, we heard from the Leader

of the U.N.P. his famous (or is it infamous?) words "If it be peace, let it be peace, and if it be war, let it be war", and what we witnessed was the ethnic riots of 1977.

1978 Constitution drafted without Tamil Participation

In 1978 the U.N.P. enacted the present constitution without the participation of the elected representatives of the Tamil people (barring one who got elected on the U.N.P. ticket with a slender majority with the support of the Sinhalese voters of the electorate), a constitution with an Executive President and which has been described by Mr. Jayawardene himself as unique. In a sense, it is unique no doubt because the President, though a political leader, is not answerable in any Court of Law even for libellous statements made outside Parliament.

The End of the Tamils' Parliamentary Representation

Before we conclude this part, we must spotlight the glaring assault on the democratic rights of the Tamil people that has taken place after the ethnic riots of July 1983 in which the armed forces, in many instances, actively sided the looters, rapists and murderers. The President, after remaining silent for a few days of the riots and, instead of speaking words of comfort to the Tamil citizens in their hour of misery, showed his communal colour by promising to the Sinhalese people his intention to bring in constitutional amendments that would keep out the T.U.L.F. M.Ps from Parliament unless they renounced their policy of a Separate State. When the Constitutional Amendment was passed all the Tamil M.Ps elected on the T.U.L.F. ticket, barring a renegade and a renegade's successor, refused to take this oath prescribed in the Sixth Amendment to the Constitution and thereby vacated their seats. And to this day the Tamil people who for centuries had their own kingdom in this Country, go unrepresented in the Parliament while laws continue to be enacted in their name and for them.

*PART II***THE INDO-SRI LANKA AGREEMENT OF 29TH JULY 1987.****CAN IT PROVIDE A LONG TERM SOLUTION
TO THE ETHNIC CONFLICT?****The World acclaim the Agreement**

This Agreement has been hailed by the United States of America and the Union of Soviet Socialist Republics alike, Great-Britain, the European Economic Community Countries and many others as one providing for a fair solution to Sri Lanka's Ethnic Conflict. In Sri Lanka and in India, significantly, the Marxist Parties have welcomed it. Recently, President Jayawardene is reported to have stated that the countries in the world are welcoming the Agreement, other "terrorist" groups welcome it, but, he is unable to understand why only the L.T.T.E. is opposing it. Whether this statement of his is an unintentional tribute to the L.T.T.E. and the iron will of its charismatic Leader, Mr. V. Prabaharan, for their dedication and steadfastness for a noble ideal, for which they are sacrificing their very lives and undergoing all the privations, undaunted by the overwhelming odds arraigned against them, let the readers judge after perusing this booklet.

The Agreement - a Marriage without the consent of one Party

It must be understood that this Agreement was drafted and signed without the consent of the L.T.T.E. Leader. Whatever the Indian Prime Minister may have said to the contrary subsequently, he is on record as having described, at the press conference held in Colombo after the signing of the Agreement, that it was a marriage without the consent of one party and further that "no final agreement has been reached with the L.T.T.E. Leader Prabaharan on the proposals, but I feel they will come with us".

Except for the solitary attendance at the Thimbu talks held in July - August 1985, at which all the militant groups and the T.U.L.F. jointly put forward four basic demands, viz.

- (i) The Tamils should be recognised as a distinct Nation.
- (ii) The Northern and Eastern Provinces should be recognised as their traditional Homeland.
- (iii) The Tamils' right of self-determination must be recognised.
- (iv) Citizenship rights should be granted to all Tamils living in Sri Lanka,

the L.T.T.E. had not participated in any other talks which have culminated in the present Agreement. Talks had taken place between the two Governments and the T.U.L.F. and hence both the Indian Government and the T.U.L.F. must accept full responsibility for the shortcomings in the Proposals referred to in the Agreement. And India has no moral right to demand of the L.T.T.E. its acceptance of the Agreement as one of the two pre-conditions (the other being the surrender of arms) for halting military operations against the L.T.T.E. (and, as a side effect, against the defenceless Tamils) and having talks with them.

The Three Objectives of the Agreement

Before we examine the Agreement, we must take into account a reported statement of the Hon. P. Chidambaram, at a meeting in Madras and broadcast over the Madras Radio Station, that the Agreement had three objectives, viz.

- (i) To find a just and fair solution to the Ethnic Conflict.
- (ii) To secure the geo-political interests of India, and
- (iii) To rehabilitate the militant youths.

Furthermore, the Indian Prime Minister, while tabling the Agreement in the Indian Parliament had stated (according to a Tamil publication) that the Agreement —

- (1) Fulfils the Tamils' basic demand to be recognised as a distinct nationality
- (2) Ensures political autonomy to fashion their political future
- (3) Provides the necessary political power to fulfil these objectives

- (4) Recognises the Northern and Eastern Provinces as areas of historical habitation of the Tamils and
- (5) Accepts Tamil as an Official Language of the Democratic Socialist Republic of Sri Lanka.

The glaring shortcomings in the Agreement can be examined under the following heads:

- (A) Land i.e. the Homeland of the Tamils
- (B) Machinery for Law and Order
- (C) Language Rights
- (D) Provincial Council Structure
- (E) The Governor and his powers
- (F) Powers to be devolved on the Provincial Councils
- (G) Interim Administration

(A) LAND i.e. THE HOMELAND OF THE TAMILS

How it is being grabbed by the Sinhalese.

For a people to be recognised as a Nation they must have a well defined territory of their own. It was the absence of such a land (before the creation of Israel) that made Joseph Stalin to say that the (wandering) Jews could not be accepted as a Nation. The strategy of the Sinhalese rulers has, since pre-independence, been formulated with the sole object of plundering the land and Homeland of the Tamils, reducing them to the position of a minority in their own land, and gradually absorbing them into their race, as has happened to the numerous pockets of Tamils who lived among the Sinhalese in the past, and make this country a land only of Sinhala (Buddhists).

This strategy is being Implemented in the following ways:

- (i) Settlement of Sinhalese villagers from the other seven provinces in irrigation schemes in the Tamil land.
- (ii) Encouraging illicit encroachment of state land in the Tamil Homeland by outside Sinhalese.

- (iii) Settling fishermen from outside in the Tamil coast land.
- (iv) Providing employment to Sinhalese from outside in State Corporations set up in the Tamil land.
- (v) Restoring ruins of Buddhist shrines lying in the Tamil land and settling Sinhalese Buddhists around them.

The "No-Colonisation" clause in the Dudley-Chelvanayakam Pact

As the main thrust of the colonisation of the Tamil land has been in the form of (i) above, political parties had been most vociferous on this. On this issue, the Dudley-Chelvanayakam Pact of 24th March 1965, in the signing of which Mr. J. R. Jayawardene played a very key role, contained the following:

"The Land Development Ordinance will be amended to provide that citizens of Ceylon be entitled to the allotment of land under the Ordinance. Mr. Senanayake further agreed that in the granting of land under colonisation schemes the following priorities be observed in the Northern and Eastern Provinces:

- (a) Land in the Northern and Eastern Provinces should in the first instance be granted to the landless people in the district.
- (b) Secondly to Tamil speaking persons resident in the Northern and Eastern provinces.
- (c) Thirdly to other citizens of Ceylon, preference being given to Tamil citizens resident in the rest of the Island.

The extent of the land grabbing shown by census figures

To what extent these principles, accepted by the U.N.P. in 1965, have been implemented in the present Agreement will be seen in due course. And to what extent the Tamil Homeland has been endangered can be gauged from the following Census figures:

Year	Total population	Sinhalese	% of Sinhalese to Total population
Northern Province			
1921	374,829	3,795	1
1946	479,572	9,602	2
1981	1,111,468	33,149	3
Eastern Province			
1921	192,821	8,744	4.5
1946	279,112	23,456	8.4
1981	976,475	243,358	24.9

The most serious short-coming in the Agreement

The most serious short-coming in the Indo-Sri Lanka Agreement is that it does not provide for an end to this danger of colonisation. Not only it has not provided for the dismantling of these settlements, albeit gradually, made since 1948, as demanded by The L. T. T. E. and not only it does not provide for the dismantling of the settlements made since July 1983 during the period of military operations of the Sri Lankan Forces when thousands of Tamils had to flee from their homes, worse still, the Agreement has no provision to stop such settlements even after the signing of the Agreement. The Indian Peace Keeping Force has no power to dismantle even the settlements that have taken place since July 1987 and are even now taking place in the Trincomalee, Vavuniya and Amprai districts. Pending a permanent solution to this problem of colonisation, it is suggested that the names of all those Sinhalese people who had been settled in the Tamil Homeland after 1948 should be expunged from the electoral registers pertaining to the Northern and Eastern Provinces (as is being done in Assam) and transferred to the registers of those areas from where they had been brought.

Let us now delve more into this subject of land, which, because of its importance we have dealt with as a separate subject, quite apart from the other powers proposed to be devolved on the Provincial Councils. Clause 2.15 of the Agreement says "These proposals are conditional to an acceptance of the proposals negotiated from 4th May 1986 to 19th December 1986. Residual matters not finalised during the above negotiations shall be resolved between India and Sri Lanka within a period of six weeks of signing this Agreement....." Why the Agreement refers to the period beginning only with 4th May 1986 is not understood, because a Government publication entitled "Draft Proposals (30th August 1985 to 19th December 1986)" gives details of a draft framework of Terms of Accord etc. consequent on discussions a Sri Lankan delegation had with senior officials of the Ministry of External Affairs of India from 10th September 1985 to 13th September 1985 and one or two items of which (favourable to the Tamils) had got forgotten or overlooked as the negotiations proceeded whether accidentally or deliberately, we do not know.

Land Policy in the Dudley - Chelvanayakam Pact Repudiated

It is during these discussions that the Sri Lankan delegation had raised the idea of an ethnic quota for land settlement and the distinction between minor and major irrigations schemes, in utter repudiation of the terms embodied in the Dudley - Chelvanayakam Pact.

Land Policy at the Bangalore Discussions

However, the Indian Government, realising the gravity of the subject, as far as the Tamils are concerned, had been reverting to this subject even at the Bangalore discussions on 19th December 1986. On the subjects to be devolved to the Provincial Councils, the Note on Provincial Councils (page 37 of the publication referred to above) says "subjects broadly corresponding to the proposals contained in the Annex 1 to the Draft

Framework of Accord and understanding of 30th August 1985 and the entries in List II and List III of the Seventh Schedule of the Indian Constitution shall be devolved upon the Provincial Councils. This will however be subject to accompanying notes relating to (i) Law and Order, and (ii) Land Settlement”.

The subject of Land appears as Item 26 in List I (Provincial Councils List) in the Draft Proposals (page 92) and is described as follows:

“Land, that is to say rights in and over land, land tenancy, transfer and alienation of land, land use, land settlement and land improvement to the extent set out in Appendix II (Emphasis ours)

The Appendix is very exhaustive, but we should like to emphasise on the various (surreptitious?) variations from the text of the Draft Proposals (Pages 101 and 102) that have been incorporated in the 13th Constitutional Amendment.

Surreptitious variations from Draft Proposals

These are.

- (1) The opening paragraph in Appendix II in the Draft Proposals, viz.

“The subject of land that is to say use, rights in or over land, land tenure, transfer and alienation of land, land use, land settlement and land improvement will devolve on Provincial Councils, which devolution will be subject to the following proposals”, has been deleted and the following para has been substituted:

“State land shall continue to be vested in the Republic and may be disposed of in accordance with Article 33(b) and written law governing the matter. Subject as aforesaid, land shall be a Provincial Council Subject, subject to the following provision:-” (In which Act this Article 33(b) occurs is not known).

The Indian Government had not accepted the idea of all state land being vested in the Republic. At the Bangalore discussions, it had suggested three alternatives to resolve the

differences between the Sri Lankan side and the Tamil side (P 114). These were :

- (a) Granting on a 99 year lease all state land to the Provincial Council.
- (b) Vesting the state land in a Land Council/Commission with one sub-division for each Province and for both National Government and Provincial Government to obtain their requirements from the said Commission.
- (c) The State land to vest in the Provincial Council and for the National Government to obtain or acquire its requirements.

The Sri Lankan Government agreed to consider the suggestion at (b) in the following form :

“There shall be established a National Land Commission. **This Commission shall hold the land in trust for the State (Emphasis ours).** The function of the Land Commission would include:-

- (a) The formation of a national policy with regard to use of state land.
- (b) Make available state land to Provincial Councils for the purpose of their devolved subjects.
- (c) Make available state land to agencies of Government for purposes of their functions.

The National Land Commission would include representatives of each Provincial Council and would be assisted by a Multi-disciplinary Technical Secretariat.

There is no objection to establishment of Sub-Committees of the National Land Commission provided they act in an advisory capacity to the main body.”

Breach of undertaking given on “State Lands” by the Sri Lankan Government

The entirety of even this amendment suggested by the Sri Lankan Government to the Indian suggestion has been completely omitted in the Amendment to the Constitution.

What has the Indian Government got to say to this breach of the undertaking given by the Sri Lankan Government?

Sub-para 1.4 in Appendix II (P 101 of the Draft Proposals) in respect of state Land reads as follows:

The alienation or disposition of such land under such schemes to any citizen or to any organisation will be made by the Governor of the Province (i) on the advice of the Provincial Council in accordance with Statutes of that Provincial Council and such other laws which the Provincial Council shall be entitled to act (ii). The words underlined by us and marked (i) and (ii) have been substituted by (i) "president" and (ii) "laws governing the matter respectively" in para 1.3 of the Appendix in the Constitutional Amendment. Even para 1.2 in the Appendix varies considerably from para 1.3 of the Draft proposals. **What has the Indian Government got to say to these substantial variations from the agreed Draft Proposals?**

State Lands and the Indian Constitution

It should be pointed out that "the regulation and development of inter-state rivers and river valleys to the extent to which such regulation and development under the control of the Union is declared by the Parliament by law to be expedient in the public interests". Item 56 in the Indian Union list is only a mere subject, because in all probability no law has been enacted so far considering the river disputes that are going on in India between States (e.g. Cauvery waters dispute) and the subject of Land and Irrigation is more or less a State subject. But the Sri Lankan Government has imposed so many restrictions as to make a nullity of this very vital subject for the Tamils.

Referendum for the Eastern Province Repugnant to the Homeland Concept

We feel it is pertinent to deal with the subject of the proposed Referendum under this heading because it is intrinsically connected to the Concept of a Homeland for the Tamils. Para 2.3 of the Agreement reads as follows:

There will be a referendum on or before 31st December 1988 to enable the people of the Eastern province to decide whether:

- (a) The Eastern Province should remain linked with the Northern Province as one administrative unit and continue to be governed together with the Northern Province as specified in para 2.2, or
- (b) The Eastern Province should constitute a separate administrative unit having its own distinct Provincial Council with a separate Governor, Chief Minister and Board of Ministers".

The whole idea of referendum is totally repugnant to the now recognised historical fact enunciated in para 1.4 of the Agreement which reads as follows: "also recognising that the Northern and Eastern Provinces have been areas of historical habitation of Sri Lankan Tamil speaking peoples who have at all times hitherto lived together in this territory with other ethnic groups".

Now, the ethnic groups recognised in the Agreement are (para 1.2) Sinhalese, Tamils, Muslims (Moors) and Burghers. The Burghers evolved as an "ethnic" group only after the coming of the Portuguese in the 17th century and are concentrated mainly in and around Colombo and therefore do not count for our purpose. At what period of our history the Moors came into this Country or how many of these people are actually Tamil converts to Islam is another matter. As for the other ethnic group (the Sinhalese) we have pointed out that according to the census figures of 1921, they constituted a mere 2.2% of the total population of the combined provinces. What is more, we have pointed out in Part I of this Booklet, how the three Kingdoms that existed at the time of the arrival of the Portuguese (from ancient times) were merged into one whole and divided into five provinces in the year 1833 by the British for administrative convenience and that the Tamil Kingdom is clearly demarcated even in Ptolemy's map of around A. D. 150 and

later in the Arrowsmith map of 1803. We are unable to say when the Northern and Eastern Provinces came to be demarcated as at present, but suffice it to say that what was done for administrative convenience by a colonial ruler cannot erase the geographical and historical fact that the Tamil Kingdom existed as one unit from historical times.

Why then deny the Tamils the right to opt out of a unified Sri Lanka?

What is more repugnant to the principle of justice is that the very same people whom we have designated as encroachers on our Homeland are to be given a voice in this Referendum. There are two other compelling reasons why this idea of referendum is repugnant to all principles of Logic and Justice. Firstly, just as the Agreement desires to preserve the unity and territorial integrity of this country (para 1.1), (which it never had except for very short periods in its history and incidentally, during one such period, it was under a Tamil ruler) the territorial integrity of the Tamil Homeland too is not and cannot be a matter for Referendum. Secondly, if the people of the Eastern Province (including the encroachers) are to be given a right to decide whether they are to separate from their traditional Homeland or not, logic also demands that the Tamils in the Northern Province and the contiguous territory in the Eastern Province should have the right, if necessary, to opt out of a unified Sri Lanka.

What we cannot understand is why the Indian Government agreed to this Idea of a Referendum when for the last 40 years or so it has refused to implement a U.N.O. resolution to the effect that the people of Kashmir should be allowed, at a referendum, to decide whether they wish to join Pakistan or stay attached to India. Surely, what is sauce for the gander is sauce for the goose.

Mr. Dixit's concern about Tamil Aspirations

Incidentally, at a News Conference in Colombo on 27th February 1988 over some reported talks between some Sri Lankan Government officials and the L.T.T.E., which involved the abandoning of the latter's claim over the Eastern Province, the Indian High Commissioner, Mr. J. N. Dixit, is reported to have said that the proposals being bandied about in the talks amounted to scaling down Tamil aspirations - (Sunday Observer of 28th February 1988.) What we wish to ask His Excellency is why then did his Government incorporate the clause regarding the Referendum in the Agreement, knowing fully well that this clause scales down the aspirations of the Tamils, and now insists on the L.T.T.E.'s accepting the Agreement as a pre-condition to the halting of the Indian Army's military operations?

(B) MACHINERY FOR THE MAINTENANCE OF LAW AND ORDER.

Para 1.5 of the Agreement speaks of the necessity for "preserving Sri Lanka's character as a multi-ethnic, multi-lingual and multi-religious plural society in which all citizens can live in equality, safety (our emphasis) and harmony and prosper and fulfil their aspirations." Under this heading, we shall deal with the question of the safety of the Tamils in their homeland, leave alone the question of safety in the other parts of the land. During the ethnic riots of 1956, 1958 and 1977 the Tamils (living amongst the Sinhalese) were able to flee to their Homeland for safety. But after 1977, with the induction of more and more racist minded Sinhalese service personnel into the Tamil territory, even this safety factor died away and lakhs of Tamils had to flee to foreign countries (including India) as refugees.

The Mahavamsa concept

This scant respect for Tamil lives, we feel, can be traced to the preachings in the Mahavamsa, which probably have been instilled into the minds of the Sinhalese people. The

Mahavamsa reports that when Prince Dutugemunu, after his victory over the Dravidian King Elara at Anuradhapura, was seated with a heavy heart on the terrace of the Royal palace because "he had caused the slaughter of a host numbering millions", eight arahants had gone to him and comforted him thus: "From this deed arises no hindrance in thy way to heaven. Only one and a half human beings have been slain here by thee" O lord of men. The one had come unto the refuges, the other had taken on himself the five precepts. **Unbelievers and men of evil life were the rest, not more to be esteemed than beasts.** But as for thee, thou will bring glory to the doctrine of the Buddha in manifold ways; therefore **caste away care from thy heart, O ruler of men**" (emphasis is ours). The soldiers, "not more to be esteemed than beasts" happened to be Hindus in the army of Elara and (by the Mahavamsa concept) unbelievers, by killing whom there was no hindrance to the King's entry to heaven'.

Indian Suggestions

Two suggestions had been made by the Indian side to reduce the feelings of insecurity the Tamils have been having from 1977 even in their Homeland. primarily because of the preponderance of the Sinhalese in the armed services and the Police Force. In an article in the Far Eastern Economic Review of 30th October 1984, Mr. Mervyn de Silva has stated that the Tamils constituted less than 2% in the Armed Services and less than 5% in the Police Force. Today, needless to say, the situation would be many times worse.

Armed Services to reflect ethnic ratios

To remedy this situation, as far as the Armed Services are concerned, the Indian side had suggested (item 17(4), page 7 of the Draft Proposals) that "Recruitment to the Armed Services to be carried out so as to ensure that the Armed Services reflect the ethnic ratio as far as possible within a specified

time frame." It is unfortunate that this suggestion had not been pursued in any subsequent discussion. Can the Indian Government please throw some light on this omission?

Police Force — At least 80% recruitment from Provincial Council Area.

On the question of the Police Force, Sri Lanka's proposals during the discussions with the Indian Officials are embodied in Paper 1 (pages 10 - 12) of the Draft Proposals.

These included inter alia:-

(1) The Head of the Police Force of the Province (a D. I. G., S. S. P. or S. P.) will be nominated by the I.G.P. in consultation with the Chief Executive and will be an officer conversant with the language of the majority of the residents of the Province.

(2) When there are vacancies for posts of Police Constables in the country, a percentage of such vacancies shall be allotted to each Provincial Council area and the centre. The selection of Police constables from among applicants from any Provincial Council area for the vacancies allotted to such Provincial Council area shall be done locally. The preliminary interview for such selection would be done by a Board of three persons presided over by a nominee of the Chief Executive, the other two being a nominee of the Head of the Police and another nominee of the Chief Executive.

The final interview shall be conducted by a Board of three persons presided over by a nominee of the Minister of Defence and the other two being a nominee of the Head of the Police and a nominee of the Chief Executive. The candidates will be appointed as trainees if the report of the N.I.B. is satisfactory.

The preliminary interview of applicants for the posts of Sub-Inspectors from any Provincial Council area shall be conducted by a Board of three persons presided over by a nominee of the Chief Executive and the other two being a

nominee of the Head of the Police and a nominee of the Chief Executive. (Nothing is mentioned about the final interview.) It will thus be seen that the Chief Executive had a major voice in the preliminary interviews for the recruitment of Police Constables and Sub-Inspectors.

(3) Every endeavour will be made to ensure the majority of the members of the Police Force serving in police stations within any Provincial Council area will be conversant with the language spoken by the MAJORITY of residents of such area. (Emphasis ours).

The Indian side had suggested the following alternative to the above: "It will be ensured that at least 80% of members of the Police Force serving in Police stations within any Provincial Council area will be those recruited within the Provincial Council area in accordance with para 3 above" (i.e. the scheme of recruitment under (2) above).

Detrimental Omission

The remark "Sri Lankan side will revert" appears as part of the Heading to this suggestion on P.12 of the Draft Proposals. But curiously, the Sri Lankan side had not reverted subsequently, to this aspect of the composition of the Police Force within any Provincial Council area. What has the Indian Government got to say to this omission, an omission VERY DETRIMENTAL to the Tamil interests, in subsequent discussions and in the Amendment to the Constitution?

The 13th Amendment to the Constitution provides for the creation of a National Police Division and a Provincial Division under a D. I. G. and a Provincial police Commission. This Commission will be responsible for the recruitment of the cadre for each provincial Division and shall consist of:

- (a) the D. I. G. of the Province.
- (b) a person nominated by the Public Service Commission in consultation with the President; and
- (c) a nominee of the Chief Minister of the Province.

(Thus, the Chief Minister will have only a minority voice)
Worse still, there is no mention of:

- (i) the D.I. G. being conversant with the language of the Province.
- (ii) the majority of the Police Force being conversant with the language of the majority of the residents of the Provincial Council area as referred to above, **leave alone the 80% alternative suggested by the Indian side.**

According to clause 2. 2. of the Appendix 1, "the Provincial Division shall consist of **recruited in the Province.**" (Emphasis ours) The implications of "recruited in the Province" in the absence of "all", after the word "constables" have to be clarified, especially in the context of the newly added language clauses. What is more heinous is that a language clause is included in the constitutional amendment (para 14 of appendix 1) according to which all gazetted officers of the National Division and Provincial Divisions shall be required to attain the prescribed standard in Sinhala and Tamil, all officers of the rank of A. S. P. and above shall be required to attain the prescribed standard of English; and every recruit to the Sri Lankan Police Force (which includes the Provincial Division) shall have proficiency in his mother tongue; for the first promotion he shall acquire proficiency in a language other than his mother tongue; for the next promotion he shall acquire a knowledge of the third language — the three languages for this purpose are Sinhala, Tamil and English. These language requirements were drafted when the decision to make Tamil (and English) also as official languages (Para 2. 18 of the Agreement) had not been made. Why the Indian Government had not thought it fit to seek a consequential change from the Sri Lankan Government after this decision was made, is not clear.

Para 13 in Appendix 1 of the Constitutional amendment is as follows:

13. "The National Division shall perform all the functions vested in a Provincial Division, in any Province for a period

of one year, or until a Provincial Division is established in such Province, whichever is earlier."

Reserve Police Force-Not provided for in the Draft Proposals

But what has actually happened after the signing of the Agreement? Without setting up the Interim Government (about which we shall revert later), without taking any steps to augment the cadre of the Tamil personnel in the Police Force (which is only about 300 in number) the Government called for applications to recruit some men to a Reserve Police Force with Tamil as the medium of recruitment for only the Jaffna, Mannar and Mullaitivu Districts and Sinhala or Tamil for Vavuniya, Trincomalee and Batticaloa Districts (applications were not called for from Kilinochchi and Amparai Districts) and tried to open up Police stations in the Northern and Eastern Provinces. Even the available Tamil police personnel were not posted to sensitive areas like Trincomalee, but were sent to Jaffna, Mannar, etc. It is understood that some Tamil speaking men had been recruited from the Trincomalee District for the Reserve Police Force, and, at the Training Camp at Kattana to which they were sent, they got beaten up recently by fellow Sinhalese recruits.

Indian suggestions brushed aside

It will be seen from the foregoing that the proposals suggested by the Indian Government to-

- (i) carry out recruitment to the Armed Services so as to reflect the ethnic ratio, and
- (ii) Ensure that at least 80% of the Police Force of a Provincial Council area be those recruited within the Provincial Council area

have been flagrantly brushed aside by the Sri Lanka Government in the Constitutional amendment passed by Parliament and hence the Tamils may continue to be at the mercy of the

Sinhalese armed and police forces even in their Homeland! And how does the Indian Government propose to co-operate with the Sri Lankan Government in ensuring the physical security and safety of the Tamil community (along with others) in the Northern and Eastern Provinces as per para 2.16 (e) of the Agreement? **Does it propose to seek shelter under this clause to station its troops permanently in the Northern and Eastern Provinces? And by what moral right does the Indian Government demand of our Freedom Fighters to accept the Agreement as a precondition for stopping its military operations?**

(C) LANGUAGE RIGHTS

“Concessions” on the use of Tamil

After the enactment of the Sinhala Only Act in June 1956, Mr. S. W. R. D. Bandaranaike enacted the Tamil Language (Special) Provisions Act No. 28 of 1958 and in terms of the Dudley - Chelvanayakam agreement, the U. N. P. Government enacted regulations under this Act in March 1966 to provide for the use of Tamil language as the language of administration and of record in the Northern and Eastern Provinces. The U. N. P. however, did not, as per clause 2 of the Dudley - Chelvanayakam Agreement “amend the Language of the Courts Act to provide for legal proceedings in the Northern and Eastern Provinces to be conducted and recorded in Tamil”.

The Communist Party and the Lanka Samaja Party, even though they were partners of the United Front Government of 1970, ignominiously failed to incorporate their policy of “parity of status” for both languages in their Constitution of 1972. They proposed to implement the Official Language Act of 1956 and the Tamil Language (Special) Provisions Act of 1958. In regard to the language of the Courts, they again provided for Sinhala to be the language of record, pleadings, proceedings, judgement and orders **throughout the country** with some concessions for the use of Tamil in the Northern of Eastern Provinces, but insisted that a Sinhala translation of all pleadings be maintained for purposes of record.

Chapter IV, Articles 18—25 in the present constitution framed in 1978 deal with the subjects of Official Language, the Language of the Courts etc. Under Article 19, Sinhala and Tamil have been declared as National Languages, and the Regulations enacted by the U. N. P. Government in March 1966 and certain more concessions regarding the use of Tamil in the Courts have been incorporated in this constitution.

Tamil as an Official Language

Para 2.18 of the Agreement reads "The official language of Sri Lanka shall be Sinhala. Tamil and English will also be official languages." How has this para of the Agreement been implemented by the Sri Lankan Government? Article 18 of the 1978 constitution reads as follows:

"The official language of Sri Lanka shall be Sinhala". This Article has been amended by the 13th Constitutional Amendment by-

- (a) the renumbering of that Article as para 1 and (b) by the addition of the following paras.
 1. Tamil shall also be an official language.
 2. English shall be the link language.
 3. English shall be the link language.
 4. Parliament shall by law, provide for the implementation of the provisions of this chapter.

Implementation awaits Parliamentary Law

The other Articles, 19—25 remain intact. What the implications of English being made only the link language and what the law, Parliament is going to enact to provide for the implementation of the provisions of this chapter (Chapter IV Articles 18—25) have not been clarified. **How does then the Indian Government expect the L.T.T.E. to accept the Agreement, while the implications have not been clarified? Is the Sri Lankan Government sincerely and seriously bent on giving effect to the provisions of this clause (Para 2.18) in the Agreement? We raise this**

question because the entirety of the concessions on the matter of Tamil being made a National Language in 1978 Constitution (incidentally it's status was left undefined) have remained a dead letter. Agreement or not, the Sinhala only policy continues even today. The "Virakesari" of 21st March 1988 carries a news report which clearly shows that the Sri Lankan Government is not keen on implementing the Language clause of the Agreement. According to this report, a Seminar lasting five days was held at Nuwara Eliya for the principals of cluster schools in the Nuwara Eliya region entirely in Sinhala though over 100 of those who attended the Seminar were Tamil School Principals. And, according to the 1981 census report, there were 236 Tamil schools in the region as against only 217 Sinhala schools. How can the Tamil people believe in the sincerity of the Sri Lankan Government in this regard when in the President's address at the Ceremonial Opening of the new Parliamentary Sessions this year on 25th February 1988, a translation of his speech in Tamil was not read by any official, thereby doing away with a tradition that had been followed since the time of the first Ceylonese Governor-General - Sir Oliver Goonetilleke?

Sinhala Only Act and the Public Servants

Under the Sinhala Only Act, thousands of Tamil public servants and semi-public servants were compelled directly or indirectly to retire prematurely from the public and semi-public services. Hundreds have been dismissed for failure to acquire the required proficiency in the Official Language and hundreds, if not thousands, even today languish in service without any increments or being confirmed in their posts for the same reason. Why, even as recently as 6th February 1988, there was a newspaper (Virakesari) report that a clerk, aged 52, attached to the Statistical Division of the Jaffna Kachcheri had been dismissed for failure to pass the final grade (he had passed grades 1 and 2) in the Sinhala language.

No change yet, even after the Agreement

One should have expected that at least administratively the Sri Lankan Government, with the signing of the Agreement, would begin implementing the new policy of making Tamil also as official language. Why, we ask, did not the Indian Government address the Sri Lankan Government to implement the provisions of this clause of the Agreement with effect from June 1956, the date of the enactment of the Sinhala Only Act, and provide relief to all the officers in the public and semi-public services, both retired and still in service?

(D) THE PROPOSED PROVINCIAL COUNCIL STRUCTURE

Whereas, the late Mrs. Indira Gandhi had not, at any time, laid down any limit to the political demands of the Tamils, Mr. Rajiv Gandhi had, on many occasions, openly stated that India would not agree to anything more than what the people of a State enjoy under the Indian Constitution. Quite apart from the question of the legal or moral right by which India, however big it may be, can decide on the political destinies of the people of a neighbouring country aspiring for statehood, we are inclined to ask him the question "Does the Indo-Sri Lanka Agreement provide for the Eelam Tamils, who are fighting for the restoration of their ancient Kingdom, at least a political structure equivalent to that of an ordinary Indian State?". The answer is a definite "No", on the basis of the ruling of the Supreme Court which met to consider the 13th amendment to the Sri Lankan Constitution providing for the creation of Provincial Councils, which the Indian Prime Minister claimed would grant political autonomy for the Tamils.

The Supreme Court verdict on the Provincial Council Structure

By a majority verdict, the Supreme Court of Sri Lanka ruled that, to quote the words of four Judges including the Chief Justice "both in respect of the exercise of its legislative

powers and in respect of exercise of executive powers no exclusive and independent power is vested in the Provincial Councils. The Parliament and President have ultimate control over them and remain supreme. Further, unlike in the case of a Bill which becomes law upon the certificate of the President or the Speaker as the case may be, no Court or Tribunal shall inquire into, pronounce upon or in any manner call in question the validity of such Act on any ground whatsoever (Article 80(3) of the Constitution, a Statute passed by a Provincial Council does not enjoy any such immunity. It does not have the attribute of finality and is always subject to review by Court. The validity of a statute can always be canvassed in a Court of Law even years after its passage". The fifth Judge had agreed with the view expressed by His Lordship the Chief Justice that no provision of the Constitutional amendment Bill is inconsistent with any of the provisions of Articles 2, 3, 4, or 9 of the Constitution.

Provincial Councils—only an extension of Local Government Units

In fact, the learned President's Council who supported the Amendment to the Constitution on behalf of the intervenient-petitioners had submitted that these units (i. e. Provincial Councils) were only extensions of Local Government Administration Units such as Pradeshiya Sabhas or Gramodaya Mandalayas. On another occasion he had described them as semi-autonomous units.

Our sacrifices would be in vain if we accept the Provincial Council Structure

Recently, speaking among working journalists at Pune, Lt. Gen. Dibendra Singh, the overall Commander of the I. P. K. F. in Sri Lanka until recently, is reported to have said "If we recall the I. P. K. F. with only half its task completed, the sacrifices in lives and time would be all in vain". We

are inclined to adopt this remark to express our attitude to the proposed Provincial Council Structure. At this point of time in our freedom struggle we have already lost about 25,000 of precious lives including about 2,000 of our freedom fighters, about double this number have been wounded or maimed, hundreds of our women folk have been raped and billions of dollars worth of our property have been destroyed. Lakhs of our people have fled to foreign lands as refugees and beggars and the entire Tamil nation has gone through and is still going through a severe mental strain. Is it for this semi-autonomous, local government unit that we have made all these sacrifices? Definitely not.

The proposed Provincial Council Structure will stand rejected by the Freedom loving Tamils of Eelam. It would therefore be a futile exercise on the part of the Indian or Sri Lankan Governments to expect the Tamils to participate in the proposed Provincial Council elections. With these stipulations we proceed to examine the subject of the "Governor of the Provincial Councils" and the "Powers proposed to be devolved on the Provincial Councils."

(E) THE GOVERNOR IN THE PROVINCIAL COUNCIL SET - UP

The proposal to appoint a Governor as the Executive Head in each Provincial Council is first mentioned under para 6 in Annexure I (Page 37) of 4th May 1986 in the draft proposals. In the first draft of proposed amendments to the Constitution, the Governor was given under Section 8(b), only the power to prorogue the Provincial Council (not to desolve it); the other powers have been reproduced from the Indian Constitution. At the Banagalore discussions the following modifications had been formulated (Pages 111 and 112):

Indian suggestion — To improve on the Indian Constitution

1. As regards the Governor in a province, the Sri Lankan side has agreed that the Governor shall have the same powers as the Governor of a State in India. However, it was

ponited out to the Sri Lankan side that some modifications would be required so that the ambiguities and difficulties experienced in working the Indian provisions should not be carried into the Sri Lankan Constitution and care should be taken to avoid these ambiguities and difficulties even at this stage. It was therefore proposed to the Sri Lankan side that the provisions regarding the Governor may be drafted keeping in mind the following aspects:

- (a) There shall be a Board of Ministers with the Chief Minister at the head to aid and advise the Governor of a Province in the exercise of his functions.
- (b) The Governor shall in the exercise of his functions, **act in accordance with such advice** except in so far as he is by the Constitution required to exercise his functions or any of them in his discretion.
- (c) Suitable provisions shall be made in the Constitution limiting the Governor's discretionary powers to:
 - (i) The appointment of a Chief Minister,
 - (ii) Reporting to the President on the failure of the constitutional machinery requiring imposition of President's rule.

1.1 In all other matters touching upon the office of the Governor, reference may be made to the formulations contained in the Sri Lankan paper given after 2 rounds of discussions with T.U.L.F.

Sri Lanka's Reply

The Sri Lankan side's observations to the above are as follows: (Page 119 of the Draft Proposals).

1.1 **Governor.** Almost all the formulations contained in the September 1986 proposals are based on the corresponding articles of the Indian Constitution.

1.2 On a number of issues the Sri Lankan Government has already agreed to a limitation of the Governor's discretionary powers although the corresponding Indian provisions have no such limitations e.g.

- (a) Article 164 appointment of Chief Minister, S. L. draft Article 154F (H) (also omission of last clause of Article 164 (1))
- (b) Article 174 (2) dissolution; S. L. draft art. 152b(8) omits this power (Emphasis ours).

1.3 In regard to certain powers the Governor must, as in India, act in his discretion, and ought not to be compelled to act on the advice of the Minister e. g.

- (a) Article 161 grant of pardon; S. L. draft Art. 154B(9).
- (b) Art. 200-201 assent to Bills, S. L. draft Art. 154H, setting out the right of the Governor and the President to withhold assent.
- (c) Art. 175 right to address etc. the Council; S.L.draft Art. 154B (10).

1.4 If the Government's discretionary powers in regard to matters covered by Articles 161, 164, 175, 176, 200, 201, 202, 103, (3) and 207 are preserved, and if provision identical to Article 160 is included, Sri Lankan Government will have no objection to the limitation of the Governor's discretionary powers in other matters (emphasis ours).

1.5 If the foregoing is not acceptable, Sri Lankan government would wish the position of the Governor to be as set out in September 1936 Proposals.

Heads I win, Tails you lose

But what has actually happened? It has been a case of "Heads I win, Tails you lose" for the Sri Lankan Government, as the following will show and we cannot but help wonder

whether the Indian side has allowed itself to be hoodwinked. First, we shall take para 1.4 of the Sri Lankan side reply. All the Articles referred to therein have been preserved in the Constitutional amendment and the Provincial Councils Act, either word to word or in a modified form, sometimes with the scope enlarged. However, provision identical to Article 160 which is as follows has not been incorporated:

“The President may make such provisions as he thinks fit for the discharge of the functions of the Governor of a State in any contingency not provided for in this Chapter”.

But, on the other hand, the constitutional amendment contains many provisions not included in the Indian Constitution. The question therefore arises as to what has been given to the Tamil side in return. In what respects have the Governor's discretionary powers been limited?

What is the Indian Government's reply to these questions?

Breach of faith

Worse still, in spite of the assurance in 1.2 (b) of the Sri Lankan side's reply viz. that the power to dissolve the Legislative Assembly is omitted, this power has been surreptitiously incorporated in the constitutional amendment under Article 154 B(8) (c) which reads as follows:

“The Governor may dissolve the Provincial Council”
What has the Indian side got to say to this Breach of Faith on the part of the Sri Lankan Government?

Again, it should be noted that whereas the Indian side had made suggestions to limit further the Governor's powers, as spelt out in the Draft Amendment to the Constitution (vide Pages 51 et seq) of the Draft Proposals, the Sri Lankan Government has, in utter disregard of this suggestion, made matters worse by adding a proviso to Clause 9 of the Article 54 in the Constitutional Amendment. The proviso is as follows:

"Provided that where the Governor does not agree with the advice of the Board of Ministers in any case, and he considers it necessary to do so in the public interest, he may refer that case to the President for orders". What has the Indian Government got to say to this surreptitious additions in the Constitutional Amendment?

(F) POWERS TO BE DEVOLVED ON PROVINCIAL COUNCILS

Tamil Provinces equated with the Sinhala Provinces

At the outset it must be pointed out that a solution to the ethnic problem through a Provincial Council structure which equates the other 7 provinces with the Northern and Eastern Provinces is most irrational because a uniform devolution of power cannot remove all the inequities that have accumulated over the past 40 years. Furthermore, unlike in Sri Lanka, there is always a cry for more powers from all the States in India. It is because of this cry that a commission had been appointed there and it (the Zackaria Commission) is reported to have made recommendations for more powers to the States including a share of the Foreign exchange earnings of the country. As such, the devolution of even the same powers as in India for the North - Eastern Provincial area will be inadequate. On the other hand, the other provinces are almost dis-interested in the idea of devolution of power because to them the Central Government, with all its powers, is an enlarged Provincial Council encompassing the whole area.

(a) Provincial Council list—31 items circumscribed:

This list has 37 items, but taking into account the various sub divisions, the list totals up to 77 items as against 61 in the Indian Constitution. But of the 77 items as many as 31 are

circumscribed as against only 11 in the Indian State list. The following are the 31 items:

- Item 3 — **Education** - Restrictions appear in Appendix III
- „ 4.1 — **Local Authorities**..... except that the constitution, form and structure of local authorities shall be **determined by law.**
- „ 4.2 — Supervision of the administration of local authorities subject to as **provided by law** in respect of quasi-judicial inquiries and audit.
- „ 5.1 — **Provincial Housing and Construction - National Housing Development Authority projects excluded.**
- „ 6 — **National Highways and bridges and ferries on such Highways excluded. (Note: what are National Highways has not been defined).**
- „ 9.1 — **Agriculture and Agrarian Services - Inter-provincial irrigation and land settlement schemes, state land and plantation agriculture excluded.**
- „ 9.3 — **National agricultural research institutions excluded.**
- „ 11 — **Health**
- „ 11.1 — **Teaching Hospitals and Hospitals for special purposes excluded.**
- „ 11.4 — **Procurement of drugs for all institutions under the Provincial Council excluded.**
- „ 12 — **Indigenous Medicine - The establishment of Siddha and Unani dispensaries related to Tamil and Muslim medicinal systems excluded.**
- „ 14 — **Pawn Brokers - Pawn Brokers' business carried on by Banks excluded.**
- „ 18 — **Land** - Restrictions appear in Appendix II.
- „ 19 — **Irrigation - Inter-provincial rivers and Irrigation and land development schemes excluded.**
- „ 21 — **Agricultural, Industrial, enterprises etc. - This is subject to a National policy and without prejudice**

to the power of Government and public corporations to have such enterprises. Please see separate note on this subject on pages 49-50.

- Item 24 — **Burials, Burial Grounds etc.** - Those declared by or law made by Parliament to be national memorial cemeteries excluded.
- „ 25.2 — **Ancient and Historical monuments etc.** - Those declared by law made by Parliament to be of national importance excluded.
- „ 26 — **Mines and Mineral Development** - Allowed only to the extent permitted by or under any law made by Parliament.
- „ 27 — **Incorporation etc. of Corporations with interest confined to the Province.** - Trading corporations, banking, insurance and financial corporations excluded. Please see the separate note on page 51.
- „ 29.1 — **Theatres etc.** - The sanctioning of cine films for exhibition and public performances excluded.
- „ 29.2 — **Sports : National sports association** excluded.
- „ 30 — **Imposition of licence fees and taxes** excluded.
- „ 33 — **Fees taken in any Court** excluded.
- „ 34 — **Electrical Energy** - Hydro Electric power and power generated to feed the national grid excluded.
- „ 35 — **Borrowing** - Allowed only to extent permitted by or under law made by Parliament.
- „ 36.1 — **Turnover Taxes** - Limits and exemptions as may be prescribed by law made by Parliament.
- „ 36.2 — **Betting taxes etc.** National lotteries and lotteries organised by the Government of Sri Lanka excluded.
- „ 36.4 — **Motor Vehicles Licence fees** - Limits and exemptions as may be prescribed by law made by Parliament
- „ 36.17 — **Taxes on Lands etc.** - Only to the extent permitted by law made by Parliament.

- Item 36.18 — **Taxes on Mineral rights.** - Limits and exemptions as may be prescribed by law made by Parliament.
- „ 36.20 — **Other Taxation** - Allowed only to the extent permitted by or under any law made by Parliament.
- „ 37 — **Protection of Environment** - Allowed only to the extent permitted by or under any law made by Parliament.

Out of these 31 items, as many as 12, of which 8 relate to taxes, are subject to restrictions under laws as may be made by Parliament. Since these laws are not specified, budgeting and the development of the Provinces cannot be planned in advance. In the Indian State list only two subjects are subjected to any laws made by Parliament and in the other cases the extent of the restrictions are clarified by reference to the corresponding items in the Union list.

“National Interest” - New Concept needed

There is again a reference to **National interest** in the case of many items. In the past “National” and “Nationalisation” were synonymous with “Sinhala” and “Sinhalaisation”. But the Indo-Sri Lankan Agreement necessitates a complete review of this National concept. Since all the four ethnic groups are on an equal footing and any national policy can emerge only when there is unanimity of opinion among the four ethnic groups. There is no question of any majority or minority ethnic group and in any National body each of the four groups must have veto power.

It is said that a leopard never changes its spots. True to this saying, the Sri Lankan Prime Minister's attitude towards the other ethnic groups does not appear to have changed a wee bit inspite of the lofty ideals enunciated in the Indo-Sri Lankan Agreement.

Clause 1.2 of the Agreement acknowledges that Sri Lanka is a multi-ethnic and a multi-lingual plural society. Clause 1.3

recognises that each ethnic group has a distinct cultural and linguistic identity which has to be carefully nurtured. And, Clause 1.5 speaks of the necessity for preserving Sri Lanka's character as a multi-ethnic, multi-lingual and multi religious plural society in which all citizens can live in equality, safety and harmony and prosper and fulfil their aspirations.

Yet, Prime Minister Premadasa has at a meeting held in the Bingiriya Electorate following the opening of a new model village stated, according to a report in the "Virakesari" of 31st March 1988, that in a multi-ethnic country, it is essential for minorities, in their efforts to obtain their rights and fulfil their desires, to secure the goodwill of the majority people and further that it is futile to attempt to obtain rights without securing the goodwill of the majority people. Premier Premadasa has obviously forgotten that the political concept of a Majority and Minority has been swept away by the Indo-Sri Lanka Agreement. May be, he is still sticking to the notion which he expressed some time back that the Agreement is only one between two individuals and that, therefore, there was no need to table it in Parliament. Be that as it may, his speech is in a way a reply to the Indian Government which is insisting that the L. T. T. E. should accept the Agreement as one of two pre-conditions for halting military operations against it (and, consequently, against the defenceless Tamils of Eelam).

Parliament must pass laws for eight powers to be exercised

There is another peculiarity about 8 of these items viz 26, 35 (which relates to the very important subject of borrowing) 36.1, 36.4, 36.17, 36.18, 36.20 and 37. The powers can be exercised only if laws are passed by parliament. And there is still not even a whisper about these laws!

Indian State List and Provincial Council List Compared

We shall now compare the Indian State list with the Provincial Councils list in view of the Sri Lankan Government's assertion "that subjects broadly corresponding to the Indian State list would be devolved on the Provincial Councils" - Vide

Annexure 1 Page 37 of the Draft Proposals. Only 6 items in the State list viz Nos. 12, 20, 43, 54, 64, and 66 are identical to the corresponding items in the Provincial Council list. In the following items in the State list there are substantial variations in the corresponding Provincial Council items.

State List

- Item 5 — **Local Government** : The restrictions are stated under Item 4 above in the Provincial Council list.
- „ 6. — **Health** : (1) Teaching Hospitals and hospitals for special purposes and procurement of drugs even for other institutions excluded from Provincial Council control.
- „ 4 — **Reformatories etc** : Prisons excluded from Provincial Council control.
- „ 8 — **Liquor** : The production and manufacture (which will include toddy tapping) excluded from the Provincial Council control. Please see separate note on page 50 in respect of item 23 in the Provincial Councils list.
- „ 14 — **Agriculture** : Inter-provincial irrigation and land settlement schemes, state land and plantation agriculture excluded from Provincial Council control.
- „ 15 — **Animal Husbandry** : Veterinary training and practice excluded from Provincial Council control (This is included in the concurrent list).
- „ 21 — **Fisheries** : This item is only in the Sri Lankan Concurrent list but with a restriction regarding fishing beyond territorial waters.
- „ 23 — **Mines etc** : In the Indian State, the scope is subject to the corresponding item in the Union list. In the Provincial Council list this is permitted only to the extent allowed by Parliament, and Parliament has yet to pass the necessary law.
- „ 24 }
 „ 26 } Industries etc. Please see separate note
 „ 27 } on this item at page 49 - 50.

- Item 31 — **Inns etc:** "Hotels" excluded in the Provincial Council list, but included in the Concurrent list.
- " 33 — **Sports:** "National Sports Associations" excluded from Provincial Council control.
- " 34 — **Betting and Gambling:** Power to impose licence fees and taxes excluded from Provincial Council control.
- " 45 — **Land Revenue:** Survey for records of rights and alienation of revenues excluded from Provincial Council control.
- " 49 — **Taxes on land and buildings:** Only to the extent allowed by law made by Parliament, and Parliament has yet to pass the necessary law.
- " 62 — **Taxes on luxuries etc:** Only taxes on betting permitted in the Provincial Council list.

Indian State list items excluded from the Provincial Council list

The following items (numbering 27) in the Indian State list, of which 13 are revenue earning items do not find a place in the Provincial Council list:

- Item 7 — **Pilgrimages** (Included in concurrent list)
- " 16 — **Pounds and Cattle trespass.**
- " 17 — **Water,** that is to say water supplies, irrigation and canals, drainage and embankments, water storage, and water power subject to Item 56 in the Union list.
- " 22 — **Courts of Wards.**
- " 25 — **Gas and Gas works.**
- " 30 — **Money lending and money-lenders; relief of Agricultural indebtedness.**
- " 31 — **Inns and In-keepers**

- Item 35 — Works, lands and buildings vested in or in the possession of the state.
- " 37 — Elections to the State. Subject to any Parliamentary law.
- " 38 — Salaries and allowances of members of the state.
- " 40 — Salaries and allowances of Ministers of state.
- " 42 — State pensions.
- " 44 — Treasure Trove.
- " 46 — Taxes on Agricultural income.
- " 47 — Duties in respect of succession to agricultural land.
- " 48 — Estate duty in respect of Agricultural land.
- " 51 — Duties of Excise on the following goods manufactured in the State and countervailing duties on similar goods manufactured elsewhere in India.
- (a) Alcoholic liquors for human consumption;
- (b) Opium, Indian hemp and other narcotics
- but not including medicinal and toilet preparations containing alcohol or substances under (b).
- Item 52 — Taxes on entry of goods into a local area for consumption, use or sale therein.
- " 53 — Taxes on the consumption or sale of electricity.
- " 54 — Taxes on the sale or purchase of goods other than newspapers subject to item 92A in the Union list, (which relates to Inter State trade and commerce).
- " 55 — Taxes on advertisements other than newspaper, radio and T. V. advertisements.
- " 58 — Taxes on animals and boats.
- " 60 — Taxes on professions, trades, calling and employments.
- " 61 — Capitation taxes.

- Item 62 — Taxes on luxuries, including taxes on entertainments, amusements, betting and gambling.
- „ 63 — Rates of Stamp Duty in respect of documents other than those specified in List 1 (i.e. Union List).
- „ 65 — Jurisdiction and powers of all courts except the Supreme Court with respect to any matter in this list.

To what extent Sri Lankan Government has as asserted by it, followed the Indian Government's State list in devolving powers on the Provincial Councils, let the reader judge.

In view of their importance, we dwell at some length on the following items in the Provincial Council list.

Agricultural, Industrial, Commercial and Other projects

Item 21 : It reads as follows :

“Subject to the formulation and implementation of **National Policy** (emphasis ours) in regard to development and planning, the power to promote, establish and engage in agricultural, industrial, commercial and trading enterprises and other income generating projects within the province **without prejudice to the power of the Government and public corporations to have such enterprises and project.** (emphasis ours).

The corresponding items in the Indian Constitution are as follows:

- State list, Item 14 — Agriculture, including agricultural education and research, protection against pest and prevention of plant diseases.
- „ „ Item 24 — Industries subject to the provision of entries 7 and 52 in the Union list.

Entry 7 of Union list reads :

Industries declared by Parliament by law to be necessary for the purpose of defence or the prosecution of war.

Entry 52 reads :

Industries, the control of which by the Union is declared by Parliament by law to be expedient in the public interest.

(Note: These two entries are reproduced word for word in the Sri Lankan Government's Reserved list).

We have earlier commented on "National policy" and how this has been synonymous with Sinhala only policy. Presently all Industrial undertakings of Government Corporations in the Tamil homeland are controlled from Colombo, almost exclusively by Sinhalese manned Boards, and these have been utilised to find employment (and incidentally settle them in our midst) for Sinhalese from outside, even though enough unemployed personnel are available locally. In this connection we must emphasise the contradiction in interests that will always prevail in such matters between the North-Eastern Provincial Council and the other 7 Provincial Councils while we would demand more and more power for the Provincial Council (as happens in India) the other 7 Provincial Councils will care less. Reference may be made to the recruitment of security personnel for the Kankasanturai Cement Factory, the settlement of Sinhalese labourers at Kantalai and Hingurana (the Tamil name was Irrakkamam) Sugar Factories, the Cadju plantation at Kondachchi, even last month there had been a settlement of 2,000 Sinhalese in the Hingurana Sugar factory area. It is therefore imperative that in the interest of providing employment to the local population (and incidentally dismantling existing settlements and preventing future Sinhalese colonisation) the proviso underlined above should be deleted and all existing State Corporations, Boards and Industries should be transferred to the control of the North-Eastern Provincial Council.

Intoxicating Liquors

Item 23-"Possession, transport, purchase and sale of intoxicating liquors". As has been pointed out earlier (Page 46) "the manufacture and production" which are part of the

corresponding entry in the State list (Item 8) has been omitted in the Provincial Council Item. Whether it is deliberate or un-intentional, we do not know, but in either case the Indian Government owes us an explanation (which however is another matter). As it is, the omission will adversely affect the Palmyrah Industry, which is a key industry in our area. **This omission must be rectified.**

Item 27— Incorporation of Corporations — “Incorporation, regulation and judicial winding up of Corporations with objects confined to the province, excluding trading corporations, banking, insurance and financial corporations”.

Presently while partnership businesses could be registered at the Kachcheries, the office of the Registrar of Companies is located in Colombo. Incorporation and filing of the various statutory documents by Companies in the Provinces is tedious. This centralisation could be a factor inhibiting formation of Companies in the Provinces. Hence the transfer of the excluded items to the Provincial Council list would spur economic activities in the provinces.

Item 34— Provincial Debt Though this is a Provincial Council subject, the borrowing of money by the Provincial Council is restricted to the extent permitted by or under any law made by Parliament, which has yet to be done.

In the Indian Constitution, Article 293 reads as follows: “Subject to the provisions of this Article, the Executive power of a State extends to borrowing within the territory of India upon the security of the Consolidated Fund of the State within such limits, if any, as may from time to time be fixed by the Legislature of such State by law and to the giving of guarantees within such limits, if any as may be so fixed”.

It will therefore be seen that the Indian Parliament has no power to control the limit of the borrowing power of a State and hence the power of Parliament limiting the

borrowing limit of a Provincial Council should be done away with. Trade and Commerce within the State, subject to the provisions of Entry No. 33 in list III is listed as Item 26 in the State list. It is, however, curious to note that there is an item corresponding to this in the Sri Lankan Government's list (Item 23) except that "edible seeds and oils" has not been included as foodstuffs; "oil-cakes and other concentrates" has not been included as cattle fodder and Items (d) and (e) in the Indian list have also been omitted.

Education

This, item 3 in the Sri Lanka Provincial list, was formerly a State list item but has now been included in the Indian Concurrent List under Item 25, which reads as follows:

"Education, including technical education, medical education and universities, subject to the provision of entries 63, 64, 65 and 66 of List 1 (i.e. Union list), vocational and technical training of labour".

Entry 63 deals with special universities like Benares Hindu, Aligarh Muslim, Delhi & Andhra Universities.

Entries 64, 65 and 66 have been reproduced in the Sri Lanka Reserved List except for a variation (intentional or otherwise, it is not known) under item corresponding to Item 65 in the Union List which speaks of Union Agencies and Institutions, whereas the Reserved list item under the Heading "Professional Occupations and Training" refers to Provincial Agencies.

This being so, the restrictions imposed as detailed below, in Appendix III have no meaning unless it is the Sri Lanka Government's intention to continue to throttle the education of the Tamil children.

The restrictions in the Appendix are:

Para (1) (i) National Schools, (ii) Special Schools for service personnel, and (iii) Schools for specified development schemes are excluded from the Provincial Council control.

Defence being an undisputed Central Government subject, only item (ii) should be excluded.

Para (3): What is "National Service" has not been defined. What the composition of the Public Service Commission referred to, is not clear because, for the educational services there is only an Education Service Commission and for each Provincial Council there must be such a corresponding Commission. The idea of an appeal to the Public Service Commission should be done away with.

Para 7: Even the appointment of Principals of 1 A, B, C schools should be a Provincial Council subject. Incidentally, the words "in concurrence with the Provincial Authority" in the Draft Proposals (page 104, para 7) have been (surreptitiously) deleted in the Constitutional Amendment.

Paras 8, 15, 19: The National Institute of Education has to be re-constituted and allowed to function on the basis of our earlier suggestion at page 44. regarding national policy. Para 8 & 9: Training of teachers etc, and the appointment of Provincial Boards of Education should be a Provincial Council subject.

Para 10: Specifications will have to be laid down before the Provincial Councils start functioning.

Para 22: Excepted items of science equipment should be indicated before the Provincial Councils start functioning.

Para 24: The Composition and set up of the National Library Service has to be clarified before-hand.

Financial Provisions

In view of its importance we propose to deal with this subject under the Provincial list.

We give below the composition power, etc of the Finance Commission to be set up under Article 154R of the amended

Sri Lankan Constitution and the Finance Commission set-up in the Indian Constitution under Articles 280 and 281.

Finance Commission under the Indian Constitution

1. Consists of a Chairman and 4 other members, the qualifications of the members and the manner in which they shall be selected may be determined by law by Parliament.

Finance commission under the Sri Lankan Constitution

1. Consists of the Governor of the Central Bank, the Secretary to the Treasury and 3 other members representing the 3 major communities each of whom shall be a person who has distinguished himself or held high office in the field of finance, law, administration, business or learning.

Duties of the Commission

To make recommendations to the President as to -

The Government shall, on the recommendation and in consultation with the Commission allocate from the annual budget such funds as are adequate for the purpose of meeting the needs of the provinces. And the Commission shall make recommendations to the President as to.

(a) the distribution between the Union and the States of the net proceeds of taxes which are to be or may be divided between them under this Chapter and the allocation between the States of the respective shares of such proceeds.

(a) the principles on which such funds (i. e. as allocated from the annual Budget) should be apportioned between the various provinces.

Finance Commission under the Indian Constitution

(b) the principles which should govern the grants in aid of the revenues of the States out of the consolidated Fund of India.

(c) any other matter referred to the Commission by the President in the interest of sound Finance.

Finance Commission under the Sri Lankan Constitution

(b) (There is no corresponding clause).

(c) any other matter referred to the Commission by the President relating to Provincial Finance.

It will be seen from the above that clause (a) in the Indian Constitution is much wider in scope and the sources of revenue are already stipulated unlike in the Sri Lankan Constitution where Government determines, at its discretion, the annual allocations to be apportioned.

Consolidated (Provincial) Fund and Contingencies (Emergency) Funds in the two Countries

Article 283(2) of the Indian Constitution states that "The custody of the Consolidated Fund of a State and the Contingency Fund of a state, the payment of moneys into such Funds, the withdrawal of moneys therefrom and all other matters connected with or ancillary to matters aforesaid shall be **regulated by laws made by the Legislature of the State** and until provision in that behalf is so made, shall be regulated by laws made by the Governor of the State.

The Constitutional Amendment of Sri Lanka has no corresponding provision and it is only the Provincial Councils Act No. 42 of 1987 that deals with this matter. Section 19 (5) deals with the Provincial Fund, while Section 20 (2) deals with the Emergency Fund, but in **both cases action is regulated in accordance with rules made only by the Governor (not the Provincial Council).**

The Indian Constitution provides for distribution of Revenue between the Union and the States as below:

- Article 268:** Deals with Duties levied by the Union but are collected and appropriated by the States in respect of such stamp duties and such duties of excise on medicinal and toilet preparations as are mentioned in the Union list.
- Article 269:** Deals with Taxes levied and collected by the Union but assigned to the States in respect of 7 specified items.
- Article 270:** Deals with taxes levied and collected by the Union and distributed between the Union and the States in the manner prescribed in subsection 2.
- Article 272:** Deals with taxes levied and collected by the Union but may be distributed between the Union and the States according to law passed by parliament.
- Article 275:** Deals with Grants-in-aid to certain States as Parliament may determine to be in need of assistance.
- Article 282 :** Empowers the Union or a State to make grants for any public purpose notwithstanding that the purpose is not one with respect to which Parliament or the Legislature of the State, as the case may be, may make laws.
- Article 298 :** Says that the executive power of the Union and of each State shall extend to the carrying on of any trade or business and the acquisition, holding and disposal of property and the making of contracts for any purpose, subject to certain provisos.

The above mentioned specific arrangements for the funding of the Provincial Councils are not to be found in the Sri Lankan Constitutional Amendment. Thus the North - Eastern Provincial Council is bound to flounder from the very start for want of adequate finances.

Contracts and Suits

Article 299(1) of the Indian Constitution states that all contracts made in the exercise of the executive power of the State shall be executed on behalf of the Governor by such persons and in such manner as he may direct or authorise.

However, Section 16(2) of the Provincial Council Act States that all actions ... as if such Provincial Council were a body corporate. Article 299(2) of the Indian Constitution says that the Governor or any person making or executing any such contract shall not be personally liable in respect of any contract or assurance made or executed for the purpose of this constitution.

Article 300 of the Indian Constitution states that the Government of a State may sue or be sued by the name of the State ..

Courts

Item 65 in the Indian State list is as follows:

"Jurisdiction and powers of all courts, except the Supreme Court, with respect to any of the matters in this list"

In the Indian Concurrent list, Entry 11 A Reads thus:

"Administration of Justice, constitution and organisation of all Courts except the Supreme Court and the High Court"

And entry 46 reads thus:

"Jurisdiction and powers of all Courts, except the Supreme Court with respect to any of the matters in this list"

In the Indian Union list, Entry No. 95 reads as follows:

"Jurisdiction and powers of all courts except the Supreme Court with respect to any of the matters in this list, admiralty jurisdiction".

In the Sri Lanka list there are no corresponding items both in the Provincial and Concurrent lists. Jurisdiction and powers of all Courts except the Court of Appeal are all included in the Reserved list. This matter should be adjusted to bring the matter in line with the Indian Constitution.

Legislative Powers of the Provincial Councils

At the Bangalore discussions the Indian Side had suggested, inter alia, the following: (P.114 of the Draft Proposals).

Para 4: The incorporation of a suitable provision in the Analogy of Article 249 of the Indian Constitution to restrict further the Sri Lankan parliament's power to legislate on matters in the Provincial Council list.

Para 5: The incorporation of a suitable provision similar to Ar. 254 of the Indian Constitution in respect of a Provincial Council's power to make a statute before or after a Parliamentary law on a matter in the Concurrent list, and on the Provincial Council's power to amend a Parliamentary law in respect of a matter in the Concurrent List.

The Sri Lankan Government's suggestions are embodied in Page 121 of the Draft Proposals regarding Provincial list matters (Item 4). and page 122 regarding concurrent list matters (item 5).

Broken Promises and Deception

The irony of the whole thing is that in respect of matters in the Provincial Council list, the Sri Lankan Government repeats clauses 2 and 3 of the Draft Bill in pages 57 and 58 of the Draft Proposals (omitting the proviso to clause (b). for what purpose we do not know unless it is to hoodwink the Indian Side) and adds a sub-clause (c) on the lines of Article 249 which however, has not been included in the Constitutional Amendment.

In regard to the Concurrent list matters, the Sri Lankan side's suggested amendment is on P. 122 (Item 5) which is on the line of Article 254 with a condition that "If this formulation is to be adopted, the President must have the power to give or withhold assent".

However, neither of these agreed amendments find a place in the Constitutional Amendment. What has the Indian Government got to say to this breach of faith on the part of the Sri Lankan Government?

(b) Concurrent List

The Indian List has 52 items of which about 16 find a place in the Sri Lankan list. The more important items which are omitted in the Sri Lankan list are:

- Item 5 Marriage and Intestacy and succession, joint family and partition.
- „ 6 Transfer of property other than agricultural land; registration of deeds and documents
- „ 7 Contracts, including partnership, agency..... agricultural land.
- „ 8 Actionable wrongs.
- „ 9 Bankruptcy and insolvency.
- „ 10 Trust and Trustees.
- Item 11A : Administration of Justice, Constitution and Organisation of all courts except the Supreme Court.
- „ 15 Vagrancy.
- „ 16 Lunacy and mental deficiency.
- „ 17 Prevention of cruelty to animals.
- „ 17A Forests (Note: Only social forestry is included in the Sri Lankan list).
- „ 22 Trade Unions; industrial and labour disputes.
- „ 24 Welfare of labour, including conditions of work... maternity benefits.
- „ 26 Legal, Medical and other professions.
- „ 32 Shipping and navigation on inland waterways..... subject to the provision of List 1 with respect to National waterways.
- „ 33 Weights and Measures.

- Item 35 Mechanically propelled vehicles including the principles on which taxes are to be levied.
- „ 36 Factories.
- „ 37 Boilers.
- „ 44 Stamp duties other than duties or fees collected by means of judicial stamps, but not including rates of stamp duty.
- „ 46 Jurisdiction and powers of all courts except the Supreme Court with respect to any of the matters in this list.

In our opinion at least the following items in the Sri Lankan Concurrent List should be transferred to the Provincial Councils List in order to avoid friction and conflict.

- Item 11 Re-naming of Towns and Villages.
- „ 19 Fisheries other than fishing beyond territorial waters.
(This is so in the Indian Constitution).

(c) Reserved List

The Indian Constitution lists 99 items, and significantly, as many as 79 items have been reproduced word for word in the Sri Lankan Reserved List. The following items are circumscribed by laws to be made by Parliament, but the laws are not specified:

Defence and National Security

Item (h) ; Industries declared by Parliament by law.....
war.

Ports and Harbours

(a) Ports declared by or under law made by Parliament or existing law to be major ports including their delimitationtherein (Note : "Delimitation" has to be defined).
Please see further observations in Page 62 below.

National Transport

(b) Highways declared by or under law made by Parliament to be National Highways.

Rivers and waterways etc.

(c) Shipping.....declared by Parliament by law to be National waterways.

(e) Regulation.....declared by Parliament by law to be expedient in the public interest

(g) Property save in so far as Parliament by law otherwise provides.

Minerals and Mines

Item (a) Regulation.....substances declared by Parliament by law.....inflammable.

Item (b) Regulation of.....is declared by Parliament by law to be expedient in the public interest.

Professional Occupations and Training

Item (a) Institutions...declared by law ... national importance

Item (b) Institutions..... declared by law to be institutions of national importance.

National Archives etc.

Ancient.....declared by or under law made by Parliament to be of national importance.

Other subjects including:

Item (g) Industries declared by law..... in the public interest.

Item (e) Institutions.... declared by Parliament by law to be institutions of national importance.

The other observations we wish to make are:

(1) Unlike in the Indian Constitution where the items are numbered, in the Sri Lankan Constitution, they are first grouped under different headings and then specified, prefaced by the words "This would include" This is bound to result in ambiguity and disputes. For example "Television" is included under the Heading, but is not itemised.

(2) In view of the very tendentious reporting of news affecting Tamil interests by both the State owned radio and Television stations at least these two subjects should be transferred to the Concurrent list.

(3) With a view to capital formation by the Provincial Councils Banking, Insurance and National Savings Bank should be under the Concurrent List even though these are in the Indian Union list.

(4) (a) Ports and Harbours:

Though only "Major ports" have been brought under the Reserved list, the failure to include "Minor Ports" under the Provincial Council list can be a trick, because by virtue of the omnibus clause in the Reserved list - which reads: "All subjects and functions not specified in list I or list III", the Minor Ports too will automatically come under the Reserved list. The Provincial Councils should have control over atleast the Minor Ports - which is the case in the Indian Constitution - vide entry 31 in the Concurrent List.

(b) Ports and Harbours; Aviation and Airport

The over centralisation of these activities in Colombo is detrimental to a balanced development of the other regions. Colombo and its suburbs have become over crowded and there has been a reluctance on the part of top management to go to unbalanced areas of the country. A sense of inequality, unmet needs and missed opportunities call for a reasonable share of

the above-mentioned activities to the periphery, which will result in achieving substantial economy in distribution to the country as a whole and more balanced development of the economy in the Provinces.

From the ethnic point of view also, the Tamil Homeland will immensely benefit if a minimum share of the shipping and Air traffic is diverted through Ports and Harbours and Airports in the North-Eastern Provincial Council area. It is essential that this matter too should receive due attention during the discussions on other unresolved matters.

(5) National Transport.

In the Draft Proposals (Page 85) item (c) does not include carriage of passengers and goods by land. Even the Indian Union list (Entry No. 30, does not include carriage by land. This subject has been surreptitiously included in the Constitutional Amendment. What has the Indian Government got to say to this Fraud?

(6) Rivers and Waterways etc.

Item (b) is an exact reproduction of Item 24 in the Indian Union list. However, item 32 in the Union's Concurrent List covers the subject not provided for in the Union list. The absence of such a corresponding item in the Sri Lankan Government's Concurrent List leads to the same situation as at 4(a) above.

(7) Elections to Legislatures.

This is an item in the Concurrent List in India (Entry 37) and also a Union item (Entry 72). The Sri Lankan Constitutional Amendment has no corresponding entry in the Concurrent List.

Professional Occupations and Training.

Item (c) ; The corresponding entry (No.65) in the Indian list refers to "Union" Agencies-not "state" agencies. This is obviously a drafting error carried in to the Constitutional

Amendment and must be rectified. It will be seen from the foregoing that quite apart from the inadequacy of the Provincial Council structure as a means of solving the Ethnic problem much groundwork has to be done to:

- (1) Clarify the various restrictions envisaged in future Parliamentary laws.
- (2) Re-define what "national interest" and "public interest" would be under the newly recognised character of Sri Lanka as a plural society.
- (3) Rectify the deficiencies, errors (some even fraudulently incorporated) and settle the unsettled matters in the powers of the proposed Provincial Council for the combined North-Eastern Province.

In fact it was only recently reported that the President has asked for reports from his various Ministers outlining the scope of the powers they propose to devolve on the Provincial Councils — a cart before the horse policy, as described by the former Indian foreign secretary Mr. A. P. Venkateswaran. This takes us to the final subject envisaged in this Booklet.

G — INTERIM ADMINISTRATION

The setting up of an Interim Administration during the transitional period was one of the far-reaching decisions taken at the Bangalore discussions.

Paras 10, 10.1, 10.2, and 10.3 of the Working Paper on the Bangalore Discussions (P. 116 of the Draft Proposal) are as follows:

10. The President shall, in consultation with the signatories to this Accord, appoint an Administrator for the Northern Province, and Administrator/Administrators for the Provincial Council/Councils in the East.

10.1 The President shall also appoint 5 persons representing the ethnic groups in each Province as Members of the Advisory Council to aid and advise the Administrator. The Administrator shall function as Administrator-in-Council and the executive powers of the President shall during the period of transition, be exercised by the Administrator-in-Council.

10.2 The Administrator-in-Council shall be the Head of the Civil Administration in the Province until the Provincial Council is constituted and the elected Government assumes office. He shall be responsible for the maintenance of law and order.

10.3 It was felt that while the I.A.C. would ensure that there is a smooth and peaceful transition to the establishment of Provincial Councils, safeguards must be provided for the smooth functioning of the I.A.C. itself and resolution of differences among the members of the I.A.C. Hence, it is proposed that any differences pertaining to elections shall be resolved by the Election Commission and any difference pertaining to the civil administration shall be resolved by the President.

Note : At this time there was a suggestion to set up three Provincial Councils for the Eastern Province, which idea was later abandoned.

The formulations suggested by the Sri Lankan side are as follows:

10.1 The President shall appoint a Chief Administrative Officer for the Northern Province and the Eastern Province. The functions of the Chief Administrative Officer are:

(a) to co-ordinate all civilian administration in the Province, particularly the maintenance of law and order and the restoration of road, rail, telecommunication links and providing of essential services.

(b) functioning as Returning Officer for the Province for the purpose of holding elections to the Provincial Council when they are constituted. (Emphasis ours)

Finally, the following para appears under the Heading "Observations on the Working Paper on Bangalore Discussion" on page 123 of the Draft Proposals:

10. **Interim Administrator**

Agreed. The powers required by the Administrator for the restoration of normal civilian administration will be delegated by the President; as to the nature of these powers, see para 10.1 of the Sri Lanka formulations at Bangalore.

10.3 Reference should be to Commissioner of Elections. It will therefore be seen that the appointment of an Interim Administrator, aided and advised by an Advisory Council, is a part and parcel of the Indo-Sri Lanka Agreement, the only difference being that with the setting up of the Provincial Council for the combined North-Eastern Provinces, there has to be only one Administrator and one Advisory Council of 10 members.

Interim Government — a Sine qua non for North-Eastern Provincial Council Election.

Quite apart from the fact that a large amount of ground work has to be done during the transitional period, the setting up of the Interim Government is absolutely essential because the Chief Administrator will have to function as the **Returning Officer for the Province for the purpose of holding elections to the Provincial Council**. Any refusal on the part of the Sri Lankan Government to set up this Interim Government will therefore, be a breach of the Agreement.

There are other equally compelling reasons for the setting up of the Interim Government, the more important ones being:

Need to set up Administrative Structure

1. Para 4 of clause 15 and also para 3 of clause 16 of the "Addendum, to clarify certain aspects of the Draft Accord" (Page 25 of the Draft Proposals) is as follows:
 4. Notwithstanding the constitution of a Provincial Council it will be necessary for the Government to maintain the existing administrative structure in each administrative district (for the purpose of the exercise, performance, and discharge of powers, duties and functions by the Government at district level). **Provincial Councils themselves will probably need similar district level administrative structures.** (Emphasis ours).

It will therefore, be seen that a district level administrative structure is necessary for the Provincial Council to start functioning, when elected. Naturally this structure has to be set up during the period of administration by the Interim Government.

Need to set up Tamil Police Force

2. For the restoration of peace and normalcy and restoration of the civil administration, the setting up of the necessary (Tamil) Police Force is essential. More than 7 months have passed since the signing of the Agreement and yet not even an attempt has been made to set up the Police Force. Instead, the Sri Lankan Government is recruiting some personnel for a Reserve Police, and so far some men have been recruited only for Trincomalee district and they are undergoing training. In this connection please see our remarks on page 26 et seq on the subject of Law and Order. Why the Sri Lankan Government is recruiting only Reserve Police personnel is not clear. Be that as it may,

the setting up of the (Tamil) Police Force has to be done during the period of transition.

3. Task of Rehabilitation and Reconstruction

A gigantic task of Rehabilitation and Reconstruction work has to be undertaken to restore peace and normalcy to the North-Eastern Province. This cannot await the elections to the Provincial Council because the election itself cannot be held till the various problems enumerated by us are sorted. The only sensible thing, therefore, is for an early start to be made by the Interim Administration.

Obligations cast on the Sri Lankan Government

The only obligation cast on the militants under the Agreement is the surrender of arms, while the Sri Lanka Government has failed to fulfil in full every one of its obligations. Without bringing pressure on the Sri Lankan Government to honour its obligations, we are at a loss to understand why the Indian Government is insisting on the surrender of the arms by the L.T.T.E. (the arms that were probably allowed to be retained and which after all, were remaining idle till the L.T.T.E. was again proscribed and its cadres attacked) as a pre-condition for the suspension of the military operations against the L.T.T.E. (and consequently, against the civilian Tamils of Eelam).

Clause 2.9 of the Agreement lays down that "consequent to the cessation of hostilities, the Army and other security personnel will be moved back to barracks in camps as on 25th may 1987". Naturally, this precludes the opening of new camps. But what is happening today in the Trincomalee district? The Sri Lankan Government is more keen on the

re-settlement of Sinhalese refugees than of Tamil refugees. The "Virakesari" of 27th February 1988 carries a news report that a number of Tamil refugees who had been displaced from the Kappalthurai Village in 1983 were being prevented from returning to their village.

Recently, there has been an attack on some Sinhalese villagers and another attack on some Sinhalese refugees returning to the areas from which they had been displaced, resulting in some deaths. Apparently in retaliation, some Tamil and Muslim passengers travelling in a mini-bus had been killed. Following the attacks on the Sinhalese, there were news reports that the Indian and Sri Lankan armies would carry out joint-patrolling in the Trincomalee area. However, this report has been denied by the Hon'ble Natwar Singh in the Rajya Sabha. But, a press release by the Sri Lankan Information Department on 18th March 1988 stated that in the Eastern Province the Sri Lankan Army and the I.P.K.F. would co-operate to provide security to Sinhalese and Muslim Villages which were being subjected to attacks.

Breaches of the Agreement

Minister Gamini Dissanayake has stated, after his recent talks in New Delhi, that the Sri Lankan Army would not carry offensive operations but that arrangements have been made for it to carry out security operations necessary to control situations. (Virakesari of 20th March 1988). A sample of this arrangement is provided by what happened at Kurinchankulam recently, which incident had been confirmed at a press conference held on 18th March 1988 at Trincomalee by the Deputy Co-ordinating Officer. According to a news report, on receiving information of an imminent attack on the Sinhalese living in this Village, the Sri Lankan Army had gone out in

search of the L.T.T.E. Camp and attacked it, killing 10 Tigers including some girl militants. The Deputy Co-ordinating Officer had also stated that though there had been attacks on Sinhalese villages the Sri Lankan Army had not been strengthened in the area. But the "Virakesari" of 21st March 1988 carries a report to the effect that 2500 Sri Lankan Army personnel had been sent to the Eastern Province following the talks in New Delhi. The re-inforcing of the Sri Lankan Army implies that new army camps are being set up in violation of Clause 2.9 of the Agreement. When there are attacks on Sinhalese villagers, inspite of the presence of thousands of I.P.K.F. personnel in the area, the Sri Lankan Government too rushes its troops to the area to provide security to the villagers. But though the I.P.K.F. is unable to prevent killing of Tamils, instead of augmenting its strength in the area, it is still bent on using its personnel on hounding out the L. T. T. E. and disarming them. What a tragedy the Tamils are facing!

Conclusion

Finally, we come to the question which forms the subtitle to this booklet, viz. "Can the Indo - Sri Lanka Agreement provide a long term solution to the Ethnic Conflict?"

Our answer is a "No", If the Sri Lankan Government continues with its policies of racism and deception and the Indian Government abandons its neutral attitude and takes the side of the Sri Lankan Government, (According to a report by Iqbal Athas in the "Weekend" of 7th February 1988, the President is reported to have told a cabinet meeting, "India is on our side. Don't have any fears or apprehensions about them".) and sits smugly in the satisfaction that its geopolitical interests remain safe-guarded, while its army continues its military operations against the L.T.T.E and the civilian Tamils.

Our answer is a "Yes", if both the Sri Lankan and Indian Governments agree to discuss with the L.T.T.E., in a spirit of sincerity, all the draw backs and short-comings in the proposed Provincial Council Structure and agree to rectify them and evolve a new political structure, and incidentally doing away with or amending all the pro-Sinhala features (regarding Buddhism, the Lion Flag, Sinhala National Anthem, etc. in the Constitution), which will provide for a regional Tamil State (Within a United Sri Lanka) fulfilling all the lofty ideals enunciated in para 1.2, 1.3, 1.4 and 1.5 of the Indo-Sri Lanka Agreement of 29th July 1987. Before the Indian Government calls upon the L.T.T.E. to accept the Agreement, strictly speaking, it is the two Governments that have to make up their minds in the first instance to implement the Agreement to its letter and spirit.

Our answer is a "Yes". If both the Sri Lankan and Indian Governments agree to discuss with the I.T.E. in a spirit of sincerity all the drawbacks and shortcomings in the proposed Provincial Council structure and agree to rectify them and evolve a new political structure and incidentally doing away with or amending all the pro-Sinhala features (regarding Buddhism, the Lion Flag, Sinhala National Anthem, etc. in the Constitution), which will provide for a regional-Tamil State (Within a United Sri Lanka) fulfilling all the lofty ideals enunciated in para 13, 14 and 15 of the Indo-Sri Lanka Agreement of 29th July 1987. Before the Indian Government calls upon the I.T.E. to accept the Agreement strictly speaking, it is the two Governments that have to make up their minds in the first instance to implement the Agreement to its letter and spirit.

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The 1950-51 Lumber Agreement provides a long
relation to the Lumber Council.

On March 1, 1951, the Lumber Council
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