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No. 5 1961

(K) 1963

Supreme Court of Ceylon,
No. 250 of 1960.

Application for the grant and issue
of Mandates in the nature of Writs
of Certiorari and Mandamus.

IN HER MAJESTY'S PRIVY COUNCIL
ON AN APPEAL FROM
THE SUPREME COURT OF CEYLON

BETWEEN

SIDNEY GODFREY DE ZOYSA of
No. C 37, Mackenzie Road, Colombo 5, now of No. 541,
Tewatte Road, Ragama.....

AND

1. THE PUBLIC SERVICE COMMISSION,
The Secretariat, Colombo 1.
2. SIR HERBERT ERIC JANSZ of
Nos. 9 and 11, Stag Lane, Thimbirigasyaya, Colombo 5.
3. JOSEPH NALLIAH ARUMUGAM of
No. 115, McCarthy Road, Colombo 7.
4. GEORGE REGINALD DE SILVA of
"Green Lodge" Skinner's Road North, Colombo 13.
5. GINIGE CYRIL THAINE ARTHUR DE SILVA of
No. 2, Police Park Terrace, Colombo 5.....*Respondents.*
6. HECTOR SENARATH RAJAKARUNA BANDA
KOBBEKADUWA of No. 114, Ampitiya Road,
Kandy, *substituted in place of the 4th Respondent-
deceased*..... *Substituted-Respondent.*

Petitioner-Appellant.
UNIVERSITY OF LONDON
INSTITUTE OF ADVANCED
LEGAL STUDIES
19 JUN 1961
25 RUSSELL SQUARE
LONDON, W.C.1.

74072

RECORD
OF PROCEEDINGS

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No.....

Supreme Court of Ceylon,
No. 250 of 1960.

Application for the grant and issue
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IN HER MAJESTY'S PRIVY COUNCIL
ON AN APPEAL FROM
THE SUPREME COURT OF CEYLON

BETWEEN

SIDNEY GODFREY DE ZOYSA of
No. C 37, Mackenzie Road, Colombo 5, now of No. 541,
Tewatte Road, Ragama.....*Petitioner-Appellant.*

AND

1. THE PUBLIC SERVICE COMMISSION.
The Secretariat, Colombo 1.
2. SIR HERBERT ERIC JANSZ of
Nos. 9 and 11, Stag Lane, Thimbirigasyaya, Colombo 5.
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"Green Lodge" Skinner's Road North, Colombo 13.
5. GINIGE CYRIL THAINE ARTHUR DE SILVA of
No. 2, Police Park Terrace, Colombo 5.....*Respondents.*
6. HECTOR SENARATH RAJAKARUNA BANDA
KOBBEKADUWA of No. 114, Ampitiya Road,
Kandy, *substituted in place of the 4th Respondent-*
deceased..... *Substituted-Respondent.*

RECORD
OF PROCEEDINGS

SUPREME COURT MINUTE PAPER ON APPLICATIONS

Subject: Application for a Writ of Centiorari and/or Mandamus on the
Public Service Commission and three others.

Date : 1st June, 1960.

Papers filed in the Registry, Supreme Court.

ORDER

10 Date

2-6-60. List on 3-6-60.

(Intld.) W. G. W.

3-6-60.

Before T. S. FERNANDO, J.

H. V. PERERA, Q.C., with H. W. JAYAWARDENA, Q.C., with
S. J. KADIRGAMAR, W. T. P. GOONETILLEKE and H. L. E.
COORAY for the Petitioner.

Notice to issue on the 1st Respondent, The Public Service Commission,
copies of the notice to be served on each of the three members constituting
20 the Commission. Notice will also be served on the 2nd, 3rd and 4th res-
pondents.

(Sgd.) C. TOUSSAINT,
Clerk of Appeal.

No. 1
Journal
Entries
1-6-60 to
15-11-60
—continued.

- 7-6-60. Copies called for. (Intld.) L. W.
- 10-6-60. Notice to Fiscal, Colombo, for 20th June, 1961.
- 14-6-60. Notice served. (Intld.) P. L.
- 14-6-60. List on 20-6-60. (Intld.) W. G. W.
- 29-6-60. Messrs. Julius & Creasy by their Motion dated 29-6-60 wants this matter listed on 1-7-60 to fix a date.

(Intld.) L. W. 10

1-7-60.

Before T. S. FERNANDO, J.

H. V. PERERA, Q.C., with H. W. JAYAWARDENA, Q.C., S. J. KADIRGAMAR, W. T. P. GUNATILLEKE and H. L. E. COORAY for Petitioner.

V. TENNEKON, Deputy Solicitor-General with R. S. WANASUNDERA, Crown Counsel, for the 2nd, 3rd and 4th respondents.

Time given to the Respondents till 1st August, 1960, to file affidavits. 20

(Intld.) R. J.

23-8-60. List on 12-9-60.

(Intld.) W. G. W.

2-9-60. Proctors for Petitioner file Petition with annexes and affidavit of Mr. S. Zoysa.

(Intld.) L. W.

2-9-60.

Before H. N. G. FERNANDO, J.

H. V. PERERA, Q.C., in support.

ORDER

30

The application that Mr. H. S. R. B. Kobbekaduwa be substituted in place of the 4th respondent who is stated to be

deceased is allowed, and the application that notice of the subsequent petition be served on the substituted 4th respondent is allowed. (Dictated).

No. 1
Journal
Entries
1-8-60 to
15-11-60
—continued.

(Sgd.) L. A. FERNANDO.
Clerk of Appeal.

3-9-60. Notice to Fiscal, Kandy, for 12-9-60.

(Intld.).....

6-9-60. Notice served on substituted 4th respondent.

(Intld.)

10 6-9-60. Delete from List of 12-9-60 since Justice T. S. Fernando, who will be taking the Single List that day, does not wish to hear this application.

(Intld.) W. G. W.
6-9-60.

9-9-60. Proctors for Petitioner file their list of Witnesses and Documents and move for summons.

(Intld.) L. W.

13-9-60.

Before T. S. FERNANDO, J.

20

H. V. PERERA, Q.C., with H. W. JAYAWARDENA, Q.C., S. J. KADIRGAMAR, W. T. P. GUNATILLEKE and H. L. E. COORAY for the Petitioner.

V. TENNEKOON, Senior Crown Counsel, for Respondents.

(Dictated).

The matter to be listed for hearing on the 29th September, 1960, and to be continued on the 30th if necessary. Application to issue summons on the Permanent Secretary, Mr. G. C. T. A. de Silva, Ministry of Justice for the production of certain documents is allowed. Summons to attend will be on the 29th.

30

(Intld.) L. A. F.
Clerk of Appeal.

15-9-60. Summons issued to Fiscal, Colombo, for 29-9-60.

(Intld.) L. W.

20-9-60. Summons served.

(Intld.) L. W.

No. 1
Journal
Entries
1-6-60 to
15-11-60
—continued.

20- 9-60. List on 29-9-60 and 30-9-60.

(Intld.) W. G. W.

29- 9-60. Crown Proctor files Proxy of Substituted Respondent.

(Intld.) L. W.

29- 9-60. Summons to Fiscal, Colombo, for 4-10-60 on Mr. G. C. T. A. de Silva.

(Intld.).....

30- 9-60. Summons served.

3-10-60. List on 4-10-60.

(Intld.) W. G. W. 10

17-10-60.

Before H. N. G. FERNANDO, J.

H. V. PERERA, Q.C., with H. W. JAYAWARDENA, Q.C., S. J. KADIRGAMAR, W. T. P. GOONETILLEKE and H. L. E. COORAY for the Petitioner.

V. TENNEKOON, Deputy Solicitor-General with B. C. F. JAYARATNE, Senior Crown Counsel, for the Petitioner.

V. TENNEKOON, Deputy Solicitor-General, with B. C. F. JAYARATNE, Senior Crown Counsel, and R. S. WANASUNDERA, Crown Counsel, for the 2nd and 3rd Respondents and the 20 4th Substituted Respondent.

To be resumed.

(Sgd.) C. TOUSSAINT.
Clerk of Appeal.

18-10-60.

Before H. N. G. FERNANDO, J.

Same Counsel as before.

To be resumed.

(Sgd.) C. TOUSSAINT.
Clerk of Appeal. 30

20-10-60.

Before H. N. G. FERNANDO, J.

Same Counsel as before.

To be resumed.

(Sgd.) C. TOUSSAINT.
Clerk of Appeal.

21-10-60. Before H. N. G. FERNANDO, J.
Same Counsel as before.

C. A. V.

(Sgd.) C. TOUSSAINT.
Clerk of Appeal.

No. 1
Journal
Entries
1-6-60 to
15-11-60.
—continued.

15-11-60. Judgment delivered—Application refused.

(Intld.) L. W.

No. 2

Petition of S. G. de Zoysa with annexes marked A—R

No. 2
Petition of
S. G.
de Zoysa
with annexes
marked
"A" "R"
31-5-60.

10 IN THE HONOURABLE THE SUPREME COURT OF THE
ISLAND OF CEYLON

In the Matter of an Application for the grant and issue of Mandates in the nature of Writs of Certiorari and Mandamus in terms of Section 42 of the Courts Ordinance (Cap. 6) of the Revised Legislative Enactments of Ceylon.

SIDNEY GODFREY DE ZOYSA
of C-37, Mackenzie Road, Colombo 5.....*Petitioner.*

vs.

- 1. THE PUBLIC SERVICE COMMISSION, the Secretariat,
20 Colombo.
- 2. SIR HERBERT ERIC JANSZ, of 9 and 11 Stag Lane,
Thimbirigasyaya, Colombo 5.
- 3. JOSEPH NALLIAH ARUMUGAM, of 115, Macarthy
Road, Colombo 7.
- 4. GEORGE REGINALD DE SILVA, of Green Lodge,
Skinner's Road North, Colombo 13.....*Respondents.*

To :

80 HIS LORDSHIP THE HONOURABLE THE CHIEF JUSTICE AND TO THEIR LORD-
SHIPS THE HONOURABLE THE PUISNE JUDGES OF THE HONOURABLE THE
SUPREME COURT OF THE ISLAND OF CEYLON.

On this 31st day of May 1960.

No. 2
Petition of
S. G.
de Zoysa
with annexes
marked
"A"—"R".
31-5-60.
—continued.

The Petition of the Petitioner abovenamed appearing by FREDERICK CLAUDE ROWAN, JOSEPH FRANCIS MARTYN, HENRIC THEODORE PERERA, JAMES ARELUPAR NAIDOO and ALEXANDER RICHARD NEVILLE DE FONSEKA, Proctors of the Honourable the Supreme Court of the Island of Ceylon, carrying on business in partnership under the name and style of JULIUS AND CREASY and their assistants JOHN CLAUDE BYRNELL, ALEXANDER NEREUS WIRATUNGA, LENA CHARLOTTE FERNANDO, FRANCIS LUKE THEODORE MARTYN, REX HERBERT SEBASTIAN PHILLIPS, REGINALD FREDERICK MIRANDO, JOHN AJASATH RANCOTH WEERASINGHE, BERTRAM MANSON AMARASEKERA, BRINDLEY RATWATTE, JUSTIN MERVYN CANAGARETNA, JAMES 10 ORLANDO DE SAA BANDARANAIKE, MARCIA LUCILLE MARTYN, GERALD EBENEZER AB EYNAIKE, NADARASA RATHINASAPAPATHY RAJARATNAM SENATHI RAJAH, SHELTON VERNON PERERA and SARAVANAMUTTU KUGAPERUMAL, Proctors of the said Honourable Court, his Proctors, states as follows :—

1. The first Respondent is the Public Service Commission created and established by, and in terms of, Section 58 of the Ceylon (Constitution) Order-in-Council 1946.
2. At all times relevant and material to this Petition and referred to hereinafter, the second, third and fourth Respondents were the three persons appointed by the Governor-General, who in terms of the said Section 58, 20 were the persons who constituted the said Public Service Commission. The second Respondent is also the Chairman of the said Public Service Commission.
3. On or about the 7th day of December 1931 the Petitioner was appointed a probationary Assistant Superintendent in the Ceylon Police Force, and on or about the 7th day of December 1933 the Petitioner was confirmed in his appointment and promoted to the rank of Assistant Superintendent of Police.
4. The Petitioner has, since his appointment aforesaid and continuously thereafter, served in the Ceylon Police Force as an Officer until the 30 time and date mentioned more specifically hereinafter. The Petitioner served as Police Officer in several parts of the Island in the ranks of Assistant Superintendent of Police, Superintendent of Police, and Deputy Inspector General of Police. The Petitioner was promoted and appointed to the rank of Deputy Inspector General of Police on or about the 29th day of January 1955 on a salary of Rs. 15,750/- per annum and in November 1959 was drawing a salary of Rs. 19,500/- per annum.
5. While the Petitioner was serving in the said rank of Deputy Inspector General of Police the Petitioner received from the said Public Service Commission a notification signed by E. G. Goonewardene, Secretary, Public 40 Service Commission, and dated 27th November 1959, to the effect that the Public Service Commission has ordered that the Petitioner be retired from the Public Service with effect from 1st March 1960. (A true and certified copy of the said letter is produced and filed herewith marked ' A ').

6. On the 27th day of November 1959 the Permanent Secretary to the Ministry of Justice (G. C. T. A. de Silva) addressed a letter to the Inspector General of Police to the effect that the Public Service Commission had on the 27th day of November 1959 made an order requiring the Petitioner to retire from service with effect from 1st March 1960 and authorising the Inspector General of Police to place the Petitioner on leave with immediate effect. The Inspector General of Police by an order dated 27th November 1959 addressed to the Petitioner and endorsed on the said letter, placed the Petitioner on leave, in terms of the said letter, as from 27th November 1959. (A true and certified copy of the said letter dated 27th November 1959 bearing the said order endorsed on it is produced and filed herewith marked ' B ').

7. On or about the 30th day of November 1959 the Petitioner, as he was lawfully entitled to do, addressed the Chairman of the Public Service Commission (namely the second Respondent abovenamed) by letter and enquired the reason ' for this sudden decision to retire the Petitioner from the Public Service '. (A true and certified copy of the said letter is produced and filed herewith marked ' C ').

8. The Petitioner received no reply to the said letter marked ' C '.

9. On or about the 7th day of December 1959 the Petitioner, as he was lawfully entitled to do, addressed an appeal to the said Public Service Commission against the aforesaid order of retirement of the Petitioner. (A true and certified copy of the said appeal is produced and filed herewith marked ' D ').

10. On or about the 16th day of December 1959 the Petitioner received through the Inspector of General of Police a copy of a letter dated 11th December 1959 addressed by the Secretary of the Public Service Commission to the Permanent Secretary of the Ministry of Justice, directing the latter to cause the Petitioner to be informed that the Public Service Commission sees no reason to vary the order made. (A true and certified copy of the copy of the said letter is produced and filed herewith marked ' E ').

11. On or about the 15th day of February 1960 the Petitioner again addressed the said Public Service Commission and appealed against the said order retiring him as aforesaid (A true and certified copy of the said appeal is produced and filed herewith marked ' F ').

12. Up to date hereof the Petitioner has not received any reply or communication whatsoever from the said Public Service Commission in regard to the said appeal.

13. The Petitioner humbly and respectfully submits to Your Lordships and pleads that the said order of the first Respondent and/or the second, third and fourth Respondents is unlawful and was made by it and/or them contrary to law, and in so doing the said Respondents acted wrongfully and unlawfully and in excess of their powers if any, and/or contrary to their powers and the rules, regulations and law appertaining to the retirement of the Petitioner.

No. 2
Petition of
S. G.
de Zoysa
with annexes
marked
"A"-"R".
31-5-60.
—continued.

14. The Petitioner produces and files herewith marked ' G ' a print of the Public Service Commission Rules as printed in the Government Press, Ceylon, and published by the authority of the Public Service Commission which contains and sets forth all the instructions issued by and Rules made by the Public Service Commission.

15. The Petitioner produces and files herewith marked ' H ' a print of the Ceylon Government Manual of Procedure printed in the Government Press of Ceylon (4th : edition 1951), published by the authority of the Government of Ceylon.

16. The Petitioner produces and files herewith marked ' I ' a true and photostat copy of the Rules made by the Governor-General under Section 2 of the Public and Judicial Officers (Retirement) Ordinance (Cap. 253).

17. The Petitioner produces and files herewith marked ' J ' a true and photostat copy of a Rule made by the Governor-General on or about the 17th day of September 1954 by virtue of the powers vested in him by Section 2 of the Public and Judicial Officers (Retirement) Ordinance (Cap. 253) amending the Rules referred to in the preceding paragraph.

18. The Petitioner was born on the 15th day of January 1909. Accordingly he attained the age of 50 years on the 15th day of January 1959.

19. By letter dated the 6th day of November 1958 signed by the Permanent Secretary to the Ministry of Defence and External Affairs, the Petitioner was granted an extension of service as Deputy Inspector General of Police for one year with effect from the 15th day of January 1959. (A true and certified copy of the said letter is produced and filed herewith marked ' K '). The Petitioner accordingly served in the said rank and office.

20. By letter dated the 20th day of October 1959 signed by the Permanent Secretary to the Ministry of Justice, the Petitioner was granted an extension of service as Deputy Inspector General of Police for one year with effect from the 15th day of January 1960. (A true and certified copy of the said letter is produced and filed herewith marked ' L '),

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21. Since the 29th day of January 1959 the Petitioner has been serving as and in the rank of Deputy Inspector General of Police up to the 27th day of November 1959 aforesaid. During the said period of the Petitioner's said service as Deputy Inspector General of Police, he has served efficiently and in the best of health and there had never been any suggestion nor any hint of a suggestion from any person or body in authority over the Petitioner that he should be retired from the Ceylon Police on attaining the age of 50 years.

22. On the 27th day of November 1959 (being the date referred to in paragraph 6 hereinbefore when the first Respondent made the order requiring the Petitioner to retire from service) the Petitioner had already been informed and advised by the Permanent Secretary to the Ministry of Justice that he was granted an extension of service for a further year to commence

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from the 15th day of January 1960. The Police Department was under the control of the Minister of Justice and the Permanent Secretary to the Ministry of Justice on that date.

No. 2
Petition of
S. G.
de Zoysa
with annexes
marked
"A"-"R".
81-5-60.
—continued.

23. The Petitioner submits that :—

- 10 (a) in terms of the Rules made by the Governor-General under the Public and Judicial Officers (Retirement) Ordinance (Cap. 253) ('I' and 'J' referred to hereinbefore) and paragraph 17 of the Minute on Pensions (which by Ordinance No. 2 of 1947 is part of the written law of Ceylon) and paragraph 188 of the Manual of Procedure ('H' referred to hereinbefore and paragraphs 60, 61 and 62 of the Public Service Commission Rules ('G' referred to hereinbefore) which are to be read with the Rules contained in 'I' and 'J' hereinbefore, the Respondents could not lawfully and validly make the said order of compulsory retirement of the Petitioner, and that the Respondents did not have the power or the right to retire the Petitioner, and that the said order which purported to be an order of retirement of the Petitioner was and is illegal and contrary to law and to the Rules hereinbefore referred to and that the order of the said Respondents is invalid and ineffectual,
- 20 (b) the said Respondents acted without any jurisdiction, right or power in making or purporting to make the said order of retirement of the Petitioner,
- 80 (c) the Inspector General of Police (M. W. F. Abeykoon) who is the Head of the Department to which the Petitioner belongs, did not at any time consider that the Petitioner should be required to retire under the provisions of the aforesaid Rules made under the Public and Judicial Officers (Retirement) Ordinance (Cap. 253) and did not make any recommendation to the Permanent Secretary of the said Ministry or inform the Petitioner that it is proposed to retire him. No statement was called for from the Petitioner and the Permanent Secretary did not make any recommendation to the Public Service Commission in terms of Rule 61 of the Public Service Commission Rules.
- 40 The procedure laid down in Rule 61 of the Public Service Commission Rules was not followed nor did any occasion arise as contemplated by the said Rule for the Public Service Commission to have occasion to decide whether the Petitioner should be retired. The Public Service Commission did not take any decision that the Petitioner should be retired within the provisions of the said Rule 61 and in any event the Respondents have no power, authority or right to take any decision or to decide that the Petitioner should be retired except as provided for in the said Rule 61,
- (d) in the premises aforesaid there has been no decision of the Respondents within their powers, rights or authority in regard to the retirement of the Petitioner, and the Petitioner submits that he is still an Officer of the Police Service.

No. 2
Petition of
S. G.
de Zoysa
with annexes
marked
"A"—"R".
31-5-60.
—continued.

24. The Petitioner submits that the aforesaid order of the Respondents purporting to retire him was made by the Respondents in the following circumstances, namely :—

(a) While the investigations into the assassination of the late Mr. S. W. R. D. Bandaranaike were going on, the Petitioner prepared a draft statement for release to the Press and thus for public information. The Inspector General of Police studied this draft and amended it. The amended draft was approved by the Honourable the Minister of Justice at that time—Mr. Valentine S. Jayewickreme—and his Permanent Secretary and they endorsed their approval thereon. 10 The Honourable the Minister of Justice admitted that this statement was approved by him for release to the Press when he made a statement on the floor of the Senate on the 3rd day of November 1959. (A copy of the Hansard of the said date is produced and filed herewith marked ' M '). A fair copy of this amended draft was sent to the Press and was published in the evening newspapers on the 2nd day of November 1959. It was the joint view of the Minister of Justice, his Permanent Secretary, the Inspector General of Police and the Petitioner that it was necessary, expedient and appropriate with the prevailing circumstances that the said statement be released for 20 public information through the Press. This statement was referred to thereafter as the ' *Facts and Rumour* ' statement.

(b) the publication of this statement caused a certain amount of comment and also brought upon the Petitioner and the Minister of Justice the severe criticism of certain parliamentarians.

(c) On or about the 9th day of November 1959 some Opposition Members of Parliament gave notice of a Vote of Censure to be moved on the Minister of Justice. The said Vote of Censure on the Minister of Justice read as follows :—' That this House censures

The Honourable the Minister of Justice for permitting Mr. 30 S. G. De Zoysa, D.I.G. (Range 2) to make to the Press the statement published in the evening newspapers of 2nd November 1959 ' and the debate thereon was fixed for the 27th November 1959. (A copy of the Hansard of 27th November 1959 is produced and filed herewith marked ' N ').

(d) On the 24th day of November 1959 the Minister of Justice at an interview to which the Petitioner was summoned requested him to go on leave as an alternative to be retired, in order to save the Minister personal embarrassment from the said Vote of Censure. The Petitioner refused to accede to this request. 40

(e) On the 25th November 1959 the Petitioner was again summoned to an interview by the Minister of Justice in the presence of the Inspector General of Police and the Petitioner was informed by the Minister that he intended to retire him compulsorily. The reason given for this decision was the same as that stated in (d) above. Thereafter at the request of the Petitioner the Minister accompanied him and inter-

viewed Mr. W. Dahanayake, who was then the Prime Minister, at about 6-00 p.m. After discussion the Honourable the Prime Minister stated that there was neither occasion nor cause for the removal of the Petitioner from office. The Minister of Justice agreed.

No. 2
Petition of
S. G.
de Zoysa
with annexes
marked
"A"—"R",
81-5-60
—continued.

- 10 (f) On the evening of the 26th day of November 1959 the '*Ceylon Observer*' published a news item entitled 'Anti-Dissolution Memorandum of Government M.Ps.—No responsibility for Sidney's statement'. The news item read as follows:—'25 of the 43 elected Government Members of Parliament last night handed a Memorandum to the Governor-General and the Prime Minister, Mr. W. Dahanayake, dissociating themselves from the Fact and Rumours statement of Mr. Sidney de Zoysa and asking that they consider very carefully the present situation before a decision was taken to dissolve Parliament'. (A Photostat copy of the '*Ceylon Observer*' of the 26th November 1959 is produced and filed herewith marked 'O').
- 20 (g) On the night of the same day, namely 26th November 1959, the Petitioner was sent for to the House of Parliament by the Inspector General of Police and Minister of Justice and the Petitioner was informed that if the Minister of Justice did not inform the Parliamentary Group of the Government Members of Parliament, which was due to meet a few minutes later, that the Petitioner would be removed from active Police duty that night, the Minister of Justice would have to resign and the Petitioner would be compulsorily retired. There was a discussion at which it was suggested by Mr. C. P. de Silva, who was then the Minister of Agriculture, that the Petitioner should accept secondment for service in some other Government Department for a period of about a month or so in order to appease the Members of Parliament who belonged to the Government Parliamentary Group. It was finally agreed that the Petitioner should take nine days leave as from the 27th day of November 1959 and should proceed to Paris on the 5th day of December 1959 as the Ceylon Police Representative at the International Police Conference.
- 30 (h) The Petitioner accordingly handed over to the Inspector General of Police a formal application for leave from 27th November 1959 to 5th December 1959 which he accepted. Thereafter the Petitioner left for his home.
- 40 (i) The Petitioner states that the Parliamentary Group decided at its meeting on the night of the 26th November 1959 that the Petitioner should be compulsorily retired before 10-00 a.m. on the next day (27th November 1959). (A Photostat copy of the '*Ceylon Daily News*' is produced and filed herewith marked 'P').
- (j) On the morning of the 27th day of November 1959 before 10-00 a.m. the Petitioner was informed that the Respondents had met that morning and made an order requiring the Permanent Secretary to the Ministry of Justice to retire the Petitioner from service as from 1st March 1960 and authorising the Inspector General of Police to place the Petitioner on leave with immediate effect.

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—continued.

- (k) The Petitioner had addressed a letter through the Inspector General of Police to the Respondents on 26th November 1959 intimating to them that the Petitioner feared that an attempt was been made to victimize him for purely personal and political reasons. (A copy of the letter duly certified is produced and filed herewith marked ' Q '). This was followed by a letter to the Respondents at about 9-00 a.m. on the 27th November 1959 through the Inspector General of Police. When the Petitioner wrote this he had reason to believe that the Respondents were meeting that morning to carry out the wishes of the Government Parliamentary Group. (A true and certified copy of this 10 letter is produced and filed herewith marked ' R ').
- (l) The said Mr. Valentine S. Jayewickreme was actuated by improper motives in desiring to have the Petitioner removed or retired in order to protect or further his own interests and he acted maliciously or with malicious motive or intent against the Petitioner.

25. It is respectfully submitted that the Respondents, who were well aware of the fears of the Petitioner that an attempt would be made to victimize him, acted wrongfully unlawfully, and in violation of the demands of natural justice in making an order of compulsorily retiring the Petitioner without affording him an opportunity of being heard in his defence. 20

26. The Petitioner submits that the Respondents acceded to the requests of or wishes of politicians including the said Valentine S. Jayawickreme who was at that time the Minister of Justice, who desired for their own purposes and considerations to secure the removal of the Petitioner from the Ceylon Police by the aforesaid expedient of compulsory retirement and in doing so the Respondents acted contrary to law, illegally and maliciously.

In particular the Petitioner submits that the Respondents acted contrary to and permitted the violation of Rule 3 of the Public Service Commission Rules which reads as follows :—' Permanent Secretaries to the Ministries and Heads of Departments are forbidden to forward to the Public Service Commission the views of their Ministers or of Senators, Members of Parliament or Unions or Associations of Public Officers on any matter on which the Public Service Commission has to come to a decision. Any such communication will be tantamount to an attempt to influence the decision of the Public Service Commission by a person not competent to do so under the Constitution. Communications from Permanent Secretaries and Heads of Departments, conveying decisions of Government policy, do not fall within this category. A Permanent Secretary or Head of a Department is at liberty to express his own individual views on any matter on which he seeks the decision of the Public Service Commission. Any communications received direct by the Public Service Commission from persons not entitled to address the Public Service Commission on the subject matter of the communication will not be acknowledged '.

27. The Petitioner verily believes and submits that his said compulsory retirement and removal from service as aforesaid was sought and secured for reasons completely extraneous to the requirements of the administration

of the Police Department and entirely unconnected with his efficiency as a Police Officer and a Public Servant and was motivated by purely personal and political considerations. The Petitioner has hereinbefore placed before Your Lordships the circumstances which the Petitioner believes and submits led to the order for compulsory retirement.

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28. The Petitioner submits that he has been subjected to very great pain of mind and humiliation in consequence of the said order of the Respondents and very great hardship will be caused to the Petitioner if he is compelled by the aforesaid actions of the Respondents to be put out of service
10 with the Ceylon Police.

29. In the aforesaid premises the Petitioner is entitled to an order from Your Lordships in the nature of Writs of Certiorari and Mandamus quashing the said order of the first Respondent and commanding the Respondents to do their duty and to withdraw all orders or directions to the effect that the Petitioner is not an Officer in the Ceylon Police, and to restore the Petitioner to his position, rank and office.

WHEREFORE THE PETITIONER PRAYS THAT YOUR LORDSHIPS :—

- 20 1. Do grant and issue a Mandate in the nature of a Writ of Certiorari quashing the aforesaid order of the said Respondents compulsorily retiring the Petitioner from the Ceylon Police.
2. Do grant and issue a Mandate in the nature of a Writ of Mandamus compelling, commanding and directing the Respondents and each and every one of them to do their duty, to recognise that the Petitioner was and is an Officer of the Ceylon Police, not to hinder or impede the Petitioner from serving or continuing to serve as an Officer of the Ceylon Police as aforesaid in accordance with the law, rules and regulations appertaining to the service of Police Officers.
- 30 3. To award the Petitioner the costs of this suit and such other and further relief as Your Lordships deem meet.

(Sgd.) JULIUS AND CREASY,
Proctors for Petitioner.

Settled by :

H. L. E. COORAY
W. T. P. GOONETILLEKE
S. J. KADIRGAMAR
H. V. PERERA, Q.C.
Advocates.

Documents filed with the Petition.

- 40 1. Proxy.
2. Affidavit of the Petitioner.
3. Certified Copy of letter dated 27th November 1959 sent to the Petitioner by E. G. Goonewardena, Secretary of the Public Services Commission and marked ' A '.

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4. Certified Copy of letter dated 27th November 1959 sent by the Permanent Secretary to the Ministry of Justice to the Inspector General of Police with endorsement and marked ' B '.
5. Certified copy of letter sent by Petitioner to The Chairman, Public Service Commission dated 30th November 1959 and marked ' C '.
6. Certified copy of appeal dated 7th December 1959 sent by the Petitioner to the Public Service Commission and marked ' D '.
7. Certified copy of letter dated 11th December 1959 from Secretary, Public Service Commission to Permanent Secretary to the Ministry of Justice and endorsements marked ' E '.
8. Certified copy of appeal dated 15th February 1960 sent by Petitioner to the Public Service Commission and marked ' F '.
9. A print of the Public Service Commission Rules and marked ' G '.
10. A print of the Ceylon Government Manual of Procedure and marked ' H '.
11. A true and photostat copy of the rules made under section 2 of the Public and Judicial Officers (Retirement) Ordinance (Cap. 253) and marked ' I '.
12. A true and photostat copy of a rule made under section 2 of the Public and Judicial Officers (Retirement) Ordinance (Cap. 253) dated 20 17th September 1954 and marked ' J '.
13. Certified copy of letter dated 6th November 1958 granting extension of service to the Petitioner and marked ' K '.
14. Certified copy of letter dated 20th October 1959 granting an extension of service to the Petitioner and marked ' L '.
15. A copy of the Hansard of 3rd November 1959 (Senate) and marked ' M '.
16. A copy of the Hansard of 27th November 1959 (House of Representatives) and marked ' N '.
17. A Photostat copy of the *Ceylon Observer* of 26th November 1959 and 30 marked ' O '.
18. A Photostat copy of the *Ceylon Daily News* of 27th November 1959 and marked ' P '.

- 19. Certified copy of letter dated 26th November 1959 sent by Petitioner to the Respondents and marked ' Q '.
- 20. Certified copy of a letter dated 27th November 1959 sent by the Petitioner to the Respondents and marked ' R '.

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—continued.

(Sgd.) JULIUS AND CREASY,
Proctors for Petitioner.

“ A ”

My No. J. 118/59

Office of the
Public Service Commission
P. O. Box No. 500

Colombo, 27th November, 1959

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marked
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31-5-60
—continued.
(i) Annex
" A ".
27-11-59.

10

S. G. DE ZOYSA, ESQR.,
Deputy Inspector-General of Police

I am directed to inform you that the Public Service Commission has ordered that you be retired from the Public Service with effect from 1st March, 1960.

2. You should avail yourself of any leave preparatory to retirement to which you are entitled prior to that date.

20

(Sgd.) E. G. GOONEWARDENE,
Secretary,
Public Service Commission.
KWL.

True Copy of the letter received
by petitioner from the Secretary
to the Public Service Commission.

(Sgd.) JULIUS & CREASY,
Proctors for Petitioner.

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marked
"A"-*"R"*.
31-5-60
—*continued.*
(ii) Annex
" B".
27-11-59.
—*continued.*

MINISTRY OF JUSTICE,
Colombo 12, 27th November, 1959

Inspector General of Police

Mr. S. G. de Zoysa, Deputy Inspector-General of Police

With reference to the order made by the Public Service Commission at the meeting today requiring Mr. S. G. de Zoysa, Deputy Inspector-General of Police, to retire from service with effect from 1st March, 1960, you are hereby authorised to place this officer on leave with immediate effect under the provisions of Financial Regulation 1457 (v). The leave, however, will be on full pay.

(Sgd.) G. C. T. A. DE SILVA,
*Permanent Secretary,
Ministry of Justice.*

S. G. DE ZOYSA, ESQR.,

You are hereby placed on leave
in terms of the above letter as
from today.

(Sgd.) M. W. F. ABEYAKOON,
I.G.P.
27/11/59

20

I do hereby certify that the above
is a true copy of the letter dated
27-11-59 addressed by the Permanent
Secretary to the Ministry of Justice
to the Inspector General of Police
and of the endorsement made
thereon by the Inspector General
of Police.

(Sgd.) JULIUS & CREASY, 30
Proctors for the Petitioner.

POLICE HEADQUARTERS,
Colombo 1. 30th November, 1959

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—continued.
(iii) Annex
" C ".
30-11-59.

The Chairman,
Public Service Commission,

(Thro' I. G. Police)

In October this year I applied for an extension of service with effect from 15th January, 1960 for one year and this was allowed by the Ministry of Justice. (Letter No. E/P. 14/3/6 Vol. II of 20th October, 1959).

10 2. On Friday 27th November, 1959 at about 12 noon I was handed a letter from the P. S. C. by the Inspector General of Police to the effect that I was being retired with effect from 1st March, 1960 and that I should avail myself of leave available to me. I was also informed that I would be placed on leave with effect from 27th November. I should be grateful if I were informed of the reason for this sudden decision to retire me from the Public Service.

3. I also beg that I be allowed the opportunity of appearing before you and answering or explaining any points that may have been urged against me which caused you to decide to retire me so suddenly and
20 unexpectedly.

(Sgd.) SIDNEY DE ZOYSA,
(S. G. de Zoysa),
Deputy Inspector-General of Police.

A True Copy of the letter addressed on the 30th November, 1959 by the petitioner to the respondents.

(Sgd.) JULIUS & CREASY,
Proctors for the Petitioner.

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marked
"A"- "R".
81-5-60
—continued.

(iv) Annex
"D".
7-12-59.

Police Headquarters,
Colombo 1.
7th December, 1959.

The Chairman,
Public Service Commission,

(Thro' I.G. Police)

The Inspector-General of Police handed me a letter about 12 noon on 27th November, 1959 from the Public Service Commission intimating to me that I am being retired from the Public Service with effect from 1st March, 1960 and that I should avail myself of any leave available to me, preparatory to retirement. I was also informed that I would be placed on leave with effect from 27th November, 1959.

I addressed a letter to you on 30th November, 1959 setting out the above facts and requesting you to inform me of the reason for this sudden decision to retire me and also asking you for an opportunity to appear before you and answer or explain any point that may have been urged against me.

I have received no reply to this letter and am therefore addressing this formal appeal to you in terms of Procedure to request you to be good enough to review the position and vacate the order of retirement made by you taking into consideration the following points which I wish to place before you.

My service in the Police Department has to my knowledge been satisfactory, efficient and acceptable and the Permanent Secretary to the Ministry of Defence and External Affairs under whom my Department worked until 26th September will doubtless confirm that both he and the late Prime Minister held the highest opinion of my competence and value as a Police Officer. There have been no adverse reports against me and it was as recently as six weeks ago that I was granted an extension of service by the Permanent Secretary to the Ministry of Justice on the recommendation of the Inspector-General of Police as provided in the Administrative Regulations and in the P. S. C. Rules till January, 1961—*vide* letter No. E/P 14/3/6 Vol. II of 20th October, 1959.

It was only the other day too that I was selected to represent the Ceylon Police with the Inspector-General of Police at the International Police Conference due to be held in Paris on 8th December, 1959. The Inspector-General of Police eventually decided not to attend this Conference and I was selected to lead the delegation, the other member being Mr. L. I. de Silva, Headquarters Superintendent. All arrangements had been made for my departure and even the reservation had been made on the plane. In all these circumstances I had no indication whatever that my work or my conduct had been anything but efficient and acceptable and the order of retirement which was served on me on 27th November, 1959 took me completely by surprise.

I joined the Service in 1931 as a Probationary A. S. P. and was confirmed in 1933. According to the conditions under which I joined the Service I should have been entitled to serve till I reached the age of 55.

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(iv) Annex
"D".

7-12-59.

—continued.

In the year 1955 a rule was enacted under Section 2 of the Public and Judicial Officers (Retirement) Ordinance that a member of the Police Service may be required to retire at any time after he completes 50 years of age. An officer who was not compulsorily retired on attaining this age was permitted to be granted an extension of service for a period of one year, at a time, provided the officer applied, not less than three months before the
10 expiry of each extension, to be allowed to continue in office.

This amendment reducing the age of optional retirement to 50 years in the case of Police Officers was made on the recommendation of the Inspector-General of Police. The main reason for the recommendation was to facilitate the retirement of men whose efficiency had deteriorated and to allow serving members in comparatively poor health at that age due to the arduous duties, an opportunity of retiring without substantial loss in their pension. This amendment was never intended to be utilised to
20 deprive the Police Service of efficient and capable officers who were willing to serve beyond the age of 50 years. Applications by competent officers for this annual renewal of service beyond 50 years have invariably been allowed unless the officer was generally inefficient or sick. The policy has always been to encourage officers of a satisfactory standard of competence to continue in the Service after they reach 50 years especially as there was a shortage of trained and experienced senior officers.

I was granted two extensions, last year and this year in October. These extensions were presumably granted on the ground that my work as a Police Officer was efficient, satisfactory and necessary in the interests of the service.

From 1931 when I joined the Police Service I had set my heart and mind
30 on a lifetime's career in the Police. At that time I had the definite expectation of service up to the age of 55 with the prospect, conditional on good health and good repute of continuing up to the age of 60 years.

The position in which I find myself now is that I have received an order of compulsory retirement as from 1st March, 1960 when I will be 51 years, 1 month and 13 days, notwithstanding —

- (a) that I am in excellent physical condition and health
- (b) that I am at the peak of physical and mental efficiency
- (c) that my reputation as a Police Officer and my record of service is unimpeachable and beyond question.

40 As I understand it the reasons which motivated the reduction of the age of retirement of Police Officers to 50 were to enable the authorities to rid the Police of officers who were unfit by reasons like those of declining health and efficiency.

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31-5-60
—continued.

(iv) Annex
"D".
7-12-59.
—continued

May I respectfully submit that this order of compulsory retirement has been made against me without an opportunity to me to be heard in defence, and without an opportunity to me to show cause against it and contrary to the object which the revised Regulations were intended to achieve viz. the riddance of inefficient and unfit officers.

It would now, by strange irony, appear that it was not altogether to my good fortune that I decided early in life to dedicate the whole of my active years to the Police Service. I did not make a convenience of my service in the Police as a future stepping stone to some more advantageous employment elsewhere. 10

I chose, instead, to continue my service in the Police and I am without alternative but to appeal to you for a review of your order which is devastating in its effect. I am now suddenly left high and dry, as it were, to face the world at this age without prospect of employment.

I have addressed you at length, perhaps at greater length than might appear necessary, but I would respectfully and earnestly request you to be so good as to vacate this order of retirement that has been served on me. If you consider it necessary I shall be pleased to appear before the Commission to furnish any further information that might be required of me.

(S. G. DE ZOYSA), 20
Deputy Inspector General of Police.

True Copy.

(Sgd.) JULIUS & CREASY,
Proctors for the Petitioner.

“ E ”

(v) Annex
“ E ”.
11-12-59.

My No. J. 118/59
Your endorsement No. E/P/. 14-3-30

Office of the
Public Service Commission,
Colombo. 11th. Decr. 1959. 30

The Permanent Secretary,
To the Ministry of Justice.

Mr. S. G. de Zoysa, Deputy Inspector-General of Police —
Appeal against Retirement

With reference to your endorsement of 9th December, 1959 on the above subject I am directed to request you to be so good as to cause Mr. S.

G. de Zoysa, Deputy Inspector-General of Police to be informed that the Public Service Commission having considered his appeal of 7th December, 1959 sees no reason to vary the order made.

(Sgd.) E. G. GOONEWARDENE,
Secretary,
Public Service Commission.

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—continued.
—
(v) Annex
"E".
11-12-59.
—continued.

Confidential

I.G.P. Forwarded. Your No. SM/80/58 of 8-12-59 refers.

10

(Sgd.)
for S/J/11-12-59.

S. G. de Zoysa, Esqr.

Forwarded for your information.

(Sgd.) M. F. W. ABEYAKOON,
I.G. Police.

16-12-59.

True Copy of the copy of a letter sent to the petitioner by the I. G. Police. Letter is addressed to the Permanent Secretary of the Ministry of Justice, by the Secretary to the Public Service Commission.

20

(Sgd.) JULIUS & CREASY,
Proctors for the Petitioner.

" F "

C 37, Mackenzie Road,
Colombo 5.
15th February, 1960.

(vi) Annex
" F ".
15-2-60.

The Chairman,
Public Service Commission,

30 (Thro' I.G. Police and S/I.S.)

On the 16th of December I was informed by the Inspector-General of Police that my appeal of 7th December to the P. S. C. had been rejected. Being grieved by that order and in the hope that a review of all the circumstances will convince you of the justice of my claims I submit respectfully a further appeal in which I have given fresh facts and also made reference to the procedure adopted. I am therefore compelled to address you at somewhat greater length and I crave your indulgence and attention.

Previous Correspondence :

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—
(vi) Annex
"F".
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—continued.

2. At about 9-15 a.m. on the morning of the 27th November I handed to the Inspector-General of Police two letters dated 26th and 27th November addressed to you expressing certain fears and asking for your protection as I was aware of certain political moves to end my services in the Police Department. The same day at about 12 noon the Inspector-General of Police informed me that

(a) the P. S. C. had not entertained my letters as they "amounted to canvassing,"

(b) the P. S. C. had ordered my retirement with effect from 1-3-60, 10

(c) that S/J. had ordered me to go on compulsory leave immediately.

3. On 30th November I addressed the P. S. C. inquiring the reason why I had been retired and also asking for an interview. I received no reply to this.

4. On 7th December I sent in a formal appeal which has since been rejected.

5. On 22nd December I addressed the S/J and the Inspector-General of Police inquiring what adverse reports, if any, had been sent in to the P.S.C. against me in the course of 1959 as I was not aware of any. I needed this information to prepare the appeal I am now submitting. I have not yet 20 received any reply to my letter of 21st December but I am absolutely certain that no adverse report was sent in against me by the Inspector-General of Police as there was indeed no reason for him to do so at any time up to the 27th of November on which date the order of retirement was made.

The Regulations :

6. The retirement of Public Officers is normally done in accordance with the Regulations as laid down in the Manual of Procedure and the Judicial Officers (Retirement) Ordinance read together with the P. S. C. Rules.

7. The optional retiring age for Police Officers since 1954 has been 50 30 years and I believe that the action taken to retire me has been in accordance with —

(a) Public and Judicial Officers (Retirement) Ordinance as amended in 1954 — para 2 ;

(b) The P. S. C. Rules 60-69 ;

(c) The relevant Administrative Regulations (185-188). In the above Regulations it has been laid down that, —

- (a) The competent authority may "require any Police Officer over the age of 50 to retire,"
- (b) The question of compulsorily retiring any officer who has been permitted to remain in Office after reaching the optional retiring age may be taken up before he reaches the age of 60.

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—continued.

(vi) Annex
"F".
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—continued.

8. I am a Police Officer and was 50 years of age on 15th January, 1959. According to the strict letter of the Law as summed up above, it may be possible to argue that my compulsory retirement as ordered on the 27th of
10 November, 1959 was permissible but I would respectfully draw attention to the Administrative Regulations 185-188 and particularly to Regulation 188 (II) where it is laid down that an officer aged 55 (a Police Officer aged 50) should be compulsorily retired only if his post can be abolished or his efficiency is definitely below normal.

9. It would appear, therefore, that although P. S. C. Rule 64 says that the question of retiring an officer such as myself "may be taken up at any time before he reaches 60." Nevertheless, A.R. 188 (II) gives a clear directive as to the grounds on which compulsory retirement may be ordered. In my case neither of the conditions laid down in A.R. 188 (retirement or
20 inefficiency) arose.

10. In this connection P. S. C. Rule 61 is also relevant where it is expected that the Inspector-General of Police should initiate action if he considers the retirement of an officer such as myself necessary. In such a case it is also required that the statement of the officer concerned should be sent in to the P. S. C. *via* the Inspector-General of Police and the Permanent Secretary. It is I submit after consideration of the Officer's statement that the P. S. C. should make its order under Section 62 of the P. S. C. Rules.

11. In any case I am aware that action could not have been initiated
30 against me by the Inspector-General of Police as—

(a) he had no grounds to do so, and

(b) I was with him in the House of Parliament on the night of 26th November where I was asked to meet the Honourable the Minister of Justice. After discussion with the Inspector-General of Police and the Hon'ble the Minister, I submitted an application for 9 days leave from the 27th November to the 5th of December on which date I was due to leave for Paris as the Ceylon Police Representative at the International Police Conference. The Inspector-General of Police accepted my leave application and
40 we separated. There was nothing against me at that stage.

12. There could, therefore, have been no reason for the Inspector-General of Police to make any adverse report to the Public Service Commission between the night of 26th November and the morning of the 27th when the order of retirement was made.

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—continued.

(vi) Annex
"R".

15-2-60.
—continued.

13. I am aware that the Inspector-General of Police was summoned to the P. S. C. Office at about 9 a.m. on the morning of the 27th November and that action was taken soon after to order my retirement.

14. I am at a loss, therefore to understand why action was taken to retire me because no intimation of the reason was given to me nor was any statement called for from me as laid down in the P. S. C. Rule 61.

15. It is relevant and necessary at this stage to point out to the fact that in all the Regulations and Ordinances quoted viz., the Public and Judicial Officers (Retirement) Ordinance, the P. S. C. Rules and the Administrative Regulations, it is quite obvious that the policy of Government in regard to officers who reach the optional retiring age is that they be permitted to continue in office if they desire to do so unless there is some good reason such as, economy, ill-health or inefficiency where it is in the public interest to retire such officer. The general intention seems to be that officers of proved ability whose health and efficiency are not in doubt should be permitted to serve well beyond the optional retiring age if they wish to. There is even provision to enable officers who have passed the age of 60 to be retained if their services are necessary.

In the circumstances, I submit it was never the intention of those framing these Regulations to deprive any Department of the services of an officer of proved competence and ability as I believe I am.

16. It is undoubtedly for this reason that the Ministry of Defence and External Affairs and the Ministry of Justice approved in October 1958 and October 1959 my extensions of service for one year from the dates January 15, 1959, and January 15, 1960, respectively. My second extension of service up to the 15th January, 1961 was allowed by the S/J as recently as 20th October by his letter No. E/P/14/3/6 Vol. II of 20-10-59.

17. I would further submit that the P. S. C. Rules and the Administrative Regulations do not specifically provide for the termination of service without an inquiry or without giving any reason of an officer who has been allowed an extension of service for a specified period. If therefore, at any time after 20-10-59 when I was allowed an extension of service till 1961, it was considered advisable to consider retiring me compulsorily before January, 1961 up to which date I had then been given a contract of service, action should presumably have been taken in terms of P. S. C. Rule 64 read with P. S. C. Rule 61 and A.R. 188 I and II.

18. The Police Optional Retiring Age :

After a correspondence which went on from 1949 to 1954, the Inspector-General of Police, Sir Richard Aluvihare, won for the Police Service the concession of an optional retiring age at 50 years. I would suggest respectfully that you be pleased to call for the I.G.P.'s File CI 4615/1953 which contains all the relevant correspondence and that the following pages in particular be carefully studied — pages 4, 6, 11, 21, 28, 30, 39, 45, 46, 48, 49, 53, 54, 65, 66, 76, and 77. It will then be appreciated that the authorities responsible for reducing the Police retiring age never intended that a healthy and

competent officer who wished to continue and against whom the Inspector-General of Police had nothing to urge should be compulsorily retired at the age of 50 as was done to me. Para. 2 of the Inspector-General of Police's letter on page 77 of the file sums up the whole policy. S/D and E.A's file E/P/23/7 and P. S. C. file C30/48 may also be referred to in this connection if further information is desired.

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(vi) Annex
"F".
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—continued.

19. I would also invite attention to the list attached, at the end of this petition, of Gazetted Officers who have been allowed extension of service beyond 50 years after the Rule was introduced. 37 Officers applied and all 10 of them were allowed extensions. Only one officer, Mr. T. B. Herath, was refused a further extension and that was when he was 58 years old. Even in his case he would not have been refused an extension but that he tried to avoid going on transfer to Polonnaruwa when he was ordered to do so. He served till he was 58 years and 7 months before retirement. In the case of another officer, Mr. H. Mendis the Inspector-General of Police refused to recommend an extension but it was allowed by the Permanent Secretary for Defence and External Affairs.

20. Having therefore joined the Police Service in 1931 (confirmed in 1933) with the full expectation of serving to January 1964 at least when I 20 close my 55th year, it is I submit unfair to me that I should be compulsorily retired at the age of 50 years under an amendment which was specifically made at the request of the Inspector-General of Police for the benefit of the Police Department and its officers.

21. I cannot think it could have been suggested by anybody that my removal was necessary in the interests of the Police Department or that the Inspector-General of Police could have recommended such retirement. On the contrary the extensions of service allowed to me by the Permanent Secretaries of the Ministries —

(a) Justice, and

30 (b) Defence and External Affairs

on the recommendation of the present Inspector-General of Police and his predecessor respectively, are ample testimony to the fact that my services were and still would be of great value to the Department. It would therefore be most ironical that an officer in good health with a good record such as mine should be denied the right given to 37 Gazetted Officers junior to me and innumerable officers of other ranks and that I should be removed from office summarily at such an early age.

22. In the absence of any misconduct or default of mine I am at a loss to know why I have been retired and I cant help surmising that a certain 40 political atmosphere which had arisen just before I was retired had something to do with the development.

23. Early in November, 1959, I sought for and was granted permission to send a letter to the local Press regarding Police action over the murder of the late Prime Minister. I was compelled to take this step owing

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to certain highly erroneous references to this matter which had been given publicity in the Press. My action in releasing information to the Press was not merely justifiable but even obligatory under Section 57 of the Police Ordinance and all I had to do was to get the approval of my superior officers as laid down in the relevant Regulations. This I did. I therefore prepared a draft which the Inspector-General of Police himself studied and amended and which amended draft was approved in writing by the Hon'ble the Minister of Justice and his Permanent Secretary. Their endorsements are on the original draft which I have handed over to the Inspector-General of Police.

10

24. Having obtained the necessary approval, therefore I sent this letter to the Press and it contained some facts which caused a certain amount of comment and also brought upon the criticism of certain Parliamentarians. A vote of censure was moved against the Hon'ble the Minister of Justice, and I learned from the Newspapers that the Government Parliamentary Group being somewhat perturbed at this, brought pressure to bear on the Hon'ble Minister to remove me from my office holding out a threat that some of them would themselves support a "No Confidence" motion if the Hon'ble Minister did not acquiesce.

25. It is not for me to comment on the propriety of the actions of the 20 Parliamentary Group but I do know that considerable pressure was in fact exercised and the final result was that the Hon'ble Minister himself told me that he would have to cause my retirement from the Service.

26. Discussions took place at which the Hon'ble the Minister, the Inspector-General of Police and myself were present and finally, in spite of a personal assurance given to me by the Hon'ble the Prime Minister himself on the night of the 25th November in the presence of the Inspector-General of Police and the Hon'ble Minister of Justice that there was no reason whatever to remove me from Service ; I was sent for again to the House of Parliament by the Inspector-General of Police and the Hon'ble Minister of Justice 30 on the night of the 26th, when the question was reopened and I was told that if the Hon'ble Minister did not inform the Parliamentary Group which was due to meet in a few minutes time that I was being removed from active Police duty that night the Hon'ble Minister himself would have to resign and that I would be compulsorily retired.

27. A suggestion was even made by the Minister of Justice and also by Mr. C. P. de Silva, the late Minister for Agriculture that I should accept secondment to some other Department for a period of about a month or so to appease the Parliamentarians. Finally, it was agreed that I should take a little leave with effect from the 27th November and having handed over 40 to the Inspector-General of Police a formal application for leave from the 27th November to the 5th of December I went home in the full belief that everything was settled.

28. The Government party, however, that night decided that I should be retired before 10 a.m. the next day (27th November).

29. The P. S. C. met the next morning and made an order.

30. As stated earlier I am yet completely unaware of this reason for the P. S. C. order but I have no alternative but to believe that an impression may have been created that my removal from Service might be advantageous to the Government and that may well be why I was retired. I make no comment beyond suggesting that it would be unjust if this was the reason why my services were terminated. I would also respectfully draw attention to P. S. C. Rules 3 and 5 which seem to apply.

My Record of Service :

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31. I joined the Service as a Probationary Assistant Superintendent
10 in 1931 and had an outstanding good record of service with only one serious
punishment in 1944 when I was reduced in seniority on being found guilty
of charges of insubordination.

32. Subsequently, by outstanding good work I regained most of my
lost seniority and was specially commended on several occasions. My work
was mentioned specially in the Administration Report every year from
1948-1957. I was also awarded the Ceylon Police Medal for merit in 1951.
This is the highest distinction a Police Officer can earn. The late Inspector-
General of Police, Mr. S. W. O. de Silva, and the present Deputy Inspector-
General of Police, Range I, Mr. C. C. Dissanayake received this Medal at the
20 same time as myself.

33. Since 1956 in all the various grave disorders, etc., which have
occurred, I have earned for myself an outstanding reputation for competence
and impartiality to which fact the Permanent Secretary for Defence and
External Affairs, to whose Ministry we were attached till September last
year would be able to testify. Special reference was made in the Admini-
stration Report of 1956 by Mr. S. W. O. de Silva, Inspector-General of
Police to my work in the Gal Oya Riot of 1956.

34. I do not wish to dwell at length on my record and reputation as I
have no doubt the necessary information regarding my Personal File and
30 the references to my good work in the Administration Reports, etc., can be
obtained from the Inspector-General of Police or the Ministry.

35. This appeal was in fact prepared for transmission to you in the
middle of January and would have reached you sometime ago but an un-
expected circumstance intervened. On the 20th of January His Excellency
the Governor-General appointed me Permanent Secretary of a new Ministry
which had been set up. I was to have been retired with effect from the
1st of March and my new appointment from the 20th of January seems to
render the order of retirement inoperative. This new development and its
impact on my previous position have given me food for very serious thought
40 but I still feel that I would prefer that my case be reviewed by you and that
you be pleased to grant my prayer that you alter your original order in some
way to enable me to close my period of Service in the Police Department
with peace of mind and self-respect. The fact that my present appointment
is relatively higher and that the administration of the Police Department
itself comes under my control does not make me any the less unhappy when
I think of the summary and unexpected manner in which my 28 year career

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in the Police Service was terminated without my being given even the opportunity to go round and bid farewell to the officers who had served me for so long and to take away into retirement with me the most cherished memory which a retiring Police Officer can carry — the memory of his final Farewell Parade. I can only add that if I had been given the choice I would have preferred re-instatement in the Police to the appointment I now hold.

36. I request, therefore, in all humility that you be pleased to reconsider and review my case without taking into consideration the fact that I am now back in the Public Service in a different capacity. I have now¹⁰ submitted my case to you in the fullest possible manner and I hope and pray that justice will be done to me.

(S. G. DE ZOYSA)

True Copy

(Sgd.) JULIUS & CREASY,
Proctors for Petitioner.

(a) LIST OF GAZETTED OFFICERS GRANTED EXTENSION
OF SERVICE AFTER REACHING 50 YEARS OF AGE.

NAME	Rank	Date of Birth	Date of Retirement	Age at Retirement
1. Mr. S. G. de Zoysa ...	D.I.G. ...			
2. Mr. W. B. Perkins ...	A.S.P. ... (now retired)	21-5-03 ...	1-9-56...	53 yrs. 3 mths.
3. Mr. A. B. Rambukwella	S.P. ... (now retired)	10-1-1900...	1-X-58...	58 yrs. 9 mths.
4. Mr. K. S. Van Rooyen ...	S.P. ...	29-4-05 ...		
5. Mr. C. A. W. Edwards ...	S.P. ...	13-6-05 ...		
6. Mr. T. H. Kelaart ...	S.P. ..	9-7-06 ...		
7. Mr. A. L. Vander Straaten	A.S.P. ... (retired)	1-8-05 ...	24-1-56...	50 yrs. 5 mths.
8. Mr. C. Lourensz ...	S.P. ... (retired)	3-11-06 ...	1-X-57..	50 yrs. 10 mths.
9. Mr. L. H. Bibile ...	A.S.P. ...	24-10-05 ...		
10. Mr. W. E. Poulter ...	S.P. ... (retired)	29-5-06 ...	1-6-57..	51 yrs.
11. Mr. H. K. Vanden Drieser	S.P. ..	30-11-07 ...	1-1-60...	52 yrs. 8 mths.
12. Mr. W. D. Bandaranaike	S.P. ... (now retired)	4-11-07 ...	1-7-58...	51 yrs. 2 mths.
13. Mr. F. J. M. de Saram ...	S.P. ... (retired)	17-3-08 ...	17-3-59...	51 yrs.
14. Mr. J. A. A. Perera ...	S.P. ...	21-3-09 ...	1-6-59...	50 yrs. 2 mths.
15. Mr. J. W. L. Attygalle ...	S.P. ...	8-7-07 ...		
16. Mr. B. W. Perera ...	S.P. ...	15-2-06 ...		
17. Mr. T. B. Herat ...	A.S.P. ... (retired)	4-4-1900...	15-11-58...	58 yrs. 7 mths.
18. Mr. V. C. Schokman ...	A.S.P. ... (retired)	25-4-04 ...	25-12-55...	51 yrs. 8 mths.
19. Mr. J. M. H. Toussaint ...	S.P. ...	17-3-08 ...		
20. Mr. A. C. Arasa Ratnam	S.P. ... (retired)	26-9-07 ...	1-2-59...	51 yrs. 4 mths.

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(a) LIST OF GAZETTED OFFICERS GRANTED EXTENSION
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—*continued.*

<i>NAME</i>	<i>Rank</i>	<i>Date of Birth</i>	<i>Date of Retirement</i>	<i>Age at Retirement</i>
21. Mr. J.A.L. Roosmale Cocq	S.P. ...	17-11-08		
22. Mr. H. Mendis ...	A.S.P. ...	27-10-57		
23. Mr. R. W. A. Gibson ...	A.S.P. ... (retired)	2-3-03 ...	15-1-58...	54 yrs. 10 mths.
24. Mr. E. W. Jayakody ...	A.S.P. ...	4-11-05		
25. Mr. K. S. Perera ...	S.P. ...	21-11-09		
26. Mr. W. P. A. Fernando ...	A.S.P. ...	6-1-09		
27. Mr. P. Ratnarajah ...	A.S.P. ...	27-1-10		
28. Mr. M. B. Dedigama ...	A.S.P. ...	22-11-10		
29. Mr. F. L. Adihetty ...	A.S.P. ... (retired)	14-10-06 ...	1-1-57...	50 yrs. 2 mths.
30. Mr. U. D. H. Gunasinghe	A.S.P. ...	23-1-08		
31. Mr. V. O. L. Potger ...	A.S.P. ...	10-7-09		
32. Mr. N. W. Weerasinghe	A.S.P. ...	27-1-10		
33. Mr. C. L. O. Conderlag ...	A.S.P. ...	14-8-09		
34. Mr. D. B. J. Samaraweera	A.S.P. ...	18-2-03		
35. Mr. S. K. Iyer ...	A.S.P. ...	1-4-04		
36. Mr. P. Sivasampu ...	A.S.P. ...	12-8-05		
37. Mr. A. D. Rodrigo ...	A.S.P. ...	1-11-04		

(b) LIST OF OFFICERS APPLIED FOR EXTENSION AND REFUSED.

1. Mr. T. B. Herat A.S.P.

(c) INSTANCES WHERE I.G. DID NOT RECOMMEND EXTENSIONS BUT WERE AUTHORISED BY A HIGHER AUTHORITY.

1. Mr. B. H. Mendis A.S.P.

(E) Copy of Ordinance is attached.

True Copy

JULIUS & CREASY,
Proctors for the Petitioner.

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(vii) Annex
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 (relevant
 extract)



THE
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 RULES

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10

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SECTION I—APPOINTMENTS (INCLUDING PROMOTIONS) AND TRANSFERS

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(vii) Annex
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(relevant
extract)
—*continued.*

6. The term "appointment" for the purposes of these Rules means the conferment of any paid office in the Public Service—whether subject or not subject to subsequent confirmation—upon a person not already in the Public Service or upon a person in the Public Service, provided that in the latter case such office shall not belong to the same grade or class as that in which such person is serving at the time of the conferment.

Note.— (i) The transfer of an officer of the Civil Service to a post not scheduled in the Minute on the Civil Service is an appointment for the purposes of these Rules, though no increase of salary is involved.

(ii) Where public officers do not belong to a Combined Service (Civil Service, Accountants' Service, General Clerical Service, Stenographers Transferable Service, Assistant Clerks' Service, Typists' Service and Shroffs' Scheme) or to the Quasi-Clerical Service, their appointments will be to particular classes or grades in their respective Departments and transfers outside the Department or between different classes or grades in the same Department will be appointments for the purposes of these Rules, although no increase of salary may be involved.

(iii) The conferment of permanent status on a temporary officer or pensionable status on a non-pensionable officer is an "appointment" for the purposes of these Rules. The conferment of permanent status upon a temporary officer recruited on agreement for a period or his employment for a further period will also be regarded as an "appointment" for the purposes of these Rules.

7. Recruitment to the Public Service will, whenever possible, be made according to the results of examinations prescribed under an approved scheme for examinational tests.

8. Where vacancies in the Public Service are not necessarily filled by appointing officers already in the Public Service, or according to the results of examinations prescribed under any approved scheme for examinational tests, or through the medium of a Government Employment Exchange, the public, by advertisement or otherwise, should be informed of the existence of such vacancies in time to enable suitable candidates to make their applications.

9. In considering the claims of officers for promotion, merit and ability will be taken into account as well as seniority and official qualifications. Where the officer recommended is not the senior eligible officer, reasons must be given in respect of each officer over whom it is proposed that the selected officer should pass.

Note.—The general principle to be followed in selecting officers for promotion is that in junior grades and where the work involved is of a routine character, more weight should be attached to seniority than in senior grades where greater responsibility and initiative are involved. For the higher posts, merits should carry more weight than seniority.

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10 10. The procedure for making salaried acting appointments and seconded appointments shall, so far as circumstances permit, be the same as that prescribed below for making appointments. When recommending a salaried acting appointment it should be stated whether or not the officer recommended for acting appointment is in every way fully qualified to perform all the duties of the office in which he is to act. (*Vide* Financial Regulation 1101 (ii.)).

(vii) Annex
"G".
(relevant
extract)
—continued.

11. (i) When it is necessary to appoint an officer to act in a post which is not in the same grade or class as that in which such officer is serving, the Head of Department will make his recommendation to the Permanent Secretary for such acting appointment as long as possible before the date on which the appointment is to take effect

(ii) When acting appointments are to be made consequent on officers going on leave out of the Island or retiring from the service, recommendations for acting appointments should be made at least three months in advance.

12. Where the terms of an appointment provide an initial salary or allowance for a probationary period, with a higher salary on confirmation, the initial salary for the purposes of these Rules is the salary to be awarded on confirmation.

13. Where a Government pensioner is re-employed by Government the salary drawn by him will, for the purposes of these Rules, be considered to be the total emoluments, including pension but excluding allowances, drawn by him during re-employment.

14. The procedure relating to appointments prescribed in Rule 19 should be observed when it is desired to select an officer for the award of a scholarship, or for a special course of training or a study tour, or for the grant of any special leave concession outside the normal, where such scholarship, course of training or study tour, or special leave concession, is likely to enhance his qualifications for promotion or is designed to fit him for a higher post.

40 *Note.*—The procedure prescribed in Rule 19 should be followed in these cases irrespective of whether the salary of the officer selected will exceed Rs. 4,080 per annum or not.

15. Whenever it is necessary to make an appointment (including a promotion) in the Public Service the procedure hereinafter prescribed shall be observed, except in the case of appointments of the Governor-General, his personal staff and the staff of his office and appointments for

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—continued.

which special procedure has been prescribed by the Ceylon (Constitution and Independence) Orders-in-Council, 1946 and 1947.

16. Where serious inconvenience is likely to be caused by the delay involved in carrying out the procedure prescribed in the following Rules for making appointments, the Permanent Secretary to the Ministry concerned or other appropriate authority should report the matter to the Chairman, Public Service Commission, who may make an acting appointment without regard to that procedure.

Procedure applicable to Appointments (including Promotions) to be made by the Public Service Commission

10

17. Appointments (including promotions) in the Public Service in which the initial pensionable or non-pensionable salary of the officer to be appointed will be Rs. 4,080 per annum and over at the date of appointment will be made by the Public Service Commission. Provided, however, that where previously Heads of Departments had powers of appointment to certain posts with an initial salary of Rs. 3,780 per annum or below, appointments may continue to be made by them to such posts although the initial salary is now Rs. 4,080 per annum.

18. (i) As soon as it is known that a vacancy will occur in the post of a Head of Department the latter should, before he relinquishes his duties, report the matter to the Permanent Secretary to the Ministry. If for any reason the Head of Department is unable to report the impending vacancy, the officer acting for such Head or the next senior officer in the Department will make the required report. The report should be made in duplicate.

(ii) Upon receipt of the report referred to in sub-section (i), the Permanent Secretary will address the Secretary to the Public Service Commission and make his recommendation as to how the vacancy should be filled.

19. (i) The Head of Department is responsible for reporting immediately the creation of a new post or an impending vacancy in any other post in his department to which rule 17 is applicable. The report will be made in duplicate to the Permanent Secretary to the Ministry and should include a recommendation as to the method to be employed in filling the vacancy.

(ii) Upon receipt of the report and recommendation referred to above the Permanent Secretary will address the Secretary to the Public Service Commission and make his recommendation as to the method to be employed in filling the vacancy.

(iii) If it is not desired to fill the vacancy, the Permanent Secretary will so inform the Public Service Commission giving reasons for the adoption of this course.

(iv) If the Permanent Secretary recommends or the Public Service Commission requires that the post be advertised the Permanent Secretary will submit a draft advertisement, approved by the Treasury, to the Public Service Commission for his approval and publication.

Note.—(1) When forwarding the draft advertisement the Permanent Secretary should—

(a) State whether Treasury approval thereto has been obtained.

10 (b) Recommend a suitable Selection Board to interview the candidates in the case of posts the initial salaries of which are less than Rs. 8,400 per annum. The Public Service Commission itself will normally interview candidates for appointments where the initial salary of the post is not less than Rs. 8,400 per annum without appointing a special Selection Board and may do so in other cases.

(2) Permanent Secretaries may also recommend that persons other than public officers be invited to assist Selection Boards in a purely advisory capacity whenever Permanent Secretaries are satisfied in the special circumstances of any case that such advice is desirable.

20 (v) The Public Service Commission will decide whether a Selection Board should be constituted to select candidates and also the composition of the Board.

(vi) The Public Service Commission will itself arrange for the publication of the advertisements and for receiving of applications.

(vii) After applications have closed the Public Service Commission will forward the applications together with a schedule thereof to the Permanent Secretary.

30 (viii) The Permanent Secretary will return the applications to the Public Service Commission indicating which applicants should, in his opinion, be interviewed and offering any other comments which he may wish to make.

(ix) The Public Service Commission will then arrange to interview candidates in one or other of the following ways :—

(a) Where no special selection board has been appointed, the Public Service Commission itself will conduct the interview, the Permanent Secretary and/or the Head of the Department being invited to be present in an advisory capacity.

40 (b) Where a special selection board has been appointed, the Commission will convene the selection board and arrange for the interview of candidates, the Secretary, Public Service Commission, or his representative acting as Secretary of the selection board. The selection board will submit its recommendation

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to the Public Service Commission stating wherever possible who, in its opinion, are the best three candidates in order of merit. On receipt of this recommendation the Public Service Commission will, when this is considered necessary, call up selected candidates before making an appointment.

20. In any case where it is known that a vacancy will occur in any post other than that of Head of Department by reason of the fact that the officer holding the post is to be appointed to the post of Head of the Department, the recommendation made by the Head of Department to the Permanent Secretary to the Ministry as to the filling of the vacancy should be accompanied by the recommendation of the prospective Head of the Department.

21. Heads of Departments not grouped under any Ministry will take action required by Rule 19 direct with the Public Service Commission.

22. (i) Where vacancies are filled according to the results of examinations in conformity with any approved scheme of recruitment of officers, Permanent Secretaries to Ministries and Heads of Departments will not be required to make any recommendations as to the persons to be appointed to fill such vacancies. On receipt of notification of vacancies in such cases the Public Service Commission will arrange for the holding of the necessary examinations in accordance with the schemes of recruitment.

(ii) Appointments to the various Classes in the Civil Service will be made as provided in the Civil Service Minute.

Note.—All schemes of recruitment or amendments thereto should be submitted to the Public Service Commission for approval.

SECTION III—RETIREMENTS

*(To be read with the Rules made by the Governor-General under
Section 2 of the Public and Judicial Officers (Retirement)
Ordinance (Chapter 253)*

80

60. The duty of recommending that a Head of Department who has reached or is about to reach the age of optional retirement should be required to retire under the provisions of Rule 2 of the Rules made under Section 2 of the Public and Judicial Officers (Retirement) Ordinance will devolve upon the Permanent Secretary to the Ministry who will make his recommendations to the Public Service Commission.

61. If a Head of a Department considers that an officer in his Department, the commencing salary of whose post is Rs. 4,080 per annum or above should be required to retire under the provisions of Rule 2 of the Rules made under Section 2 of the Public and Judicial Officers (Retirement) 40

Ordinance, he will make a recommendation accordingly to the Permanent Secretary to the Ministry and inform the officer concerned that it is proposed to retire him. The Permanent Secretary will make his recommendation to the Public Service Commission forwarding the statement of the officer, if any. The Commission will decide whether the officer should be retired.

62. If the Public Service Commission decides that an officer should be required to retire he will be given not less than three months' notice by the Secretary to the Commission.

63. A Head of a Department is authorized to retire in the public interest any officer in his department, the commencing salary of whose post is less than Rs. 4,080 per annum, with effect from the date on which such officer shall reach the age of optional retirement or from a date thereafter. The cases of such officers in the Combined Services will be dealt with by the Deputy Secretary to the Treasury. The provisions of Rule 2 of the Rules made under Section 2 of the Public and Judicial Officers (Retirement) Ordinance will be observed.

64. The question of compulsorily retiring an officer who has been permitted to remain in service after attaining the age of optional retirement may be taken up at any time before he reaches the age of sixty.

65. The Secretary to the Treasury will make recommendations to the Public Service Commission, where necessary, in regard to the compulsory retirement of officers of the Civil Service. In the case of officers in the other Combined Services, holding posts the commencing salaries of which are Rs. 4,080 per annum or above, the recommendations will be made by the Deputy Secretary to the Treasury.

66. (deleted).

67. Heads of Departments are authorized under Rule 1 (2) of the Rules made under Section 2 of the Public and Judicial Officers (Retirement) Ordinance to extend the employment of an officer beyond the age of compulsory retirement provided that the power of appointment to the post held by the officer has been delegated to the Head of Department. All such extensions will be reported to the Public Service Commission through the Permanent Secretary to the Ministry.

68. Where the power of appointment to the post held by the officer has not been delegated and the Head of a Department desires to retain the services of the officer beyond the age of compulsory retirement, he will submit a report to the Permanent Secretary to the Ministry stating the grounds upon which he considers it in the interests of the service that the officer's employment should be extended beyond the age of compulsory retirement. The Permanent Secretary, if he thinks fit, will make a recommendation to the Public Service Commission. Where the Permanent Secretary to a Ministry considers that the services of the Head of a Department should be retained after he is sixty years of age he will make a similar report to the Public Service Commission. In the case of officers in the Civil Service, the report to the Public Service Commission will be made by

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the Secretary to the Treasury and in the case of officers in the other Combined Services, by the Deputy Secretary to the Treasury. The Public Service Commission will decide whether the officer's services should be retained or not.

69. When an officer has been condemned by a duly constituted Medical Board as unfit for further service on the ground of ill-health the proceedings will be reported to the authority competent to make appointments to the office held by that officer. The competent authority will require the officer to retire forthwith unless he desires to avail himself of any leave for which he may be eligible prior to retirement.



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CHAPTER III

MISCELLANEOUS REGULATIONS RELATING TO THE
PUBLIC SERVICES

(To be read with the *Financial Regulations, Public Service Commission Rules and the Judicial Service Regulations*).

Section 1.—Appointments, &c.

106. (i) No new appointment of non-Ceylonese, other than any appointment otherwise provided for by law, shall be made to the Public Services except on terms and conditions to be determined in each case by the Minister concerned with the concurrence of the *Minister of Finance*.¹⁰ Where a non-Ceylonese has been recruited, with the approval of the State Council or the Board of Ministers under the previous Constitution or of the Minister, to serve on certain terms and conditions, his employment at any subsequent date on other terms and conditions will require the approval of the Minister *and the concurrence of the Minister of Finance*. All agreements with such officers shall be signed by the Deputy Secretary to the Treasury on behalf of the Government.

(ii) Where the Minister has decided that a particular post should be filled by a non-Ceylonese, action as prescribed by the Public Service Commission Rules or Judicial Service Regulations regarding appointments²⁰ should be taken to make an appointment of a suitable non-Ceylonese to the post.

(iii) The term "Ceylonese" for all purposes of recruitment to the Public Service is defined as a citizen of Ceylon by descent or by registration.

107. When vacancies occur they should not be filled as a matter of course but the opportunity should be used to ascertain if, owing to decrease in the volume of work or other cause, the vacancy need be filled.

108. Applications for appointments must be forwarded to the authority, if any, specified in the notice inviting applications; otherwise³⁰ to the Heads of the Departments in which the vacancies exist. Applications sent to any other authority will be returned.

109. A Head of Department should not accept an application for employment in his Department from an officer employed in another Government Department unless it is forwarded through the Head of the latter Department, who must in forwarding it indicate whether or not he can spare the services of the officer. Heads of Departments should obtain the prior approval of the Permanent Secretary to the Ministry before agreeing to spare the services of any officer of the Department whose release would adversely affect, in any appreciable degree, the Department's effi-⁴⁰ciency. Permanent Secretaries to Ministries or Heads of Departments should not, however, ordinarily refuse to release officers employed on a purely temporary basis who desire to obtain employment in other Government Departments.

110. Registrars of Marriages, Births and Deaths should not be appointed to hold any additional office without prior consultation with the Registrar-General.

111. When it is proposed to re-employ a retired officer in receipt of a pension or a retiring allowance, the proposal must be referred for sanction to the Permanent Secretary to the Ministry. It should be stated whether it is proposed to re-employ the officer on a pensionable basis with abatement of original pension or retiring allowance, or, on a non-pensionable basis with retention of pension or retiring allowance. In the latter case
 10 the amount of the re-employed salary will require to be specially fixed. Heads of Departments are responsible for ascertaining whether a person whom it is proposed to employ is in receipt of a Government pension or retiring allowance.

112. When any person not already holding a permanent post in the Public Services is provisionally selected locally for appointment to a vacancy on the pensionable establishment, or on probation with a view to permanent pensionable employment, or on the non-pensionable but permanent establishment, the Head of the Department in which the vacancy exists must direct the selected candidate to fill up Form General
 20 169, to hand the form to the nearest Government Medical Officer in charge of a hospital (in Colombo, the Physician, Out-patients' Department, General Hospital; in Kandy and Galle, the Physicians of the Hospitals) and present himself for medical examination. No fee is chargeable for this examination.

113. (i) On the selected candidate presenting himself, the Medical Officer, must make a thorough examination and fill up form Health 169, which he will forward through the Head of his Institution to the Superintendent of Health Services of his division. The latter will complete the report and forward it to the Head of Department concerned if the candi-
 30 date has been found physically fit for appointment, and to the Director of Health Services if he has been found unfit. In the latter case, the Director of Health Services will inform the Head of Department whether the candidate is fit for appointment or whether he should be further examined medically.

(ii) Heads of Departments must see that no salary is paid to a newly appointed officer until the form has been received.

114. If the person has been found to be physically unsuitable the provisional appointment shall be cancelled but he shall be eligible for salary for the days he has worked.

40 115. Persons appointed in a purely temporary capacity will not usually be required to submit themselves for medical examination.

116. Every officer appointed otherwise than in a purely temporary capacity to an office the initial salary of which is not less than Rs. 750 per annum and who is not required by written law to give notice of resignation, must, on appointment, sign an agreement in the following form :—

No. 2
 Petition of
 S. G.
 de Zoysa
 with annexes
 marked
 "A"-"R".
 31-5-60

(viii) Annex
 "H".
 —continued.

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Petition of
S. G.
de Zoysa
with annexes
marked
"A"- "R".
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(viii) Annex
" II ".
-continued.

General 160
(F 4*) 2/51

THIS Agreement entered into on the dates hereinafter mentioned between¹— of — of the one part and² — hereinafter referred to as³ — which term shall mean and include the said² — and his successors for the time being holding the said office of³ — and all other officers for the time being holding office as³ — (acting for and on behalf of the Government of Ceylon), of the other part, Witnesseth :

First.—The said¹ — in consideration of his appointment to the office of — agrees that he will at no time demand his discharge from, nor without the permission of the Deputy Secretary to the Treasury, Head of Department⁴ leave, the Service of Government until a full calendar month has elapsed from the date of his giving a written notice to the said⁴ — or to the Head of the Department in which he may be serving at the time of his desire to leave.

Second.—In the event of the said¹ — leaving the Service of Government without giving notice, or before the expiration of one calendar month from the date when he may have given notice the said¹ — agrees and promises to pay into the General Treasury, a sum of money equal to the full amount which he may have received as salary for the month next preceding that in which the said¹ — may so leave.

IN WITNESS WHEREOF the said parties have hereto set their hands at the places on the dates hereinafter mentioned.

Signed by the said — at — on the — day of — One thousand Nine hundred and —.

Signature : — (Officer)

In the presence of—

Witnesses : (1) —
(2) —

Signed by the said — at — on the — day of — One thousand Nine hundred and —.

Signature : —
Designation³ —

In the presence of—

Witnesses : (1) —
(2) —

- 1 Name of Officer.
- 2 Name of the Head of the Department/Additional/Deputy/Assistant Head of Department/Office Assistant/Administrative Assistant to Head of Department/Deputy Secretary to the Treasury. 10
- 3 Designation.
- 4 Head of Department in this clause shall mean the Head of the Department for the time being and shall not include any Additional, Deputy, or Assistant Head of Department or Office Assistant or Administrative Assistant to such Head of Department. 20

30

40

Note.—(1) *Vide* also Regulations 231 and 291 regarding other declarations, &c., required on appointment.

(2) In the case of non-Ceylonese—*Vide* A. R. 106.

117. Perfected agreements of officers should be filed in their respective Departments but those of officers in the General Clerical Service, the Government District Clerical Service, the Stenographers' Transferable Service, the Typists' Service, the Quasi-Clerical Service, the Accountants' Service, the Shroffs' Service and the Translators' Service should be in the custody of the Treasury.

10 119. (i) Full particulars of all appointments, acting and probationary appointments, confirmations, extensions and conclusions of probationary and acting appointments, transfers (*excluding transfers within a department which do not involve either change of station or any alterations in emoluments*), promotions, secondments, grant, suspension, stoppage, reduction or deferment of increment, promotion or disallowance of promotion over efficiency bars, interdictions, suspensions, reduction in rank, salary or allowance, dismissals, resignations, retirements, re-instatements and deaths must be reported by Heads of Departments to the Auditor-General.

NOTE.—*In the case of transfers involving change of station, it should be stated*
20 *whether the travelling expenses are to be met from public funds or by the officers concerned.*

(ii) This return of "changes" should be furnished on Form General 228 as soon as the month in respect of which it is rendered is past. Similar returns should be sent to—

(a) the Permanent Secretary to the Ministry, in duplicate, in respect of members of the General Clerical Service, Government District Clerical Service, Typists' Service, Quasi-Clerical Service, Stenographers' Transferable Service, Shroffs' Service and Translators' Service (*Vide* Regulation 161 (vii));

30 (b) the Permanent Secretary to the Ministry in charge of Government Agencies in respect of members of the Divisional Revenue Officers' Service (*vide* Regulation 161 (vii));

(c) the Directors of the Widows' and Orphans' Pension Scheme in respect of pensionable officers.

Note.—"Nil" returns should not be sent, but the information that there was nothing to report for the month succeeding the date of the last return should be embodied in the next return.

40 120. (i) (a) The appointment of an officer to a post may be subject to a period of probation in the case of a pensionable post or a period of trial in the case of a non-pensionable post, as prescribed by the appointing authority.

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(b) During the period of probation or trial the appointing authority shall have power to terminate the officer's appointment without assigning any reason.

(c) At the end of the period of probation or trial the officer shall, unless his appointment is terminated or his probationary period or period of trial extended by the appointing authority, be confirmed in his appointment by the Head of the Department to which the officer belongs, or in the case of a Head of Department or Cadet in the Civil Service, by the appointing authority.

(d) In the case of appointments made by Heads of Departments, a 10 period of probation or trial shall not be extended beyond a period of four years by the Head of Department without the sanction of the Public Service Commission.

(ii) An officer holding a pensionable appointment under Government shall not be placed on probation if transferred to a new permanent appointment but the appointing authority may in the first instance appoint such officer to act for a short time with a view to testing him in the new post.

Note.(1)—The appointing authority may be the Public Service Commission, Judicial Service Commission, Deputy Secretary to the Treasury, Permanent Secretary to the Ministry of Justice or a Head of 20 a Department, as provided in the Public Service Commission Rules and Judicial Service Regulations.

(2) In the case of the Accountants' Service, confirmation will be approved by the Deputy Secretary to the Treasury. In the case of the General Clerical Service, Government District Clerical Service, Stenographers' Transferable Service, Typists' Service, Quasi-Clerical Service, Shroffs' Service and the Translators' Service, confirmation and extension of probationary period, where necessary, will be approved by the Permanent Secretary to the Ministry, in the case of Officers serving in Departments grouped under Ministries, and by the Deputy Secretary to the Treasury, 80 in the case of officers serving in other Departments.

121. When an officer appointed on probation is confirmed in his appointment, his permanent appointment will date as from the date of his appointment on probation. Subject to the following provisos, an extension of the probationary period will operate as a deferment of increment by the period of such extension.

Proviso (1).—When an officer's failure to qualify for confirmation is judged to be due to reasons *beyond his control*, the authority who appointed the officer may allow a further reasonable period within which to qualify for confirmation. If the officer qualifies within that period his confirmation 40 will be antedated to the normal date. Under this proviso an officer will not lose in salary or seniority.

Proviso (2).—When an officer fails to qualify for confirmation at the proper time and such failure is judged to be due to circumstances *within his control* the officer will enter the scale of a confirmed officer on the date

on which he qualifies for confirmation and will rank as junior to all officers of his grade in his department who at that time have already been confirmed. The question of restoring to him the salary which he would have enjoyed if his confirmation had not been delayed will, however, receive consideration on the expiration of five years from the conclusion of the normal probationary period, and, if the circumstances of his case are regarded as meriting it, he will henceforth be allowed to draw salary at the rate which he would have drawn if his confirmation had taken place at the proper time. He will not, however, save in very exceptional cases, be restored to the seniority which he otherwise would have held.

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Note.—Where an officer's incremental date is not the same as the date of his appointment (as may happen under Financial Regulation 1120 in the case of officers promoted on probation), the effect of an extension of the probationary period (save as provided in proviso (1) above) will be to defer by the period of such extension the next increment even though this increment may fall due after the expiry of the extended probationary period.

Section 11.—Termination of Employment, &c.

(This Section shall apply *mutatis mutandis* in accordance with the Judicial Service Regulations to Judicial Officers)

185. Every proposal to abolish or re-grade a post or office involving the retirement of the present holder thereof, should indicate specifically that the re-grading of the post is not due to any alleged incapacity of the officer occupying the post to carry out its duties.

186. Pensionable officers in the Public Service shall be permitted to retire, if they so desire, on reaching the age of optional retirement (55 years). They may be permitted to continue in service after reaching this age, subject to the provisions of Public Service Commission Rules 62 to 65. They shall be automatically retired on reaching the age of 60, unless they have received permission beforehand in terms of Public Service Commission Rules 67 or 68 to remain in service.

187. (i) Public Officers are required to give at least six months' notice to the Heads of their Departments before they reach the age of optional retirement (55 years) stating whether or not they desire to retire on reaching such age. A Head of Department will give similar notice to the Permanent Secretary to the Ministry before he reaches the age of optional retirement. In the case of officers in the Civil Service notice will be given to the Secretary to the Treasury and in the case of officers in the other Combined Services, to the Deputy Secretary to the Treasury, through the Head of Department and the Permanent Secretary to the Ministry.

(ii) All officers who are permitted to remain in service after the age of 55 years are required to give a written undertaking that they give at least three months' notice to the Head of the Department, the Permanent

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Secretary to the Ministry, Secretary to the Treasury, or Deputy Secretary to the Treasury, as the case may be, before they ultimately retire from the service or are granted leave preparatory to retirement whichever is earlier.

188. (i) When it is possible to effect retrenchment by retiring an officer who has attained the age of 55, by abolishing his post or another post lower down in the scale, the officer should be compulsorily retired unless he is exceptionally efficient and it is in the public interest to retain him.

(ii) If it is not possible to retrench a post by retiring an officer who has attained the age of 55, he should be compulsorily retired only if his efficiency is definitely below normal.

(iii) An officer whom it is proposed to retire compulsorily on the above principles should not be allowed an extension on compassionate grounds, *e.g.*, merely to allow him to qualify for a full pension.

(iv) An officer who is compulsorily retired from service after reaching the age of 55 should in ordinary circumstances be given three months' notice of the date of retirement.

Note.—The provisions of the above Regulations regarding retirement are liable to alteration in accordance with rules under the Public Officers (Retirement) Ordinance (Cap. 253).

190. (i) Resignations from appointments which are made by the Public Service Commission, or are subject to the approval of the Commission, shall be tendered in writing through the Heads of Departments and the Permanent Secretaries to the Ministries concerned, to the Public Service Commission. Resignations from appointments in the Combined Services which are under the control of the Deputy Secretary to the Treasury, such as the General Clerical Service, the Government District Clerical Service, the Stenographers' Transferable Service, the Typists' Service, the Quasi-Clerical Service, the Shroffs' Service and the Translators' Service, shall be tendered in writing, through the Heads of Departments in which the officers are serving and the Permanent Secretaries of the Ministries concerned, to the Deputy Secretary to the Treasury. Resignations from other appointments shall be tendered in writing to the Heads of Departments in which the officers concerned are serving.

(ii) Before the resignation of any pensionable officer is accepted by the Head of Department, or forwarded for acceptance by the Deputy Secretary to the Treasury, or the Public Service Commission, as the case may be, the Head of Department should inform the officer concerned in writing that, if he resigns his appointment, he will forfeit all claims to pension or gratuity and all benefits of his former service, should he afterwards succeed in obtaining employment under Government. He should also be informed that no application to withdraw his resignation, if accepted, will later be considered. An acknowledgment to the effect that he has been informed in these terms should be obtained from him in writing.

(iii) In forwarding resignations for acceptance by the Deputy Secretary to the Treasury or the Public Service Commission, as the case may be, the Head of Department should state that he has complied with the requirements of paragraph (ii) above.

(iv) Acceptance of resignation should be notified in writing to the officer concerned.

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191. An officer who absents himself from duty without leave or reasonable cause is considered to have vacated his office. He should be informed accordingly at once by registered post. Charges should not be framed against such officer nor need he be called upon to submit an explanation for his absence without leave but if he volunteers an explanation within a reasonable time the explanation should be considered by the authority or authorities who would ordinarily deal with the officer under the Public Service Commission Rules on disciplinary matters. Permission to resume duties may be allowed or refused after such consideration.

193. Whenever officers are retired for inefficiency or dismissed from the Public Service or have vacated office (Regulation 191 above), the Head of the Department concerned shall report such retirements, dismissals or vacations of office to the Treasury which will issue a memorandum monthly to all departments giving particulars of each case. All departments must maintain an alphabetical index of the names of all officers who have been retired for inefficiency or dismissed or who have vacated office and the record of the particulars of each case.

194. No officer who has been retired for inefficiency or dismissed from the Public Service or who has vacated his office (*vide* Regulation 191) may be re-employed without the prior approval of the Public Service Commission.

195. (i) Official communications relative to the character and service of public officers must not be placed at the disposal of such officers.

(ii) Employees such as artisans or mechanics who have been engaged on agreement, or whose employment is otherwise temporary, should upon termination of their services be supplied with a certificate of service filled up on the standard form indicated below, stating not only their period of service and the position or positions held but also whether their duties have been carried out efficiently and whether their general conduct has been satisfactory.

(iii) Other officers in Government Service who are leaving the service on termination of agreement, retirement or voluntary resignation may also be furnished with certificates of service on the standard form at their personal request.

(iv) The following standard form should be used for certificates of service :—

GOVERNMENT OF CEYLON
Certificate of Service

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Name of Officer : _____
Position held and Department : _____
Period of Service : From _____ to _____
Cause of termination of engagement : _____
Efficiency : _____
General Conduct : _____

Head of Department.

Date : _____, 19 .

10

Note.—In the case of members of the Accountants' Service, General Clerical Service, Government District Clerical Service, Typists' Service, Quasi-Clerical Service, Stenographers' Transferable Service, Shroff's Service and Translators' Service, the certificate will be issued by the Deputy Secretary to the Treasury.

(v) Heads of Departments when completing certificates of service should bear in mind that the main purpose of such documents is that they may be used as references concerning the officer's period of service under the Government when the time comes for him to seek further employment. Officers, who complete certificates of service should, therefore, 20 give in them that information which they, were they in the position of a prospective employer, might fairly expect to obtain from the person who had previously employed the officer. In the case of an officer whose services have not been satisfactory, credit should be given for any good qualities shown which might enable him to obtain employment in other walks of life.

(vi) To enable the approved Agents of the Ceylon Government in the United Kingdom to answer enquiries as to the manner in which persons engaged by them under agreement have conducted themselves while in the service of the Ceylon Government, Heads of Departments must, as soon 30 as possible after the termination of an officer's engagement, furnish the Permanent Secretary to the Ministry with a confidential report (in duplicate) on Form General 152 as to his general conduct and efficiency during his service in Ceylon. No report is necessary, however, if the officer is taken on the permanent staff on the expiration of his agreement.

(vii) No certificate of character, merit, or service shall be given in any circumstances to any public officer other than a public officer who is leaving the service of the Government on termination of agreement or on retirement or voluntary resignation.

196. Heads of Departments should forward to the Permanent Secre- 40 tary before December 1 of each year a return on Form General 91 of all officers of whatever grade serving in their Departments who are sixty or more than sixty years of age, or who will attain the age of sixty before the end of the succeeding year.

Note.—*Vide* Public Service Commission Rules 67 and 68 regarding employment of officers over sixty years of age.

EXTRACT FROM THE CEYLON GOVERNMENT
GAZETTE, No. 9,970, FRIDAY APRIL 29, 1949.

PART I—GENERAL (Page 621)

L.D.—B. 129/48.

PN. 1351.

THE PUBLIC AND JUDICIAL OFFICERS (RETIREMENT)
ORDINANCE

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with annexes
marked
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—
(ix) Annex
" I ".
21-4-49

RULES made by the Governor-General under section 2 of the Public and Judicial Officers (Retirement) Ordinance (Chapter 253) as modified by the Proclamation published in *Gazette* Extraordinary, No. 9,773 of September 24, 1947, and by the Proclamation published in *Gazette* Extraordinary, No. 9,889 of July 28, 1948.

By His Excellency's command,

J. A. MULHALL,
Secretary to the Governor-General.

Queen's Cottage,
Nuwara Eliya, April 21, 1949.

RULES

1. (1) The age of compulsory retirement of every public or judicial officer shall be sixty years :
20 Provided, however, that the age of compulsory retirement shall—
- (1) in the case of presidents of rural courts who are not lawyers, be fifty-five years ;
 - (2) in the case of matrons, nursing sisters, nurses and midwives in the Department of Medical and Sanitary Services, be fifty years.
 - (2) " Notwithstanding anything in paragraph (1) of this rule, the competent authority may if the authority considers it expedient, extend the employment of any, public officer beyond the age of compulsory retirement if—
- 30 (a) the Head of the Department in which he is employed considers that his services should be retained in the interests of the service ; or
 - (b) where that officer is the Head of a Department, the Permanent Secretary to the Ministry to which that Department is attached considers that his service should be retained in the interests of the service.
 - (3) Notwithstanding anything in paragraph (1) of this rule, the Judicial Service Commission may extend the employment of any judicial officer beyond the age of compulsory retirement if the Commission considers it desirable that his services should be retained in the interests of the service.
2. (1) The competent authority may require any public or judicial
40 officer to retire upon his completing the age of fifty-five years or at any time thereafter :
- Provided, however, that any officer of any class or description specified in Column I hereunder may be required to retire at any time after the completion of the age or the period of service, as the case may be, specified in the corresponding entry in column II.

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(ix) Annex
"I"
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I.

- (i) Matrons, nursing sisters, nurses or midwives in the Department of Medical and Sanitary Services Twenty years' of service.
- (ii) Female officers employed in the Post and Telecommunications Department and female teachers (appointed before June 15, 1934) employed in the Education Department Fifty years of age or twenty years of service, whichever is the earlier.

10

(2) A public or judicial officer shall, under the powers conferred by paragraph (1) of this rule, be required to retire from service—

- (a) if by such retirement the post held by that officer, or a post lower down in the grade of that officer, can be retrenched ; or
- (b) if the efficiency of that officer is below normal :

Provided, however, that an officer who is exceptionally efficient and whose retention in service is in the public interest shall not be required to retire on the grounds specified in sub-paragraph 20 (a) of this paragraph.

(3) Where an officer is, under the powers conferred by paragraph (1) of this rule, required by the competent authority to retire from service, the date on which his retirement shall become effective shall be a date specified by the competent authority in a notice given to that officer in that behalf by the competent authority, being a date not earlier than three months from the date of the notice.

3. Notwithstanding anything in the preceding rules, a public or judicial officer may be required by the competent authority to retire at any time—

- (a) if he has been condemned by a duly constituted Medical Board as unfit for further service on the ground of ill-health, or
- (b) on the ground of general inefficiency as provided in the Public Service Commission Rules published in *Gazette* No. 9,938 of January 13, 1949, or Judicial Service Regulations, as the case may be.

4. Where any female public officer holds a pensionable appointment which by departmental regulation is subject to the condition that the officer shall retire on marriage, such regulation shall have effect in addition to the provisions of rules 1 and 2, and the officer may accordingly be compulsorily required to retire on marriage in compliance with such regulation.

5. In these rules "competent authority" in relation to the retirement of any officer means the authority competent to make appointments to the office held by that officer.

GOVERNMENT RECORD OFFICE,
Colombo, May 28, 1960.

Sgd. Illegibly,
Government Record-keeper.

(TRUE COPY)

JULIUS & CREASY,
Proctors for the Petitioner.

[1334 PART I: SEC. (I)—(GENERAL)—CEYLON GOVERNMENT GAZETTE
SEPT. 17, 1954]

GOVERNMENT NOTIFICATIONS

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—
(x) Annex
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11-9-54.

L. D.—B 129/48.

PN 1351/CF 74/41/76.

**THE PUBLIC AND JUDICIAL OFFICERS (RETIREMENT)
ORDINANCE**

RULE made by the Governor-General by virtue of the powers vested in him by section 2 of the Public and Judicial Officers (Retirement) Ordinance 10 (Chapter 253), as modified by the Proclamation published in *Gazette Extraordinary*, No. 9,773 of September 24, 1947, and by the Proclamation published in *Gazette Extraordinary*, No. 9,889 of July 28, 1948.

O. E. GOONETILLEKE,
Governor-General.

Governor-General's Office,
Colombo, September 11, 1954.

Rule

The rules made under section 2 of the Public and Judicial Officers (Retirement) Ordinance, and published in *Gazette* No. 9,970 of April 29, 20 1949, are hereby amended in rule 2 thereof, as follows :—

- (1) by the omission of paragraph (2) of that rule ; and
- (2) by the re-numbering of paragraph (3) of that rule, as paragraph (2).

“ K ”

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(xi) Annex
“ K ”.
6-11-58.

Ministry of
Defence and External Affairs,
Senate Building.
Colombo, 6th November, 1958.

My. No. E/P. 14/3/6.
Yr. No. SM. 80/58
of 4.11.58.

I.G.P.

Extension of Service—
Mr. S. G. de Zoysa, D.I.G.,
Police.

10

Mr. S. G. de Zoysa, Deputy Inspector-General of Police, is granted extension of service for one year with effect from 15th January, 1959, subject to the provisions of Treasury Circular No. 203 of 20th November, 1954, and No. 239 of 23rd May, 1955, and the *Gazette* Notification regarding retirement of Police Officers appearing in page 516 of *Gazette* No. 10,790 of 29th April, 1955.

(Sgd.).....
Permanent Secretary,
Ministry of Defence & External
Affairs. 20

True Copy of the letter granting
petitioner an extension of service
with effect from 15.1.59.

JULIUS & CREASY,
Proctors for the Petitioner.

“ L ”

My. No. E./P. 14/3/6 (Vol. II).
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(xii) Annex
“L”.
20-10-59.

INSPECTOR-GENERAL OF POLICE

EXTENSION OF SERVICE

Reference your letter of 8th October, 1959.

Mr. S. G. de Zoysa, D.I.G., Police, is hereby granted an extension of service for one year with effect from 15th January, 1960, subject to the provisions of Treasury Circular No. 203 of 20th November, 1954, and 10 No. 239 of 23rd May, 1955, and the *Gazette* Notification regarding retirement of Police Officers appearing in page 516 of *Gazette* No. 10,790 of 29th April, 1955.

(Sgd.) G. C. T. A. DE SILVA,
S./J.

(Sgd.).....
Asst. Secretary.

Ministry of Justice,
Colombo 12. 20th October, 1959.

True copy of the letter granting the petitioner an extension of service with effect from 15-1-60.

JULIUS & CREASY,
Proctors for the Petitioner.

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Petition of
S. G.
de Zoysa
with annexes
marked
"A"—"R".
31-5-50

(xiii) Annex
"M".
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PARLIAMENTARY DEBATES

(HANSARD)

SENATE

OFFICIAL REPORT

Vol. 13 No. 10

Tuesday, 3rd November, 1959

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1959

ADJOURNMENT

Motion made, and Question proposed, "That the House do now adjourn".—[*Senator The Hon. A. P. Jayasuriya*].

SENATOR COORAY : There is just one matter which I should like to raise on this motion for Adjournment, namely, the need for extending the emergency. But before I pose the actual question to the hon. Leader may I, with your permission say a few words by way of introducing my question so that the Government benches, which are not too anxious to divulge information on this particular issue, may at least know what we are trying to get at.

As you know, Mr. President, the Government has time and again come before the House, or rather you have read out to the House from time to time various proclamations issued by the Governor-General extending the emergency. On an earlier occasion it went on for nearly 9 months or more. This time the proclamation of the emergency has come up for renewal a second time. On the last occasion, the previous Leader of the Opposition tried to find out from the Hon. Minister of Justice the need for the emergency but he was unable to get any information from him. All that we have been able to ascertain about this emergency is from a publication called the *Sri Lanka*, a Government publication, which states :

"The Ministers have felt that it is necessary to extend the emergency in view of a certain amount of tension existing since the assassination of the late Prime Minister."

I am reading from the *Sri Lanka* of October 27th, 1959. To continue with my quotation :

"In their view the emergency should be extended for the security of every single person in the country."

SENATOR DE SOUZA : Every single Minister !

SENATOR COORAY : To proceed with my quotation :

"It was noted that the operation of the death penalty for murder was only possible on the basis of the emergency regulations until the necessary legislation for the repeal of the suspension of the Capital Punishment Act was passed by Parliament."

I must in fairness say that I certainly agree with the latter part of it in the sense that without the emergency you cannot have the death penalty imposed till the Bill which the Government has already submitted to the other place is approved by it and by this House. But surely the Government had all these weeks to get that legislation through, if it really wanted to do so. I submit that it is merely an excuse to prolong this emergency. The Government has no valid reason for doing so—except, perhaps, as my hon. Friend suggested, to ensure the security of every single Minister and Member of this "People's Government", in which case this piece of legislation should be called the Ministers' Security Act and not the Public Security Ordinance.

On the earlier occasion, too, the Government said that it considered the emergency necessary in the interests or public security and preservation of order, and so on. Long before it is communicated to this House or the other place the Proclamation is published in the *Gazette*—it is published in all three languages so that it could be read by the people—and, I take it, the people who read it are supposed to be intelligent enough to understand it.

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Hence this particular provision—that a declaration of emergency should be communicated to Parliament within a month—must have some other meaning. I do not think it is necessary for you, Mr. President, to read out to us something which we have already read by the time we come here to discuss it. Obviously, the reason why the legislature thought it fit to state specifically that it shall be communicated to both Houses of Parliament is to enable the two Houses of Parliament to consider, or at least to be informed of, the need for the emergency; otherwise, it becomes a meaningless mockery for you merely to read out. I say that with all respect to you, Mr. President. I hope I will not be misunderstood when I say that there is no meaning in reading out to us something which we have ourselves read long ago if it is not to provide both Houses an opportunity of raising certain questions. It is a very serious matter.

It is not a question of a matter of the Government's opinion; opinion comes afterwards. Firstly, it says, "Where in view of the existence or imminence of a state of public emergency the Governor-General is of opinion...." and so on. I saw a judgment of the Chief Justice in this morning's papers—and this is stated also in the Bracegirdle case—that the courts shall be the final arbiters in such matters, including the existence of a state of public emergency or the imminence thereof. His Excellency the Governor-General exercising his discretion on the advice, no doubt, of the Prime Minister comes after that. But first you must establish as a *sine qua non*, as a condition precedent, the existence of a state of emergency or the actual imminence of it. Merely to come here and say that it is necessary for the

public security and read out a proclamation to that effect is not, in my humble opinion, what the legislature ever intended.

Apart from what the *Sri Lanka* says in its issue, we have for the last one year at least tried unsuccessfully to force the Government benches to take us into their confidence and tell us why exactly this emergency is on. 10 Of course, they can always say that anything can happen. That is always possible. In that case there may have to be a perpetual state of emergency intended to cover all possible emergencies and contingencies—merely because the Ministers feel that something is going to happen 393 or because somebody gets an anonymous letter! The other day, for 20 instance, the hon. Leader of the Opposition in the other place mentioned that he had received anonymous telephone calls and letters threatening his life. He may receive these as much as anybody else.

I submit that the whole thing is utterly wrong. The Government is using the Public Security Ordinance for a purpose for which it was never 30 intended. The point is that this House has to be satisfied that there is the existence or imminence of a state of emergency. On no occasion, and I say so with all respect, has this Government even attempted to convince us or take us into its confidence and disclose to us the reasons which justified the renewal of the emergency. The other day 40 the Hon. Prime Minister said that nobody is worried about it; nobody is inconvenienced by it and life goes on cheerfully as before. We have seen the very latest regulation framed under these emergency regulations whereby the rights of the subject to have recourse to the courts of law have been taken away. *Habeas corpus* has virtually been suspended 50

and yet the Head of the State says that life goes on cheerfully as before. There is nothing to prevent, under that regulation, any member of the public who says that he is acquainted with facts pertaining to the assassination of the late Prime Minister being promptly taken into custody.

SENATOR NADESAN : That is not correct.

SENATOR THE HON. JAYAWICKRAMA : That is a wrong version which the papers have published. That is not correct.

SENATOR COORAY : I stand corrected ; but that is certainly the first impression I had. Whatever it is, the fact remains that those persons who are arrested and remanded could be kept indefinitely on remand and even the Supreme Court cannot intervene. Look at the position today. The Supreme Court, which is the repository of the people's rights the Supreme Court to which people are entitled to have recourse, cannot be reached unless and until some government official—not even the Hon. Minister but the Inspector-General of Police—gives his fiat.

SENATOR THE HON. JAYAWICKRAMA : The Attorney-General.

SENATOR COORAY : Or the Inspector-General of Police. That is the position into which the Government has reduced the courts of law of this country, to which every citizen looks for his security for everything he holds dear in a democracy. You reduce the liberty of the subject to that state on the ground that an emergency exists. And what is more, you do not choose to say what it is all about.

SENATOR THE HON. WIJESINGHE : You answered that a few minutes ago.

SENATOR COORAY : What is the answer ?

SENATOR THE HON. WIJESINGHE ; You read your own speech and you will find it there.

SENATOR COORAY : My good Friend the Minister of Nationalised Services and Shipping has a habit which he is now developing into a fine art. Whenever he is in a difficulty he draws a red herring across the trail !

SENATOR DE SOUZA : The red herring is in Australia.

SENATOR COORAY : I shall deal with that some other time.

The point is that there is no excuse for saying that the emergency does not inconvenience anyone because under the pretext of the emergency our cherished liberties are impaired and interfered with. And, as I said, the Government has not vouchsafed

to tell us what this emergency is about. Why is it that you cannot carry on under the ordinary law of the land ? For instance, as you know, the elections to local bodies are due in a few months. I note that it is proposed to relax the regulations for them. But why should not political meetings of all descriptions be permitted ? What are you frightened of, if there are political meetings ? There are enough provisions under the ordinary law of the land to deal with all offences—unless, of course, it is a case of continuing the emergency for your own self-preservation. If that is so, why not openly tell us and we will have some sympathy for you ? We might, possibly on humanitarian grounds, agree to the continuation of the emergency.

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What we want to know is what are the grounds on which the emergency is being renewed? There is universal agreement that immediately after the assassination, the proclamation of the emergency was justified. Nobody denies that. But why at this stage are you continuing the emergency? We were concerned about an early date for a meeting of this House because under normal conditions the other place is not meeting until the 24th of November and we are not meeting till the 1st of December. In other words, the Death Penalty Bill will not come up until the 1st of December. By that time the Christmas holidays will intervene, and probably we may not be able to dispose of that Bill before the end of December—because if the Bill comes up here on the 1st we will have to fix a date, and by that time another month would have gone.

THE PRESIDENT: We can take it up on the 2nd of December.

SENATOR COORAY: The present emergency comes to an end on the 25th. On the 26th there will be a proclamation presented for a further extension—[*Interruption*].—

396 **THE PRESIDENT:** It can be terminated earlier.

SENATOR COORAY: That has never happened. It has been a case of prolonging the agony.

SENATOR A. M. A. AZEEZ: We can have another speech!

SENATOR COORAY: I do not circulate my speeches. I deliver them on the Floor of the House.

There is no chance of this emergency being lifted before the end of the year, unless, as you say, the

Government chooses to do so earlier. That is a serious matter from the point of view of the public and of this House. We cannot accept the nonchalant attitude of the Government towards this matter and we demand that the Government give us adequate reasons for prolonging the emergency.

SENATOR A. REGINALD PERERA: 10
Mr. President, in a way I am glad that my first words in this House are on a subject on which I can speak with a deep sense of responsibility.

A statement has been made to the Press—and I trust you, Mr. President and every hon. Senator of this House have read that statement—by a public officer, dealing with and in reference to the enquiry into the 20 assassination of our late Prime Minister. We have also been told that this statement of this particular officer has had the approval of the Hon. Minister of Justice. I presume that is correct. In my opinion, this statement is unprecedented. It has no parallel in the entire annals of criminal investigation in this country or perhaps in any country in the 30 world. It is a gross violation of the regulations that govern public officers. The regulations that govern public officers are part of the law of this country. However important a man may be, however powerful he may think he is, he has to abide by the law of this country. And I say that this public officer in making that statement has violated the law 40 397 of the country and, as if to enhance his crime, that violation has had the approval of the Hon. Minister of Justice.

That statement may have been regarded only as an expression of personal opinion if it had not been approved by the Hon. Minister of Justice. Now it is a public docu-

ment, it is an official document. It is a document that influences the very conduct of that enquiry and ultimately will have repercussions when the enquiry comes before the courts of this country where justice has to be meted out to those criminals who conspired to assassinate our late Prime Minister. It is much more.

10 **THE PRESIDENT :** Is the hon. Senator asking a question ?

SENATOR PERERA : I am bringing a very grave matter of public importance to the notice of this House and I submit myself entirely to your sense of impartiality on this matter, Mr. President.

THE PRESIDENT : I do not think that remark is necessary at all. 20 There is no question of impartiality. Impartiality has always been there. I do not think therefore that the hon. Senator should emphasize that. I must ask the hon. Senator please not to make any insinuation, not to make any reference of that nature while he is on his feet. If the hon. Senator asks any Member of this House he will be told that im- 30 partiality has been there right along the line.

SENATOR PERERA : I am sorry, Mr. President. I think you have misunderstood me. It is in my belief, having heard of your impartiality, that I said that I submitted myself entirely to your impartiality.

THE PRESIDENT : Thank you.

398 **SENATOR PERERA :** As I said, the 40 matter is much more important. The statement which has been made by this public officer is an attack on Hon. Ministers of this Government. It is an attack on the Hon. Leader of the Opposition. It is an attack on several hon. Members of Parliament,

both in the Opposition and in the Government. Are we to believe that this attack on Hon. Ministers, on the Hon. Leader of the Opposition, on Members of Parliament, made by a public officer has the approval of the Hon. Minister of Justice ?

No, Mr. President, if we permit it the very fountains of justice will be contaminated. We have to cry halt to this process that is continuing. We have to look at this matter, not from any party point of view, not from a sectarian point of view, but as men chiefly concerned that certain liberties should prevail. We must make certain sacrifices to resist the enthronement of gangsterism ; we must resist that conspiracy that started a few months ago and culminated in the assassination of our Prime Minister, a conspiracy which is still continuing. If we believe that we must resist that, stop that ; we must act and stop the irresponsible statements that have been made by that public official.

The statement by this public officer, in my humble opinion, is at once a prosecution, a defence and a judgment on a matter which is still under inquiry. He prosecutes and he very cleverly points out in the direction of certain people. He defends men who have been contaminated already and he also passes judgment on innocent people. Therefore I ask you Mr. President, is it correct that this type of statement should have the blessings of the Hon. Minister of Justice of this country ? I am sorry that I have to say this. The Hon. Minister of Justice comes from the same school that I come from. It was only a month ago that I attended a dinner in his honour—

SENATOR COORAY : But they are 399 not wearing the same old school tie !

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SENATOR PERERA :—and it is an irony that my first speech in this House should be a public indictment of him.

I told you a few minutes earlier that the statement of this public officer is a violation of Public Service Regulations. I made what was a considered statement, not canvassed before. If in the situation of this assassination—which I consider is not an ordinary murder ; a Prime Minister has been assassinated—a conspiracy has been laid bare, and if it was necessary at this stage for the Government to stop irresponsible rumours, the work of political adventurers, then the man or the men who should have performed that task was not Mr. Sidney de Zoysa, Deputy Inspector-General of Police, Range II. There was the Inspector-General of Police ; there was the Hon. Minister of Justice ; there was the Permanent Secretary. The Public Service Regulations state and determine their conduct. Those Regulations make them the people, the men, who should have refuted those rumours. Why, I ask, should it be Mr. Sidney de Zoysa ?

In fact Mr. Sidney de Zoysa—I am not casting any aspersions on him—is in a rather delicate situation. The circumstances around him are very, very delicate. By Ministerial and Governmental pressure, his brother, the Minister of Finance, has already taken sanctuary in the trackless wastes of Australia. He is howling to the moon about some communist conspiracy. There is a saying that whom the gods wish to destroy they first make mad. This Minister, who by the pressure of Ministers and Government Members of Parliament and the Opposition was sought to be removed from office, is a brother of Mr. Sidney de Zoysa. Nor do I say

that his other brother who has been questioned by the police for a considerable length of time is involved. That is not my business. That has to be seen. That is a matter for the police. But I say that he was questioned for a long period of time, and I also say that that brother, whatever his complicity may or may not be in the crime, was in the financial combine led by the Rev. Buddharakkita and Mrs. Vimala Wijewardene. 400

So Mr. Sidney de Zoysa is placed in a rather peculiar, delicate position. Therefore it was all the more necessary that he should have kept his mouth shut. In fact the correct thing for Mr. Sidney de Zoysa to do at this juncture is to take leave ; not to make irresponsible statements attacking Ministers of State, Members of Parliament and also brother police officers. 20

The Minister of Finance, the brother of Mr. Sidney de Zoysa, has confessed that he was a very good friend of Mr. Ossie Corea who supplied the death revolver to the alleged assassin. I am not going into the proceedings. 30

THE PRESIDENT : I am sorry but I cannot allow any reference to be made in this House to the assassination of the late Prime Minister. The matter is *sub judice*. Any statements made on the floor of this House may prejudice the cases of people involved, may prejudice anybody else. Therefore, when a matter is before court and is under investigation it is not correct— 40

SENATOR BARTON : It is not correct.

THE PRESIDENT :—for anybody to make any kind of reference to such investigation. I have looked into

this matter, and I have prepared a statement which I shall now read to the House.

SENATOR DE SOUZA : Before you give your formal Ruling, Mr. President—we will all be bound by that—I wish to state that I had intended myself to ask the Hon. Minister of Justice for a statement regarding the
10 progress of this investigation. Surely that request is legitimate? That has a reference to the investigation. Surely an hon. Senator has a right to ask an Hon. Minister——

401 THE PRESIDENT : I said, “reference on the Floor of this House to the assassination ”.

SENATOR DE SOUZA : Your words might have given rise to misunderstanding.
20

THE PRESIDENT : If the hon. Senator wishes to ask an Hon. Minister as to what happened, for the true facts, such a request can have no bearing on the Ruling I propose to give.

SENATOR DE SOUZA : I just wanted to make that point clear before you give your Ruling.

80 SENATOR PERERA : If I confined myself to speeches made on this subject in the other place and to official statements issued to the papers, would I still come under your Ruling?

THE PRESIDENT : Yes, the hon. Senator would still be contravening my Ruling. I am sorry I have to make such a Ruling. I want the
40 hon. Senator to please appreciate that I do not want anything said or done in this House which would prejudice the case of anybody, whether under arrest at the moment or to be arrested hereafter. It would not be

fair and therefore I have decided to make this Ruling.

Hon. Members must not make any reference to the Bandaranaike assassination which is now before the courts or to the investigations conducted or not so far conducted in connection with the case. For the benefit of hon. Members I wish to give my reasons for this Ruling so that there may be no occasion for any hon. Member to make any reference to the shooting of the late Prime Minister or the investigations connected with it. It is well-settled practice under the conventions of the British House of Commons which bind us in respect of our procedure that matters awaiting the adjudication of a court of law should not be brought forward in debate. In my view matters awaiting adjudication in respect of any offence before a court of law
402 include not only the matters placed as evidence by the prosecution or defence, but also other related matters. The courts of law have the jurisdiction and it is their duty not only to go into the facts presented in evidence, but also to decide on the credibility of the witnesses or the weight to be attached to the evidence by considering any infirmities alleged regarding the investigation itself. How has the case been investigated? Was there any bias in such investigation? Was any investigator unfairly influenced? Have the true culprits been allowed to escape? Have any of the investigators a hand in the offence? All these questions and a number of other questions relating to the investigation are matters which have to be adjudicated upon by the courts and therefore I cannot permit any reference to such matters in this House. It is of vital importance that nothing said in this House should affect the orderly and proper ad-

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ministration of justice and I trust that hon. Members will abide by this Ruling.

SENATOR DE SOUZA : May I seek some clarification? I have listened carefully to your Ruling, Mr. President, and there appears to be a little contradiction. You stated in your Ruling that no reference can be made to the assassination. I said a little while ago, before you made the Ruling, that I would be asking for a statement on the progress of the investigation in respect of the assassination.

THE PRESIDENT : I have said I would allow that.

403 SENATOR PERERA : I abide by your Ruling, Mr. President. What I have said is quite enough. One matter has resulted from this irresponsible statement. There is tremendous doubt among the people of this country whether elementary justice will be done. Whether they be workers in trade unions, whether they be peasants in their farms, or others in associations, community centres or in clubs, whether, they be members and leaders of various political parties, I appeal to them from the forum of this House to remember that we have a deep obligation, not only by the late Prime Minister but by the very fundamental liberties which we are dedicated to preserve, to be alert to see that justice is done and that khaki-clad, brass-buttoned, jack-booted thugs do not govern this country.

SENATOR DE SOUZA : I think you are aware that in the other place, in the course of the debate on the Vote of No Confidence, the Hon. Prime Minister made the statement that he, least of all, knew what has happened in regard to the case. When various questions were put regarding the

conduct of the investigation into the assassination of the late Prime Minister, the present Prime Minister pleaded total ignorance about the case. There were all sorts of people in the country who apparently had some knowledge but he knew least of all what has happened in the case. He said :

"I have not sought to take powers unto 10 myself, and I can assure hon. Members that the conduct of the case is in very safe hands. The Hon. Valentine Jayawickrama, Minister of Justice, was one of the most experienced law officers in the country. He is one of our esteemed Colleagues and we, Members of the Cabinet, have the fullest confidence and faith that he as Minister, and the Police Department, will be able to bring all culprits to book and to see that 20 perfect justice is done."—[OFFICIAL REPORT, Representatives, 30th October, 1959; Vol. 37, c. 1008.]

In other words, to use a slang expression, he "passed the buck". May I on this occasion take this opportunity to ask the Hon. Minister of Justice, who is a very experienced law officer, to kindly inform us what has been the progress in relation to 30 the investigation into the assassination of the late Prime Minister? I ask that question particularly in view of the fact that there is grave disquiet and grave discontent in the country regarding those proceedings; grave discontent and disquiet aggravated by a statement—which can only be called irresponsible—reported in the 404 Press yesterday, by a senior police 40 officer who, so far as I can see, should have no right to make such a statement because he is not even in charge of the investigation. Be that as it may, may I ask the Hon. Minister, to whom the buck was passed, what is the present state of affairs regarding this investigation?

SENATOR CHANDRA GUNASEKERA : ගරු සභාපතිතුමනි, මම එක 50 ප්‍රශ්නයක් අහන්නට තිබෙනවා. [Pause]

I am sorry if I have inconvenienced anybody by deciding to make my maiden speech in Sinhalese.

10 ගරු සභාපතිතුමනි, මේ ආණ්ඩුවේ වග කිව යුතු ඇමතිවරුන් කීප දෙනෙකු ඉදිරියේ, මේ අවසානවේදී මට වැදගත් ප්‍රශ්නයක් මතු කරන්නට තිබෙනවා. පසු ගිය සතියේ, නියෝජිත මන්ත්‍රී මණ්ඩලයේදී ගරු මන්ත්‍රීවරු කීප දෙනෙක්ම ගරු මුදල් ඇමති 10 කුමාට විරුද්ධව බලවත් චෝදනා ඉදිරිපත් කළා. එහි ප්‍රතිඵලයක් වශයෙන්, ආණ්ඩු පක්ෂයේම ගරු මන්ත්‍රීවරු ඒ චෝදනා ගැන ක්‍රියා කරන ලෙස ඇමති මණ්ඩලයෙනුත්, අගමැතිතුමා ගෙනුත් ඉල්ලා සිටියා. එපමණක් නොවෙයි. ගරු ඇමතිවරුන් මේ ප්‍රශ්නය සම්බන්ධයෙන් සැහෙන නොසන්සුන් භාවයකින් පසු වන බව අපට ආරංචියි. ගරු මුදල් ඇමතිතුමා මේ රටෙන් ගිය බවත් ඒ සමගම අපට දන ගන්නට ලැබුණා.

20 ගරු මුදල් ඇමතිතුමා ආපසු මේ රටට එන්නේ මුදල් ඇමති හැටියටමද යනු අපි දන ගන්නට කැමතියි. ඒ සමගම, ප්‍රජාතන්ත්‍රවාදයට ගරු කරන ආණ්ඩුවක් යයි කියා ගන්නා මේ ආණ්ඩුව, මේ ආණ්ඩුවේ ගරු අගමැතිතුමා, අද මේ රටේ මහජනයා දැන ගැනීමට පුලු පුලා සිටින එක්තරා අධිකරණ නීත්‍රවක් ගැන සලකා, ගරු මුදල් ඇමතිතුමාට තව දුරටත් ඒ පදවියේ කටයුතු කිරීමට ඉඩ දීමට සිදුනම් ද යනුත් අපි දන ගන්නට කැමතියි. මෙය මහජන ප්‍රශ්නයක් නිසා මෙයට පිළිතුරක් දැන ගැනීමට මහජනයා ආශාවෙන් සිටින බව මම 30 ප්‍රකාශ කරන්නට සතුටුයි.

405 ගරු සභාපතිතුමනි, අද නියෝජිත මන්ත්‍රී මණ්ඩලයේ හෝ වේදා මේ සෙනෙට් සභාවේ හෝ වේදා රැස්වීම් පැවැත්වෙන්නේ ඉතා සීමා සහිත ප්‍රමාණයකටයි. ඒ නිසා, අවසානව ලැබුණු මොහොතේ දීම අපට මෙවැනි ප්‍රශ්න ඇසීමට සිදු වී තිබෙනවා. අද අප රැස් වූ පසු නැවත රැස්වන්නේ දෙසැම්බර් මස 1 වැනි දිනයි. ඒ නිසා මේ ප්‍රශ්නය සම්බන්ධව මේ ආණ්ඩුව කුමන වැඩ පිළිවෙළක් අනුගමනය කරනවාද යනු පහද දෙන ලෙස මා ඉල්ලා සිටිනවා. 40 ගරු මුදල් ඇමතිතුමාගේ ඇමති පදවිය තාවකාලිකව වත් ඉවත් කර, මේ ප්‍රශ්නය සම්බන්ධයෙන් සාධාරණව කටයුතු කිරීමට මේ ආණ්ඩුව බලාපොරොත්තු වෙනවාද යනු අපි දන ගන්නට සතුටුයි.

ඒ සමගම, මේ රටේ පැන නැගී තිබෙන තවත් වැදගත් ප්‍රශ්නයක් තියෙනවා. පසු ගිය සතියේ ආණ්ඩුවට විරුද්ධව ඉදිරිපත් කරන ලද විශ්වාස භංග යෝජනාව ඡන්ද 5 කින් පරාජයට පත් වීම නිසා අද මහජනයා ඉතා වැදගත් ප්‍රශ්නයක් ඉදිරිපත් කර

තවා. මහජන ඡන්දයෙන් පත් වූ මන්ත්‍රීවරුන් වැඩි දෙනෙකු ආණ්ඩුවට විරුද්ධව තීරණයක් දී ඇති නිසා, ආණ්ඩුව තව දුරටත් ආණ්ඩුවක් වශයෙන් ක්‍රියා කිරීමට සිදුනම් වෙනවාද, එසේ නැතිව ඡන්දයෙන් තෝරා පත් වූ මන්ත්‍රීවරුන් වැඩි දෙනෙකු දුන් ඒ තීරණය, මෙ රටේ මහජනයාට මේ ආණ්ඩුව එපා වී ඇති බවට දුන් සත්‍ය තීරණය ලෙස සලකා ආණ්ඩුව විසුරුවා හැර මහජනයාට වහා ම—

SENATOR THE HON. JAYA-SURIYA: He is again anticipating the motion.

SENATOR DE SOUZA: The Hon. Minister cannot have it both ways. There is no motion in the Order Paper; What motion is he referring to?

SENATOR GUNASEKERA: ගරු සෞඛ්‍ය ඇමතිතුමා මට සමා වෙනවා ඇති—මේ ප්‍රශ්න අහන විට උන්නාහෙලාට ටිකක් රිදෙන බව මම දන්නවා.

SENATOR COORAY: ටිකක් නොවෙයි, හුඟක් රිදෙනවා.

SENATOR GUNASEKERA: ඒ නිසා මට සමා වෙනවා ඇතියි මා බලාපොරොත්තු වෙනවා. මේ ප්‍රශ්න අහන විට රිදෙන නිසා තමයි, අණපණන් කීපයක්ම සම්මත කර ගැනීම පිළිබඳ වැඩ මේ ගරු සභාව ඉදිරියේ තිබියදීත් මිළහ රැස් වීම දෙසැම්බර් මස 1 වැනි දිනකට කල් තබන්නේ.

සෙනෙට් සභාව 1 වැනි දින තුරු රැස්වන්නේ නැහැ. මේ තරම් වැදගත් කරුණක් අප ඉදිරි පිට තිබෙද්දී, දෙසැම්බර් 1 වැනි දින තුරු රැස් නොවීම ගැන මට පුදුමයි. එම නිසා, ගරු ඇමතිතුමාට කොපමණ රිදුනත්, මගේ ප්‍රශ්න දෙකට උත්තර දෙන ලෙස මා ඉල්ලනවා මුදල් ඇමතිතුමා තව දුරටත් එම ධුරයේ තබා ගැනීමට මේ ආණ්ඩුව ලැහැස්තිද? එමෙන්ම, මහජන ඡන්දයෙන් පත් වූණු නියෝජිත මන්ත්‍රීවරුන්ගෙන් වැඩි දෙනෙකු විරුද්ධ පක්ෂයෙන් ගෙනෙන ලද විශ්වාස භංග යෝජනාවට පක්ෂව ඡන්දය දී තිබියදී, එම ආණ්ඩුව තව දුරටත් පවත්වාගෙන යාමට අදහස් කරනවාද? එසේ නැත් නම් පාර්ලිමේන්තුව විසුරුවා හැර, තමන් කැමති විධියේ ආණ්ඩුවක් තෝරා ගැනීමට ජනතාවට අවස්ථාවක් දෙන්නට ලැහැස් තිද කියා මා අසන්නට කැමතියි.

No. 2
Petition of
S. G.
de Zoysa
with annexes
marked
"A"—"R"
31-5-60

(xiii) Annex
"M"
8-11-59
—continued.

No. 2
Petition of
S. G.
de Zoysa
with annexes
marked
"A"—"R".
31-5-60

(xiii) Annex)
"M".
18-11-59.
—continued.

SENATOR COORAY : Before the Hon. Minister gives the answers to the questions raised, may I, in fairness to him, ask a supplementary question? What exactly is the role assigned to the Minister of Justice in regard to investigations into crime? As far as I am aware, this is the first occasion on which a Minister who is a politician is in charge of the investigations. All these days the police came under the Prime Minister; earlier they came under the Minister of Home Affairs. The Prime Minister and the Minister of Home Affairs concerned happened to be lawyers, but that need not have been so.

SENATOR DE SOUZA : The Hon. Home Minister will have to go home soon!

407 **SENATOR COORAY :** The point I am making is this. In fairness to a colleague of ours, namely, the Minister of Justice who is here, we are most anxious to know what his position is in this matter. We know what his functions are; but this is the first time I have heard of a Minister being associated with an inquiry into a case of murder.

THE PRESIDENT : I am afraid I must rule the hon. Senator out of Order.

SENATOR COORAY : I do beg of you—

THE PRESIDENT : On what is the hon. Senator speaking?

SENATOR COORAY : That it is unusual for a Minister to conduct an inquiry into a case of murder.

SENATOR THE HON. JAYASURIYA : The hon. Senator thinks that the emergency is necessary till the Death Penalty Bill has been passed. With

regard to the emergency itself, he admits that it was necessary to declare a state of emergency after the assassination of the late Prime Minister. That emergency still continues to exist, although in a modified form.

SENATOR THE HON. JAYAWICKRAMA : Investigations into the assassination of the late Prime Minister 10 are being carried on by the police and the statements that are being recorded are personally examined by the Attorney-General, the Deputy Solicitor-General and a Senior Crown Counsel.

With regard to Senator Cooray's question, the Attorney-General and the Police Department come under my Ministry, but that does not mean 20 that I interfere with their work. I only supply them with the necessities like pen, paper and so on. Judicially, too, it is the same position I adopt.

SENATOR DE SOUZA : Then why does the Hon. Prime Minister say that the case is in your hands?

SENATOR THE HON. JAYAWICKRAMA : Because the Police Department is under me. I have nothing to do with the actual investigations. 408

SENATOR DE SOUZA : Is the Hon. Minister satisfied with the conduct of the investigations today—because the country is not satisfied? He does not know that.

THE PRESIDENT : I thought the Hon. Minister answered the question.

SENATOR DE SOUZA : He has not 40 answered my question.

THE PRESIDENT : Please wait.

SENATOR THE HON. JAYAWICKRAMA : The country will have to wait till the case is brought before a Magistrate before it can say that it is satisfied or not with the investigations. At this stage I cannot say anything.

10 SENATOR COORAY : We are more than satisfied with what the Hon. Minister has said, but in fairness to him I must say that the report of the Prime Minister's remarks gives quite a different impression. The Hon. Prime Minister is reported to have said, " If any one has information about this murder, let him go to the Minister of Justice "

20 THE PRESIDENT : I want the other questions answered. If there is any other information hon. Senators require, we can go on to that. Senator de Souza and Senator Cooray are very impatient today. The Hon. Minister is doing his best to answer the questions asked, and if there is anything else on which information is wanted, hon. Senators will get it.

SENATOR COORAY : What about Senator Perera's question ?

30 SENATOR THE HON. JAYAWICKRAMA : There was no question. He only made a statement. I do not think he had any question to ask me.

THE PRESIDENT : Was there no question ?

409 SENATOR PERERA : I asked him whether I was correct in presuming that he approved the statement of Mr. Sidney de Zoysa.

40 SENATOR THE HON. JAYAWICKRAMA : That I can say. I am quite used to saying that justice must be done without fear or favour. Mr. Sidney de Zoysa is an officer under my Ministry. He complained that

his honour was at stake in some way or other. He found that there had been some paper publications. He wanted to make a statement to the Press, and according to the regulations by which he is governed he has to get the permission of the Inspector-General of Police before writing to the Press. He has also to get the approval of the Minister of Justice. When he brought this thing to me, as it was a personal matter so far as he was concerned, I said I have no objection to his sending it to the newspapers. It is a personal matter and he is trying to vindicate his honour. Sometime earlier, he complained that he was defamed by a Cabinet Minister. Then the late Prime Minister, under the same regulations, gave him permission to sue that Cabinet Minister for defamation. The Attorney-General sanctioned criminal proceedings. Mr. de Zoysa was trying to vindicate his honour. I felt that to refuse his application would be unjust. It was only a matter, from the point of view of the Government, of allowing or disallowing him to vindicate his honour. So, on that basis, I said that I had no objection. In the statement, he gives the rumours and the facts. He has been accused of doing so many things and he merely made a statement that he did not do them.

SENATOR DE SOUZA : Obviously, 410
the statement is not confined to personal matters. It covers a whole range which is not at all personal now. Has the Hon. Minister read that statement ?

SENATOR THE HON. JAYAWICKRAMA : Yes.

SENATOR DE SOUZA : There was a question about the Hon. Minister of Finance.

No. 2
Petition of
S. G.
de Zoysa
with annexes
marked
"A"—"R".
31-5-60.

(xiii) Annex
"M".
13-11-59
—continued.

No. 2
Petition of
S. G.
de Zoysa
with annexes
marked
"A"—"R".
31 5-60
—
(xiii) Annex
"R".
18-11-59
—continued.

SENATOR GUNASEKERA : I asked two questions.

THE PRESIDENT : The question asked was whether the Hon. Minister of Finance is to come back as Minister of Finance.

SENATOR THE HON. JAYASURIYA : There is nothing to prevent his coming back as Minister of Finance.

SENATOR GUNASEKERA : The Hon. Minister has not answered my question.

THE PRESIDENT : The answer is that there is nothing to prevent the

Hon. Minister of Finance coming back as Minister of Finance.

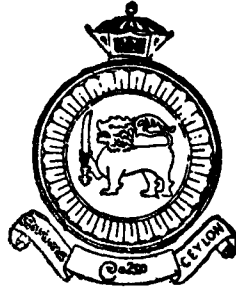
SENATOR GUNASEKERA : Is the Hon. Minister taking steps to safeguard the prestige of the Government? I do not know whether it has any prestige at all now.

On question, Motion agreed to.

Adjourned accordingly at 4-30 p.m. until 2-30 p.m. on 10 Tuesday, 1st December, 1959, pursuant to the Standing Order, as amended by Order this day.

Volume 37
No. 12

Friday
27th November, 1959



PARLIAMENTARY DEBATES

(HANSARD)

HOUSE OF REPRESENTATIVES

OFFICIAL REPORT

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No. 2
Petition of
S. G.
de Zoysa 1599
with annexes
marked
"A"-"R".
31-5-60

(xiv) Annex
"N".
27-11-59.
—continued.

VOTE OF CENSURE ON MINISTER OF JUSTICE

The following item stood next on
the Order Paper :—

Dr. N. M. Perera
Mr. Cholmondeley Goonewardene
Mr. S. J. V. Chelvanayakam
Mr. M. D. Banda
Mr. D. P. R. Gunawardena
Mr. P. H. W. de Silva
Mr. I. M. R. A. Iriyagolle
Dr. Colvin R. de Silva
Mr. D. B. R. Gunawardena
Mr. Bernard Soysa
Mr. Leslie Goonewardene
Mr. T. B. Subasinghe
Mr. P. G. B. Keuneman
Mr. V. A. Kandiah
Mr. M. S. Themis
Mrs. Vivienne Goonewardene
Mr. E. P. Samarakkody
Mr. Anil Moonasinghe
Mr. Meryl Fernando,—

Vote of Censure on Minister of Justice,
—That this House censures the Hon. Min-
ister of Justice for permitting Mr. S. G. de
Zoysa, D. I. G. (Range II), to make to the
Press the statement published in the even-
ing newspapers of 2nd November, 1959.

1600 **Gate-Mudaliyar M. S. Kari-
apper (Parliamentary Secretary
to the Minister of Justice) :** I wish
to raise a point of Order in regard to
this Motion. The Motion, as it is
worded, reads :

"That this House censures the Hon.
Minister of Justice for permitting Mr. S.
G. de Zoysa, D. I. G. (Range II), to make
to the Press the statement published in
the evening newspapers of 2nd November,
1959."

My submission is that it is not
possible to discuss the merits or
demerits of the Hon. Minister of
Justice's action *vis-a-vis* the state-
ment of Mr. Sidney de Zoysa with-
out discussing that statement; and
every incident or fact referred to in
that statement is connected with the
case concerning the assassination
of the late Prime Minister, the
Hon. S. W. R. D. Bandaranaike.

68

That case is now before Court, and
I submit that this statement cannot
be discussed, because it is *sub judice*.
That is my first point.

The second point I wish to raise is
that it is a matter for ruling by
Mr. Speaker whether this House is
entitled to discuss the action of the
Hon. Minister of Justice who is a
Member of the other Place. 10

Dr. Colvin R. de Silva : No.

Gate-Mudaliyar Kariapper : I
am submitting these two points—

Dr. Colvin R. de Silva : The
hon. Parliamentary Secretary repre-
sents the Hon. Minister of Justice.

Gate-Mudaliyar Kariapper :—
and stating that the matter is *sub
judice*.

10.5 A.M.

20

Dr. Perera : I do not know
whether you want me to make a
submission on the point of Order
raised which, on the face of it, is
untenable. We have given notice of
a Motion which reads :

"That this House censures the Hon.
Minister of Justice for permitting Mr. S. G.
de Zoysa, D. I. G. (Range II), to make to
the Press the statement published in the 30
evening newspapers of 2nd November, 1959."

We are discussing, not the state-
ment but the fact that the Hon.
Minister of Justice has given per-
mission to a public officer to make a
statement to the Press and the 1601
constitutional issues involved there-
in. If at any stage we transgress the
Standing Orders you are at liberty to
pull us up and say, "You are trans- 40
gressing Standing Orders by referring
to a pending case". You are en-
titled at that stage to say that we
are out of Order. But you cannot

rule out of Order this Motion which, on the face of it, is unconnected with the assassination and the facts of the case.

With regard to the other point, it is hardly worth discussing because the party referred to is a Minister and not a Senator. We are not discussing an individual; we are discussing a Minister.

Gate-Mudaliyar Kariapper *rose—*

Mr. Speaker : Order please ! The hon. Parliamentary Secretary has raised a point of Order. My order is that the Motion, as it stands, is in order. It can be discussed. But I must warn hon. Members that no reference can be made to any facts relating to the assassination of the late Prime Minister even though they may be contained in the statement referred to in the Motion.

Dr. Colvin R. de Silva : All right. We will deal with that.

Dr. Perera : Thanks to my good Friend the Parliamentary Secretary to the Minister of Justice the Motion is already before the House. I do not need to read it. But may I be allowed to point out to hon. Members that this is not a question of pique, not an attempt to take political advantage. This Motion has been placed before this House not because we have anything personal against the Hon. Minister of Justice but because the issues involved are very grave. They involve the self-respect of every hon. Member of this House.

I will go on to point out that they involve the constitutional position of this House. This House, as a democratic assembly, is comparatively new. Admittedly, we have, in the course of our short existence made a number of errors. We have tried to the best of our ability at

various stages, to correct these errors. We must be very careful to see that at all times proper procedure is followed, that democratic traditions are maintained, that proper Parliamentary conduct is insisted upon. Those are vital for the very existence of the democratic institution to which we belong. You deviate from that procedure, you permit Ministers or officials to violate these time-honoured conventions — conventions and traditions which have been accepted throughout the world as appertaining to democratic legislatures not for fun, not by accident, but because without adhering to those principles it is not possible to function properly—it is then not possible to continue to maintain an independent legislature. That is what hon. Members must cast aside for a moment : purely partisan consideration in this matter. But I am putting it at a much higher level. I would ask hon. Members please to try to rise above partisan considerations in this matter because the issues involved are much greater for the future of this institution. That is what I am asking in this Motion.

We must, at all times, jealously guard against any attempt on the part of any bureaucrat, however highly placed, or any Service personnel, however senior or superior he may be, to encroach upon the legitimate rights and privileges of this House. That is what we must do and that is what we are trying to do through this Motion. The supremacy of this House is paramount and no person should be allowed, particularly if he is a paid servant of this House and this country, to cast aspersions on the hon. Members of this House. I will go on to point out precisely what I mean. It is with a view to safeguarding that position that this Motion has been introduced.

No. 2
Petition of
S. G.
de Zoysa
with annexes
marked
"A"—"R".
31-5-60
—
(xiv) Annex
"N".
27-11-59.
—continued.

No. 2
Petition of
S. G.
de Zoysa
with annexes
marked
"A"—"R",
31-5-60

(xiv) Annex 1603
"N"
27-11-59.
—continued.

Sir, when we introduced this Motion and when we discussed it in the Opposition group we gave consideration to the fact that the Hon. Minister of Justice, shall I put it that way, is a tyro in politics. This is not the first time that the Hon. Minister of Justice has committed a blunder of one type or another. I remember on one occasion my hon. Colleague, the Member for Wellawatta-Galkissa (Dr. Colvin R. de Silva) got up in this House and attacked him, but the then Prime Minister did not defend him; he apologized on his behalf and said that he was new to his office and that, therefore, he had made certain errors which should be overlooked in the circumstances. I refer to some statement that was made by the Hon. Minister of Justice either in the Senate or in public with regard to the Bribery Commission and his part in the Bribery Commission—[*Interruption*]*—*a press interview that was given by him about the Bribery Commission inquiry. He has made various minor blunders like that, which we are not unmindful of. But here, the issues involved are much graver and, mind you, Sir, he continues to defend his position. Even yesterday at the Government Parliamentary group meeting, if the newspaper has correctly reported him he still maintained that he was justified in allowing Mr. Sidney de Zoysa to make the statement he did. That is his position even now.

Mr. R. E. Jayatilaka (Nawalapitiya): I do not think that is correct. He did not say that.

Dr. Perera: I do not know whether the hon. Member for Nawalapitiya has the authority to speak on behalf of the Minister. There is the Prime Minister, let him repudiate that statement or let him correct it.

I would accept that correction from the Prime Minister.

The Hon. W. Dahanayake (Prime Minister): I shall refer to that point when I speak.

Dr. Perera: When the Prime Minister speaks he will correct that position. In fact, I might as well mention one matter just now though it is by the way and not germane to my main argument. It is rather curious.

In the other Place, the Hon. Minister of Justice made a statement about his functions as a Minister. 1604

Mr. P. G. B. Keuneman (First Colombo Central): Something like the Government Stores!

Dr. Perera: The Hon. Minister of Justice was asked how the investigations in the assassination case were being conducted. This was his answer:

"Investigations into the assassination of the late Prime Minister are being carried on by the Police and the statements that are being recorded are personally examined by the Attorney General, the Deputy Solicitor-General and a Senoir Crown Counsel. 30

With regard to Senator Cooray's question, the Attorney-General and the Police Department come under my Ministry, but that does not mean that I interfere with their work. I only supply them with the necessities like pen, paper and so on."—[OFFICIAL REPORT, SENATE, 3rd November, 1959; Vol. 13, c. 407].

Mr. Nimal Karunatilake (Matale): Like a peon!

Dr. Perera: If that is his conception of his Ministerial duties, namely, to supply pen and ink and stationery, I do not know whether we cannot replace him with a peon.

A person with the *bapane* round him will do a better job in supplying pen and ink. He says that his judicial functions are also similar, namely, supplying pen and ink :

"Judicially, too, it is the same position I adopt."

Someone might facetiously ask whether there is enough pen and ink to provide. This is his conception of his duties. That statement of his should have been sufficient justification to pass a vote of no confidence in his capacity as a Minister. But we did not do it because we are considering something much more important in this Motion, namely, his action in permitting a statement to be published by an official, apparently, with his authority. That is what we are concerned with, and the issues raised therein are so grave that if we do not, in this House, repudiate in the only way we can that action of his, we will be condoning something which will seriously undermine the prestige and dignity of this House.

The inexperience and ignorance of an Hon. Minister does not justify what really amounts to the violation of the most elementary principles of democratic government. The offence is graver now because the Hon. Prime Minister—he will correct me if I am wrong—has said in the Cabinet that that statement was published quite regularly. That statement appeared in the press. If the Hon. Prime Minister can correct me here and now I am prepared to give way. He is supposed to have endorsed that procedure as quite correct. Is that so ?

The Hon. Dahanayake : I said that it was regular from the technical point of view of the procedure laid down in the Manual of Procedure.

Dr. Perera : I will accept that, that he said that it is regular from the point of view of the Manual of Procedure. I am going to prove to the Hon. Prime Minister that even there he is wrong. If that is the position taken up by the Hon. Prime Minister he himself should resign. I will prove it to you because I have the Manual of Procedure here in my hand.

Let me recount the facts. On the 30th October this House debated a Motion of no confidence in the Government. In the course of that Debate a number of statements were made to sustain the charge that we brought forward that the Government was guilty of not energetically pursuing the investigation into the assassination of the late Prime Minister. That was our charge and to prove that charge we made a number of statements in this House. I am not going into any of the arguments that we advanced then. That is not germane to my case. It is not my purpose to go back to those arguments. Suffice it for me to say that those arguments were made and the Hon. Prime Minister replied to those charges in this House, we think, inadequately. A number of Members on that side also felt that those replies were inadequate. However, the adequacy or inadequacy of those replies is not the point at issue. We had to make those charges and the Hon. Prime Minister replied to them to the best of his ability. There was only one other Government speaker who spoke, the hon. Member for Matara (Mr. Samaraweera). He spoke on his own behalf, on behalf of the hon. Member for Weligama (Mr. Pani Ilangakoon) and also on behalf of a number of unnamed Members from the Government party, supporting 99 per cent. of the charges made by the Opposition

No. 2
Petition of
S. G.
de Zoysa
with annexes
marked
"A"—"R".
31-5-60

(xiv) Annex
" N "
27-11-59.

—continued.

No. 2
Petition of
S. G.
de Zoysa
with annexes
marked
"A"-"R"
31-5-60

(xiv) Annex
"N"
27-11-59.
--continued.

against the Government. I admit it was very unfortunate that the only other speaker, who was due to speak according to the arrangement made, the then Minister of Finance, Mr. Stanley de Zoysa, was unable to participate. He was the only other person on behalf of the Government who was to participate in that Debate. I am personally sorry because specific charges were levelled against him and allegations were made about his conduct and he did not have an opportunity of speaking. Personally, I am sorry. I am also equally sorry that my Colleague the hon. Member for Wellawatte-Galkissa (Dr. Colvin R. de Silva) could not follow the then Minister of Finance in reply. In any case the Government was apparently not too troubled because they agreed and, notwithstanding the fact that the present Member for Ja-ela (Mr. Stanley de Zoysa) was unable to participate, they were content to go to vote. We were content and satisfied with the case we made. They were content with the replies they gave and we agreed to go to vote and we had a Division at 9-30 that night.

1607 That is what happened. Now, it is possible for the Government subsequently to be perturbed by the gravity of the charges made by the Opposition and by the failure on the part of the Government to adequately meet those charges. It is quite proper for Government to feel that. It is quite proper for Government to feel that therefore in some way an answer must be provided to those charges that were levelled. Now what is the course available to a Government which wants to refute the allegations made on the Floor of the House, the arguments advanced on the Floor of the House, against it, if those charges had not been adequately met on the Floor

of the House? They can take the very first opportunity at the next meeting of Parliament to come before us and make a considered statement with your permission. They can do that. They can avail themselves of the opportunities in the other Place to make a statement. Then they can even go further. The Hon. Prime Minister or even a Member of the 10 Government party can write officially to the papers, answering specifically the charges. I see no objection to that. The hon. Member failed anyhow to do so. I noticed the hon. Member for Vavuniya more than once making long statements to the press. In one case I remember an open letter to the Prime Minister going into about five or six columns. 20

Mr. Keuneman : The then Minister of Finance made a statement to the press.

Dr. Perera : I am coming to that. So, it is possible for that to be done and there can be no serious objection to that. However unsatisfactory it may be for a Member to go outside and make that statement to the press and not in the House, yet there 30 is nothing constitutionally improper in that. The hon. Member is entitled to do that.

In point of fact that course was taken by the only Government speaker down to speak in the Debate on the 30th October. The hon. Member for Ja-ela, then Minister of Finance, made a long statement to the press on the 31st October. I have 40 it here. I am not going to refer to the arguments. That is not material. 1608 But he did make a statement. He did make an attempt to refute the charge made on the Floor of this House and specially mentioned that he was meeting my arguments. Before he went away to Australia for

this all-important and momentous meeting of the Commonwealth Parliamentary Conference, where his presence was so vital, he made a statement. I am not grumbling about that although we may think that it was somewhat puerile on his part to do so, that instead of making a statement on the Floor of this House he used the vehicle of a journal. But nobody could accuse the hon. Member of improper conduct or say that he has violated a constitutional principle on that basis. He was quite welcome to do what he did. The papers asked me to reply to that but I said I would not as I had made my statement on the Floor of this House and when another opportunity came my way I would make a further statement if necessary.

So, this Government cannot say that it did not make use of the opportunity that it had. The only Government Member who was due to speak did make a statement. Apparently he thought that was adequate for all the requirements of Government. If that was still felt to be inadequate the Hon. Prime Minister could have made a statement. The Hon. Minister of Justice could have made a statement as the Minister in charge of the Police Department. He knew that there was a meeting of the other Place on the 3rd of November. The statement in question appeared on the 2nd of November. He could very well have utilized that opportunity to make a full statement on this whole question, correcting all wrong impressions, mis-statements, errors, and so on, if he liked. Nobody could have cavilled at that or complained against that or brought a charge of improper conduct.

1609 Even when the matter was raised on the 3rd, even when the specific question was asked, he did not deign

to make a statement correcting the so-called errors and wrong impressions. Even on the 3rd the Hon. Minister of Justice did not do so. Therefore, it is quite clear that, if the Government was solicitous for democratic procedure, solicitous for proper Parliamentary conduct, it had many opportunities and many methods for carrying out that task without infringing the cherished principles that we all must adhere to. Instead of doing that what did the Minister actually do? He permitted the Deputy Inspector-General of Police—mind you, he is not the Inspector-General of Police, he is not the Head of the Department—Mr. Sidney de Zoysa, admittedly a gentleman whose name was mentioned in the course of the Debate in this House, to make a statement to the press. Mind you, he did so under what circumstance? Under the circumstance that his conduct needed inquiry into in regard to the case, that his conduct should also be investigated and that his movements were suspect, and so on. Therefore, how could the Hon. Minister of Justice have possibly permitted an individual like that to make a statement in the press?

Some people have seriously tried to argue that the statement was not a reply to what took place in this House. I hope nobody seriously maintains that, because that is adequately answered by the good Minister of Justice himself. By this statement in the other Place he makes it quite clear that this officer was permitted to make the statement arising from observations made and published in the press. There is no doubt that the impression in the public mind is that; because, if the Hon. Minister only took the trouble to read the editorial of the *Ceylon Observer*—I do not want to weary the House by reading all the extracts—

No. 2
Petition of
S. G.
de Zoysa
with annexes
marked
"A"—"R".
31-5-60

(xiv) Annex
"N"
27-11-50.
—continued.

No. 2
Petition of
S. G.
de Zoysa 1610
with annexes
marked
"A"—"R".
31-5-60
—
(xiv) Annex
" N ".
27-11-59
—continued.

two days back, he would have seen that so far as the public are concerned, they have not the slightest doubt that what Mr. Sidney de Zoysa was permitted to do was to answer the Debate in the House, answer the points raised in the House. That is where the gravity of the situation arises. That is our main charge. What the Minister of Justice has done was to permit a minor official—however high he may be in the Department—to reply to a Debate in this House taking item by item of what was said, of the various statements made by me and by other hon. Members. He has replied item by item to these statements. My good Friend the Minister of Justice makes this statement. I must put this on record. In reply to a question by Senator Reggie Perera this is what he said :

" Mr. Sidney de Zoysa is an officer under my Ministry. He complained that his honour was at stake in some way or other."

Mark you the words. " That his honour was at stake in some way or other ". My good Friend did not try to inquire in what way his honour was affected. Before that, the previous statement which the Hon. Minister made was :

" I am quite used to saying that justice must be done without fear or favour."

He complained that his honour was at stake in some way or other. The Minister goes on to say :

" He found that there had been some paper publications. He wanted to make a statement to the press, and according to the regulations by which he is governed he has to get the permission of the Inspector-General of Police before writing to the press."

The Hon. Minister has never read the Regulations. The Hon. Prime Minister himself does not seem to have read them. The Minister of Justice goes on to say :

" He has also to get the approval of the Minister of Justice. When he brought this thing to me."

When he brought what thing—what thing did he bring? Apparently it is the statement. He goes on to say :

" as it was a personal matter so far as he was concerned, I said, I had no objection to his sending it to the newspapers.10

It is a personal matter and he is trying 1611
to vindicate his honour."—[OFFICIAL REPORT, 3rd November, 1959 ; Vol. 13, c. 409].

There can be no doubt that this attempt to vindicate his honour through the press, with the permission of the Hon. Minister of Justice, can only arise because of privileged statements made in the House. If they were non-privileged statements 20 and the honour of Mr. Sidney de Zoysa was affected in one way or another he had the full right to go to a court of law and vindicate his honour. In one case he has done so. He has charged no less a person than the last Minister of Agriculture in the Courts in order to vindicate his honour. So that, if a non-privileged statement was made, Mr. Sidney de 30 Zoysa could have gone to the courts and said, " My honour must be vindicated, I am filing plaint ". He could have got the permission of the Attorney-General to make a criminal charge. Therefore, why was it necessary for him to make this statement in the press? He did so because, obviously, this was a privileged statement, in the House and 40 therefore he was replying to those points. He had no other remedy available to him, and that is why, apparently, my good Friend the Minister of Justice allowed him to make the statement.

The first charge therefore, against the Minister is that the Minister responsible for the Department of the Police violated one of the first principles of Parliamentary government by allowing an official to reply to the Debate in Parliament through the newspapers. If an officer of a Government department is unfairly attacked in the opinion of the Minister concerned, there is only one remedy available under Parliamentary practice and that is for the Minister to get up on the Floor of this House and to defend the official. That is his Parliamentary duty ; it is part of his responsibility as a Minister, to take responsibility for every action of his officials, for the conduct of his departments, for the proper carrying on of the administration of the department. He cannot shield himself behind an official and say " I am not responsible ". He must get up on the Floor of this House and say, " I must defend him ". If he cannot do that, he must hand in his papers and go away. If the Minister, instead of doing that, allows an officer to reply in the press to a Debate here in order to defend his honour, that is thoroughly reprehensible from the point of Parliamentary practice and violates the elementary principles which he must jealously safeguard ; otherwise, Ministers can always say, " I am not responsible ". They can then decide to ask an official to send a reply to the press.

Where do we stand ? What is the use of Parliament, if that is going to happen ? That is what you will be endorsing if you vote against this Motion. That is why the position is so grave. Please do not forget that. You will be violating one of the most cherished principles that we must uphold. We must insist that the Ministers take full responsibility

for the conduct of their officers. It is for them afterwards to go back to their respective offices and slang the officers concerned. But on the Floor of this House they must defend the conduct of those officials.

Mr. M. D. Banda (Maturata) : Otherwise, they can even attack the Ministers in the press.

Dr. Perera : If you permit this, there is no limit to what any official can do, particularly if you have weak Ministers who think that their job as Ministers is to provide pen and ink for officials to start writing their attacks.

Dr. Colvin R. de Silva : Instead of pen-pushers, they are pen-providers !

Dr. Perera : I submit quite earnestly to Hon. Ministers of this House that the Hon. Minister of Justice, by permitting this statement, has seriously undermined the prestige of Parliament.

There are now powerful individuals. They have created powerful individuals whom the Government find it difficult even to shift. Do not forget that hon. Members of the Government, notwithstanding this grave violation of Parliamentary practice, have found it very difficult to dislodge this individual. How powerful he has grown ! Many hon. Members have said, " We are frightened of this man ". Are you then surprised that the Hon. Minister of Justice was prepared to allow him to make a statement villifying hon. Members of this House—I am coming to that in a moment—and actually humiliating this whole House by making direct attacks in that statement of his ?

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with annexes
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(xiv) Annex
"N".
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1613

No. 2
Petition of
S. G.
de Zoysa
with annexes
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"A"—"R".
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(xiv) Annex
"N".
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I say that a serious blow has been dealt to the supremacy and sovereignty of Parliament by the conduct of the Hon. Minister concerned. That is why I appeal to hon. Members to rise above partisan considerations, rise above considerations of purely party politics and view this question from the constitutional point of view, from the point of view of our position as Members of Parliament.

I defy the Hon. Prime Minister to give me a single instance where a thing like this has occurred in the whole history of Parliamentary government. Never in the history of the United Kingdom nor any other country where the Parliamentary system exists has a thing like this occurred. This is a major blunder undermining the whole position of Parliament. I have not the slightest doubt that in any other country no Government party, no Government would have waited for a Motion from the Opposition. At the first opportunity, they would have bundled out the Minister and the official concerned. They would have said, "Out you go! You cannot continue in office after insulting our Parliament, lowering the prestige of Parliament and insulting the dignity of Parliament. You cannot hold office". An official cannot be allowed to continue once that is done.

1614 It is a shameful reflection on the attitude of this Government that when the Opposition had to bring a Motion in order to vindicate the honour of this House, a midnight meeting of the Government party had to be held in order to mollify some hon. Members. It is a very shameful reflection on this Government that it was prepared to tolerate so long this outrageous conduct on the part of an official who is shielded by the Minister of Justice.

My second charge against the Hon.

Minister of Justice is that he has connived and encouraged this particular official to violate the procedure set out in the Manual of Procedure. Even Ministers of Justice are not entitled to encourage their officials to violate the law of the land. Those regulations are as much the law of the land as any of the statutes we have got. Those regulations have 10 the force of law and all officials are bound by them. A Minister who encourages an official to violate those regulations is guilty of a serious misdemeanour. The Manual of Procedure is quite clear on that point.

Section 5 of the Manual of Procedure deals with "Publications of Official Information in Newspapers, Books, &c.", and paragraph 271, at page 46, reads as follows :

"Permanent Secretaries to Ministries and Heads of Departments may use their discretion in supplying to the Press information regarding Government and Departmental activities which may be of interest and value to the public."

Do not forget that only two categories of people are entitled to make statements to the press concerning 30 matters of interest and value to the public about their departmental activities. They are the Permanent Secretaries and heads of departments. Everybody else is expressly prohibited from communicating with the press in any way. I will read the relevant paragraph :

"Such information should normally be channelled to the Press through the Infor- 40 mation Officer. Permanent Secretaries may, however, issue such information direct if they consider that the circumstances make it necessary."

That is an essential safeguard to 1615 see that nothing wrong, erroneous or false, nothing that will damage the Government is done.

It further says :

"The information should in all cases be confined to facts, statistics, &c., and on no account should any expression of opinion be proffered."

On no account should an expression of opinion be proffered. You have only to make a statement of fact, not your opinion about the character of Members of Parliament. Officials are not allowed to make statements like that.

The next relevant regulation is in paragraph 273, which reads as follows :

"An officer not specially authorised in that behalf ; other than those referred to in regulation 271, is forbidden to allow himself to be interviewed on, or communicate, directly or indirectly, any information which he may have gained in the course of his official duties to any person (inclusive of the Press) who is not officially entitled to receive such information."

So that, all others are precluded, forbidden, from communicating any information to the press. This is what apparently the Hon. Prime Minister thinks is the correct procedure. Section 274 states :

"Officers are strictly prohibited from sending any official correspondence for publication in the newspapers without the previous sanction of the Permanent Secretary to the Minister concerned, to be applied for through the Head of the Department."

That is what apparently the Hon. Prime Minister is relying upon. Mark you, this refers to "official correspondence for publication in the newspapers without the previous sanction of the Permanent Secretary to the Ministry concerned".

What is the position there ? The penal section is 278, which reads :

"Any officer discovered to have irregularly supplied a newspaper with official

information or to have acted contrary to the provisions of any regulations in respect of any communication to the Press is liable to disciplinary action."

What then is the position ? Here is a person who is not a Head of a Department, who is not a Permanent Secretary, answering a Debate in the House without providing facts and figures. It is not something with regard to what has happened in his department. As for his department, he cannot talk about it. He can talk, at best, of his Range but then he must go through the Head of his Department. It is the Head of Department who must speak. That is the position in the Manual of Procedure. Nobody else can make such a statement. Even the Hon. Minister of Justice cannot connive at the violation by an official of the Manual of Procedure. The Hon. Minister of Justice has no right to permit an official to violate the Manual of Procedure. That is my charge against him.

Therefore, in so far as Mr. Sidney de Zoysa has violated sections 271, 273 and even 274 of the Manual of Procedure he is guilty. The fact that the Hon. Minister of Justice apparently gave him sanction—I will develop that point further again—does not absolve the official concerned but it can mitigate the offence ; it does not absolve him completely. I say, in all seriousness, that the Hon. Minister of Justice has no right to permit an official to violate the procedure laid down quite explicitly in the Manual of Procedure. The Hon. Minister cannot ask an official to do something against the law merely because he is Minister of Justice.

What is the statement that has been placed before him ? Let us turn for a moment to the statement. Let us read the statement. It is very interesting.

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1616 81-5-60.

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—continued.

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Mr. Speaker : The hon. Member is not going to read the full statement?

Dr. Perera : No, only the portions relating to my arguments, nothing else. I quote :

" Mr. Sidney de Zoysa wrote the following letter to the " Ceylon Observer " today.

1617 It was entitled—and what was the title of the article?—" The assassination of late Prime Minister. A few facts the public should know " What right has Mr. Sidney de Zoysa to speak about the assassination? He was not the officer in charge ; he is not the Head of the Department ; he is not the Minister in charge. What right had he to speak about the assassination? That is the title of the article to which the Hon. Minister of Justice gave sanction.

Could the Hon. Minister of Justice have given sanction to a letter like that, dealing with the assassination? And what did the Hon. Minister give sanction for? To vindicate the honour of Mr. Sidney de Zoysa! Is it necessary to deal with the assassination in order to vindicate the honour of Mr. Sidney de Zoysa? If that is so, then he is guilty of complicity, thus justifying our charge. Otherwise, why should he want to publish a statement dealing with the assassination? Is it necessary, for his honour, to deal with the assassination? That is not all. Sidney de Zoysa is a very bloated individual. Look at what he says in his statement :

" The Police Department "—

he speaks about the whole Police Department—

" The Police Department does not as a rule place before the public any facts regarding an investigation which they are conducting and which will eventually come before a court of law."

What right has he to speak about the whole Police Department? Who is he to speak of the whole Police Department? And this is the statement that is sanctioned by the Hon. Minister of Justice who seems to have got lost in pen and ink. Did the Hon. Minister read this letter? I want a straight answer. Did the Hon. Minister read this letter of Sidney de Zoysa before it was published, and if he did and he permitted this, he should have been sacked on the spot instead of the Hon. Prime Minister defending this man. The Prime Minister ought to be ashamed of himself, defending this man, asking all hon. Members if they are prepared to support the Hon. Minister of Justice. I ask, in all seriousness, can you defend the Hon. Minister of Justice who, if he had actually sanctioned this statement, had violated all the rules to be followed, every convention of Parliament, by permitting a Head of Department to make a statement—

Dr. Colvin R. de Silva : A subordinate official.

Dr. Perera : Yes. There are plenty of other things to come.

Says Mr. de Zoysa :

" In difficult cases the advice of the Attorney-General is sought before plaint is filed. The murder of the Prime Minister however, being a national calamity—

How gravely Mr. Sidney de Zoysa is concerned!—

" has been discussed through the length and breadth of the Island and has given rise to a volume and variety of rumours hitherto unparalleled. It is unfortunate that these rumours do not relate only to the supposed facts of the case but are also calculated to discredit " the actions and *bona fides* of the Police Department and some of its officers including myself . "

Dr. Colvin R. de Silva : So that he is defending the whole Police Department, not only himself.

Dr. Perera : He is defending the whole Police Department.

Mr. Karunatillake : Newton Perera also.

Dr. Perera : He is defending Newton Perera also, one of the 10 people who is charged. I ask you, why could not the Hon. Minister of Justice or the Permanent Secretary or the Head of the Department make a statement if it was necessary to defend the whole Police Department. Who is Sidney de Zoysa, who has become so big? Look at his statement, the arrogance of this man :

“ It is for this reason that I as a senior 20 and responsible member of the Service whose name has been freely mentioned, consider it necessary to depart from the usual practice and to disclose certain facts which the public should know if they are to have faith in the competence and integrity of the Department and its officers.”

1619 **Who** is Sidney de Zoysa to talk about the integrity of the department and its officers? Who is 30 entitled to do so? He may be entitled to talk about himself, and that is why permission was granted apparently by the Hon. Minister of Justice. The Hon. Minister apparently gave him permission to vindicate his honour but not to talk about the Police Department or the assassination. That was why the Hon. Minister gave sanction.

40 And did the Hon. Minister read this letter, having given sanction for the vindication of Sidney de Zoysa's honour? Is this letter a vindication of de Zoysa's honour? What kind of Minister have we got? Please read

the statement. It is an amazing statement. I ask you, in all seriousness, to go through this statement. He gives certificates of good conduct to Mr. Pate, to Mr. Iyer. And, mind you, Sir, he is speaking on behalf of the present I.G.P. also.

Mr. Banda : On behalf of whom?

Dr. Perera : The present I.G.P. Cannot the I.G.P. speak for himself? Surely, the Hon. Minister of Justice must understand, must have a modicum of intelligence, that if permission were given to a subordinate official to speak on behalf of the I.G.P. the whole thing will look ridiculous. Where do we come into this picture? In future the position you will get will be that some minor clerk in a department will start to give certificates to the I.G.P. and various other superior officers. What is the meaning of this?

Dr. Colvin R. de Silva : And expect a promotion the next morning.

Dr. Perera : He says, “ Mr. Pate was specially selected by Mr. S. W. O. de Silva to be Superintendent of the C.I.D. under Mr. S. A. Dissanayake. He is in charge of the investigation with the approval and full confidence of the I.G.P. and his officers ”. What is he talking about? Whom is he to talk about these things?

Mr. Speaker, I do not want to 1620 delay the House, but there are two points in the statements which I wish to mention. It is quite clear from what I stated that the Hon. Minister of Justice has violated our conventions, he has connived at this official violating the Manual of Procedure, in that this official, although he was apparently given permission to vindicate his honour, has gone very

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much beyond that. He has arrogated to himself the right to speak on behalf of the whole department, he has taken upon himself the right to speak on behalf of the I.G.P. and, what is worse, he has in his statement made an effort to reply to the Debate in this House, which is one of the gravest charges that can be levelled against him.

But there are two points in that statement to which I want specifically to draw your attention. The first point is—here is a categorical statement—in regard to Mrs. Vimala Wijewardene. He says, "There is no evidence to justify her arrest".

Mr. Speaker : Order, please! I think that is out of Order.

Dr. Perera : I am not going to comment on that.

Mr. Speaker : Even so, it is out of Order.

Dr. Perera : All that I am saying is this. Here is a statement made by an officer concerned about a pending case. That is what our charge against him and the Government is. That is precisely what we are charging the Government with. Why did it permit such a statement to be made? That is our charge against the Government. Can the Prime Minister deny this? As a matter of fact, if there is anything called contempt of court this is a matter which comes within the definition of contempt of court. They have bungled the whole case as a result.

I am reading from a statement made by the defending Counsel for Mrs. Vimala Wijewardene. They have referred to a statement made by Mr. Sidney de Zoysa. The Hon. Minister of Justice who is responsible for this statement must answer to this House for this grave offence.

Mr. T. B. Subasinghe (Bingiriya) : Why does not the Prime Minister get out?

Dr. Perera : This is a statement made by the defending Counsel. I ask you, are you serious? I say that it is nothing but tomfoolery that you are carrying on. This is the statement made by the defending Counsel :

10

"The investigating officers—as made known through a statement released to the Press with the permission of the Minister of Justice—

Dr. Colvin R. de Silva : There you are!

Dr. Perera : To proceed with the statement—

"had clearly indicated that they did not have the material which would justify the 20 arrest of my client."

Dr. Colvin R. de Silva : There you are!

Dr. Perera : You have acquitted her in advance.

Dr. Colvin R. de Silva : You have ensured her acquittal.

Dr. Perera : Yes, you have ensured her acquittal. I ask you, whom are you trying to deceive? 30

The Hon. Dahanayake : I rise to a point of Order. I think the remarks of my good Friend the hon. Leader of the Opposition are on a matter that is *sub judice*.

Dr. Perera : I am not saying it, this is what has been stated in open court. My complaint is this : Every hon. Member of this House has fought bitterly and vigorously to have a full and proper investigation but you have killed the case in advance. And

1622 you, Mr. Prime Minister, you defended this. You say that this is correct. You ought to be charged in the courts of law.

The Hon. Dahanayake : I ask you, Sir, to give a Ruling whether the remarks of my hon. Friend are in order.

Mr. Banda : Of course, they are 10 in order.

Dr. Perera : I am not contesting the case.

Mr. Speaker : The hon. Member is only reading something that has been published.

Dr. Perera : All that I am saying is that as a result of the position taken up by this Government in respect of these proceedings, they 20 have killed the case. That is what I am worried about.

Mr. Subasinghe : That is what they wanted to do.

Dr. Perera : Having killed the Prime Minister they are defending all the conspirators.

Mr. Speaker, we in this House made a pointed charge that this officer is really the person who was 30 responsible for this investigation. Otherwise, how did he come to make a statement if he was not in charge of the investigations? How did he come to make a statement as grave as this? I ask you, who gave him the material, the authority for its use?

You will remember, Mr. Speaker, that I said that Mr. Pate was only 40 cover for Mr. Sidney de Zoysa. You know what happened recently? The Hon. Prime Minister cannot deny what I am stating now because I

have checked it up from the officers concerned. Just a few days ago Mr. Sidney de Zoysa with Mr. Pate went to see Mr. C. C. Dissanayake and told him, "You come forward and we will back you so as to see that the I.G.P. is got rid of". That is his statement. When Mr. Dissanayake heard this he

told them, "There is the door. What right have you to do this irregular thing?" and before all the other officers of the C.I.D. Mr. Sidney de Zoysa was ticked off very sharply by Mr. Dissanayake, and Mr. Dissanayake made that statement to you. You cannot deny that.

Mr. Subasinghe : He has denied many things in his life.

Mr. Speaker : The hon. Member for Bingiriya must keep Order.

The Hon. Dahanayake : I deny that.

Dr. Perera : It cannot be because the statement was made to you, probably you may have forgotten it. In front of the other D.I.Gs. a specific statement was made, mind you. I must take my hat off to Mr. C. C. Dissanayake for the reply that he gave. He said, "I am not prepared to tolerate any irregular procedure; it is highly improper". And mind you, this very Mr. Sidney de Zoysa goes and tells the I.G.P., "You are a first-class I.G.P. and must continue" and a little while later goes and tells Mr. C. C. Dissanayake, "You come forward and we will back you". That is the game that was being played by him. And yet you ask how do you know that this man knows all about the investigations. Are we surprised when we hear that Mr. Dickie de Zoysa has been released? Anyhow, Mr. Sidney de Zoysa's relationship in regard to Mr. Pate, I think, may be

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put this way: Mr. Pate is to Mr. Sidney de Zoysa as Mr. Ossie Corea is to Mr. Stanley de Zoysa. They are both good buddies, I think.

The next observation and the last observation I want to make is this. Hon. Members will remember that this statement of Mr. Sidney de Zoysa is a reply to the statements made in this House. I am sorry the House is depleted because all hon. Members ought to know this. This is what he says:

1624 "My statement has been given to the C. I. D. and I will be giving evidence in court when the so-called mystery or incompetence of my action will be examined by persons competent to do so and not by subversive elements, rumour mongers, political adventurers and other doubtful characters as at present."

That is, you and me, Mr. Prime Minister.

Mr. Keuneman: That is a doubtful character.

Mr. Karunatilake: Subversive character.

Dr. Perera: Subversive elements, doubtful characters!

Dr. Colvin R. de Silva: "Political adventurers"—a very proper description.

Dr. Perera: I ask all hon. Members—leave aside everything else—can a paid official—he is paid by this House; the money is passed by this House—get up and make a statement in the public press vilifying, humiliating and insulting hon. Members of this House? After that, can we, with self-respect, remain as Members of this House? I ask in all earnestness—leave aside everything else—are we so greedy of office, so greedy of our seats, that we must continue to remain in this

Chamber when an official can vilify us like this, humiliate us like this? Can we go outside and meet the public? Can we get work done by officers? I ask you, what is our position as Members of Parliament? Where do we come into this picture? And this Prime Minister is prepared to defend him. Any other Prime Minister, with a modicum of self-respect, would have got hold of that man and sacked him on the spot.

Dr. Colvin R. de Silva: And sacked himself.

Dr. Perera: It is shameful that we have got to come to this House and plead this case before hon. Members opposite when they should have been the first to have done that. Can we honestly and seriously 20 believe that this House has any dignity, and prestige left after this? How can hon. Members continue like this?

Mr. Speaker, I have set out facts 1625 sufficiently to hon. Members to realize the gravity of this question. Do you know that this statement is endorsed by the Minister of Justice? This Minister of Justice calls us 30 "Shady characters". He is supposed to have read that statement and passed it. Can a Minister who calls us "Shady characters" continue like this? I want to repudiate it with all the power at my command. Can we allow a Minister of Justice to continue like this?

Dr. Colvin R. de Silva: This Government has allowed him to con- 40 tinue for a month after that.

Dr. Perera: That is why I ask hon. Members to do the least that we can do of censuring the Minister of Justice for insulting this House, for bringing down the whole edifice of this House. You could have done

better by pulling it down on our ears instead of allowing it to continue like this.

I have said enough to point out to hon. Members that by permitting this statement you have violated every conceivable Parliamentary convention we can think of. You have permitted an official to stand
 10 up above Parliament. The whole question of the prestige and supremacy of Parliament is involved. Our self-respect has been hurt. We have been insulted and humiliated as a body. I ask you in the face of that, can you not support our Motion? I plead with you to unanimously pass it if only to set ourselves right as Members of this House, if only to see
 20 that this House is safeguarded as the one final assembly that must stand up as the surest safeguard for the liberties of the people of this country against bureaucrats and designing individuals however high they may be. That is your elementary duty. Do not think in terms of parties on this occasion. I beg of all hon. Members to rise above purely parti-
 30 san politics to safeguard themselves, to safeguard the self-respect of this House. Otherwise, there will be no work done no meaning in our staying in this House.

1626 I place this Motion before this honourable House.

11.15 A.M.

Mr. P. H. W. de Silva (Second Ambalangoda - Balapitiya): Mr.
 40 Speaker, in seconding this Motion I wish very briefly to place a few facts before the House and make a few observations on the Motion which has been so ably presented by the hon. Leader of the Opposition. Before I do so, in view of the fact that we are discussing the action of the Minister of Justice, I should like to

refer briefly to the position of the Minister of Justice under our constitution.

You are aware that in the formation of a Government there are three Ministers whom it is incumbent upon any Governor-General to appoint under our constitution. There must be a Prime Minister: there must be a Minister of Finance, and there must be a Minister of Justice. That is our constitution. There need not be a Minister of Education; there need not be a Minister of Works; there need not be a Minister of Nationalized Services; there need not be a Minister of Posts. But a Prime Minister, a Minister of Finance and a Minister of Justice there must be.

Now, on the recommendations of the Soulbury Commission, this position was embodied in our constitution and they gave their reasons for doing so. I wish to refer to the Report of the Commission on Constitutional Reform published in 1945. These are the observations of the Soulbury Commission on the question of the creation of a Ministry of Justice:

"We would therefore make it amply clear that in recommending the establishment of a Ministry of Justice we intend no more than to secure that a Minister shall be responsible for the administrative side of legal business, for obtaining from the Legislature financial provision for the administration of justice, and for answering in the Legislature on matters arising out of it. There can, of course, be no question of the Minister of Justice having any power of interference in, or control over the performance of any judicial or quasi-judicial function or the institution or supervision of prosecutions. We have considered whether the subjects and functions in question might be distributed

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between other Ministries, but we have reached the conclusion that it would be most conducive to the efficient handling of the administrative work in question if they were centred in a new Ministry. Since the Minister's function would be political and administrative, it would be immaterial whether he were a lawyer or not, although the Prime Minister, if there were a lawyer of distinction among his supporters, might possibly wish to offer him the portfolio."

Now I am not questioning whether Mr. Valentine Jayawickrama is a lawyer of distinction. It is for the House and the country to judge from what has happened and from what has been said by the Leader of the Opposition. But I am here questioning the irregularity and the violation of the spirit of the constitution in handing over the Police Department to this Minister of Justice because it was not the intention of the framers of the constitution that a department such as the Police Department should be handed over to a Ministry which was especially created. It was also laid down that the Minister of Justice shall be from the Senate. No Member of this House, under our constitution, can be a Minister of Justice. He must be from the other Place. There is a particular point that was made by the Soulbury Commissioners. He should be a person, preferably a lawyer of distinction in the other Place, not susceptible, as we are, as we commoners are in this House, to public or popular pressure.

The first mistake made by this Government and by this Prime Minister was the handing over of the responsibility for the administration and direction of the affairs of the Police Department to the Minister of Justice.

Mr. D. B. R. Gunawardena (Kotte): A mistake or done deliberately?

Mr. P. H. W. de Silva: I do not know the reason. It has been stated—I may be corrected if I am wrong—that it was the intention of the late Prime Minister, S. W. R. D. Bandaranaike, that when the present Prime Minister was to have acted as Leader of the House that department should be handed over to the Minister of Justice. But the fact that the late Prime Minister had that in view or had recommended it does not make it a correct constitutional position. The late Prime Minister has been responsible, with due respect to his memory, for a large number of constitutional irregularities and this is one of them, and today we are suffering the consequences of that wrong action. Another point which supports that contention is that the Hon. Minister of Justice is not here to answer the charges levelled against the Police Department or a particular officer of that department. 1628

Having now said that I shall come to the subject-matter of our discussion and the Motion before the House. I said I would be brief, and I wish to keep to my promise. The statement which appeared under the name of Mr. Sidney de Zoysa had been defended on the ground, solely and mainly, that it had the approval of the Hon. Minister of Justice. As has been pointed out by the hon. Leader of the Opposition, the Hon. Minister of Justice can give his approval to any statement only if it complies with the Manual of Procedure. As was pointed out, a procedure is laid down for submission of statements to the press. When the hon. Leader of the Opposition was referring to that procedure the Hon. Prime Minister interrupted to say that the procedure was correct because it had the approval of the Hon. Minister of Justice. I presume that the Hon. Prime Minister made 40 50

that statement because this particular statement referred to had the approval of the Hon. Minister of Justice and because there is a reference to the Hon. Minister of Justice in the Manual of Procedure which says :

“ Any information, even when confined to statements of facts . . . ”

Mark the words “ even when confined to statements of fact ” :

“ . . . should not be given . . . ”

That is to say, given by the Permanent Secretary or the Head of the Department.

1629 “ . . . where its publication may embarrass Government as a whole or any Government Department or officer.”

This statement under reference has embarrassed the Government ; it has 20 embarrassed several officers of the Police Department.

“ In case of doubt the Minister concerned should be consulted.”

That is what the Hon. Prime Minister had in mind when he stated that the procedure adopted was correct because the Hon. Minister's approval was given. Those are the only conditions under which and those are the 30 only instances where the Minister comes in—namely, in case of doubt, where a Permanent Secretary or a Head of Department is in doubt—not the D.I.G. or any subordinate officer. When the Permanent Secretary is in doubt, or the Head of a Department is in doubt, he may consult the Minister concerned.

The position here, as has been 40 pointed out by the hon. Leader of the Opposition, is this. This is not a question of a statement of facts by a

Permanent Secretary or by a Head of a Department. Therefore the position taken up or supposed to have been taken up by some hon. Members of the Government and the Hon. Prime Minister in particular does not hold in this particular instance.

I do not wish to refer to the facts of the case. I do not know whether I would be in Order in referring to the rumours in that case.

Mr. Speaker : The hon. Member will not be in Order.

Mr. P. H. W. de Silva : But a statement made by Mr. Sidney de Zoysa in that document is of particular importance. He says in his statement appearing in the “ *Observer* ” of 2nd November :

“ Needless to say it is not possible to disclose all the relevant facts before evidence is led in court and I will set out only such facts as may be disclosed at this stage . . . ”

That is to say, on November 2nd.

“ . . . Having verified all data . . . ”

All this has been verified !

“ . . . from the officers concerned.”

That was after the investigations under the Criminal Procedure Code had started. The proceedings had been initiated by the Magistrate although complaint was not filed. It was after that that he had access to the Information Book. He says that the names of two people transpired in the statement made by one of the accused. That definitely shows that he had access to the Information Book. These proceedings were initiated under the Criminal Procedure Code. What does the Criminal Procedure Code lay down with regard to police officers ? Section 122 (4) says :

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"Neither the accused nor his agents shall be entitled to call for such statements nor shall he or they be entitled to see them merely because they are referred to by Court; but if they are used by the police officer or inquirer who may think of refreshing his memory."

That is with regard to a statement made in court. Prior to that, subsection (3) says :

"no statement made by any person to a police officer or an enquirer in the course of any investigation under this Chapter shall be used otherwise than to prove that a witness made a different statement at a different time or to refresh the memory of the person recording it."

Definitely, the statement which has been approved by the Hon. Minister of Justice, who has 26 years' experience as a lawyer and is familiar with judicial proceedings in this country, has made public certain entries in the Information Book and thereby made available to the accused and their lawyers. That is a grave and flagrant violation of the Criminal Procedure Code.

I am surprised that we from the Opposition, nearly four weeks after, have to bring to the notice of the authorities concerned such a grave violation of the legal procedure of this country. Having said that I do not know whether I would be in Order in going into some of the facts and the rumours contained in this statements. But I wish to make certain general observations.

A peculiar feature of this statement is that Mr. Sidney de Zoysa takes up the position that by his statement he has vindicated his personal honour.

1681 But, in fact, he deals with several other matters, as has been pointed out by the hon. Leader of the Opposition, matters outside his personal honour. He seeks to defend certain

officers, witnesses and accused. But hon. Members will observe that he does not refer to all the rumours prevalent at the time in the country. For instance, he does not refer to some of the most persistent rumours which prevailed with regard to his brother F. R. (Dickie) de Zoysa—*[Interruption]*—

Dr. Colvin R. de Silva : Pre-10
cisely.

Mr. P. H. W. de Silva :—but there is a reference to Mrs. Wimala Wijewardene. That is a very significant omission in regard to a persistent rumour which prevailed at the time. My position is that this is a very well studied legal document. It is a very well prepared legal document for the defence, presented through the D.I.G. (Range II), and with the approval of this Government, because this statement has gone on the air *via* the "Political Notebook".

The Hon. Dahanayake : No.

Mr. P. H. W. de Silva : If the Hon. Prime Minister says it is not so I am prepared to withdraw my remark. But it is a fact that this matter was brought up before the Hon. Prime Minister and he took up the position that there was nothing wrong in this statement and that the D.I.G. had rendered a great service—*[Interruption.]*

The Hon. Dahanayake : I took up the position that this was correct in terms in the Manual of Procedure.

Hon. Members : We cannot hear you.

The Hon. Dahanayake : I took up the position that the procedure was correct in regard to what is set out in the Manual of Procedure.

1632 **Mr. P. H. W. de Silva** : I leave it to the conscience of some Members of the Cabinet to admit whether the Hon. Prime Minister did not use these very words, namely, that this statement is well timed and that he should be congratulated in doing a service to the country. I hope to be corrected by any of the Hon. Ministers who were present at that Cabinet meeting.

This entire Government is responsible for this statement, because once the Hon. Minister of Justice approved this statement it became a Government statement unless it was repudiated by the Government forthwith. Up to date this statement has not been repudiated officially by the Government. The entire Government and the entire Cabinet is responsible for it. It is laid down in the constitution that the entire Cabinet is responsible for the acts of a Minister. This entire Cabinet approved this statement. And when the Cabinet approves it the entire Government party also approves it. It is therefore a Government document.

30 Any document which is approved by a Minister is a Government document. I go further and remind you that under the procedure adopted in this House you should allow us to discuss the entire statement on the Floor of the House because this is a Government document.

Mr. Speaker : I cannot allow that.

Mr. P. H. W. de Silva : I bow to 40 your Ruling but I wish to bring this point to your notice and place it before you for your consideration because this is a Government document unless and until it is repudiated by the Government. This statement was approved by the Hon. Minister of Justice. He still continues in the Cabinet. Therefore, it is a Government statement. The hon. Leader of

the Opposition read out those gems dropped on the Floor of the other Place.

Dr. Colvin R. de Silva : Priceless pearls !

Mr. P. H. W. de Silva : The Hon. Minister of Justice goes out of his way to draw a parallel between this statement and the prosecution that is pending against the hon. Member for Avissawella. That is very significant. Referring to this statement the Hon. Minister states in the other Place—

“When he brought this thing to me, as it was a personal matter so far as he was concerned, I said, I had no objection to his sending it to the newspapers.”—[OFFICIAL REPORT, SENATE, 3rd November, 1959; Vol. 13, c. 409].

As has been already mentioned, this shows that this officer did not follow the normal procedure in sending up a paper to a Minister. He should have sent it up to the Inspector-General of Police. If Mr. Sidney de Zoysa, D.I.G., wanted this statement published in the press, or if he wanted the approval of the Minister—even if the procedure was correct and he complied with the Manual of Procedure—there is a procedure laid down that all communications to the Minister by any subordinate officer must go through the Head of the Department and the Permanent Secretary.

I wish to know on what date and at what time this document was handed over to the Inspector-General of Police, and also I should like to know, if it is possible for us to get the information, what the observations of the Inspector-General of Police were, because, it is the usual and correct procedure for the Head of a Department, when submitting a paper to the Permanent Secretary,

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to make his observations on it. First, I want to know on what date and at what time this statement was submitted to the Inspector-General of Police ; whether there have been any observations made by him, and if so, when this document went from the Inspector-General of Police to the Permanent Secretary. I want to know the date and time ; at least, if not the time, the date must be

minuted on the record which should be in the files of the department and the Ministry. On what date was this document sent by the I.G.P. to the Permanent Secretary and what were the observations of the Permanent Secretary when he sent it up to the Minister.

When a Minister gets a paper from a Permanent Secretary, if he finds there are no observations on it, it is his normal duty to ask the Permanent Secretary for his observations. The Permanent Secretary being the Head of the Department, being in control of the departments, being the executive head, has a duty by the Minister. It is the duty of the Permanent Secretary to supply any information, make his observations, help and advise the Minister with regard to the approval or otherwise of a statement of this nature. I wish to know whether this statement had the approval or the observations of the Permanent Secretary.

The Hon. Dahanayake : You want the date and time ?

Mr. P. H. W. de Silva : Yes.

Dr. Perera : The letter was sent to the press on Sunday.

Mr. P. H. W. de Silva : It was quite obvious that the statement had not taken its correct route. That procedure had not been followed. The officer had taken " this thing "

direct to the Minister according to the Minister's own words : " When he brought this thing to me ". When the D.I.G. brought " this thing " to him, was it brought to the Ministry ; if so, was the Permanent Secretary there, or was it brought to his house ? Was it brought to the house of the Minister of Justice and who was there when this document was brought ?

Dr. Perera : Brother-in-law !

Mr. P. H. W. de Silva : All these things are going to be very important and relevant. I am not casting any aspersions on the household of the Minister of Justice or on any others. With due respect to all of them I say that these matters are very important and relevant because of the very unusual way in which " this thing " had come to the Minister. 1635

Those are some of the matters which I consider of importance that I should place before this House in considering the grave irregularities committed by the officer concerned and the wrong action taken by the Minister of Justice in approving this statement. 30

I wish to refer to another significant fact. The Minister of Justice went out of his way to refer to the case pending against the hon. Member for Avissawella (Mr. D. P. R. Gunawardena) when he said :

" It is a personal matter and he is trying to vindicate his honour. Some time earlier, he has complained that he was defamed by a Cabinet Minister. Then the late Prime Minister, under the same regulations."

Under the same regulations the late Prime Minister approved the prosecution against the Member for Avissawella, says the Hon. Minister. This is what he said :

" . . . gave him permission to sue that Cabinet Minister for defamation."

Under the same regulations the Government has approved of this statement going to the press. And this is the Minister of Justice to whom the Police Department was entrusted ! Are the lives of any one of us, any citizen of this country, safe under this Minister ? It is one thing to have pity and say, " Oh, he is a poor old man, a very nice man", but this is not a matter for sympathy, it is not a matter of personal consideration or personal sympathy about his age or his ignorance or his idiocy. That is not the issue. He happens to be the Minister of Justice. We may feel sorry for him. I am not personally against him. But I am concerned with the administration of justice and the other departments assisting in that administration, particularly, the department supposed to maintain law and order in this country. That cannot be kept under the control and protection of such an incompetent and ignorant Minister as Mr. Valentine Jayawickrama. In the national interest it is urgently necessary that the Minister should quit office. He says the late Prime Minister under the same regulations gave the officer permission to sue a Cabinet Minister for defamation, and the Attorney-General sanctioned criminal proceedings. I shall quote further :

" The Attorney-General sanctioned criminal proceedings. Mr. de Zoysa was trying to vindicate his honour. I felt that to refuse his application would be unjust."— [OFFICIAL REPORT, SENATE, 3rd November, 1959 ; Vol. 13, c. 409].

So, is this case on a par with the prosecution. What is the connection between that and this statement, I ask ?

I do not wish to take much more time of the House. As I said earlier,

this is not a personal matter ; this is not a matter for personal consideration to come into the picture. I say that the Police Department is a very important department, particularly at a time of Emergency, when you have police officers who can directly take anything to a Minister. Under a state of Emergency the lives of the citizens of this country are not secure, normal procedures have been violated, ignored and neglected by this Minister. Such a Minister cannot be permitted in the national interest to continue to hold the office of Minister of Justice.

It may be said that he is new to the job, that he is sorry that this has happened. But he has not said that. The Hon. Minister of Justice, up to now, has been defending his action. Therefore, the Cabinet cannot deny full responsibility for his conduct.— [Interruption.] I understand that the Hon. Minister of Justice actually offered his resignation ; and it was through purely personal considerations of pity that that resignation was not accepted. Hon. Members of the Government should not be swayed by such considerations in coming to a decision on a matter of such importance.

There is a certain attitude prevailing in this country with regard to the assassination of Mr. Bandaranaike. Some people seem to think, " It is a murder. In the case of other people who have been killed, the usual procedure has been set in motion. In the case of the Bandaranaike murder, let it, like the murder of any other human being, be left to the normal procedure ". It is true that in regard to human values, there is no great difference between the life of the late Mr. Bandaranaike and the life of Appuhamy or Jamis Appu. But here we are dealing not merely with the

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murder of a human being. We are dealing with the assassination of the late Prime Minister of this country, who was seated in that very chair of the Prime Minister two months ago. He was killed because he was the Prime Minister. Therefore, his case and the methods adopted in the conduct of the investigations and all the surrounding circumstances connected therewith must of necessity assume special importance in this country.

Can we be blamed for shouting, crying, protesting, and agitating when a Member of this House has been foully put to death? After all, we are deeply concerned that the late Prime Minister, who was Member of Parliament for Attanagalla, has been killed. We are naturally anxious about the conduct of the investigations dealing with his death. Therefore, no one can get away with it by saying, "You, Members of the Opposition, why are you shouting, why are you protesting, why are you crying?"

1638 If these things can happen concerning the investigations into the killing of a person who was the Prime Minister of this country, can the average man expect any justice where he himself is concerned? Can he be secure? Can he feel safe? Can he have that important freedom, the freedom from fear? If this type of attitude is adopted by the Government, if the Ministers and Members of the Government approve of the procedure and methods adopted in regard to the investigations concerning the murder of a Prime Minister, if the Government approves the conduct of the Hon. Minister of Justice, can the ordinary man have any faith in justice?

No, Mr. Speaker, this is not an ordinary murder. This murder has special significance to us, who are

Members of this House, and to the people of this country. We are all interested in seeing that the correct procedures are adopted. It is not necessary for me to say that even the filing of a plaint in this country is timed for political expediency. If that is the case, where is justice in this country?

The Hon. Dahanayake : I rise to a point of Order.

Mr. D. P. R. Gunawardena (Avisawella) : It was filed at 2 p.m. yesterday.

The Hon. Dahanayake : I think that the matter which the hon. Member refers to is *sub judice*.

Mr. D. B. R. Gunawardena : The Hon. Prime Minister and the Cabinet have interfered. 20

Mr. Speaker : Order, please!

Mr. P. H. W. de Silva : I did not refer to the particular plaint that was filed yesterday. I said that if the filing of a plaint is timed to serve political expediency, the people of this country cannot have any faith in justice. If Crown Counsel in a case gets up and says that So-and-so should be remanded till Monday, three days hence, because the investigations are not over, how was it that plaint had to be filed at 2 p.m.?

Mr. D. B. R. Gunawardena : Yesterday.

Mr. P. H. W. de Silva : If such things can happen in this country, if not only the date but the time of filing plaint is subject to political expediency, what can you expect from the executive which is concerned with the administration of justice? There have been cases where 401639

people were kept on remand for two months—

Dr. Colvin R. de Silva : Years !

Mr. D. B. R. Gunawardena :
Twenty-two months !

Mr. P. H. W. de Silva :—without
plaint being filed. But a person
who has been on remand for 10 days
cannot wait for three days more
10 until the investigations are over.
Surely there is something suspicious
Do you blame the people of this
country if they lose faith in the
administration of justice when there
is interference by the executive ?

The Government thought that the
normal remand procedure in this
country was not sufficient because it
had to remand people for a longer
20 period than two weeks. It wanted
special regulations because it was
felt that, in a case of such import-
ance and magnitude as the Bandara-
naike case, it was not possible to
collect all the evidence within two
weeks. It would take about a year
to examine hundreds of witnesses,
follow all the clues and investigate
each and every matter concerning
30 the case. Until that was over, the
suspects in a case of this nature had
to be remanded. Our normal pro-
cedure permits remand for only two
weeks. Therefore, it was necessary
to have special regulations. But here,
when a person could have been re-
manded for two weeks even under
the normal law and an application is
made on the 10th or 11th day of
40 remand to remand a suspect for
three more days, it is considered not
necessary by the police.

I am not casting any aspersions on
anyone or any branch of the admin-
istration of justice. But when such
things happen, we cannot blame the
people or any section of the people

if they lose faith in the administra-
tion of justice in this country. The
one institution in which the people
had any confidence up to now is the
judicature of this country. There-
fore, I say that no Minister of
Justice or any other person of high-
er authority should intimidate law
officers or interfere with the normal
processes of law. Executive inter-
ference of that nature by the Hon.
Minister of Justice was not contem-
plated by the Soulbury Commis-
sioners when they created a special
Ministry of Justice and laid down
that the Minister of Justice should
be in the other Place.

I, therefore, appeal to hon. Mem-
bers to vote for this Motion. This
appeal has already been made by the
hon. Leader of the Opposition. This
is not a party matter. We are not
trying to get a party advantage.
There is much more involved than
party advantage in this matter. I
trust that this Motion will be unani-
mously accepted and that the honour
and dignity of the Members of this
House will be vindicated.

Question proposed.

Mr. Speaker : The Sitting is
suspended until 2 P.M.

*Sitting accordingly suspended until
2 p.m., and then resumed.*

Mr. Banda : We have, in the
course of this Debate, listened to the
very eloquent speech of the Mover of
this vote of censure on the Minister
of Justice, who was followed by the
hon. Second Member for Ambalan-
goda-Balapitiya (Mr. P. H. W. de
Silva) with an equally able and
eloquent contribution.

If hon. Members of this House will
for a moment, shed their partisan
spirit and think of preserving the

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dignity and the prestige of this House, if they will think of themselves as the representatives of the people chosen to represent them in the highest legislature, the prestige of which they have to uphold, which is their first duty, among many other matters, then I am sure they will find, if they search their consciences, that those two speeches were telling indictments on the conduct of the Minister of Justice in this matter.

1641 What are we seeking to establish in this House? We are seeking to establish wholesome traditions and conventions that would safeguard democracy, conventions that should be upheld by all of us, conventions regarding which we should take note whenever there is a breach or threatened breach of our rights and privileges.

We find that the Minister of Justice in permitting Mr. Sidney de Zoysa to publish the letter that has been referred to has failed in his duty as a Minister, has failed in his duty by not seeking the first available opportunity to defend an officer of his, if that need had arisen in his mind. When he had the opportunity to say in defence of any officer of his department or of the department anything that he had to say in the House in which he functions, he failed to do that. If he had done so, however much we may have quarrelled with him with regard to the content of his speech, we would have been happy that in the person of the Minister of Justice we found somebody who had not forgotten Parliamentary traditions. But he has failed and this Government, with the blessings of the Prime Minister, has been upholding that position of the Minister of Justice. That is the tragedy of it, and that is why it became necessary for the Members

of the Opposition to table this Motion in this way.

There are some people—and those who are not conversant with Parliamentary traditions we could excuse—there are many, and among them probably, there are Members sitting here in this very House, who would attempt to condone such action, who would say, "Well, a mistake has 10 been committed by an inexperienced Minister, and what is all this fuss about? All that has to be done to rectify this error is for the Prime Minister or some senior Minister to get up in this House and tell hon. Members that a mistake has been committed; we apologize to the House for it. Such a thing will not be repeated hereafter". 20

They hope to salve their conscience with that type of attitude as being sufficient to rectify a breach of convention of this nature. They probably do not want to see why the opposition is making such a big fuss about it, and they say, "Is not an apology sufficient?" 1642

I can understand that type of argument coming from sections of 30 the people who are not conversant with procedure and principles that we have established here, that have been established in other countries, in the United Kingdom, and in our neighbouring Indian legislatures with regard to the rectitude and proper conduct of Ministers. We cannot be unmindful of those precedents that have been set in those legis- 40 latures when we think of the conduct of our own Ministers.

It has to be understood very clearly and firmly that the Opposition has a function and a duty to perform in this House. It is not that the Opposition gets up in this House and opposes everything for the sake of

opposing ; it is not that the Opposition should ignore such matters when breaches of this nature occur merely to maintain friendly feelings with Ministers or Members of Parliament. It is not so.

On this occasion I would like to mention this fact that the Opposition is more alive to the preservation of
10 the dignity and the position of this House than the Government themselves. It does amount to that. If hon. Members on the Government Benches would like to take a lenient and lackadaisical attitude I would like to say that is the only way in which we can appraise the conduct of the Members occupying the Government Benches.

20 I want to quote one or two sentences at this stage to illustrate the point I am making. I am quoting Sir Ivor Jennings on " Cabinet Government ", Third Edition. At page 499, Sir Ivor says :

"The Function of the Opposition :

Attacks upon the Government and upon individual Ministers are the function of the Opposition."

164330 Mind you :

"The duty of the Opposition is to oppose. It adopts Sir Toby's advice, 'So soon as ever thou seest him, draw ; and, as thou drawest, swear horrible'. That duty is the major check which the Constitution provides upon corruption and defective administration. It is, too, the means by which individual injustices are prevented. The House of Commons is at its best when
40 it debates those individual acts of oppression or bad faith which can never completely be overcome in a system of government which places responsibility on such minor officials as police officers.

It is the public duty of the Opposition to raise such questions. It is a duty hardly less important than that of government."

Therefore, if it is sought to take a very light attitude of the functions of the Opposition and thereby try to create an impression in the country or in the House that the Opposition is making a big fuss over nothing and that all that is required is to tender an apology on behalf of a Minister for a minor error—if that is the attitude—I say that we cannot accept that position as such.

We, as Members of Parliament and, particularly, as Members of the Opposition have a duty to perform by this House. It is left to hon. Members on that side of the House to search their consciences and see whether as Members of the House and as Members of a party they are performing their duty.

Mr. Speaker, instances and precedents as to what has happened in such situations in the House of Commons can be quoted by the bushel. We need not go so far but there are some very wholesome precedents nearer home. It was mentioned by the hon. Leader of the Opposition that we are a young democracy, that this democratic machinery is functioning under various stresses and difficulties and that, if we value it, we should try to create wholesome precedents as we go along, as they arise, and not try to break down or tear apart something wholesome that has been built up all these years.

India, for instance, is in a position similar to ours, and if we want examples we have only just to look across. What do we find there ? On matters of public importance Ministers have tendered their resignations and their resignations have been accepted. There was the case of the Minister of Finance, Mr. Krishnamachari, who tendered his resignation over some act connected with

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some insurance company. Although the Prime Minister felt that the Minister's conduct was not improper, still the resignation was tendered and accepted. Although he was a very able man nevertheless Prime Minister Nehru accepted his resignation because they were concerned not only with the talents and ability of a Minister but with the building up of a democratic tradition so as to prevent abuses taking place.

Then there was the famous case of Mr. Sastri, I think, who was the Minister for Railways and Communications, who because of some railway accident or some railway disaster having taken place in some part of India felt obliged, despite hon. Members of the House appealing to him not to resign, to tender his resignation, and the Prime Minister accepted that resignation. I can quote instance after instance like that taking place in India. So why should we not in this country, in this Parliament, when occasions of this nature arise, try to create wholesome traditions in the interests of a democratic system of Government that we are pursuing.

1645 While I am on that topic, Mr. Speaker, might I say that there are in Ceylon too instances from which we could draw certain conclusions and lessons. Take the Police Department itself without going into the merits and demerits of Mr. Sidney de Zoysa's letter. At this stage, I should like to confine my attention to the Police Department and I am going to point out to hon. Members a case that is very fresh in their minds.

Hon. Members will remember a discussion that took place in this House during the time of the late Prime Minister about the retirement of Mr. Osmund de Silva who was

then the Inspector-General of Police. It was a public matter and various people in the country took up various positions, and the late Hon. Prime Minister had to get up in his seat when the matter was raised on the Floor of the House and make a statement in regard to the way in which Mr. Osmund de Silva's services came to be terminated. He had reluct- 10
antly, and he said so, to come out with certain facts and certain impressions that he had formed of the capacity and ability of Mr. Osmund de Silva to function as Inspector-General of Police. He said that he was a good man but was hardly the man to be in charge of the Police Department. He said that he was temperamentally not suited for that 20
post and that there were occasions on which he felt that Mr. Osmund de Silva was not doing his duties properly as Inspector-General of Police. I have got his speech here but I need not go into that because that is not relevant. However, he did make that statement and he justified the termination of the services of Mr. Osmund de Silva on that ground 30
on the Floor of the House. Those remarks were made, I think, on the 7th of April in the course of a Debate.

Now Mr. Osmund de Silva was in service at the time and when his period of service terminated, you will remember, Mr. Speaker, Mr. Osmund de Silva wrote a letter to the press and what did he say in 40
that letter? I should like it to be remembered that he was the Inspector-General of Police and not a Deputy or anybody like that. Here is a full text of his statement which appeared in the "*Ceylon Observer*" of 2nd August, 1959, It says :

"To protect oneself from defamation is the right of a free citizen in a free country. This right, however, was denied to me 50
1646 when on the 27th of March, 1959, at his

residence the Hon. Prime Minister made disparaging statements about me before a public delegation and followed it up with his statement in Parliament on April 7th, 1959. Because I was at the time the Head of a Disciplined Service, my lips, were perforce sealed. In these two statements which were naturally given the widest publicity in the press, the Hon. Prime Minister made several general allegations against me in an attempt to justify the non-renewal of my contract.

It seems so ironical that while I had to remain speechless in the face of those calumnies uttered by the Head of the Government, he should have in the course of his speech in Parliament expressed the sentiment that he had erred in patience and generosity.

20 At this first opportunity after my premature retirement from the Public Service, when I am no longer muzzled, and can express the truth to the public, I think, I can claim that 'patience' and 'generosity' were the virtues I showed when in deference to Public Service Rules, I had to keep my head bowed while a politician attacked my integrity, my character and my reputation."

And then he goes on to say for the good of the Service—

" Even after that bitter personal travail, if there is any advice I have, in all humility, to offer my fellow Policemen of all ranks it is that while in the service, self-discipline must override all other considerations."

What is the wholesome precedent created by Mr. Osmund de Silva? That in conformity with Public Service Regulations, as a person in service, as the Inspector-General of Police in service at the time, he held his tongue, and months afterwards, to whatever statements made on the Floor of the House which he felt he had to reply, he replied after he left the service. And he also admonished his fellow officers of all ranks that discipline should be preserved and that they should adhere to Public Service Regulations.

What is the story here? If the Head of the Department, the Inspector-General of Police, wanted any precedent to prevent Mr. Sidney de Zoysa's letter from reaching the press, he had it here. Because he was designated Inspector-General of Police and was functioning as such at the time Mr. Osmund de Silva wrote this letter later on. He knew it. He functioned in that context.

If the Hon. Minister wanted any precedent and only thought a little about it, if the Permanent Secretary gave a little thought to it himself and advised the Hon. Minister properly, he would have followed Mr. Osmund de Silva's case. Why then did the Hon. Minister not act properly in this matter? Why did he treat it so lightly? If he felt that there was a case to be made, he should have made it on the Floor of the House.

It is not correct to say that it is a minor error and therefore should be forgiven, because here is Mr. Osmund de Silva's precedent within the Police Department. A person who had been Inspector-General of Police, placed in similar circumstances, had the dignity to reply to remarks made in the House after he had left the Public Service and was a free citizen in that respect. That is the position I would like to stress for hon. Members to consider in this matter, too.

What is the result of all this neglect on the part of the Hon. Minister? By allowing a letter of this nature to be published, the Hon. Minister has allowed a situation to develop which has created disquiet in the public mind with regard to the very conduct of the case that is before the courts now and from which people are drawing all sorts of inferences.

No. 2
Petition of
S. G.
de Zoysa
with annexes
marked
"A"—"R"
31-5-60

(xiv) Annex
" N "
27-11-59
—continued.

1647

No. 2
Petition of
S. G.
de Zoysa
with annexes
marked
"A"- "R"
31-5-60

(xiv) Annex
"N"
27-11-59
—continued.

Mr. Speaker, you have permitted the reading of the proceedings that took place in open court. I refer to the observations made by Counsel in the Magistrate's Court which were published in the newspapers. I am in order in reading it myself from the "Lanka-dipa" of 27th November, 1959. This is what Mr. Kumarakulasinghe, the Counsel said. I am reading it in Sinhalese :

"මා මේ ප්‍රකාශය කරන්නේ ඉතා පරිස්සමින් සලකා බැලීමෙන් පසුව වගකීම පිළිබඳ සම්පූර්ණ හැඟීමකින් යුක්තවය. විමලා විජේවර්ධන මහත්මියන් නිදහස් කරනු ලැබූ සැකකරුන් එකම අවස්ථාවේ ඔබ වෙත ඉදිරිපත් කොට රිමාන්ඩ් බන්ධනාගාරයට නියම කරනු ලැබූ බව ඔබට මතක ඇත."

1648 **The Hon. Dahanayake :** What is that? What is the statement he is reading?

Mr. Banda : I am reading the observations of Counsel made in open court yesterday and which are published in the newspapers.

The Hon. Dahanayake : May I ask you for your Ruling, Mr. Speaker, as to whether it is permissible for the hon. Member to read out the observation made by Counsel in court in a pending case?

Dr. Colvin R. de Silva : That has been published.

The Hon. Dahanayake : I am asking Mr. Speaker to give a Ruling.

Mr. Speaker : Order, please? I allowed it in the morning.

Dr. Perera : It is published in the papers, so it must be allowable in the House. Surely the House cannot be denied the right to read what is published in the papers?

Mr. Leslie Goonewardene (Panadura) : Under the Emergency.

Mr. Banda : To continue the quotation :

"මේ දෙදෙනා හිර බාරයට ගන්නා ලද්දේ දේශපාලන බලපෑම් නිසා බව අපි ඒ අවස්ථාවේ කීවෙමු. අප එද කී කරුණ අද සිදු වූ දෙයින් සම්පූර්ණයෙන් පැහැදිලි වී පෙනේ. නිදහස් කරනු ලැබූ සැකකරු දේශපාලන කටයුතුවල පහසුව සඳහා හිරභාරයට ගන්නා ලද්දේ ඔහුගේ එක සහෝදරයකු කැබිනට් මණ්ඩලයෙන්ද තවත් සහෝදරයකු පොලිස් නිලයෙන්ද පහ කරන ලෙස උද්ඝෝෂණ කරන්නට පැ 10 24 කුත් නැති තරම් කලින්ය.

විමලා විජේවර්ධන මහත්මිය හිරභාරයට ගන්නා ලද්දේ අත්තනගලු ආසනයට නාම යෝජනා පත්‍ර බාර ගන්නට ආසන්න කාලයේදීය. මේ දෙදෙනා හිරභාරයට ගන්නා ලෙස ඉල්ලීම කරන ලද්දේ ඇමතිවරුන් විසින් කැබිනට් රැස්වීමකදීය. නිදහස් කරනු ලැබූ සැකකරු හිර බාරයට ගන්නා ලෙස ඉල්ලන ලද්දේ මිනිමරුවා යයි කියනු ලබන නැතැත්තා විසින් අපරාධ නඩු මාඕ නීති සංග්‍රහයේ 134 වැනි ඡේදය යටතේ කරන ලද ප්‍රකාශයක් 20 පදනම් කරගෙනය."

Mr. Speaker : Is the hon. Member going to read the whole thing?

Mr. Banda : Yes. The relevant 1649 portion is here. This is the most important part :

"රහසිගත ප්‍රකාශයක තිබුණු කරුණු ඇමතිවරුන් දැන ගත්තේ කෙසේදැයි සොයා බැලීම අපූරු වැඩක් විය හැකිය. මේ සැකකරුවාම ඊට කලින් ප්‍රකාශයන් ගණනාවක්ම කළ නමුත් ඒ එකකවත් නිදහස් 30 කරනු ලැබූ සැකකරු පටලවා තිබෙන්නට බැරිය. විමලා විජේවර්ධන මහත්මිය හිරබාරයට ගන්නට පෙරද පහසුවෙන් සාක්ෂිකරුවකු ඒ සඳහා සොයා ගත් බවක් පෙනේ. විජේවර්ධන මහත්මියගෙන් පොලිසිය විසින් කලින් සම්පූර්ණයෙන් ප්‍රශ්න කරන ලදුව ඇය හිරභාරයට ගැනීමට තරම් කිසිවක් ඒ කාලයේ දැන නොසිටි බව පැහැදිලිය. විමලා විජේ වර්ධන මහත්මිය හිරභාරයට ගැනීමට තරම් කරුණු නැති බව අධිකරණ ඇමතියේ අවසරය ඇතිව පරීක්ෂක නිලධාරීන් විසින් පුවත් පත්වලට නිකුත් 40 කර තිබුණු ප්‍රකාශයක් පැහැදිලි ලෙස කියා තිබුණේය.

විජේවර්ධන මහත්මියගේ, නිදහස් කරනු ලැබූ සැකකරුන් හිරභාරයට ගන්නා ලද්දේ කපටි දේශපාලනඥයින් කීප දෙනෙකු සතුටු කිරීම සඳහා වැදගත් දේශපාලන පියවර දෙකක් ගන්නා ඔත්ත මෙන් කියා තිබියදී පොලිස්පතිවරයා විසිනි.

මා උසාවියට මේ කරුණු ඉදිරිපත් කරන්නේ යුක්ති ධර්මය තවදුරටත් කෙලෙසීම වළක්වාගැනීමට බලාපොරොත්තුවෙමිනි. 50

සැකකරුවන්ගේ නීතිඥයන්ට නොදන්වා මේ සැකකරුවන් ඉදිරිපත් කිරීම ගැනද මම විරෝධය

පළ කරමි. මෙය කර තිබෙන්නේද තවත් දේශ පාලන පියවරක් මන්ත මෙන්ත කියා තිබියදීය. එනම් පාර්ලිමේන්තුවට ඉදිරිපත් කරන්නට යන විශ්වාස හංග යෝජනාවකිසිදි බාර කුමාරකුලසිංහ මහතා කිය.”

This bears out fully the observations of the hon. Second Member for Ambalangoda-Balapitiya that the people of this country think that the process of the law, the machinery of the law, the timing of the various steps are also now being utilized by the Government for purposes that best suit them. Here mention is made of the fact that certain steps have been taken with regard to this case in anticipation of the vote of no confidence that is coming up before this House. That is the impression that has been created right throughout the country by that sort of activity by the Hon. Minister of Justice and by this Government. And when these things are uttered on the Floor of the House no doubt they feel hurt, but these things have to be said. It is our duty to point out these things.

1650 What is said here is that the Hon. Minister of Justice, after verification, after ascertainment of the facts, came to the conclusion that there was no further evidence with regard to Mrs. Wijewardene. It is said so.

He permitted the publication of that letter to enable the public to know the facts with regard to the investigation as it stood then and also the conclusions that the Hon. Minister had drawn with regard to the investigation on these matters at that time. There you are! The hon. Leader of the Opposition quoted the same thing this morning.

It also goes on to say that the actions of the Ministers themselves are being questioned. That is the charge that we have to make—the Minister of Justice permitted the pub-

lication of a letter which should never have been allowed to be published in this way. It is not a normal letter dealing with some departmental routine matter. It is not a letter vindicating that kind of honour in some sort of way. It is a letter, as was pointed out by my good Friend there, which sets out the position of the Government and is authorized by a Minister. Why could not the Minister himself make that statement rather than permit a Deputy - Inspector - General of Police to create such an impression in the minds of the public through a letter to the press? That is the charge we have to make.

Now, with regard to standards of conduct, my good Friends opposite are very jealous about standards of conduct as much as ourselves. Some of them took up cudgels with the Hon. Prime Minister when the vote of no confidence was tabled with regard to the Finance Minister. Their attitude was that though he had nothing to do with the matter the action of Members of the Government would be proof of their conduct. And so ten Ministers pressed for the removal of the then Minister of Finance, Mr. Stanley de Zoysa.

Dr. Perera : That included the Minister of Justice also.

Mr. Banda : Why did they press for his removal? They did that to preserve the propriety of conduct of Members of the Cabinet. It was never conceded, never said that the Minister of Finance, Mr. Stanley de Zoysa, had anything to do in any way with the investigations or any other matter. There was no connection, but it was felt that because his brother was under suspicion, and subsequently because he was taken into custody, it was not proper for him to sit there as Minister. His

No. 2
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S. G.
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No. 2
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—continued.

propriety of conduct as Minister was not in question. It was a question as to whether it was proper for him to be there. That is all.

My good Friends there took a high and mighty attitude with regard to that. We were also of the same view but irrespective of our wishes they came to that conclusion on their own and ten of them, when their Colleague was just returning from abroad, before he could land here, got together—ten, pure, nice, good men. The Hon. Maithripala Senanayake, Transport and Power, the Hon. A. P. Jayasuriya, Health, the Hon. P. B. G. Kalugalla, Cultural Affairs and Social Services, the Hon. T. B. Ilangaratne, Home Affairs, the Hon. M. P. de Zoysa, Labour, the Hon. C. Wijesinghe, Nationalized Services and Shipping, the Hon. J. C. Munasinha, Industries and Fisheries, the Hon. C. P. de Silva, Agriculture and Lands, the Hon. M. B. W. Mediwake, Local Government and Housing, the Hon. Henry Abeywickrama, Works and the Hon. Valentine Jayawickrama, Minister of Justice, wanted the removal of Mr. Stanley de Zoysa from the post of Minister of Finance. For what? For something good, no doubt. But did it amount to one-hundredth of the charge that we are levelling against the Minister of Justice for action taken by him as Minister of Justice, not because of some connection with a brother or anyone else? We charge the Minister of Justice, not because he has some connection with somebody else who has come under a cloud, we charge him—and the Government for continuing him in office—with gross dereliction of duty as Minister. That is the burden of our charge. And these Ministers got together before their Colleague could land in this country and held a pistol at the Prime Minister's head and said: "Get rid of Stanley de Zoysa because

we must preserve good conduct, wholesome traditions, purity of administration, and the country must know that in our Cabinet we have a set of Ministers who are above board in this matter". Even if they are above board, it was said that they must be seemingly so, there should not be the slightest suspicion anywhere, and Mr. Stanley de Zoysa 10 resigned. He gave thought to the matter and said that he was not concerned about what the Opposition said, of what other people may say. He said that he had had consultations with the Prime Minister who has confidence in him but yet he said it was his duty to tender his resignation. It was laudable action. 20

These same Ministers, however, ten of them, have now made up their minds to condone the action of the Minister of Justice. They are not concerned about his conduct in prejudicing the case—that never happened in the case of the former Minister of Finance—by permitting this letter to be published in the newspapers, giving the opportunity 30 to various people to say various things about the conduct of the investigation and various other matters. The matter has already been commented upon openly in the courts. And yet when the Minister of Justice said that he would take full responsibility for this matter and that he was prepared to resign last night, because some mirage was 40 created before their eyes by somebody being asked to go on retirement, because some apology was to be tendered in the House, they have forgotten their duty, forgotten how they treated their own Colleague. Have they forgotten that they are here to set up wholesome standards? And if they rise up in their places today and vote against this Motion they will be 50 condemning their very own actions

1653 and no greater condemnation can be imagined with regard to the action particularly of these ten Ministers who were running round the country as martyrs and going on pilgrimage promising to see that the right thing is done.

If these very same Ministers vote against this Motion in order to retain office, all I can say is that they are responsible themselves for permitting the Hon. Minister of Justice to commit such a flagrant error in the discharge of his duties. They will then be equally guilty with the Hon. Minister of Justice. He has said that he is only supplying pen and paper. He made various other statements which need not be repeated here, but among those statements he has said something good. He has said that he is prepared to resign because he takes the responsibility for this statement. But it took the Hon. Minister of Justice so long to say that. He waited until this vote of censure appeared on the agenda to say that. And even when he said that, the Hon. Prime Minister said, "We have the highest confidence in you; we have implicit faith in you. This is not the same as the case concerning Mr. Stanley de Zoysa".

That is the attitude of the Government in this matter. But in reality there is much more in this than in the case of the former Minister of Finance. Here the Hon. Minister of Justice has blundered and in doing so has prejudiced the investigation but the Hon. Prime Minister and Members of the Cabinet say that even if the Hon. Minister of Justice wants to resign he will be given a good certificate. The Hon. Minister of Justice has been assured that he need not worry because the vote of censure against the Government will be defeated. How can this attitude of these ten Ministers be reconciled with

the attitude they adopted in the case of the former Minister of Finance? If they did not take that action against the Minister of Finance I can understand their attitude but having fought so hard for a particular line of action to be taken against the former Minister of Finance I cannot understand how they can adopt a different standard altogether with regard to the Hon. Minister of Justice. And what is more, the Hon. Minister of Justice is one of the ten Ministers who wanted a particular line of action resorted to in the case of Mr. Stanley de Zoysa. He wanted the Minister of Finance to resign. By the same standard there are much stronger reasons for the Hon. Minister of Justice to quit. If the ten Ministers who put their signatures to that request act in accordance with their consciences, there will be no alternative for them but to vote for this Motion of censure and not back the actions of the Hon. Minister of Justice.

The Hon. Prime Minister tried to justify the procedure adopted by the Hon. Minister of Justice in permitting the publication of this statement in that it was in accordance with the provisions of the Manual of Procedure. He said that no harm was done by its publication. He says the procedure is correct but can he in the same breath, detach or efface the contents of the statement from the procedure? The procedure may be all right if the statement merely carried some statistics or something like that relating to some departmental matter. But if it is something relating to policy and does in fact contain inflammable matter, as in the case of this particular statement, how can the Hon. Prime Minister put up in a half-hearted manner this defence that the procedure was correct and the Hon. Minister of Justice was justified in permitting its publication?

No. 2
Petition of
S. G.
de Zoysa
with annexes
marked
"A"—"R"
31-5-60

(xiv) Annex
"N"
27-11-59

1654—continued.

No. 2
Petition of
S. G.
de Zoysa
with annexes
marked
"A" "R"
31-5-60

(xiv) Annex
"N"
27-11-59
—continued.

1655

The Hon. Prime Minister cannot hedge in this matter. He is there as the Prime Minister of this country. He is there not to safeguard his Ministers when they commit errors of this kind. He is there to uphold wholesome traditions ; not to seek cover under rules of procedure.

The Hon. Prime Minister has made this Motion a vote of no confidence in the Government and not so much a vote of censure on the Hon. Minister of Justice perhaps with the idea of defending the Hon. Minister of Justice and treating this as a " potty little thing ". It is not so. Let him not bamboozle himself or the others by this kind of hypocritical attitude. Let him not try to indulge in some sort of face-saving device. He and his Ministers in their conscience will admit that there is sufficient force in the charges we are making against the Government. I appeal to hon. Members of the Government not to treat this lightly. This should not be looked at from a party angle. If you are interested in maintaining correct Parliamentary procedure and the dignity of this House you have no alternative but to vote for this Motion.

Hon. Members must admit that as a result of a grave dereliction of duty on the part of the Hon. Minister of Justice with regard to the investigation into the assassination of the late Prime Minister the people of this country have lost confidence in the Government. Hon. Ministers must not only shoulder responsibilities but they must also live up to those responsibilities. Hon. Members of this House have no alternative but to see that this vote of censure in the Hon. Minister of Justice is passed. I make this appeal to hon. Members of this House and I thank you, Mr. Speaker, for giving me the opportunity to speak a few words on this Motion.

2.49 P.M.

Mr. S. D. Bandaranayake (Gampaha) :

ගරු කථානායකතුමනි, මෙම විශ්වාස භංග යෝජනාව ගැන වචන සාදාසනා කථා කිරීමටයි මා නැගී සිටින්නේ. පසුගිය මස 30 වනදාද මෙවැනිම විශ්වාස භංග යෝජනාවක් මේ ගරු සභාවේ ඉදිරිපත් කරන්නට යෙදුණා. මට ජෙන හැටියට නම් ගරු කථානායකතුමනි, අද මේ රටේ කෙරෙන්නේ විශ්වාස භංග යෝජනා ඉදිරිපත් කිරීම විනා වෙන අන්කිසි වැඩක් නොවෙයි. 10 රටේ කරන්නට කිබෙන අනෙක් සෑම වැඩ කටයුත්තක්ම සම්පූර්ණයෙන්ම නතර වී ගොසින්.

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ගරු කථානායකතුමනි, මෙම යෝජනාව ඉදිරිපත් කළ විරුද්ධ පක්ෂයේ නායකතුමා මෙන්ම එය සඳහා කළ ගරු මන්ත්‍රීවරයාද මෙම යෝජනාව ඉදිරිපත් කරන්නට ඇති හේතු විස්තර කර දුන්නා. එම ගරු මන්ත්‍රීවරුන් අදාළයාගේම කථාවලින් පැහැදිලි කර කියන්නට යෙදුණේ සිඬනි සොයිසා මහතා විසින් ප්‍රචාන්ති පත්‍රවලට නිකුත් කරන ලද නිවේදනය, ලියවිල්ල, නිසා මේ ගරු සභාවේ ගෞරවයට 20 කැලලක් සිදුවූ බවයි.

ගරු කථානායකතුමනි, වැලන්ටයින් ජයවික්‍රම මහතා අධිකරණ අමාත්‍යාංශයට පත් කරනු ලැබුවේ දිවංගත බණ්ඩාරනායක අගමැතිතුමා විසින්. ඒ අවසානවේදී—බණ්ඩාරනායක අගමැතිතුමා එක්සත් ජාතීන්ගේ සම්මේලනයට යන්නට සිටි අවසාන වේදී—පොලිස් දෙපාර්තමේන්තුව හාර දුන්නේ එතුමාටයි—[Interruption.] මගේ ප්‍රකාශයේ යම් වරදක් කිබෙනවා නම් එය අගමැතිතුමා හරි ගස්සනු ඇතැයි මා කල්පනා කරනවා. ගරු කථානායක 30 තුමනි, මා කියමින් සිටියේ මෙම වැඩ පිළිවෙළ ඇති කරනු ලැබුයේ දිවංගත ගරු බණ්ඩාරනායක අගමැති විසින් බවයි. ඒ නිසා සිඬනි සොයිසා මහතා විසින් ප්‍රචාන්ති පත්‍ර වලට යවන ලද ලියවිල්ලට හේතුවූයේ කුමක් ද කියා මූලික ප්‍රශ්නයක් හැටියට අප කල්පනා කරන්න ඕනෑ. ඒ ලියවිල්ල මෙසේ ලියන්නට හේතුව හැන්සාඩ් වාර්තාවේ විස්තරයකින්ම මේ ගරු සභාවට මා ඉදිරිපත් කරන්නම්— [Interruption.]

Mr. Speaker : Order, please ! 40

Mr. S. D. Bandaranayake : කිරිඇල්ලේ ගරු මන්ත්‍රීවරිය පිළිතුරු දීම අවශ්‍ය නැහැ ගරු කථානායකතුමනි. හැන්සාඩ් වාර්තා පොතේ 988 වන කීරුවේ විරුද්ධ පක්ෂයේ නායක තුමා මෙසේ සඳහන් කර තිබෙනවා. මා දන් එය කියවනවා. ඒ මෙසේ යි ;

"There were two other officers attached to this investigation. Mr. Rajasooriya and Mr. B. W. Perera. They were quite independent officers. Officers in whom you 50 could place some trust ; people who are not amenable to influence or any type of corruption. Mr. B. W. Perera has more than once complained of interference by Mr. Sidney de Zoysa, interference in the sense of not allowing him to do the work he wants to do."

මේ අන්දමට කියාගෙන ගොසින් තවත් කියනවා :

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"In point of fact, he made a suggestion at a certain stage that to counteract the influence of Mr. Sidney de Zoysa, Mr. C. C. Dissanayake should be brought in. Before that could be effected, Mr. B. W. Perera has now been removed. He is no longer there, no longer in charge of this investigation. 10 Mr. B. W. Perera has gone."

මිය අන්දමට කලා කරගෙන ගිහින් ගරු කලා නායක කුමනි, අපට දන් පෙනවා මේ විරුද්ධ පක්ෂයේ නායක කුමා, එද දවසේ ආරක්ෂා කළ බී. ඩබ්ලිව්. පෙරේරා මහතාත් පිස්තෝලයට මුනිස්සන් දුන් මහත්මයාය කියා.

Mr. Karunatillake : On a point of Order, Mr. Speaker.

Mr. Speaker : Yes, you cannot refer to that.

20 Mr. S. D. Bandaranayake : ගරු කලානායක කුමනි, නමුත් නාන්දේට මා පෙන්වන්නට අදහස් කෙළේ මේ කරුණයි. පළමු ණක් නොවෙයි. මේ අන්දමට ඊට අනතුරුව විරුද්ධ පක්ෂයේ නායක කුමා මේ අන්දමටත් කියා ගෙන යනවා :

"I have my grave suspicions about this. I have my grave suspicions because Mr. Sidney de Zoysa's part in this case is also suspect. One has got to find out what he was doing there at Rosmead Place. The Police have found out this. That Mr. Muller's house is at the back of the garden. Mr. Sidney de Zoysa was at Mr. Muller's house with his child for treatment. Mr. Muller wanted to treat his child earlier and send him off but he said: 'No, No. I will take my turn'. But before he could take his turn, he had vanished with his child at a certain stage. How? Why? 40 I have had four versions of Mr. Sidney de Zoysa's doings on that day."-[OFFICIAL REPORT, 30th October, 1959; Vol. 37, c. 986].

මිය අන්දමටයි, විරුද්ධ පක්ෂයේ නායක කුමා ඔක්තෝබර් මස 30 වැනිදා සිඩනි ද සොයිසා නොහොත් ඒ.ඩී.අයි.ඒ. මහතා ගැන මේ ගරු සභාවේ අදහස් ප්‍රකාශ කෙළේ. විරුද්ධ පක්ෂයේ නායක කුමා එද දවසේ මේ ගරු සභාවට පැහැදිලි කළා මේ මහතා ගැන කතන්දරය හතර විධියකට රටේ ප්‍රචාරය වෙලා තියෙනවාය කියා. මේ මහතා මේ මේ අන්දමට ක්‍රියා කළාය කියා එද දවසේ මේ ගරු සභාවේදී ඒ මහතාට වෝදනා ඉදිරිපත් කළා. එම නිසා, ගරු කලානායක කුමනි, මා අසන්නේ,

ආණ්ඩුවේ සේවකයකුට මේ වීඩියෝ වෝදනා ඉදිරිපත් කරන අවස්ථාවේ ආණ්ඩුවේ සේවකයකු වුණ පළියට ඒ සේවක සහෝදරයාට, ඒ සේවක මහතාට, අයිතියක් නැද්ද ඒ අන්දමට යම් කිසි ප්‍රකාශයක් කරන්න? [Interruption.] ඔව්, ඉතින් මාතලේ මන්ත්‍රී කුමාගේ සහෝදරයෝ තම ඉන්නේ ඇමෙරිකාවේ. ඒක අපි හොඳින්ම දන්නවා.

Mr. Speaker : Order please !

Mrs. Vivienne Goonewardene (Colombo North) : තමුසේ එකක් හිතලා එකක් කලා කරනවා. [Interruption.]

Mr. Speaker : Will the hon. Member for Colombo North keep Order ?

Mr. S. D. Bandaranayake : ඔහොම තමයි, සමසමාජ පක්ෂයට කිසිම නායකත්වයක් නැහැ. [Interruption.]

Mr. Speaker : Order, please !

Mr. S. D. Bandaranayake : ගරු කලානායක කුමනි, එම නිසා මා ඉදිරිපත් කරන්නේ, එද දවසේ කරන ලද ඒ වෝදනාවලට සිඩනි ද සොයිසා මහතා පිළිතුරක් දුන් බවයි. එසේ ඒ වෝදනාවලට පිළිතුරක් දීම සඳහා තමන්ගේ ස්ථිර ලේකම්වරයාගෙනුත් තමන්ගේ ඇමතිවරයා ගෙනුත් අවසර ඉල්ලුම් කළා. ඒ අවසරය වැලන්ටයින් ජයවික්‍රම ඇමති කුමා දුන්නා ඒ අවසරය එද දවසේ ඇමතිවරයා විසින් දීමෙන් අද දවසේ සිඩනි ද සොයිසා මහතාට එල්ලිලා. අද උදේ ආණ්ඩුව මහින්ම සිඩනි ද සොයිසා මහතා අස් කිරීමෙන් අපට පැහැදිලිවම පෙනවා, අධිකරණ ඇමති කුමා එද ඒ මහතාට ඒ අවසරය දීමෙන් කෙළේ, සිංහලෙන්ම කියනවා නම්, දිරව්ව ලනුවක් දීම බව. [Interruption.]

Mr. Speaker : Order, please !

Mr. S. D. Bandaranayake : මාතලේ මන්ත්‍රී කුමාට කලා කරන්න බොහොම ශක්තිය තිබෙනවා. අපි දන්නවා දස ලක්ෂයේ ශක්තිය තිබෙන බව.

ගරු කලානායක කුමනි, එම නිසා එද මිය අවසරය දීමෙන් අධිකරණ ඇමති කුමා විශාල පිය වරක් අරගෙන තිබෙනවා. මගේ කල්පනාවේ හැටියට විරුද්ධ පක්ෂයේ නායක කුමා "මැනුවල් ඔෆ් ප්‍රොසීඩියර්" එකක් ගන්නා. අරගණ පරණ අධිරාජ්‍යවාදී යුගයේ එක්සත් ජාතික පක්ෂ කාලයේ නීති රීති පෙන්වුම් කළා. 1956, 1957 වසරවල අපි යාකව්‍යා කළේ මේවා වෙනස් කරන්නයි. නමුත් විරුද්ධ පක්ෂයේ නායක කුමා පරණ අධිරාජ්‍යවාදීන්ගේ ඒ නීති රීති අරගෙන තමා කලා කරන්නේ, සිඩනි ගැන.

1658 No. 2 Petition of S. G. de Zoysa with annexes marked 'A-R' 31-5-60 (xiv) Annex "N" 27-11-59 -continued.

1659

No. 2
Petition of
S. G.
de Zoysa
with annexes
marked
"A-R"
31-5-60

(xiv) Annex
"N"
127-1-59
—continued.

An hon. Member : පිස්සෙක්.

විශ්වාස භංග යෝජනාව අනුව ආකලාවල අගමැති කරන්නයි ලැස්ති වන්නේ.

Mr. S. D. Bandaranayake :
ගරු කරානායක තුමනි, එම නිසා දන් මගේ අදහස වී තිබෙන්නේ සිඩනී සොයිසා වෙවා, ජා-ඇල ගරු මන්ත්‍රී තුමා (Mr. Stanley de Zoysa) වෙවා—

Mr. Speaker : Order, please !
Will the hon. Member now get on to the Motion ?

Mr. Karunatilake : සභෝදරයෝ වෝ !

Mr. S. D. Bandaranayake :
ගස්බඩගාන මන්ත්‍රීවරයෙක් දෙන්නෙක් ලැස්ති වෙලා ඉන්නවා කොතලාවල අගමැති කරන්න. එද උන්නැහේ කියා සිටියා මහජන එක්සත් පෙරමුණේ ඉන්නේ ගස් බඩගාන අය බව. ශ්‍රී ලංකා 10 නිදහස් පක්ෂයේ ප්‍රතිපත්තිවලට සම්පූර්ණයෙන්ම විරුධව 1956 දී සටන් කළ නායකයකුට දන් ශ්‍රී ලංකා නිදහස් පක්ෂයේ නායකත්වය දෙන්නේ කොහොමදැයි මම අහනවා.

Mr. S. D. Bandaranayake :
—මේ ක්‍රියාවට සම්බන්ධ නම්, උසාවියේදී එළිදරව් වන කරුණු වලින් පෙනී යන බවයි. ඒකේ ප්‍රශ්න යක් නෑ.

Mr. Speaker : Order, please !
This is all irrelevant. Unless the hon. Member speaks on the Motion, he must please sit down.

හැබැයි ගරු කරානායක තුමනි, මේ වාගේ විශ්වාස භංග යෝජනාවක් ගෙනෙන්නට තිබියදී, ඊයේ මේ ගරු සභාවේ දී පාස් වුණා උසාවිවල සිංහලෙන් කටයුතු කිරීම පිළිබඳ පණත. කවුද මේකට විරුද්ධ වුනේ? ටේපඩරල් පක්ෂයයි, සම සමාජ පක්ෂයයි.

An hon. Member : තමුසෙ හිටියෙන් නෑ.

Mr. S. D. Bandaranayake :
මේ මන්ත්‍රීවරු 1956 දී සටන් කළේ කුමන ප්‍රති 20 පත්ති හා ප්‍රශ්න අරමුණු කරගෙනද කියා පැහැදිලිවම මතක තියා ගන්න ඕන. බණ්ඩාරනායක අගමැතුමා මැරීමට කුමන්ත්‍රණය කොට එතුමා වෙඩි තබා මරා දැමුවේ සිංහල ජාතියත් බොධ ආගමත් සම්පූර්ණයෙන්ම නැති කිරීමටයි. මෙය සිංහල ජාතියේත්, 1661 බොධාගමේත් ඉරණම විසඳෙන අවස්ථාවක් බව සලකා, මන්ත්‍රීවරු ප්‍රවේසමෙන් කල්පනා කර බලා තමන්ගේ ජන්දය පාවිච්චි කරනවා ඇතැයි මම බලාපෙරාත්තු වෙනවා.

Mr. S. D. Bandaranayake :
ගරු කරානායක තුමනි, සිංහලයන්ගේ හතුරන් ඔය අන්දමට බොරු පුහු යෝජනා ගෙනත් සිංහලයා නැතිකර, 1956 දී සිංහලයා අත්පත් කරගත් ජය ග්‍රහණය නටවුන් කර, ක්‍රියා කරන්නටයි යන්නේ. සිංහලයන්ගේ හතුරෝ !

3.05 P.M.

30

1660

ගරු කරානායක තුමනි, එපමණක් නොවෙයි. කවුරුන් දන්නවා 1961 දී සිංහලය පමණක් රජයේ භාෂාව කිරීම ක්‍රියාත්මක වන බව. සිංහලයන්ගේ හතුරන් පුළුවන් තරම් උත්සාහ කරනවා 1961 වන්නට පෙර එය නැති කරන්නට. 1961 දීයි එය ක්‍රියාත්මක වන්නේ. එම නිසා තමයි 1961 වන්නට ඉස්සර කෙසේ හෝ මේ ආණ්ඩුව කඩා කපපල් කර, හුන් කර, සිංහල ජාතියත් හැනි කර, බොද්ධාගමත් නැති කර ක්‍රියා කරන්නට මේ අය ලැස්ති වන්නේ.

Mr. M. Samaraweera (Matara) :
Mr. Speaker, please permit me to speak a few words on this occasion. I propose to finish my speech in as short a time as possible. At the outset, I must thank the Members of the Cabinet especially the Hon. Prime Minister, for the courtesy and goodwill that had been extended to me on every occasion not only 40 personally but to me as a Parliamentarian. I should also like to say that the Hon. Minister of Justice is a gentleman from my own home town, for whom I have the highest respect. I had the honour to appear before him as a lawyer when I had just started to practise. Therefore, what I have to say concerning him is

හැබැයි ගරු කරානායක තුමනි, එහා පැත්තේ ආණ්ඩු පක්ෂයේ—ඇතැම් මන්ත්‍රීන් සර් ජෝන් කොතලාවල අගමැති වරයා හැටියට තෝරන්න යනවාය කියා පතලයි.

An hon. Member : හැබැයි, අපි නොවෙයි.

Mr. Speaker : That is not relevant to the Motion before the House.

Mr. S. D. Bandaranayake :
ගරු කරානායක තුමනි, මේකත් පත්‍රයේ තිබෙනවා, යෝජනාවට අඩංගු ප්‍රධාන ප්‍රශ්නයක් හැටියට.

not out of a sense of personal animosity or enmity against him. I am saying what I have to say because it is a matter of conscience, a matter of principle.

As usual, the hon. Member for Gampaha (Mr. S. D. Bandaranayake) has disappeared after making a speech.

10 **Mr. Speaker :** That is not relevant.

Mr. Samaraweera : It is very relevant, Mr. Speaker, because of what he stated in the course of his speech. I have gone through this Motion very carefully. It is in the name of many hon. Members. If what the hon. Member for Gampaha stated is correct, I find that the only
20 one who has not put his signature to the list of persons sponsoring this Motion is the Yugoslavian Ambassador. In respect of everything that comes before this House, the hon. Member is giving a twist which nobody but himself can possibly understand.

Mr. Lakshman Rajapaksa (Hambantota) : If that is so, you
30 will have to declare him insane !

1662 **Mr. Samaraweera :** He also mentioned it was unfortunate that one no-confidence Motion after another came before the House because, as a result, a good deal of the time of the House was wasted. I agree that it is unsatisfactory to have one no-confidence Motion after another in this House. But at the
40 same time I wish to remind the hon. Member that there would have been no such Motions before this House unless there were some bases for them.

In my own particular case, I have to thank the Government for taking

action, even at this belated stage, to remove Mr. Sidney de Zoysa from office.

Mr. Karunatillake : Has he been removed ?

Mr. Samaraweera : Yes, that is what I am told.

But, as I mentioned at another place the removal of Mr. Sidney de Zoysa is only one part of the question. His removal is very desirable from every point of view. Several reasons have been given—I am not going into the details, because I do not intend to take much time—why the removal of Mr. Sidney de Zoysa was very desirable in the interests of the country and the administration.

However, the Motion before the House is a Motion of censure on the Hon. Minister of Justice. The mere fact of the removal of Sidney de Zoysa does not exculpate the Hon. Minister of Justice for giving him permission to publish this now rather famous, or notorious, statement.

Mr. Karunatillake : Well said.

Mr. Samaraweera : If Mr. Sidney de Zoysa has been removed it is an admission, undoubtedly, that this statement that was made was improper and, if that statement was improper, the person who gave the authority for the publication of that statement acted equally improperly. Whatever the respect we have for the Minister of Justice, as a duty to this Parliament, as a gesture of goodwill to the country it is incumbent on him to tender his resignation. I understand that he did, in fact, offer to resign but his resignation was not accepted. If that is so every Member of the Cabinet who was a party to the non-acceptance of

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that resignation is, in my point of view, equally to blame. In fairness to the Minister of Justice, I must say that he did, in fact, and even as late as last night, offer to resign ; because a Member of the Cabinet, where an issue of this importance is involved, when he himself feels that something wrong has been done should act in a constitutional manner. It is not for the Members of the Government or the Cabinet to say that they should not accept that resignation. Unfortunately, a tendency has crept in amongst certain Ministers to feel, in the words of the Prime Minister when he was on the side of the Opposition—I remember his criticizing the attitude of the Ministers of the U.N.P. Government clinging to office—that Ministerial office was අත්කර ගන්නා කාර්යය මෙමගින්ම මාලේ. I think those were the very words the Prime Minister used. That tendency has crept in today and that tendency must be removed. I do not know how far it is true, but as an illustration of this tendency to feel that once you are in office you must be in office, that it is yours by birth right, by inheritance, I wish to refer to the case of a particular Minister who, it is reported, with only 1½ years to go, provided we go the full period of this Parliament, is getting a direct telephone extension to his house at a cost of about Rs. 14,000.

Mr. Karunatillake : Is it Jim ?

Mr. Samaraweera : I am not mentioning names.

Dr. Perera : Unnecessary.

Mr. Samaraweera : This is an illustration of this tendency. I think that is very undesirable in the interests of the country. The Hon. Minister of Justice is, according to the hon. Member for Gampaha (Mr. S. D. Bandaranayake), a person who was

appointed, admittedly, by the late Prime Minister and therefore it is not —by implication of what he said— for us to question his actions. If that is so there are certain other Ministers who were appointed by the late Prime Minister who are not here today but elsewhere. So the fact that the Hon. Minister was appointed by the late Prime Minister is no reason why he 10 should continue in office if he is not maintaining the traditions of his office, if he is not discharging his duties properly.

Therefore, as far as I am concerned, as I mentioned earlier, I have to thank the Prime Minister specially and other Ministers for the goodwill and courtesy extended to me. I feel the same about the Hon. Minister 20 of Justice before whom, as stated earlier, I had the honour to practise as a lawyer and for whom I have personally the highest respect. But this apart, on this matter, I feel it incumbent on me, whatever the consequences, to vote with the Opposition on this Motion. I appeal to every Member of the House and specially to my Friends on this side 30 of the House that, on this matter, whatever the consequences and irrespective of party policies to join with me in voting with the Opposition on this Motion.

Thank you.

Mr. Keuneman and Mr. Jayatilaka rose—

Mr. Speaker : The hon. First Member for Colombo Central. 40

Mr. Keuneman : I do not mind giving way to the hon. Member for Nawalapitiya.

3.7 P.M.

Mr. Jayatilaka : I am grateful to the hon. First Member for Colombo

Central (Mr. Keuneman) for having given way. I do not propose to give a silent vote on a very important issue like this and therefore I seek your indulgence to speak for just a few minutes.

1665 I have been a supporter of the Government and, on many occasions, I have voted with the Government although I felt that I was not in agreement with some of the Motions which they placed before this House. They were not Motions of a nature that I felt were so important in the sense that they violated either the constitution or in any way affected it.

I have seen the Prime Minister and explained to him what my attitude would be in the event of this Motion being placed before this House. I have no complaint to make against Mr. Sidney de Zoysa. From what I have read in the newspapers I will only say that he has been extremely foolish in making the statements he has made and putting himself into a very wrong position because I feel that any public servant who draws the Queen's shilling has not the right to criticize his masters or criticize Parliament. It is, of course, open to anybody to do so and take the consequences. Therefore, I am not concerned with what the Government is going to do with Mr. Sidney de Zoysa.

As I told hon. Members of the Government Parliamentary group last night, it is impossible for people to find excuses and salve their consciences and say, "We are sacking Mr. Sidney de Zoysa, therefore, the Minister of Justice can go on". I say very emphatically that this Motion deals with the conduct of a Minister of this Parliament and from the speeches made by the hon. Leader of the Opposition (Dr. Perera), the hon. Second Member for Ambalangoda-

Balapitiya (Mr. P. H. W. de Silva) and by the hon. Member for Maturata (Mr. Banda) it is quite clear what the duties of Ministers are and what the constitution is and what the usual practices and conventions are governing this Parliament and every Parliament.

I have no personal animosity towards this great gentleman Mr. Valentine Jayawickrama. As the hon. Member for Matara (Mr. Samara-weera) said the Hon. Minister of Justice comes from a town I hail from. I have known him from my fifth year; I know him as a good man, as a fine gentleman but I am sorry to say that he has slipped and slipped very badly. He must be prepared to take the consequences. In fairness to him it must be admitted that he was prepared to take the consequence but I do not know why this Government was so reluctant to accept his resignation.

It is no secret that even yesterday at the Government Parliamentary group meeting he said, "I offered my resignation when I found that there was this no-confidence Motion against me. I am prepared to resign even now if my Colleagues want it". He honourably stated that, but lo and behold! His Colleagues said, "Don't". I sympathize with the Hon. Minister of Justice in his predicament, but I cannot refrain from voting for the Motion because I feel that this is a matter which affects the dignity and the supremacy of Parliament.

The Hon. Prime Minister has for over 30 years fought for the rights of the ordinary man; he, as a Member of the Opposition and as a Minister, has been the loudest over the rights of hon. Members and the rights of everybody else and I am certain that in his own heart and

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conscience he knows and feels that the only honourable way out would be for him to accept the resignation of his Minister of Justice. I do not know what prompted him not to accept the resignation. I suppose he knows better; there may be reasons which I trust he will make known to this House.

1667 In fairness to him, I must say this, that the Hon. Prime Minister is not finding an excuse to sit there in office. I can tell him that the stock of this Government would not go up in the estimation of the people by his clinging to office in this manner. If he finds excuses to stick to office the people will tell him that he is not interested in principles, in the nation or in the assassination case which is supposed to be the one excuse for everything that they are doing and saying. The Hon. Prime Minister will be doing an injustice to his dead leader if he persists in ignoring the elementary principles safeguarding democracy and Parliament. The hon. Member for Gampaha (Mr. S. D. Bandaranayake) appears to think that every action of the late Prime Minister was sacrosanct and that we should not disturb anything he has done. For goodness' sake, let us stop this tomfoolery, this attempt to deceive the people in the name of the dead leader. The hon. Member for Gampaha of all people is the last person who can talk about the dead leader in those terms. During the life-time of the late Prime Minister the hon. Member for Gampaha was one of the disciples who betrayed him even before the cock crowed three times!

With regard to our own conduct as hon. Members of the House I do want to say one thing. Some of us have often been guilty of taking advantage of our position as Members of Parliament. In this House, under

cover of Privilege, we have attacked public servants and members of the public. Let us try not to do that. Just as much as we are jealous of our own rights as Members of Parliament, let us remember that there are rights and privileges of the citizens outside as well as public servants. If we try to ignore that under cover of Privilege, we must not squeal if they 10 resort to certain tactics to say what they have to say in their defence. In this instance, what really happened was that Mr. Sidney de Zoysa went to see the Hon. Minister and the Head of the Department and obtained their permission to make that statement, a statement that is certainly an insult to the dignity of this House and to every hon. Member of 20 this Parliament.

Some of my good Friends have appealed to me, "For goodness' sake, do not do what you are trying to do. If any reference is to be made let us make those references against the Members of the Opposition". It is a very poor argument to insult hon. Members of the Opposition. They are like ourselves Mem- 30 bers of Parliament and it is our duty to safeguard the dignity and good name of every single Member of Parliament whether on this side of the House or on the other. 1668

I do want the country and the House to understand this that it is not my intention to throw a Government out of power if they are doing a good job of work. If they are able 40 to carry out the policies of the previous Prime Minister and to deliver the goods, let them carry on. But I tell them, "In your own interests, in the interests of your own party and in the interests of the country, you should make up your mind. If you do not respect the elementary decencies that govern the conduct of Mem- bers of Parliament, it is time we 50

went to the people and said, 'Here you are, here is the opportunity to turn out this set of people and return another set'."

We have no right to remain here by any kind of palavering. If we have lost the confidence of the people, it is time we realized it. In the name of democracy I appeal to the
10 Hon. Prime Minister not to think that those who are supporting this Motion are supporting the communists or the Opposition. We are not. In this instance we are voting for the side which we think is right. Let us not worry about who has sponsored this Motion. This is a Motion which we feel should be supported and we shall support it.

20 3.28 P.M.

Mr. Keuneman : Mr. Speaker, I am very sorry that no Member of the Government has yet thought it fit to intervene in this Debate and state the Government's point of view, whatever that point of view may be. The only interventions from the Government Benches have been the interventions of two hon. Members who
30 have announced that they intend to vote for the Motion of censure on the Hon. Minister of Justice. So far the only speech on behalf of this Government has been that of the hon. Member for Gampaha (Mr. S. D. Bandaranayake) from these Benches. I do not want to spend any time at all on the hon. Member for Gampaha.

1669 40 **Hon. Members :** Do not waste your time !

Mr. Keuneman : Comic relief is always useful in a serious situation but this type of comedy can go too far. In the absence not only of a case from the Government but of persons who are prepared to put up

a case for the Government, it becomes necessary once again to drive home the main issues involved in this Motion.

The issues involved in the Motion we are debating today, go far beyond the fate of the Dahanayake Government. I know that that issue looms very large in the minds of certain hon. Members opposite and there is no doubt that the fate of the Government is bound up with the fate of this Motion. Governments come and Governments go and the Dahanayake Government has already stayed in power too long. Its defeat and removal would be in the best interests of this country. If this Motion results in the fall of the Dahanayake Government it would have served a useful purpose. But through this Motion it is also necessary to call into question the conduct of both the Hon. Minister of Justice and the D.I.G. Range II, Mr. Sidney de Zoysa, in order that such conduct should not in future be quoted as a precedent and in order to establish proper standards of public conduct for the future. In my opinion, this second issue is in many ways more important than the future of the Government because the instability of this Government is such that if it does not go on this Motion, it will not be long before it goes on another Motion.

The fact that D.I.G., Mr. Sidney de Zoysa has been compulsorily retired with effect from this morning has no relevance to the main issue involved in this Motion. I know that this was the dramatic midnight stroke to save the Government from a catastrophe that appeared to be imminent. I do not know whether it has succeeded. The speeches of the hon. Member for Marara and the
40 **hon. Member for Nawalapitiya** indicate that this midnight stroke has

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not been as effective as it was supposed to be, and the Gogia Pashas who initiated it have not been as successful as they have been on earlier occasions.

Mr. Karunatillake: They will get paralysis this time.

Mr. Keuneman: In fact, the compulsory retirement of D.I.G., Mr. Sidney de Zoysa, only strengthens the case that we have to make. It establishes beyond all doubt that even on the other side of the House, including Members who have not yet opened their mouths, there are a large number of Members who agree with the sentiments expressed in this vote of censure, whatever may be the way they will finally vote when the Division is called.

In the course of this Debate, Members of the Opposition and Members from the other side have made a large number of serious charges against the Minister of Justice and the D.I.G., Mr. Sidney de Zoysa, of which they are jointly and severally guilty. To my mind, the most serious charge and the one which cannot be adequately explained away is that by this statement of Mr. Sidney de Zoysa of November 2, 1959, sanctioned by the Minister of Justice, these two gentlemen have gravely prejudiced the success of the investigation into the assassination of the late Mr. Bandaranaike. I have said on a previous occasion that, to my mind, the successful prosecution of this investigation is perhaps the most important question at the present time. And here we have the Minister in charge of the investigation and a high police officer being jointly and severally responsible for the issue of a statement which has prejudiced both the investigation and the case. In fact, I charge these gentlemen with being responsible,

objectively first of all, for revealing to suspects the extents of the information at the disposal of the investigating authorities, and secondly, what is even more serious, for indicating to some of them the line of defence they should adopt in the case in which they are charged.

1671

My hon. Friend seems to think that this is just a matter of an inexperienced Minister dropping a brick. If that was all, we would not bother. After all, even some of the more experienced Ministers have dropped heavier bricks. But what has been the result of this statement? It has definitely prejudiced the investigation of the case and I should like to see my Hon. Friend, the Prime Minister, answer that charge. In my opinion, it is irrelevant to talk about intentions; it is irrelevant to talk about what went on in the mind of a particular person or persons when this statement was issued. What was relevant, and what is relevant is what has happened objectively.

Extracts from the statement of Counsel, Mr. Barr Kumarakulasingam, defending Mrs. Wijeyawardene, have already been quoted by the Leader of the Opposition and the Member for Maturata. He has not been slow to take the hint offered in this statement about the line of defence open to the accused, and you wait till this morning, under pressure, Mr. Prime Minister, to get rid of D.I.G., Mr. Sidney de Zoysa! You still refuse to remove the Minister of Justice from office. That is the first and the gravest charge that has to be made in this issue.

The next charge that I make is that these two gentlemen by this act have been jointly guilty of a gross contempt of this House and of its Members. I am putting it

in as strong terms as that. There have been many derelictions of duty on the part of various public officers at various times, but, in my experience, as a public man, I have never come across a case of such gross contempt of this House and its Members by a public servant or an instance where such a contempt has
10 been sanctioned by a Minister of a Government responsible to this House.

1672 One of the hon. Members who preceded me mentioned that certain Ministers had said, "What does it matter? After all, it was only Members of the Opposition who have been called 'political adventurers'."

Dr. Perera : Shady characters.

20 **Mr. Keuneman :** "Doubtful characters" and "subversive elements". Well, if I remember D.I.G., Mr. Sidney de Zoysa's statement properly, and I have it here, there is one part where he refers to the Member for Matara.

Mr. Karunatillake : Member for Weligama.

Mr. Keuneman : He is a Member
30 who made the charge that D.I.G., Mr. Sidney de Zoysa, has been going round to police stations, trying to switch the investigation against the Left. I do not care to say whether my hon. Friend, the hon. Member for Matara, is an unsavoury character, or a political adventurer. I would not like to say at this stage which of these terms is most apt to describe the
40 character of the Prime Minister and some other Members on the Government Front Bench. But may I say this? We cannot in any way tolerate a situation whereby a public officer refers to elected representatives of the people and to proceedings of the House in these terms.

The Hon. Minister of Justice and Mr. Sidney de Zoysa have been guilty of a third charge, and that is that they have acted and conducted themselves in such a way as to undermine the sovereignty of Parliament and its supremacy over the executive. This is a serious matter. This is something more than an inexperienced Minister dropping a brick. The Hon. Minister of Justice has surrendered his rights as a Minister to an official. He has abdicated a trust imposed on him by the Government and by the people. Instead of replying himself, in the Senate or ensuring that a reply is made on his behalf by one of his Colleagues in this House, to statements made by Members of the Opposition in the course of the no confidence Debate, the Hon. Minister of Justice has hidden behind the tails of a police officer's bush-coat. He has encouraged this official to replying to the Debate and usurp the functions which the Hon. Minister should have performed, functions which he was too cowardly or too inefficient to perform.

You see, Mr. Speaker, that the issues are not therefore as simple as they may be explained to hon. Members on the other side of the House. They are issues rising far above the question whether Mr. Sidney de Zoysa has been compulsorily retired this morning or not. I wish to add one or two charges that have not yet been made. I charge the Hon. Minister of Justice and the Government with showing special favour to one particular public officer, namely, D.I.G., Mr. Sidney de Zoysa, and with permitting him a right that they have steadily denied to other public officers.

The hon. Member for Gampaha (Mr. S. D. Bandaranayake) says: "Well, if hon. Members can attack others what is the harm in others at-

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tacking hon. Members ? ”. I do not know how sensitive the skin of the hon. Member for Gampaha is. So far as we are concerned, we are used to the hurly-burly of politics and we do not mind people attacking us. That is not the issue. The real issue is that one public officer and one alone is given special indulgence and rights denied to others. After all Mr. Sidney de Zoysa is not the first or only public officer to be attacked on the Floor of the House. If it comes even to impugning the honour of a man, there are other public officers also who can claim with greater justice that their honour has been impugned. But none of them have claimed or have been given the right to act in this extraordinary manner. Why is this special privilege being given to Mr. Sidney de Zoysa only ? Why is this special privilege being given to Mr. Sidney de Zoysa ? He is not the only man of honour in the Public Service.

1674 My next charge is that for reasons of pure political expediency, the Government has flouted its own regulations regarding the conduct of public servants and thereby created a precedent which, if allowed to continue, can have most unfortunate effects on discipline and conduct in the public services.

You will recall, Mr. Speaker, that during the Debate on the Motion of no confidence in the Government, on October 30th, 1959, I criticized the Hon. Prime Minister for entrusting the vital Police Department to a political tyro like the present Minister of Justice. Today there was an exchange about whether this was an appointment made by the previous Prime Minister or not. The previous Prime Minister is dead. Mr. Dahanayake is now Prime Minister. He has the power to make his own decisions, I hope—

Dr. Colvin R. de Silva : From a little higher upstairs !

Mr. Keuneman : At least he has responsibility for his own decisions. It is true that for temporary purposes, to cover a period of two to three weeks during which the late Prime Minister was due to go to the United Nations and Great Britain, he gave the Police Department in charge of the 10 Minister of Justice because the present Prime Minister was not prepared to take it over for the period during which he was to act, and because the Hon. Minister of Home Affairs also was not prepared to take charge of it. This arrangement was not a permanent one when made by the late Prime Minister. It was a temporary arrangement made by the late Prime 20 Minister due to the fact that other Members of his Cabinet were not prepared to oblige him by looking after the police department in his absence. But even after the late Prime Minister died, the present Prime Minister continued that temporary arrangement and made it permanent. The responsibility for continuing the arrangement is his and cannot be 30 fathered now on the late Prime Minister. He must take the responsibility. The allocation of functions of Ministers is his responsibility and no 1675 body else's. When you make appointments on the basis of political expediency, when you entrust to inexperienced Ministers the control of vital departments like the Police Department, is it surprising that 40 their actions and the actions of the entire Government are called into question ? The correctness of the criticism I made on October 30, 1959, has now been proved conclusively by recent events. The Hon. Minister of Justice has not only been openly guilty of the Himalayan folly of sanctioning the publication of the press statement of Mr. Sidney de 50 Zoysa but he has proved that instead

of running the Police Department he is allowing certain police officers to run him. And that is a state of affairs that it is impossible to ask us to countenance.

It is bad enough to have the work of Justice in this country run by the present Minister ; but it is intolerable to have justice and the work of the
10 Police Department run by Mr. Sidney de Zoysa, who was not even the Head of the Department.

Mr. Speaker, on the basis of the explanation given by the Minister of Justice in the Senate as to why he permitted Mr. Sidney de Zoysa's statement to the press to be published, one can only be amazed at the
20 lack of intellectual capacity. Anybody who reads the Minister's explanation and who also reads that has been actually sanctioned and published cannot but come to the conclusion that either the Hon. Valentine Jayawickrama's total
30 lack of intellectual capacity. Anybody who reads the Minister's explanation and who also reads that has been actually sanctioned and published cannot but come to the conclusion that either the Hon. Valentine Jayawickrama had not read or taken the trouble to read the statement which he sanctioned, or else, which is much worse, that he
40 read the statement and did not understand it. I must say, Sir, that if the Hon. Valentine Jayawickrama, Minister of Justice, had even cursorily glanced through the statement of Mr. Sidney de Zoysa and come to the conclusion that this was a statement prepared and released for the sole purpose of defending his honour and clearing his name, then,
50 the sooner a man like that is dismissed from the Government the better. He must be suffering from some
1676 mental degeneration if he cannot follow the obvious argumentation of this statement or recognize how little this statement has anything to do with questions of Mr. de Zoysa's honour.

What is all this talk about this D.I.G.'s honour. Mr. Sidney de Zoysa is a man who is very touchy about his honour.

Dr. Colvin R. de Silva : So was Sir Lancelot of the Lake !

Mr. Keuneman : In the case against the hon. Member for Avissawella (Mr. D. P. R. Gunawardena) this officer was permitted to defend his honour through an action for criminal defamation. I wonder why he is so squeamish about his honour ? Why is he so worried about his fair name that he must rush to the press about it ? After all, there are regular and proper ways of seeing that any way in which his fair name is impugned is adequately answered. Look at the statement itself. I am not going to deal with that section which refers to the— [Interruption].

Mr. Speaker : The hon. Member might omit that.

Mr. Keuneman : It is rather difficult. About three-quarters of this statement goes into details about the investigation.

Mr. Speaker : The hon. Member must refrain from making any reference to matters which are *sub judice*.

Mr. Keuneman : I am not going to refer to such matters at all. I shall not touch on questions which are issues in trial before the courts.

Mr. Speaker : It is better not to touch on those matters.

Mr. Keuneman : I shall keep strictly to other matters. There need be no alarm about that. I shall not deal with those matters at this stage. There is pointed reference made in the statement about there being no evidence to justify the arrest of

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Mrs. Vimala Wijewardene. Now, what has that to do with Mr. Sidney de Zoysa's honour? What is the connection between Mrs. Vimala Wijewardene's arrest and Mr. Sidney de Zoysa's honour? That is the very first matter. The next criticism Mr. de Zoysa answers is why the police did not arrest Rev. Buddarakkitta earlier—[*Interruption.*]

Mr. Speaker : I think our Standing Orders say that any matter which is before the courts should not be referred to.

Mr. Keuneman : I am not going into the details of that but I merely want to show that that is another matter which Mr. de Zoysa deals with in his statement, namely why Rev. Buddharakkita was not arrested by the police earlier? What has that got to do with his honour? Another question he refers to is about which part of the anatomy of schoolmaster Gunaratne the bullet passed through.

Mr. Speaker : I think that is a matter to be taken up in evidence.

Mr. Keuneman : But surely, Mr. Speaker, this is not a matter that affects Mr. de Zoysa's honour.

Mr. Speaker : Order, please! Please do not refer to those things!

Mr. Keuneman : Unless Mr. Sidney de Zoysa has fired the bullet, I do not see how it has affected his honour. I am not commenting on the truth of these facts.

Mr. Speaker : Even otherwise, no reference should be made to them *in extenso* because they have a direct bearing on the case. I did grant a certain amount of indulgence to hon. Members but these are matters now before the courts.

Mr. Keuneman : I shall show greater respect to the courts than either the Minister of Justice or Mr. de Zoysa. I shall not go into all these details. Let me say that some of the matters published in this unprivileged document with the approval of the Minister of Justice show nothing but utter contempt of court. I wish you were the Minister of Justice, Mr. Speaker, because then these things would never have been allowed. Anyway, I do not wish to labour the point.

Dr. Colvin R. de Silva : Then the Government would not have been in jeopardy. Not today.

Mr. Keuneman : The point I want to make is this. Three-quarters of this statement had nothing to do with Mr. de Zoysa's honour or lack of honour. It has nothing to do with his character, good, bad or indifferent. And yet, this is the only argument adduced to justify the sanction given for the publication of this statement. Not a single Minister has said anything about this. The Prime Minister says that it was done according to the Manual of Procedure. I do not know whether that is an argument to justify the substance of what has been published. But the only argument adduced to justify the publication of such a statement, whether it is in conformity or in conflict with the Manual of Procedure, is that it was a question of the defence of this gentleman's honour. Well, that very statement is enough in my opinion to show that the Hon. Valentine Jayawickrama is totally incompetent to hold the position not of a Minister but even that of a Member of such a body as the Senate. If he cannot distinguish chalk from cheese and honour from contempt of court, particularly when such contempt is prejudicial to the investigation, then my Hon. Friend the Minister of Justice does 50

not have the mental capacity which is required of such a responsible job as the Minister of Justice.

Dr. Colvin R. de Silva : I hear he did not read it, he only signed it.

Mr. Keuneman : I am not prepared to say that Mr. Jayawickrama is a liar—

Mr. Speaker : Order, please !

1672₁₀ **Mr. Keuneman** :—because he was specifically asked a question in the other Place and his answer appears in HANSARD.

“SENATOR DE SOUZA : Obviously, the statement is not confined to personal matters. It covers a whole range which is not at all personal now. Has the Hon. Minister read that statement ?

SENATOR THE HON. JAYAWICKRAMA : 20 Yes”—[OFFICIAL REPORT, SENATE, 3rd November, 1959, Vol. 18, c. 410.]

Dr. Colvin R. de Silva : He may yet come and say, “only afterwards”.

Mr. Keuneman : I cannot refuse to accept the statement made by the Minister on a simple fact of whether he read the statement or not. If he did not read it then there is an 30 excuse to offer. But if he read the statement before he approved of it, he has no excuse whatsoever and the sooner he is drummed out of office the better.

Mr. Speaker : The Sitting is now suspended until 4.30 P.M.

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

40 ELECTION TO UNIVERSITY COURT

Mr. Speaker : I have an Announcement to make. Only Mr. N. R. Raja-

varothiam, Member for Trincomalee, has been nominated for election to the University Court. I declare him duly elected to the University Court.

VOTE OF CENSURE ON MINISTER OF JUSTICE

Mr. Keuneman : Mr. Speaker, when we adjourned for tea, I was completing my remarks on the credulousness of the Hon. Minister of Justice in coming to the conclusion that the statement of Mr. Sidney de Zoysa was for the purpose of defending his honour and clearing his name. I am sure that if the Hon. Minister had seriously read the statement he could never have come to the conclusion that a description of Members of Parliament as subversive elements, rumour mongers, and other dubious characters, would have had anything 1680 whatever to do with the question of

Mr. de Zoysa's honour. In fact, this whole statement shows that Mr. Sidney de Zoysa has not been animated solely or mainly with questions of clearing his name and defending his honour. He has been guilty of usurping the rights which properly belong to others.

The other day in the Senate my Hon. Friend the Prime Minister was called a usurper. Mr. Sidney de Zoysa has gone one better. The Prime Minister is a single usurper ; Mr. Sidney de Zoysa is a double usurper. First of all, he has arrogated to himself the right to reply on behalf of the Police Department, a right which belongs to the Inspector-General of Police. Secondly, he has arrogated to himself the right of political criticism and reply to a Debate, which function properly belongs to a Minister or Member of this House. It certainly does not belong to a subordinate officer in the Police Department.

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If anybody reads this so-called statement with any degree of care, he cannot but come to the conclusion that it is the belated reply of the Government to the Opposition's case in the Motion of "No Confidence" which was debated on October 30th, 1959.

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If Mr. Sidney de Zoysa had really been concerned with questions of his honour, there were a large number of ways open to him to see that his name was cleared. The hon. Member for Maturata pointed out that Mr. de Zoysa could have retired from the Public Service and defended his honour. He had that opportunity; but, obviously he loved his job more than his honour or else he wanted to defend his honour while retaining his job and his powerful position. If I am not mistaken, Mr. de Zoysa was here during the Debate on October 30th. Through his Minister or Permanent Secretary he could have brought facts to the notice of the Prime Minister or any other Minister and asked them to reply on his behalf. There is a Parliamentary Secretary to the Ministry of Justice here. He was silent then; he is more silent now. Why could not he have been briefed to answer the attacks on Mr. Sidney de Zoysa or the Police Department. Why was it necessary to resort to this extraordinary procedure? If Mr. Sidney de Zoysa wanted to defend his honour why did he not go to the Head of his Department and ask him to make a factual statement to the press setting out the facts about any matter that he thought had been incorrectly stated in this House?

After all, the Inspector-General of Police has made a number of such statements during the course of this investigation. You will recall that he made a statement pointing out that Somarama Thero was a Bud-

dhist monk and not a layman in robes. That was a matter of fact, and a proper statement. The other day he made a statement saying that there was no interference with the Police Department. The Inspector-General of Police has been issuing official statements contradicting rumours or statements which he holds to be incorrect and prejudicial to the 10 department. It is very significant that the I.G.P. apparently did not think it necessary himself to take any action to contradict any statement made in this House during the "No Confidence" Debate. If the honour of the Police Department was at stake, surely, the first person who would have wanted to defend the 20 honour of the department is the Head of the Department. The I.G.P. has not been slow to make statements correcting certain errors of facts or mis-statements.

I am not saying that every statement made by the Opposition was factually accurate; there were some which were not. But, apparently, they were not of such a nature that would have moved the I.G.P. to go 30 to his Permanent Secretary or his Minister and say, "Look here, the department's good name is being affected, we are all under a cloud, please give me permission to make a statement clarifying the position." If the I.G.P. did not feel it necessary to act in that way, if the Permanent Secretary did not feel it necessary to act in that way, if the Minister him- 401682 self did not think it necessary to act in that way and if the Members of the Government did not think it necessary to act in that way, why did the D.I.G., Range II, find it necessary to rush to his Minister and ask him for permission to publish this offensive statement to the press?

There are only two reasons for this publication and neither have any- 50

thing to do with Mr. de Zoysa's honour. The first is that this was the belated official reply of the Government to the Opposition's case in the "No Confidence" Debate, a reply which the Government was too timid or too cowardly or too inefficient to put forward on the Floor of this House. Instead, they adopted the
 10 extraordinary procedure of getting a sub-ordinate police officer to answer the Debate that took place in this House. There is another possible reason. I refer to this matter with some confidence because, after yesterday, it has ceased to be *sub judice*. Up till yesterday the matter was *sub judice*; but now it has ceased to be so. Therefore, I can
 20 refer to it with some confidence.

You will recall Mr. Speaker, that the brother of Mr. Sidney de Zoysa, namely, Mr. F. R. (Dickie) de Zoysa, was taken into custody at the same time as Mrs. Vimala Wijewardene. Yesterday he was released because there was insufficient evidence against him. He is now a free man again. I do not want in any way to comment
 30 on Mr. Dickie de Zoysa's participation, or lack of participation, in this matter, because that is really irrelevant. But the statement shows that Mr. Sidney de Zoysa, although he was officially supposed to have nothing to do with the investigations, was very closely in touch both with the details of the investigation and the activities of the officers who were
 40 conducting the investigation. If you only permit me, Mr. Speaker, to read this statement—which I know you will not—I could establish that beyond all doubt. But I do not think it will be challenged, because it is obvious to anybody who reads the statement that it is written by a man who is thoroughly informed about the details of the investigation.
 168850 even though he is officially supposed to have nothing to do with it.

Secondly, it is obviously written by a man who admits that he verifies all these matters before he puts them on paper; and I presume he can only verify them from people conducting the investigations. There is no other way of verifying them.

It was surely within the knowledge of Mr. Sidney de Zoysa at the time he made this statement that there was some degree of suspicion about his brother, Mr. Dickie de Zoysa. It is known that he had been questioned. Nevertheless, Mr. Sidney de Zoysa, with the permission of the Hon. Minister of Justice who is in charge of the investigation, issued a statement on 2nd November—which has been so often quoted—that there is no evidence to justify the arrest of Mrs. Wijewardene.

Mrs. Wijewardene was taken into custody simultaneously with Mr. Dickie de Zoysa two weeks later, and she is now an accused in the case—a person against whom there was no evidence, according to this official statement which was approved by the Hon. Minister of Justice! I am not commenting on Mrs. Wijewardene's guilt or innocence; nor is it my business to comment thereon. But here is a categorical statement, authorized by the Hon. Minister of Justice, which says there was no evidence to justify the arrest of Mrs. Wijewardene. Three or four days later, the police began to question Mrs. Wijewardene, and two weeks later she was taken into custody. Yesterday she was charged as one of the accused.

Now what is the position of a gentleman like Mr. Sidney de Zoysa who was so closely aware of what was happening in the investigations? Why was it necessary to make a statement like this which undoubtedly prejudiced the success of the investigations, which brought to the

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notice of suspects and accused persons the degree of information at the disposal of the Government and which suggested to them a line of defence? Why was it necessary for Mr. Sidney de Zoysa to act in this way?

It is incumbent upon the Government, if it is serious about this matter to go into the question whether this statement was not made with the intention of making it more difficult for the Police Department to make certain arrests. I think that is a very serious matter which has to be thoroughly investigated. The position of Mr. Sidney de Zoysa's brother together with that of Mrs. Wijewardene was under investigation by the C.I.D. While that was proceeding, a statement was made about Mrs. Wijewardene who was taken into custody simultaneously with Mr. Sidney de Zoysa's brother. Very significantly, no statement was made about Mr. Dickie de Zoysa, although rumours about him were rife. This categorical and official statement in regard to persons whose conduct was under investigation was of such a nature that it could have influenced those subordinate officers of D.I.G. Sidney de Zoysa and made the arrest of either Mrs. Wijewardene or Mr. Dickie de Zoysa more difficult.

The facts about the case are such that they are open to such a construction and it is necessary that the matter should be looked into very thoroughly. There is however not the slightest doubt that the publication of this statement has gravely embarrassed both the Government—which is not so important—and, what is more important, prejudices the prosecution and the Attorney-General's Department which is responsible for the conduct of the case. On that alone, the Hon. Minister of Justice should be asked to go.

I said that both these gentlemen have been responsible for a gross contempt of this House. I used those words deliberately. It was not a breach of Privilege but definitely a gross contempt of the House. I recall the Hon. Prime Minister, in his unreformed days, once made a remark about a previous Assembly which was held to be contemptuous 10 of the House. But what my Hon. Friend said on that occasion is nothing like some of the remarks which have been made by Mr. de Zoysa. The Prime Minister had used the words "*hora guhawa*".

Mr. Speaker : Order, please ! 1685

Mr. Keuneman : That is nothing compared with some of the things that are said in Mr. de Zoysa's statement. 20

There is no use in anybody trying to say that Mr. de Zoysa's statement was not a reply to the no confidence Debate. It is curious that it is precisely on November 1st that Mr. Sidney de Zoysa found it necessary to sift fact from rumour. Rumours began on September 25th when the late Prime Minister was shot. For 30 over a month these rumours continued and multiplied. But it was not until November 1st, after the Debate, that Mr. Sidney de Zoysa thought it necessary to draft a reply to certain rumours. In his statement, published on November 2nd, he only replied to "rumours" which were mentioned for the first time on the Floor of this House during the 40 no confidence Debate.

Take the question of Ossie Corea. It was first mentioned during that Debate. It had not been mentioned before. Take some of the other matters to which he refers. They were mentioned, for the first time, on the Floor of the House. Therefore there

cannot be the least doubt that Mr. Sidney de Zoysa was not referring to general rumours and remarks but to specific statements by hon. Members of the House in that Debate. If anybody has any doubt about this, let him look at the last paragraph of this statement. I shall read it :

“ If there is any person who is in a position to dispute or disapprove any of them—

here it means the statements he makes—

“ I would request them to do so under circumstances which would make it possible for his *bona fides* and veracity to be tested in a court of law or departmental inquiry, and not speak under some type of cover ”.

What is the meaning of these 20 words “ under some type of cover ” ?

None of the other rumour-mongers or speakers to known facts were speaking under any type of cover or Privilege. The only persons who were speaking under, what Mr. Sidney de Zoysa calls, a “ type of cover ” 1686 were hon. Members of this House exercising their privilege as elected representatives of the people. So 30 therefore this entire statement is one made in relation to a Debate that took place in the House and in relation to hon. Members who took part in that Debate. My hon. Friend the Leader of the Opposition once made the remarks that Members of the previous Parliament were queer animals— පුද්ගල සත්‍ය. A special 40 Committee was appointed. The hon. Leader of the Opposition was hauled up before it and censured. But now Members of Parliament are called subversive elements, political adventurers, dubious characters—

Mr. C. R. Beligamma (Mawannella) : Charlatans.

Mr. Keuneman :—by a subordinate officer of the Police Department

with the support of an Hon. Minister in the Senate. You will notice that Mr. Sidney de Zoysa challenges Members of Parliament to make their statements outside the House—without what he calls “ some type of cover ”.

If in this House any hon. Member challenges another hon. Member to repeat outside what he says here you, Mr. Speaker, will rule that challenge out of Order and call upon that hon. Member to withdraw it under the Rules of the House. It has happened to me once or twice. I have been ruled out of Order. But the right which even hon. Members of this House do not enjoy in relation to challenges is cheerfully granted to the D.I.G., Mr. Sidney de Zoysa.

By permitting Mr. Sidney de Zoysa to answer Debates in this House the Hon. Minister of Justice has undermined, or helped to undermine, the supremacy of Parliament over the Executive and this is a position which we cannot countenance for a moment. No paid servant of the Government, however powerful or highly connected, he may be, can be allowed to indulge in arrogance by insulting Parliament or trying to place himself above elected Members. Let me say 1687 to the hon. Members of the Government, “ Mr. Sidney de Zoysa might be able to run you but he will never be able to run us ”. We have more respect for this House, for its sovereignty and its supremacy.

The hon. Member for Gampaha asked why if we criticized public servants they should not criticize us. This Government has denied to its public servants even the limited political rights for which they asked. But to one public servant,

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namely, Mr. Sidney de Zoysa, they have granted full and untrammelled political rights. They have made him their mouth-piece and their spokesman in order to say things which they did not dare to say on the Floor of this House.

We are told that Mr. Sidney de Zoysa has been compulsorily retired as a result of the unanimous decision of the Government Parliamentary party last night. I presume that is correct. We have yet no official statement from the Hon. Prime Minister but I presume that is so because I am informed that the Hon. Prime Minister has given that assurance to hon. Members opposite. Yes, Sir, Mr. Sidney de Zoysa was compulsorily retired this morning—

Mr. J. C. T. Kotalawala (First Badulla): Is that correct, Mr. Prime Minister?

Mr. Keuneman:—On the eve of this Debate. I should like to ask the Hon. Prime Minister, "Why did you wait until you were forced to act? Why did you wait until you had to face a vote of censure from the Opposition and found even your own cohorts in open revolt against you?" At every stage the Hon. Prime Minister has resisted taking the necessary steps until he was isolated, driven into a corner and forced to bow to public opinion. This was the case in the matter of the removal of Mrs. Vimala Wijewardene from her Ministerial office. This was the case in the matter of the removal of Mr. Stanley de Zoysa from the office of Minister of Finance. It has also been the case in the matter of D.I.G., Mr. Sidney de Zoysa.

Mr. Sidney de Zoysa made his statement to the press on November

2nd. Twenty-five days later action to retire him compulsorily is taken. It was never difficult to remove Mr. Sidney de Zoysa from office if the Government and the Hon. Prime Minister wanted to do so. There was no great technical difficulty. There obviously could not have been any technical difficulty because between last night and this morning they have solved that problem. They took the decision at 9-30 p.m. last night. Before 10 o'clock this morning the problem was solved and so there was obviously no technical difficulty—.

Mr. J. C. T. Kotalawela: Except the Hon. Prime Minister!

Mr. Keuneman:—in the Manual of Procedure or Public Service Regulations. After all, everybody knows that police officers can be retired after they reach the age of 50 years. It is entirely a matter for the discretion of the Government whether they continue or not. Everybody knows that. Anybody who looks at the Civil List will know that Mr. Sidney de Zoysa is 50 years and nine months old and that action to retire him could have been taken immediately after he made this statement. But it was taken last night, 25 days after the publication.

Why did the Prime Minister delay so long? Why did he continue to defend Mr. Sidney de Zoysa's indefensible conduct until he was forced to give in? I ask the Hon. Prime Minister: "What is the strange hold that Mr. Sidney de Zoysa seems to have over you?" Does he exercise some type of charm or threat over the Prime Minister that it takes so long for him to make up his mind to do something which his own Members let alone us, unanimously

1689 told him to do? I think the Hon. Prime Minister owes us an explanation on this matter.

Mr. Sidney de Zoysa was compulsorily retired this morning. His retirement could not be due to the fact that his brother had been taken into custody because Mr. Dickie de Zoysa was released yesterday morning. Mr. Sidney de Zoysa's compulsory retirement must, therefore, be due to the fact that he issued this statement. As far as I am aware there is no other charge against him.

Generally speaking two main reasons have been adduced as to why Mr. Sidney de Zoysa should be removed from office. The first was that his brother had been taken into custody and, in those circumstances, it was incorrect and unfair to permit him—a man with divided loyalties—to occupy a strategic and high position in the Police Department which was carrying on the investigations. That argument does not exist after yesterday morning when his brother was discharged. The only other argument was that he had been contemptuous of Parliament and prejudiced the investigation and assisted the accused by making this statement. That must, therefore, be the only reason for his removal. Otherwise, please tell us why you decided to retire him compulsorily.

Well, if that is the reason, and Mr. Sidney de Zoysa has been held to be guilty of improper conduct to the extent that he has to be compulsorily retired, how can you defend the Minister of Justice who gave him permission to do this? After all, if the offence is serious enough to remove Mr. Sidney de Zoysa then it must be doubly serious enough to remove the Minister of Justice.

Mr. Speaker, I do not disagree with the Government in its decision on

the compulsory retirement of Mr. Sidney de Zoysa. It was a wise step. This country is now grappling with a new phenomenon, the phenomenon of the political assassin. But we have also to rout out from our public life another ugly phenomenon, the phenomenon of the politically ambitious policemen. The experience of other countries in this region of Asia, especially countries like Pakistan, Burma and Thailand, has shown how dangerous to democracy it is to give any quarter to high officers in the armed forces or the police who harbour political ambitions, who behave as politicians and who use their power to promote political and personal interests. In this respect I think that the decision you took last night was a wise one.

But you took that decision too late. You took a decision when you were forced into a position where you had no other alternative but to take that decision. And you have not removed your own Minister of Justice who sanctioned that decision nor have you yet apologized to the House for the insult, for which your own Minister was responsible.

Since the Minister of Justice assumed duties, he has shown on several occasions that he is eminently unfit to hold this office. Once it came to his knowledge that the statement of Mr. Sidney de Zoysa which he had sanctioned had created such a furore, embarrassed the Government and put it into an awkward position, the Minister of Justice should have tendered his resignation. I understand that, at a much later stage, while still defending the correctness of his action, the Minister did offer to resign. He made this offer in the face of bitter opposition from the Government Parliamentary group to what he had done. I should like to ask the Prime Minister and the Members

No. 2
Petition of
S. G.
de Zoysa
with annexes
marked
"A"—"R"
31-5-60

(xiv) Annex
"N"

169027-11-59

—continued.

No. 2
Petition of
S. G.
de Zoysa
with annexes
marked
"A", "R".
31-5-60

(xiv) Annex
'N'
27-11-59
continued.

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behind him this question. As the Minister of Justice has now offered to resign why do you want to defend his action? If the Minister of Justice is even now prepared to go, why do you want to retain him? This is a matter which the Prime Minister has to explain because he is the man mainly responsible; the Minister's resignation is probably still in his pocket. Has the resignation been handed to you? I do not know whether it is in his pocket or whether it has been offered to him.

I suppose it is correct that he offered to resign?

The Hon. Dahanayake: He offered to resign.

Mr. Keuneman: The Prime Minister confirms that he offered to resign. If you thought that Mr. Sidney de Zoysa's action was so heinous that he should be compulsorily retired then you should have accepted the Minister's resignation. We would have, at least, then thought that there were other Members of the Government who do not subscribe to or try to justify this type of conduct. But you keep him on. You are giving your blessing to this type of action. So you have to take the responsibility for your decision.

If we have a Minister who can act in so frivolous a way, who can act with so little responsibility, then I say he should not be occupying the important position of Minister of Justice. The people of the country cannot be confident that the conduct of the case against the assassins of Mr. Bandaranaike is in safe hands when it is under the control of a man who makes such gigantic blunders, a man who has helped Mr. Sidney de Zoysa to provide a line of defence for the accused, a man who has prejudiced the investigation by his conduct in sanctioning the publication of this document.

Mr. Valentine Jayewickrama should go; he has himself apparently realized this but the Prime Minister does not want him to go. Well, Mr. Prime Minister if even your Minister of Justice has seen the need to go and you refuse it, then you will have to go along with him. The interests of the country, the success of the case against the assassins and the future of democracy in Ceylon demand this action.

5.9 P.M.

Mr. I. M. R. A. Iriyagolle (Dandagamuwa):

ගරු සභාපතිතුමනි, මෙතරම් භාරදුර, ඇතැම් විට මේ ආණ්ඩුවේ අනාගත ඉරණය පවා විසඳෙන යෝජනාවක් මේ ගරු සභාව ඉදිරියේ තිබියදී ඒ සටහන්ධයෙන් ඉදිරිපත් කරනු ලබන කරුණුපල හරි වැරදිදැන් අසා ගැනීමට මේ වේලාවේ ආණ්ඩු පක්ෂයෙන් මෙහි සිටින්නේ 20 හය දෙනෙක් පමණි. නමත් උසුලන පදවි පිළිබඳව විනා රටේ ප්‍රශ්න පිළිබඳව යුද්ධ කළ ඇති හැඟීම කෙබඳු දැයි මෙයින් මට මනාව පෙනෙනවා. මීට ප්‍රථම කලා කළ අප විරුද්ධ පක්ෂයේ කටීකයන්ගේ තර්කවලින් ඇස් ඇත්නම් මේ යෝජනාවේ සත්‍යතාව දකින්නටත්, සිත් ඇත්නම් මේ යෝජනාවේ සත්‍යතාව සිතන්නටත්, කන් ඇත්නම් මේ යෝජනාවේ සත්‍යතාව අසන්නටත් වුවමනා තරම් කරුණු වැහැදිලි වූ නිසා ඒ විසින් ඒ පිළිබඳව දීර්ඝ කතාවක් කරන්නට අදහස් කරනු නොලැබේ.

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සභාපතිතුමනි, සිඩනි යොයිසා මහතා බලහත්කාරයෙන් විශ්‍රාම ගන්නාට ආණ්ඩුව විසින් ඊයේ රාත්‍රී තීරණය කරන ලද්දේ අගමැතිතුමන් හෝ අධිකරණ අවානු කුමන් හෝ තුළ ඊට ඇති කැමැත්ත නිසා මනාව, ඊයේ රාත්‍රී එයේ නොකරන ලද්දේ නම් අද ආණ්ඩුවේ ඇතැම් මන්ත්‍රීවරුන් ද මේ යෝජනාවට පක්ෂව ඡන්දය දීමෙන් ආණ්ඩුව බලයෙන් වැටෙන්නේ ද යන ප්‍රශ්නය මතු වූ නිසාය. ඒ නිසා ඊයේ රාත්‍රියේදී—එකොළොස් වැනි පැයේදී—අගමැතිතුමා ප්‍රමුඛ එම පිරිස විසින් ගන්නා ලද ඒ තීරණය 40 හිතට විරුද්ධව ඔවුන් විසින් ගන්නා ලද තීරණයකි. මනාකර බැරි තැන කරන ලද තීරණයකි. ආණ්ඩුව බිඳ වැටෙන බව පෙනී ගොස්, ඊට හෙන ගහල ගියත්, ප්‍රතිපත්ති විනාශ වුවත්, නඩුව යකාට ගියත්, පදවි ලාභයම බලාපොරොත්තුවෙන් කරන ලද මේ ක්‍රියාව තරම් දීන ක්‍රියාවක් ලෝකයේ කවර රටකවත් පාලක පක්ෂයෙන් බලාපොරොත්තු වන්නට බැහැ.

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සිඬිනි සොයිසා මහතා තමාගේ ලිපියෙන් පාර්ලිමේන්තුවේ පැවැති විවාදයක් පිළිබඳව කරන ලද ප්‍රකාශනය ඔහු පදවියෙන් තොරවනු ලැබීමට හේතු වක් නම්, එය නීති විරෝධී, ව්‍යවස්ථා විරෝධී, ආණ්ඩුවේ ප්‍රතිපත්ති විරෝධී ක්‍රියාවකි. එය ප්‍රසිද්ධ කිරීම ගැන වග කිවයුත්තා—පළමුවැනි වගකිව යුත්තා—සිඬිනි සොයිසා මහත්මයා වෙයි. වැලන්ටයින් ජයවික්‍රම මහත්මයාත් වෙයි. සිඬිනි සොයිසා මහතා තමන්ගේ නිදහසට ආණ්ඩුවේ යම්කිසි අනුදායමක් ඇතිව ලියන ලද මේ ලියුම ගරු වැලන්ටයින් ජයවික්‍රම මහතා—එනම් අධිකරණ අමාත්‍යතුමා—අග්‍රාමාත්‍යතුමාට පෙන්වන ලද බවත්, අග මැතිතුමා එය අනුමත කරන ලද බවත් ප්‍රවෘත්තිපත්‍ර වල පළ විය. එසේ නම් පළමුවෙන්ම යා යුත්තා ගරු අගමැතිතුමාය. දෙවැනිව යා යුත්තා අධිකරණ අමාත්‍ය ජයවික්‍රම මහතාය, තුන්වැනිව යා යුත්තේ සිඬිනි සොයිසා මහත්මයාය. ඔහු තමාගේ නොදනුවත්කමින් පාර්ලිමේන්තු සම්ප්‍රදායට විරුද්ධව පාර්ලිමේන්තු මනව්‍රී වරුන් හෙළා දකින දෙයක් කරන ලද නම් එය අධිකරණ අමාත්‍යතුමා විසින් අනුමත නොකළයුතු ව තිබේ. ඔහුන් එය නොදන සිටියේ නම්, අග්‍රාමාත්‍යතුමා විසින් දන හෙන සිටිය යුතුය. එසේ දනගෙන ඒ අනුව ගරියාකාර ක්‍රියා කළේ නම්—නියම ක්‍රියා මාර්ගය කුමක්ද යන වග පෙන්වා දෙන ලද නම්—සිඬිනි සොයිසා මහතාගේ ප්‍රකාශය ප්‍රවෘත්ති පත්‍රයෙහි පළ නොවේ. එහෙත් එසේ කිරීමට අනුබල දී බලපුත්‍ර ලබා කොස් ඇට බාවන්තාක් මෙන් කණිෂ්ඨ නිලධාරියකු ලවා මහජන නියෝජිතයින්ට 30 අපහාස කිරීමට ඉඩ දුන් මේ අගමැතිතුමා සිඬිනි සොයිසා මහතාට පළමුවෙන් යා යුතුයි. එහෙත් එය එසේ වූයේද ? මුළු ලංකාවම වුවද කැප කර තමන්ගේ කායභීය ඉටු කර ගැනීම—තමන්ගේ තත්ත්වය ආරක්ෂා කර ගැනීම—මේ නිවට ආණ්ඩුවෙන්, මේ අග්‍රාමාත්‍ය තුමාගේත් ප්‍රතිපත්තිය වූ බව අප දන්නේ 1956 පටන්ය.

මිත්‍රයාට, සේවකයාට, නායකයාට ගසන්නට පුළුවන් තැන ගසා හෝ තමන් ගේ තත්ත්වය රැක ගැනීමට මානබලන දුර්දන්න, ආත්මාර්ථකාමී, 40 ප්‍රතිපත්තියක් නැති මේ අගමැතිතුමා තමන්ගේ ඇමති මණ්ඩලයක් සමග මේ රටෙන් තුරන් නොවූ වහොත් සිදු වනුයේ අර්ධගත සංවත්සරයක් මුළුල්ලේ සටන් කොට දෙශානුරාගියන් සහ ජාති ප්‍රෙමීන් විසින් ගොඩනගන ලද ලංකාවේ නිදහස ස්වල්ප කලකින්ම විනාශ වී යාමය.

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ගරු සභාපති තුමනි, අධිකරණ ඇමති තුමා හෙළා දැකිය යුතු හේතුව මේ සිඬිනි සොයිසා මහතාට ලිපියක් ප්‍රකාශ කිරීමට ඉඩ දීම පමණක් නොවේ. නීතිපති හෙවත් ඇටර්නි ජෙනරල් ප්‍රමුඛ අපේ නීති 50 කායභී මණ්ඩලය මුළු ලංකාවේම උපහාසයට භාජන

කරමින්, හිටපු අගමැති තුමා මැරීමේ නඩුව උසාවිය ඉදිරියේ තැබීමට පිට රට නීති මණ්ඩලයෙකුත් නීතිඥයන් කැඳවීම මේ අධිකරණ අමාත්‍යතුමා හෙළා දැකීමට තවත් හේතුවකි. අගමැතිතුමා මැරීමේ නඩුවට ඉදිරිපත් වූ සාක්ෂි අනුව ඒ නඩුව ඔප්පු කිරීමට අපේ නීති කායභී මණ්ඩලයට කරන ලද මේ අපහාසය අධිකරණ අමාත්‍යවරයා තොරපීමට හේතුවක් වන අතරම ඔහුට අනුබල දුන් මේ අග මැතිවරයා තොරපීමට ද හේතු වන්නකි. ඒ නිසා කොයි අතින් බැලුවත්, අගමැති තුමාත්, ඔහුගේ වැදගත් අධිකරණ ඇමතිවරයාත්, සෙසු ඇමතිවරු තුන් පුළුවන් තරම් ඉක්මනට ගියහොත් අපේ අනාගතය—විනාශ වෙගන යන අපේ අනාගතය—තවත් මිනි මැරුම් ගණනාවක් නොවී බෙරා ගන්නට පුළුවන.

සමහරවිට අගමැති සාකච්ඡා පවා සිදුවීමට හේතු භූත වූයේ මේ ආත්මාර්ථකාමී ඉල්ලන්, ජාති භිතෙ මින් මෙන් අවංක පුද්ගලයන් අතරට වැද ලංකාවේ දේශපාලන මන්දිරය විදීම නිසා ඇති වූණු විනාශ දයක හැඳීම බව පිළිගත හැක.

ගරු සභාපති තුමනි, අපට දැන් තිබෙන නිදහස ලැබුනේ දැනට ජීවතුන් අතර නැති අපේ පරාර්ථකාමී, විරෝදර, අභීත පුරුෂයන් කීප දෙනෙකුගේ ව්‍යාපාරයේ ප්‍රතිඵලයක් වශයෙනි. ඉංග්‍රීසින්ගේ වරපුරුෂ ව්‍යාපාරය නිසා හෙද භින්න වූ උඩ රට නිලමවරුන් ඔවුනොවුන් ඇත කොටා ගැනීම නිසා ද, දුෂ්ට රජෙකුගේ පාපිෂ්ට ක්‍රියා නිසාද, 1815 දී උඩ රට නිදහස නැති විය. එහි විපාකය වූයේ, රටට ජාතියට ආගමට හා භාෂාවට අවංකව සහ භීතවත්ව සිටී පවුල්වල පුරුෂ පක්ෂය මුතානා අධිරාජ්‍ය පාලකයන් විසින් වද කරනු ලැබීමයි. ඔවුන්ගේ විරුද්ධත්වය අනාගතයේදී වදිතැයි සිතූ හෙයින් වීර පවුල්වල ගැහැණු ළමයින් සිටියදී පිරිමි ළමයින් මරණු ලැබූ බව ඉතිහාසඥ පෝල් ඊ. පිරිස් මැති තුමාගේ ග්‍රන්ථයක් කියවන විට පෙනී යයි.

Mr. Speaker : What is the relevancy of those remarks to the Motion before the House ? 1695

Mr. Iriyagolle : I am going to explain how we won this freedom.

Mr. Speaker : This is not a question of freedom.

Mr. Iriyagolle : We must protect and preserve this freedom for the good of the country.

No. 2
Petition of
S. G.
de Zoysa
with annexes
marked
"A"-"R"
81-5-60

(xiv) Annex
" N "
27-11-59
—continued.

Mr. Speaker : The freedom of the country is not at stake.

Mr. Subasinghe : Why not ?

Mr. Iriyagolle : As long as these people are here, what freedom has the country ?

Mr. Speaker : Order, please ! Please confine your remarks to the Motion. Time is already short.

Mr. Iriyagolle : Yes, Mr. Speaker. I shall say what I have to say in a few words.

මේ විපක්ෂීන් රට මුදාහැරීමට මීට පනස් වසරකට ප්‍රථම මධ්‍යම පන්තියෙන් මතු වූ ජනතරාජ්‍ය විප්ලවයකට පසුව ප්‍රදේශයක ක්‍රියාත්මක වූ බලයෙන් මුදාහැරීමට කෙරුණු බලයක් කොට සිතා, ඔවුන්ගේ කුමක්කුව කෙළේ බවක් කොට සිතා, මරණයට ඉදිරිපත් වී, කැප වී, යන්තම් අපේ රටේ, ජාතියේ, ආගමේ, භාෂාවේ ගෞරවය තරමක් ආරක්ෂා කිරීමට සමත් විය. ඒ තරුණයා නම් අනගාරික ධර්මපාල නමැති මහෙෂ්‍යායි. ඔහු විසින් පිළියෙල කරන ලද, කළුපිළි කරන ලද මාර්ගයෙහි ගමන් ගත් සර්. ඩී. බී. ජයතිලක, එස්. ආර්. සේනානායක, ආතර් ද සිල්වා, ආතර් ඩී. දිසේන, ආදී වීර යන් හා ඔවුන්ගේ අනුගාමිකයන් ලේ පුද්ගලයන්, භීර්ඛන් කා, හිර ගේ මැදින් වැටුණු රජ මාවත ඔස්සේ ගොස්, අවසානයේදී, එනම් 1948 දී, අවුරුදු එකසිය ගණනක් නැතිව තිබුණු දෙශ පාලන නිදහස මේ රටට අත්පත් කර දෙන ලදී.

1696 ඒ නිදහස ආරක්ෂා කිරීමට ඔවුන් පසු පස ගොස් ඉතිරිව සිටියේ ඩී. එස් සේනානායක මහතා පමණකි. ඒ පුරුෂයන් අතරින් ඔහු කොතරම් ජාති හිතවෙකු වුවත්, දවසින් දවස වෙනස් වන ලෝකය අනුව සමාජයද වෙනස් වන බව නොසලකා ගෙන යන ලද ව්‍යාපාරයක ප්‍රතිඵලයක් වශයෙන් සම්පූර්ණ අදහස් ඉෂ්ට කර ගන්නට බැරි විය.

ඉන් පසු වඩාලී සේනානායක මහතාට මේ නිදහස් රටේ සුක්කානම හිමි විය. එහෙත් බල ලොහි, ආත්මාර්ථකාමී, අධම යන්ගේ කුටුම්භයන්ට ඔහු අසු විය. ලංකාවෙන්, මුළු අග්නිදිග ආසියාවෙන්, දරුණුම කපටියා වශයෙන් ප්‍රසිද්ධ ගෝඨියා පාෂා නමැති මිනිසාගේ උගුලකට අසු වී ඔහුට යන්නට සිදු විය.

මුළුත්තුණකාරයන් රජ විය. එහි ප්‍රතිඵලයක් වශයෙන් ඔවුන් ඒකාධිපති රාජ්‍යයක් මෙහි පිහිටුව

වන්නට යාමෙන් මහජනයා එකතු වී, මහජනයා සංවිධානය වී, මහජන ආණ්ඩුවක් 1956 දී පිහිටුවන ලදී. අහේතුවකට මෙන් මේ කාලයෙහි මේ රටේ ප්‍රභූත්වය පැවරී ඇත්තේ සිංහලයා—සිංහල ගැමියා— තළා පෙළා අධිරාජ්‍යවාදීන්ට පන්දම් අල්ලා සවිකීය රට, සවිකීය ජාතිය, සවිකීය ආගම සහ භාෂාව හෙළා දුටු පමණින් පදවී පටිපාටි ලබාගත් මුදලි, රදල, ආදීන්ගෙන් පැවත ආ ද්‍රෝහී පවුල්වල නායක පරපුරටය. එම නිසාම සාමාන්‍ය ජනතාව විසින් දිනා ගන්නා ලද නිදහස නියම වශයෙන් ක්‍රියාවේ 10 නොයොදවා රටට සෙතක් කිරීමට නොහැකි විය. මහජනයා විසින් සංවිධානය කරන ලදුව ඒකාධිපති න්ට විරුධව කරන ලද සටනින් ජය අත් වූ විට ඒ ජයග්‍රහණයේ ප්‍රතිඵල විදීමට අවකාශ ජාති හිතවෙකු. භාෂා ප්‍රේමී පුද්ගලයින්ට අවසානවත් නොසැලසුනේ ඒ තුළට ගුල්ලන් විදීම නිසයි. මේ ගුල්ලන් විසින් මහජනයාගේ නායකත්වය පිදුණු බණ්ඩාරනායක අගමැති තුමා නොමඟ යොදා රටත්, ජාතියත්, රටේ දියුණුවත්, සියල්ලම විනාශ වන පරිද්දෙන් අවුරුදු තුනහමාරක් මේ රට පාලනය කරන ලදී. 20 මේ ගුල්ලන්ගේ කුටුම්භය නිසා නායකයාට හිත වත්ව සිටී, රටට හිතවත්ව සිටී, අවකාශ පුද්ගලයින් පසෙකට තල්ලු විය.

මේ හැමට ම විනය කෙටුනේ—වඩාලී සේනා නායක මහතාටත්, ජෝන් කොතලාවල මහතා 1697 ටත්, බණ්ඩාරනායක මහතාටත් විනය කෙටු නේ—අග්නිදිග ආසියාවේ පරම කෙරුවක දුෂ්ටයා වූ තමන්ගේ ආත්ම ලාභය මුළු ලෝකයටම වඩා ලොකු කොට සිතූ, තමන්ගේ ආත්ම ලාභය මුළු රටටම වඩා ලොකු කොට සිතූ, තමන් ගේ 80 ආත්ම ලාභය මුළු ජාතියටම වඩා ලොකු කොට සිතූ, මහ පාසල මහරාළ නිසයි.

Mr. Speaker : Order, please ! You cannot criticize him like that—

Mr. Iriyagolle : Yes, I will not.

Mr. Speaker : I have allowed the hon. Member plenty of latitude. He must confine himself to the subject-matter before the House.

Mr. Iriyagolle : ඒ පුද්ගලයින් 40 දිනා ගත් නිදහස විනාශ කිරීමෙහි මූලාධාර වූ මේ අගමැති තුමා සහ ඔහුගේ දූතට සිටින ඇමති මණ්ඩලය—කම්කරු ඇමතිතුමා, වෙළඳ ඇමතිතුමා, කර්මාන්ත ඇමතිතුමා ආදී මේ ආත්මාර්ථකාමී පුද්ගලයින්—බණ්ඩාරනායක අගමැතිතුමාට හරියට කට යුතු ඉටු කිරීමට ඉඩ තුදුන්නා පමණක් නොව, අනාගතයේ දී වුවද කිසිවකුටත් එය ඉටු කළ

නොහැකි වන පරිද්දෙන් කරන ලද ක්‍රියාවල ප්‍රතිඵලයක් වශයෙන් නමයි, සිඩනි සොයිසා මහතාට යන්නට සිඩ වූයේ. එසේ නම් ඔහුට යන්නට තුඩුණේ අගමැති පසු පස මිස අගමැති ඉදිරියේ නොවේ. මගේ නඩුව එයයි.

දැන්මේ සියලු දෙනම අගමැති මැරූ නඩුව විය දෙනතුරු මෙහි රැඳී සිටිය යුතුය. හොඳට විය දෙයි, මේ ගොල්ලන් සිටින තුරු. විරුද්ධ පක්ෂය විසින් මේ ප්‍රශ්නය මේ සභා මන්දිරයේ පැන 10 නොනඟන ලද නම්, අද නඩුවේ සිටින්නේ සෝමා රාම පමණයි. එහෙව පුද්ගලයින් තමයි, නඩු අඟන තුරු බලයේ රැඳී සිටිය යුත්තේ !

Mr. Speaker : Order, please !

Mr. Iriyagolle : එනිසා සභාපති තුමනි, නඩුව හරි හැටි ඇසීමට උසාවියට උපකාර කිරීමක් වශයෙන් මේ ඇමති මණ්ඩලය අස් විය යුතුයි. ඊට හේතු මා දැන් හොඳින් සඳහන් කර තිබෙනවා.

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අධිකරණ ඇමතිතුමා ලංකාවේ නීති කාර්යාලයට

- 20 අපභාසයක් කරමින් පිටස්තරින් නීතිඥයකු ගෙන් විම නිසා, නීති කාර්යාලයෙහි සිටින්නේ හිතක් ඇති මිනිසුන් නම් ඔවුන්ගේ සම්පූර්ණ සහයෝගය නඩුවට ලැබේද ? එක් පොලිස් නිලධාරියෙකුට සෙසු පොලිස් නිලධාරීන්ට වඩා අධිකරණ අමාත්‍ය තුමා හෝ අග්‍රාමාත්‍ය තුමා හෝ සැලකුවා නම්, සෙසු පොලිස් නිලධාරීන්ගේ සහයෝගය නඩුවට ලැබේද ? අග්‍රාමාත්‍ය තුමාත් අධිකරණ අමාත්‍ය තුමාත් මේ නිලධාරියාට රැකවරණය දීමේ ක්‍රියා කලාපය, මේ බියගුලුකම, තමන් පසු පස්සේ යමක්
- 30 එනවා යයි යන කිසියම් සැකයක් නිසා ඇතිවූවක්දැයි මටත් සැකයි. තමන්ගේ පදවිවලින් අස් විය යුතු යයි හොඳින් පෙනෙද්දීත් ඒවායින් අස් නොවන්නේ ඉන් පසු ඔවුන්ගේ ආසන අපට අවුත් අපෙන් ඔවුන්ට විපතක් වෙය කියාද ?

මේ පිළිබඳව වඩා දීර්ඝ කථාවක් තුඩුවමනාය. ආණ්ඩුවේ මන්ත්‍රීවරුන්ට මා වෝදනා කරනු වෙනුවට ආයාචනයක් කරනු කැමැත්තෙමි. ගරු මන්ත්‍රීවරුනි, මේ රටේ අනාගත අභිවෘද්ධියට වග කිව යුත්තේ විරුද්ධ පක්ෂය පමණක් නොවේ. අද

- 40 රට විනාශයෙන් විනාශයට යන හැටි තමුන්නාන් සේලාට හොඳට පෙනෙනවා ඇති. සමහර විට පෞද්ගලික වශයෙන් නම් ඔවුන්ගේ මෙම තත්ත්වයන් මතු උපදිනා වෙන කිසිම ජාතියකදීවත් නොලැබෙන බව ඇත්තකි. එසේ වුවත් දෙවියනි, මන්ත්‍රීවරුනි, මන්ත්‍රී සභෝදරියනි, පදවි රටට වඩා ලොකුද ? පදවි ජාතියට වඩා ලොකුද ? පදවි ආගම, භාෂාව, සභ්‍යත්වය හා සංස්කෘතියට වඩා ලොකුද ?

එසේ සිතනවා නම්—මේ වැරදීමකින් ලැබුණු තත්ත්වයන් අවුරුදු 2,500 ක ඉතිහාසයක් ඇති මේ රටේ ජනතාවට වඩා ඉහළින් සිතනවා නම්—තමන්ට ලැබෙන පඩිපතේම රැඳී සිටිනු මැනවි ! මේ යෝජනාවට විරුද්ධව ඡන්දය දෙනු මැනවි ! අවුරුදු 2,500 ක් පැවති අපේ ජාතිය තවත් අවුරුදු 5,000 ක් පැවතිය යුතු යයි සිතනොත්, අහම්බෙන් ලැබුණු පදවිවලට වඩා ටිකක් ඉහළින්, ටිකක් වටනේ යයි, සිතනොත්, ඔවුන් මේ යෝජනාවට පක්ෂව ඡන්දය දිය යුතුයි.

ගරු සභාපති තුමනි, මේ වංචනික ක්‍රියා මාර්ගයන් වසා ගැනීමට, මොවුන්ගේ කුටෝපක්‍රමවල ප්‍රතිඵලයක් වශයෙන් අත්තිමේදී සතුරු වෙඩි පහරකට ඉලක්කය වූ අගමැති තුමා දෙවියකු, බෝධිසත්වයකු කොට, ජීවත්ව සිටින තාක් එතුමාට නොමඟ යවමින්, එතුමාට හිරිහැර කරමින්, එතුමාගෙන් නොයෙකුත් ප්‍රයෝජන ලබා ගැනීමෙන් පසු, මරණයෙන් වුවද ප්‍රයෝජන ගැනීමට, කරන මේ උත්සාහය ඊයේ සවස මොනවට අපට පෙනී ගියේ ය. මැති ඇමතිවරුන් පිරිසක් පෙරහරින් අගමැති තුමාගේ සොහොන් ගැබ කරා ගොස් පහන් පත්තු කොට, සුවඳ මලින් පුද, “ මතු අනාගතයේදී කිසිම උපතකදී ලැබෙන්නේ නැති පදවි මේ ජාතියේදී අපට ලබා දුන් ඔබ තව දුරටත් අපව ආරක්ෂා කර දෙන්නෙහි නම් මැනවි ” යි ප්‍රාර්ථනා කළ බව ආරංචියි. අගමැති තුමා කොහේ සිටිදැයි මම නොදනිමි. කොහේ සිටියත් මීට එකඟ වනු නම් සැක සහිතයි. ජීවිත කාලයේදී මොවුන් හඳුනා ගත නොහැකි වූ අගමැති තුමා මැරුණායින් පසුව නම් හඳුනා ගත්තාට කිසිම සැකයක් නැත. අගමැති තුමාගේ හිතවතුන් පලවා හැර අගමැති තුමා වටා රැකගෙන ඔහු නොමඟ යවා, රට විනාශ කොට, රටේ මිනි මරවා ඉතිහාසයේ කොතැනකවත් කොයි කාලයකදී වත් දකින්නට තුඩු තරම් සෙනහක් මරවා, පණ පිටින් පියවරුන් මැරීමට, පණ පිටින් පියවරුන් පිලිස්සීමට, ලෝකයේ කොයිම ඒකාධිපති රටකවත් නැති මහජන ආරක්ෂක පණත නම් මිනීමරු නීතියක් පැනවීමට උදව් දුන් මේ පුද්ගලයන් කවු දැයි, ජීවත්ව සිටින කාලයේදී කෙසේ වෙතත්, මැරුණු පසු නම් ඒ අගමැති දන්නවා ඇති. ඒ නිසා ඒ අගමැති තුමාගේ නාමයෙන් අපේ අනාගතය අවංක පුද්ගලයන්ට භාර දී මහජනතාව විසින් මී ළඟට තෝරා ගනු ලබන කාට හෝ වේවා, කොමි යුනිස්ට් හෝ වේවා, එක්සත් ජාතික පක්ෂය හෝ වේවා, සමසමාජය හෝ වේවා.—

Mr. Lakshman Rajapaksa : ඇයි අපි ?

Mr. Iriyagolle : මහජන එක්සත් පෙරමුණ හෝ වේවා, සමාජවාදී මහජන පෙරමුණ හෝ

No. 2
Petition of
S. G.
de Zoysa
with annexes
marked
“A”-“R”
81-5-60

(xiv) Annex
“N”
27-11-59
—continued.

1699

No. 2
Petition of
S. G.
de Zoysa
with annexes
marked
"A"- "R"
81-5-60
1700
(xiv) Annex
" N "
27-11-59
continued.

වේවා, කාට හෝ වේවා, භාරදීමට මහජනයාට අවකාශ තබා පිදුරු ගොඩේ සුනඛ ප්‍රතිපත්තිය අත් හරින මෙන් මම ඉල්ලමි. ගෝඨියා පාෂා කුමණ කුමන්ත්‍රණයක් කළත්—

Mr. Speaker : Order, please !

Mr. M. S. Themis (Third Colombo Central): He is referring to Gogia Pasha and not to any person.

Mr. Iriyagolle : I am not referring to anybody you are thinking of.

Mr. Speaker : Order, please ! But you are imputing motives.

Mr. Iriyagolle : කුමන්ත්‍රණකරුවා කුමන කුමන්ත්‍රණයක් යෙදවූත්, දන් රට ඔවුන් අදහනාගෙන ඉවරය. ඊට වඩා කුමන්ත්‍රණ මන්ත්‍රණ කොට, පෙරළි කොට හෝ ඒවායින් ජය ගැනීමට පුළුවන් පුද්ගලයන් තවමත් රටේ සිටින බව ඔහුත්, මෙකුමන්ලාත්, සලකා බලා අපේ අනාගතය ආරක්ෂා කිරීමට රටට ඉඩ දී අයිත් වන මෙන් ඉල්ලමි.

5.36 P.M.

Mr. V. A. Kandiah (Kayts): Mr. Speaker, the statement on which the censure Motion is framed relates to a matter of national importance, namely, the assassination of the late Prime Minister. The statement reveals the facts relating to the assassination and therefore the statement comes very close to a contempt of court. This statement was made a few days after this matter was discussed fully in Parliament and it appears to be fairly clear that it is a reply to some of the speeches made in the House itself. From that point of view it really amounts to a contempt of this House. It is most unfortunate that the Hon. Minister of Justice should have allowed this statement to be published. Either he did not give it due consideration or if he gave it due consideration he lacked the sense of responsibility expected of one holding this high office.

If after due consideration he permitted the publication of this statement there is a serious dereliction of duty on his part or abuse of the trust reposed in him by the Cabinet and also utter inefficiency on his part. In any event, he is not fit to hold this high office and therefore this censure Motion has been rightly moved. Looking at it from another angle, I cannot understand why Government does not react to this in the proper way. A number of Government Members insisted with the Hon. Prime Minister that Mr. Sidney de Zoysa should be removed from office for making this statement. This statement would never have been published if the Hon. Minister had not allowed it.

Political pressure and so many other factors contributed yesterday and late last night towards the Hon. Prime Minister being reluctantly compelled to agree to the removal of Mr. Sidney de Zoysa. So that, I cannot understand why hon. Members who insisted on the removal of Mr. Sidney de Zoysa are not prepared to vote for this Motion. We expect these hon. Members of the Government who insisted on the removal of Mr. Sidney de Zoysa to act in the same rational and logical way in regard to this vote of censure. But what is it that we have found? We have found that Mr. Sidney de Zoysa has been dealt with very summarily. He has been retired in a summary way, and one cannot understand why the Government should have acted so fast in giving way to political pressure. If things go on at this rate, what will happen to the independence of the Public Service?

Surely, if there has been any wrong done by Mr. Sidney de Zoysa charges should have been framed against him. He should have been called upon to answer those charges and been dealt

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No. 2
Petition of
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de Zoysa
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(iv) Annex
" N "
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—continued.

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with in the way he should have been dealt with. I am mentioning that because of the speed with which the Hon. Prime Minister yielded to pressure and removed Mr. Sidney de Zoysa from office, and the way hon. Members of Parliament wanted his removal. The same course could be applied with regard to the Hon. Minister of Justice for permitting that statement to be made. It is certainly cowardly to pick out a Government servant and do what you have done. Why do you not get hold of the Minister of Justice? If he did not

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allow the publication of that statement probably nothing would have happened. But looking at the other point of view, this Minister must go, and I am sure hon. Members of the Government will realize the reasonableness of this Motion and, at least, see that Mr. Jayawickrama is no more the Minister of Justice.

Mr. D. B. R. Gunawardena *rose*—

Mr. Speaker : We have only two hours and fifteen minutes left. I understand the Hon. Prime Minister wants to speak for one and a half hours.

The Hon. Dahanayake : I will take about one and a quarter hours.

5.42 P.M.

Mr. D. B. R. Gunawardena : I will not take more than ten minutes.

කපාතායක තුමනි, මේ සභාව ඉදිරියේ තිබෙන්නේ වැදගත් යෝජනාවක්. මෙම යෝජනාව අධිකරණ ඇමතිතුමාට විරුද්ධවයි ඉදිරිපත් කර තිබෙන්නේ. නමුත් මේ ගරු සභාව තුළ සිටින අධිකරණ ඇමතිතුමාගේ පාර්ලිමේන්තු ලේකම් තුමා, නැත්නම් අධිකරණ උප ඇමතිතුමා, මේ යෝජනාව සාකච්ඡාවට භාජන කිරීමට විරුද්ධ මතයක් ඉදිරිපත් කර තමුන්තාත්සේගෙන් තීරණයක් ඉල්ලන්නට යෙදුණා. එසේ තීරණයක් ඉල්

ලුවේ, මීට සම්බන්ධ නඩුවක් අධිකරණයට ඉදිරිපත් කර ඇති බැවින් ඊට සම්බන්ධ කරුණු මෙය සාකච්ඡාවට භාජන කරන අවස්ථාවේදී ඇදෙන්නට ඉඩ තිබෙනවාය කියායි. ඒ ගැන මා කොටින් පාර්ලිමේන්තු ලේකම් තුමාගෙන් කෙළින්ම අහනවා, එතුමා මෙතන සිටින්නේ අධිකරණයේ ගෙන යන කටයුතු හරියාකාර කර දීමටද, එහෙම නැත්නම් ඒවා වැළැක්වීමටද කියා. අධිකරණයේ ගෙන යන කටයුතු නියම විධියට ගෙන යාම වැළැක්වීමටය කියන එකයි, එවැනි තීරණයක් ඉල්ලීමෙන්, එවැනි මතයක් පළ කිරීමෙන්, ඔප්පු වන්නේ. ඒ මතය උඩයි, අධිකරණ ඇමති තුමා සෙනෙට මන්දිරයේ ඉදගෙන මෙම වගන්තිය පුවත්පත්වලට දැමීමට සිඩනි ද සොයිසා මහතාට ඉඩ දුන්නේ.

සිඩනි ද සොයිසා මහතාට අයිති කොටසක මේ අගමැති මරණය සිදු වූණේ නැහැ. අගමැතිට වෙඩි තබා මැරුවේ සිඩනි ද සොයිසා මහතාට අයිති "රේන්ජ්" එකේ නොවෙයි. ඒ නිසා මා එක ප්‍රශ්නයක් අහනවා. එසේ නම් ඇයි සිඩනි ද සොයිසා මහතා මේවාට උත්තර දෙන්න පටන් ගත්තේ? එනැත ගෙන යන පරීක්ෂණවලට කෙළින්ම ඇඟිලි ගසමින් ඒවා හරියාකාර කරගෙන යාම වැළැක්වීමේ අවියෙන් එසේ කළ බව පැහැදිලිවම ඔප්පු වෙනවා නොවේද? ඔව්, මේ වැඩේට සිඩනි ද සොයිසා මහතාට ඉඩ දී තිබෙනවා. අධිකරණ ඇමතිතුමා, විමලා විජයවර්ධන—මේ ගරු සභාවේ සිටි ඒ ඇමතිවරියට විරුද්ධව ඉදිරිපත් වී තිබෙන චෝදනා සම්බන්ධ සාක්ෂිවලට—

Mr. Speaker : Order, please ! You cannot refer to that. You are referring to things which are before the courts. I cannot allow it.

Mr. D. B. R. Gunawardena :—නැහැ, කීප පොළකින්ම මේ කාරණය ගැන කියා තිබෙනවා. මම සිංහල භාෂාවෙන් කථා කරන නිසා සමහර විට ඔබ තුමාට මගේ කථාව ගැන ටිකක් පැහැදිලි නැතිව ගියා වෙන්න පුළුවනි.

Mr. Speaker : No, I am also listening to the interpretation that is given.

D. B. R. Gunawardena : හොඳයි.

ඒ කරුණු සටහන් කර තිබෙනවා. මේ සිද්ධියේ දී පාවිච්චි කළේ යයි කියනු ලබන එක්තරා ආයුධයක් එය පාවිච්චි කළේ යයි කියනු ලබන

No. 2
Petition of
S. G.
de Zoysa
with annexes
marked
"A"- "R"
31-5-60

(xiv) Annex
"N"—
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—continued.

තැනැත්තාට ලැබුණේ ගරු මුදල් ඇමතිතුමාගේ කිට්ටුවන්ත මිත්‍රයෙකුගේ මාර්ගයෙන් යන දුසමාණ ආරංචිය සම්බන්ධයෙන් ගරු මුදල් ඇමති තුමා ප්‍රකාශයක් කළා. කෙළින්ම ප්‍රකාශයක් කරමින් ගරු මුදල් ඇමතිතුමා කීවේ ඒ කිට්ටුවන්ත මිත්‍රයා පැමිණිල්ලේ සාක්ෂිකාරයෙකු හැටියට ඉදිරි පත් වෙනවා ඇත කියලයි. ඒ එක්කම කියන්නට තිබෙන අනෙක් කාරණය නම් මුදල් ඇමති තුමා ගේ මල්ලි—සිඩ්නි ද සොයිසා මහත්මයා—හිටියේ "ඩී. අයි. ජී. රේන්ජ් 3" හැටියටයි. අර ප්‍රකාශය කළ දවසට පහුවද මුදල් ඇමතිවරයා පිටරට ගියා. ඔක්තෝබර් 30 වැනිද මේ ගරු සභාවේදී අපි ඉල්ලුවා මුදල් ඇමතිතුමාගේ ඒ ගමන නවත්වන්නටය කියා. මුදල් ඇමතිතුමා ලංකාවෙන් පිට ගිය දට පහුවද—නොවැම්බර් මාසේ 2 වැනිද—ඔහුගේ සහෝදරයා මේ පත්‍රයේ ප්‍රකාශයක් පළ කළා. මුදල් ඇමතිතුමාගේ කිට්ටුවන්ත යාළුවා "ප්‍රොසි කියුම්-විට්නස්" කෙනෙක්. පැමිණිල්ලේ ඡාන්ඩි කරුවෙක්. නමුත් එයා දැන් කොහේ ඉන්නවාද කියා අපි දන්නේ නැහැ. කිලියාපිටිය මිනීමැරුම සම්බන්ධයෙන් ඔසී කොරොයා ගැන යම්කිසි ලිය වීල්ලක් ඇටර්නි ජෙනරල් තුමාට යැව්වාය කියා ගරු මුදල් ඇමතිතුමාට යම් දිනක දී චෝදනාවක් එල්ල කළා. ඒ කාරණය උඩ ඔසී කොරොයා සමඟ වැඩි ආශ්‍රයක් ඇති වුණාය කියාත් කීවා. ඇටර්නි ජෙනරල් දෙපාර්තමේන්තුවේ තවත් පුද්ගලයෙක් හිටියා.

ඩීකී සොයිසා මේ නඩුවට අහු වෙලා හිටිය කෙනෙක්. මේ යෝජනාව අද මේ ගරු සභාව ඉදිරියේ සාකච්ඡාවට භාජනවන නිසාද දන්නේ නැහැ, ඊයේ ඒ තැනැත්තා රිමාන්ඩ් එකෙන් පිට කර යැව්වා. ස්ටැන්ලි ද සොයිසා මහත්මයාගේ බොඩි ගාඩ් හැටියට වැඩ කළ තැනැත්තාය කියා හඳුන්වා දුන් තැනැත්තා වගේම තවත් කෙනෙක් ඇටර්නි ජෙනරල් දෙපාර්තමේන්තුවෙන් මේ කාලයේදී හිටියා. කවුද, ඒ ? ඒ තැනැත්තාගේ නම බන්ටි සොයිසා. ඒ කවුද ස්ටැන්ලි ද සොයිසා මහතාගේ මල්ලි. හිටපු මුදල් ඇමතිතුමාගේ මල්ලි තමයි බන්ටි සොයිසා කියන්නේ. ඩීකී සොයිසා ගෙන් මල්ලි. සිඩ්නි සොයිසා ගෙන් මල්ලි. උන් නැහේ ඇටර්නි ජෙනරල් දෙපාර්තමේන්තුවේ ඉදලා ඉලෙක්ට්‍රිකල් දෙපාර්තමේන්තුවට මේ ඊයේ පෙරේද මාරු කරලා තිබෙනවාලු. විශේෂ කරුණු වගයක් පරීක්ෂා කිරීමට දීලා තිබෙනවාලු. මේවා ගැන අගමැතිතුමා නොදන ඉන්නවා නොවෙයි. කරුණු දනගෙනම මේවාට ඉඩ දී තිබෙනවා. මේ කරුණු නිසාම ඇමතිතුමා ඇත් වුණාය කියා මම හිතනවා. මුදල් ඇමතිතුමාව ඇත් කරන්නට ඇමතිවරුන් දහදෙනෙකුටම ගරු අගමැතිතුමා ළඟට ගිහින් බල කරන්නට සිද්ධ වුණා. අර ඔසී කොරොයාගේ සම්බන්ධකම නිසයි, වැඩි යෙන්ම ඒ බලකිරීම

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කළේ. නමුත්, අධිකරණ ඇමති තුමාගේ සම්පූර්ණ අනුමැතිය ඇතිව, නොවැම්බර් මස 2 වැනිද සිඩ්නි සොයිසා මහතා පළ කළ ලියවිල්ලේ මේ ගරු සභාවේ මැති ඇමතිවරුන් හෙළා දැකීමේ චෝදනා කෙළින්ම ගැප් වී තිබෙනවා. ඒ නිසයි, මේ ගරු සභාවේ ගරුත්වය හා සම්ප්‍රදයවල් කෙලසීමට ක්‍රියා කිරීම ගැන අපි අධිකරණ ඇමති තුමාට චෝදනා කරන්නේ. අධිකරණ ඇමතිතුමා ඡන්ද බලයෙන් එන කෙනෙක් නොවෙයි. එතුමා තෝරා පත් කරනු ලබන කෙනෙක්. ඒ නිසා මේ 10 ඇමතිවරයා ඔහු යටතේ සිටින නිලධාරියෙකුට—සිඩ්නි සොයිසා මහතාට—ඡන්ද බලයට කෙළින්ම පහර ගැහීමට ඉඩ දුන්නා. මේ මැති ඇමතිවරු ඒ වරද කිරීමට ඉඩ දුන් මූලික පුද්ගලයා වන අධිකරණ ඇමති ගැන කිසිම හොල්මනක් නැතිව ඉන්නවා. ඔව්, අධිකරණ ඇමති අස්වන්නට ලැස්ති වුණු බව, දැන් ටිකකට කලින් මෙනන ප්‍රශ්න කරන විට, අගමැතිතුමා ප්‍රකාශ කළා. ඒ පුද්ගලයා නවත්වා ගැනීමට ඡන්ද බලයෙන් තේරී මේ ගරු සභාවේ සිටින යම් මැති ඇමති කෙනෙක් අත ඔසවනවා 20 නම්, එය කෙළින්ම මේ රටටත් මේ ගරු සභාවටත්, මේ රටේ සිටින සියලුම ඡන්දදායකයන්ටත් පහර ගැහීමක් හැටියට සලකන්නට ඕනෑ.

අගමැති තුමා ලැස්ති නැතුව ඇති මොදලේ අගමැති තුමා ඉන්න කාලයේ පත් කළ මේ අධිකරණ ඇමතිතුමා අස් කිරීමට. මො දමු අගමැති තුමා පිටරට සංචාරයට යාම පිණිස සුමාන තුනකට පමණ පොලීසිය භාර දුන්නලු අධිකරණ ඇමතිතුමාට. ඒකෙ මුවාවෙන් සිටින අගමැති තුමා ඒ තත්ත්වය වෙනස් කිරීමට අද ලැස්ති නැහැ. එහෙම ඉන්ඩ 30 බැහැ. ඒ අංශය ගැන කෙළින්ම උත්තර දීමට කෙනෙක් අපට මේ ගරු සභාවේ ඉන්නට ඕනෑ. පසුගිය 30 වැනිද ප්‍රශ්න කළාම ඒක සම්පූර්ණයෙන් එහාට භාර දීලාය කීව්වා. මීට පෙර පොලීසි දෙපාර්තමේන්තුව එහාට භාර දීලා තිබුනේ නැහැ. පොලීසියේ කටයුතු ගැන වග කියන පුද්ගලයෙක් මෙනත හිටියා. නමුත් අද නැහැ.

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මේ සිඩ්නි සොයිසා මහතා ප්‍රසිද්ධ කළ ප්‍රකාශය ගැන යම් යම් කරුණු අර ගද ගහන ඉවත් වීදුලියෙන් පිට කරන සටහන් පොතෙකුත් වරක් දෙකක් 40 කීව්වා. ඒ ගද ගැහිල්ලක් නවත්වන්නේ නැතිව දිගටම ගද ගස්ස ගස්සා යනවා. ඒ ගද ඉවසන්නට බැරුවයි, මේ පුද්ගලයාව වහාම පිට කරන්නාය කියා රටේ ජනතාව ඉල්ලන්නේ. මම දීර්ඝ වශයෙන් කථා කිරීමට බලාපොරොත්තු වන්නේ නැහැ. මිනිත්තු 10 ක් පමණ කථා කරන බවයි, මා මුලින් කීවේ. මම මේ අගමැති තුමාටත්, අනික් මැති ඇමතිවරුන්ටත්, එකක් කියනවා. මේ අන්දමට හිතුවක්කාර නිලධාරීන් මගිනුත් අයකු ක්‍රියා මගිනුත් මේ ගරු සභාවට අගෞරව කරන්නට තව දුරටත් 50

ලැස්ති වෙනවා නම්, ඒ වැඩ පිළිවෙළම ගෙන යාමට ලැස්ති වෙනවා නම්, ඒකට නම් කිසිම ඉඩක් ලැබෙන්නේ නැහැ. මේ පැත්තේ ඉන්නවා " බලා ක්මේල් " කවටියක්. " බලාක්මේල් " කියන්නේ මොකක් ද කියා දන්නවානේ. ඒ වචනයේ සිංහල තේරුම කියන්නවානම්, " අයතු බල පා වාසි කඩා ගන්නා " කියා කියන්නට පුළුවනි. මගේ හිතේ එය එහෙමයි කියායි. අද අගමැති තුමා කෙළින්ම කරනවා අයුතු බලපෑම්. මෙහේ " බලාක්මේල් "

10 වැඩ කරන විට " ඉඳා පගාව. දපත් වැලිමඩට එක්ලක්ෂ හැට තුන් දහක් " කියා කියනවා. ඔය ආකාරයට දූෂණයෙන් දූෂණයට වැඩ කොට, මිනී මැරීමට පමණක් නොවෙයි ඒ මිනී මැරීම් වැසීමටද, ඒවා ගැන පරීක්ෂණ පවත්වන විට නියම විධයට ඒ රාජකාරිය ගෙනියන නිලධාරීන් ඉවත් කිරීමටද, හැම කුමන්ත්‍රණයක්ම යොදාගෙන ගොස් මේ තත්ත්වයට අද මේ ගරු සභාව පරිවර්තනය කර තිබෙනවා.

මේ පරිවර්තනය උඩ, අද මුලු රටටම මේ ගරු සභාවත් පිළිකුල් වීගෙන එනව. ඒ පිළිකුලට, ඒ 20 අගෞරවයට, මේ ගරු සභාව භාජන කළේ දැනට තිබෙන ආණ්ඩුවයි. එම නිසා මේ ඉල්ලීම ඉටු කරනු ; මේ යෝජනාව දැන් පිළිගනු ; අධිකරණ ඇමතිතුමාව ඒ නිලයෙන් පන්නා දමනු. මුලින් අපි ඉල්ලුවේ සිඩිනිව හිරේට ගන්න කියලයි. නමුත්

1707 භොරුන්ගේ අම්මලාගෙන් ජේන අහල ඇත්ත සොයා ගැනීම බොහොම අමාරුයි. අපි මෙතන කොවිටර කිව්වත් ඒක බොහොම අමාරු දෙයක්. ඒ අනුව අපි කෙළින්ම කියන්නවා අතන ඉන්න පත් කළ මන්ත්‍රීන් කවටියට—ඔව්, අර භයදෙනාට—

30 ටිකක් කල්පනා කර බලන්න කියා.

Please search your conscience, hon. Appointed Members, when you are voting whether you will be voting for the Government or against the Government. Your interests may be quite different, but are you going to prop up a Government which has been discredited and which is stinking in the nostrils of the voters of this country? It is your duty to get rid of that set-up and have a clean election. Let us go to the country and have a clean election. If you wish to come back here, get yourselves appointed by those representatives who will be voted into power.

I appeal to you, hon. Appointed Members. You have been, for the

last few weeks, muttering this and that in public places and in your business establishments, in your Chamber of Commerce and in your Planters' Association. You have been muttering, " How are we to vote? Are we to support this Government? " On the 30th of last month, you kept up this Government by casting six votes for it when really, by the elected representatives of this country, the Government was defeated by one vote. Will you again be guilty of keeping this corrupt Government in power?

Once again. I appeal to you hon. Gentlemen. Go back to your business interests and get their sanction before you vote on this Motion. I think they have already announced how you should act. The newspapers raised their voice some time back.

මා විශේෂයෙන් ඒ කවටියට එම වචන සාද්‍රවය කීවේ මතක තබා ගැනීමටයි. ගරු කථානායක තුමනි, මේ ආණ්ඩුවට යුතු කමක් නෑ, බලයේ ඉන්න. එම නිසා මේ යෝජනාව පිළිගන්න.

ඊයේ රෑ එක පුද්ගලයෙක් ගැන බලකිරීමක් කළා. 1708 ඒ පුද්ගලයාට දී තිබෙන අවිච්චි හරි නෑ. අපි කියන්නේ ඒ අවිච්චි මදිසි කියලයි. ඉදිරියට අවිච්චි ලැබෙන්නට පුළුවනි. ඒ පියවර ගන්නා වගේ මේ යෝජනාවත් පිළිගන්න. අධිකරණ ඇමතිතුමාට විරුද්ධව මෙම යෝජනාව ඉදිරිපත් කර තිබෙනවා. උන්නැහේගේ ක්‍රියාව අපි හෙළා දකිනවා. ඒ නිසා උන්නැහේවත් මෙතැනින් ඉවත් කරන මෙන් ඉල්ලා සිටිමින් මගේ වචන දෙක තුන අවසාන කරනවා.

6 P.M.
The Hon. Dahanayake and Mr. Karunatillake rose—

Mr. Speaker : The Hon. Prime Minister.

Mr. Karunatillake : It is only 6 o'clock.

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Mr. Speaker : There are only two hours more.

Mr. Karunatillake : The hon. Member for Wellawatta-Galkissa (Dr. Colvin R. de Silva) will take about 45 minutes.

Mr. Speaker : Whatever it is, the Government must reply.

The Hon. Dahanayake : I have been listening very carefully, to all the speeches that have been made, and I have taken note, either on paper or mentally, of every argument that has been used and I propose to give, within about an hour, as full a reply as one possibly can. I am aware that following me will be the hon. Member for Wellawatte-Galkissa and I can assure you that I shall give him sufficient time to be able to answer argument per argument.

6.2 P.M.

Mr. Speaker : Order, please ! Mr. Deputy-Speaker will take the Chair for about half an hour.

Whereupon MR. SPEAKER left the Chair and MR. DEPUTY-SPEAKER [MR. R. S. PELPOLA] took the Chair.

1709 **The Hon. Dahanayake :** Listening very carefully to the various speeches, I was able to sort them out into two main lines of argumentation. Both those main lines were well presented by the hon. Leader of the Opposition and he was supported in that by various other speakers.

The first line of argumentation was that the newspaper article in question had violated the cherished liberty of Members of Parliament in that it had brought the House into some sort of contempt. Various hon. Members urged that this news-

paper article had insulted us all and that serious notice should be taken of an attempt by a public officer to assail even the integrity of hon. Members.

Now, if that charge is correct, if that charge can be substantiated, if that charge can be considered to be a reasonable one, I must admit that any hon. Member would do right to 10 vote for the Motion before the House. But I beg of hon. Members to give careful thought to the question whether the newspaper article in question was one which in any way dishonoured this House.

I have read through the newspaper article over and over again. I read it first on the Monday evening of November 2nd and I still recall the 20 thoughts that came to my mind at that time after reading through the article on 2nd November. I did not think that the article by even one word assailed the honour of this House or of hon. Members. I read through the article several times after and could not find one word or one syllable which was a direct refer- 30 ence to this House. It was only long after the publication of the article that the suggestion was made that this article had some direct connec- 40 tion with the House.

Dr. Perera : No.

The Hon. Dahanayake : I ask you to point out one word in the article which mentions the House of Repre- 40 sentatives. I ask any hon. Member of the House to point out what might be called a direct reference to any 1710 hon. Member of this House or to anything that had been said or done in this House.

Mr. J. C. T. Kotalawela : Read the article.

Mrs. Vivienne Goonewardene : Why did he write that article at all ?

Mr. J. C. T. Kotalawela : Do not be dishonest.

The Hon. Dahanayake : So many hon. Members spoke, and I took a note of every argument that was used and the one and only instance which was construed as a
10 reference to the House was mentioned by the hon. First Member for Colombo Central (Mr. Keuneman). I shall come to it by and by.

It is unfortunate that as a result of the Motion of no confidence having been debated on the 30th October, Friday, and the newspaper article having appeared on Monday, the 2nd
20 November, it was certainly unfortunate that the newspaper article got mixed up in the minds of the hon. Members of this House with the Debate of the 30th of October.

Dr. Perera : Why did you get rid of Sidney ?

The Hon. Dahanayake : I will come to the question by and by.

Dr. Colvin R. de Silva : By and by !

30 **Mr. J. C. T. Kotalawela :** He should have been the first accused.

Mr. D. B. R. Gunawardena : Your lullaby would not do.

The Hon. Dahanayake : Suppose this article in question had appeared prior to the 30th October, what then ? This is an argument that I am offering to my good Friend the hon. Member for Wellawatta-
40 Galkissa for an answer.

1711 **Dr. Colvin R. de Silva :** What is the argument ?

The Hon. Dahanayake : The article in question might have been given for the facts that it contained or for the information that it contained prior to the 30th October and it might have appeared for the information it contained a month after the 30th October.

Mrs. Vivienne Goonewardene : Not likely.

The Hon. Dahanayake : Could any direct connection have been found between this article and this Debate in the House ? No. It will have to be admitted that there is no direct connection. I do agree that you can easily find a connection between the article in question and the Debate in the House—

Mr. Keuneman : What about the reference ?

The Hon. Dahanayake :— that some of the contentions that were raised in this House were answered in the article. But I say that the article did not confine itself exclusively to the Debate in the House but that it traversed a much wider field. I maintain that the aim of this newspaper article was wholly correct and it was quite regular in regard to the practice about normal official releases to the press. I admit that you can find portions of this article which you can tack on to an argument that was used in this House and I do even admit, if the hon. Members on the other side desire that I should make that admission, that the immediate provocation or the casue for this article was the Debate in this House.

Dr. Perera : Oh !

The Hon. Dahanayake : But, Mr. Deputy-Speaker, let me tell you that the intention of this newspaper

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article was certainly not to insult this honourable House.

Mr. J. C. T. Kotalawela : You knew the intentions also ?

The Hon. Dahanayake : I would beg of any hon. Member who speaks after me to attempt to show that the writer of this article intended to bring any type of dishonour on the fair name of this House. As a matter of fact, if this article did contain any aspersion whatsoever on this honourable House or any hon. Member of this House directly, the newspapers would have been the first to spot it ; they would have spotlighted that fact.

As a matter of fact, having read through the entire article, how does the newspaper feature it ? I put this question because that may be a way in which one can judge the effect the newspaper article originally had on the mind of its reader. When this newspaper article appeared what did the reader think of it ? The way that the newspaper editors edited it shows exactly what they thought of it. Here was a banner headline of the "Ceylon Observer" which came out with this newspaper article—Pate, Iyer men of unsullied reputation, unblemished record, says S. G. de Zoysa." That is the banner headline which indicates that one of the aims of the article was to prove the *bona fides* of the Police Department that was investigating the case.

Then the next banner headline is, "Sidney talks of Fact and Rumour." The reader of this would have thought that the main thing in the article was to clear the public mind of certain ill-founded rumours about the case. Then the next headline is, "The D. I. G. on subversive elements, rumours mongers, political adventurers and other doubtful

characters." I ask whether the person who framed the headlines for this article ever thought of the House of Representatives or the Parliament or the honour and integrity of hon. Members.

Let us take those portions of the article which have already been quoted by the hon. Leader of the Opposition. I would appeal to hon. Members to direct their attention closely to the words of those paragraphs and to ask themselves the searching question, "Do these words in their intention mean anything against this honourable House or any of its Members ?" These are the opening paragraphs of this article :

"The police department does not as a rule place before the public any facts regarding an investigation which they are conducting and which will eventually come before a court of law."

Now in that sentence an apology is offered for the article, in that the Police Department seeks to place before the public some information about a case even though it is not the usual practice to do so.

The second sentence reads : 80

"In difficult cases the advice of the Attorney-General is sought before plaint is filed. The murder of the late Prime Minister however being a national calamity, has been discussed through the length and breadth of the Island and has given rise to a volume and variety of rumours hitherto unparalleled."

Those words show that rumour-mongering had spread right round the Island and that it was necessary to sift the facts from the rumours and to steady the minds of men in regard to the truth about the case.

The opening paragraphs continue to say :

"Confusion and conjecture have been made worse confounded by the fact that very few if any of these rumours in wide circulation have any relation to truth. The field for rumour has been made wider and more fertile by the fact that this assassination has provided an opportunity for manoeuvring by interested parties.

It is unfortunate that these rumours do not relate only to the supposed facts of the case but are also calculated to discredit the actions and *bona fides* of the Police Department and of some of its officers including myself."

That sentence reveals the intention behind the entire article, the intention being to dispel from the minds of the people any doubts they may have had, and establish the *bona fides* of the Police Department itself in reference to certain rumours that had been spread.

1714 The article proceeds to say:

"It is for this reason that I as a Senior and responsible member of the Service whose name has been freely mentioned, consider it necessary to depart from our usual practice and to disclose certain facts which the public should know if they are to have faith in the competence and integrity of the Department and its officers."

Note the last few words of that sentence, "if they are to have faith in the competence and integrity of the Department and its officers".

Those are the opening paragraphs of this article. Can anybody listening to that say that that article seeks to dishonour this honourable House? Can anybody even by a stretch of imagination argue that those opening paragraphs seek to assail the integrity of hon. Members who had taken part in a Debate a few days earlier? I say if such an unfortunate impression has been created in the minds of hon. Members—if hon. Members still think that such an unfortunate impression lurks intrinsically in this article—then, I say, that

such an impression cannot be justified.

If, Mr. Deputy-Speaker, it is the contention that, whether there was intent or not, this article does indirectly convey the impression of an affront to this honourable House, then I say that I, as the Head of the Government, would apologize to hon. Members.

Mr. D. P. R. Gunawardena :
That is not enough.

The Hon. Dahanayake : I offer all hon. Members of this House my fullest apologies if this article in question has been construed indirectly as an affront to this House.

Now, what actually did this article do? It had two aims. One aim was to establish the *bona fides* of the police. Can anybody say that that aim was an unworthy one?

Mr. E. L. B. Hurulle (Horowupotana) : What about the I.G.P.?

The Hon. Dahanayake : Is it not necessary under the unique circumstances that have arisen in this country to establish in the public mind confidence in the Police Department, particularly in its activities in regard to the investigation of the assassination case? I think—

Mr. D. B. R. Gunawardena :
But not by a suspect.

The Hon. Dahanayake :—it will have to be admitted that it is very necessary not only that we should see to it that every step that is being taken is strictly impartial and just but also that the public thinks and has reason to think that the Police Department is just and competent in the discharge of its duties. Justice

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must not merely be done but it must also appear to be done.

Mr. D. P. R. Gunawardena : It does not appear at all.

The Hon. Dahanayake : Mr. Deputy-Speaker, it is very necessary not only that the Government should do its very best, not only that Government should strain every nerve to unearth the mystery of the assassination in all its aspects—

Mr. J. C. T. Kotalawela : You will be the first accused then.

The Hon. Dahanayake :—but it is very necessary, Mr. Deputy-Speaker, that the public should have faith and should have reason to have faith in the investigations that are going on. For that reason, one of the aims of this article was to establish the *bona fides* of the police, which had been assailed.

Dr. Perera : By whom ?

The Hon. Dahanayake : In various places.

Dr. Perera : Give us one instance where it was attacked.

1716 **Dr. Colvin R. de Silva :** Could you point to one single reference in a single newspaper ? I will have my turn, but in order that I may honourably have my turn I would call upon the Hon. Prime Minister to state to this House a single newspaper in which, outside a report of Parliamentary proceedings, a single one of these allegations that have been termed rumour has been made at any time. It is no use spinning arguments.

The Hon. Dahanayake : I am very sorry that my good Friend has got angry.

Dr. Colvin R. de Silva : No, Sir.

The Hon. Dahanayake : He will have the time to tear my statements to wee bits if he possibly can.

Dr. Colvin R. de Silva : My Hon. Friend must not make any mistake about it, I am not that kind. But I am indignant.

The Hon. Dahanayake : There were any number of newspaper 10 articles and any number of pamphlets.

Mr. Subasinghe : Produce them.

The Hon. Dahanayake :—that were spread through the length and breadth of this country.

Mr. Karunatillake : Under the Emergency ? Why did you not charge them ?

The Hon. Dahanayake :— in which various allegations had been 20 made against various people. I will not go into details. Suffice it to say that rumours became the order of the day. So much so that it became necessary, as the second aim of this article, to sift fact from rumour, and to state certain plain truths some of which perhaps had no direct bearing on the case.

Mr. D. B. R. Gunawardena : 30 And also to allow a suspect to broadcast on the radio.

The Hon. Dahanayake : Mr. 1717 Deputy-Speaker, I do not propose to go into these facts and rumours at all. All that I wish hon. Members to note is that this particular newspaper article had two aims : one, to remove doubts in the public mind about certain matters directly or 40 indirectly connected with the case ; secondly, to establish the *bona fides* of the police.

Therefore, Mr. Deputy-Speaker, the first line of argumentation, namely that the honour of this House had been assailed is not an argument which I can accept. I would like in this connexion also to ask hon. Members whether an investigation is possible in all its purity and without elements of a dubious nature entering into it if there are no clear statements from the police. I had been told that it is necessary in a case of such magnitude, as the assassination case is, for the police to issue a statement occasionally. I have been told that that is necessary. I have asked the Hon. Minister of Justice to be watchful and whenever he thought that a statement was necessary in the interests of truth and justice or for the benefit of the public, to issue such a statement. That was the intention of the framers of the article.

Dr. Perera : Did more than one person frame the article ?

The Hon. Dahanayake : Generally I mean the one who wrote it and under whose name it appeared, and those who approved of the article

An hon. Member : Including yourself ?

Mr. Keuneman : The person who wrote it and the person under whose name it appeared were different persons ?

The Hon. Dahanayake : One and the same person.

May I take hon. Members to the second line of argument that has been freely used by hon. Members, namely, that this is an article that should not have been assented to by the Hon. Minister of Justice for various reasons ? This vote of no confidence reads :

“That this House censures the Hon. Minister of Justice for permitting Mr. S. G. de Zoysa, D.I.G. (Range II) to make to the Press the statement published in the evening newspapers of 2nd November, 1959”.

I take it that the key words in this Motion are “for permitting”. In fact the hon. Leader of the Opposition did state when he spoke that the key words of the Motion are “for permitting”. The House seeks to blame the Hon. Minister of Justice for granting permission to Mr. S. G. de Zoysa to issue to the press a certain statement.

Before these hon. Members put their signatures to this Motion they should have tried to find out whether it is factually true that the Hon. Minister of Justice granted permission to Mr. S. G. de Zoysa, D.I.G. (Range II) to make to the press the statement published in the evening newspapers of 2nd November, 1959. —[*Interruption*]. I am going very carefully into the arguments used in favour of this Motion. I put this question to the House. Is it factually true that the Hon. Minister of Justice granted permission to Mr. S. G. de Zoysa to make to the press the statement in question ? I seek now to give an answer to this question because on that must depend whether the charge against the Hon. Minister of Justice stands proved or stands unproven. The hon. Leader of the Opposition has rightly put his finger on the Manual of Procedure. If a public officer desires to issue a statement to the press he must follow a certain line of procedure. What he should do, how he should do it, why he should do it, where he should do it—how, why, when and where—all these are found in the Manual of Procedure.

Section 5 of the Manual of Procedure deals with the publication of

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official information in newspapers, books and so on. Sections 271, 273 and 274 to which reference has been made by the hon. Leader of the Opposition are the relevant sections. Let us for a moment examine the provisions of these sections in some detail. The Motion before us is a very serious one. An attempt is being made to pass a vote of no confidence in the Hon. Minister of Justice whose status and position in the Government, as has been correctly described by the hon. Second Member for Ambalangoda - Balapitiya (Mr. P. H. W. de Silva), is very important. In the face of such a serious charge against a Member of the Government, whose status and position in the Government is a very high one indeed, it is necessary to examine very closely the procedure that needs to be followed in the case of a press release and the procedure that was in actual fact followed in this case. Therefore, I beg of the House to grant me a certain indulgence if I go somewhat minutely into it, always keeping in mind that my good Friend must get his fair share of the time allotted for this Debate.

Dr. Colvin R. de Silva : I do not mind. You can take as long as you like.

The Hon. Dahanayake : I do not want to take all the time and deprive him of his right of reply.

Dr. Colvin R. de Silva : I always find a way of replying ?

The Hon. Dahanayake : Let me take hon. Members through the main points in these relevant sections. Section 271 reads as follows :

"Permanent Secretaries to Ministries and Heads of Departments may use their discretion in supplying to the Press infor-

mation regarding Government departmental activities which may be of interest and value to the public. Such information should normally be channelled to the Press through the Information Officer, Permanent Secretaries may, however, issue such information direct if they consider that circumstances make it necessary.

The information should in all cases be confined to facts, statistics, &c., and on no account should any expression of opinion to be proffered.

No information even when confined to statements of fact should be given where its publication may embarrass the Government as a whole or any Government department or officer. In cases of doubt the Minister concerned should be consulted." 1720

This Section 271 mentions three types of officials—Permanent Secretaries to Ministries, Heads of Departments and the Minister. The Permanent Secretary and the Head of Department are, by force of this particular Section, granted certain executive powers. The Permanent Secretary or the Head of Department can use his discretion and send a statement to the press. 30

Mr. Themis : Through the Information Officer.

Dr. Perera : Normally.

The Hon. Dahanayake : Not necessarily. Where does the Minister come in ?

Dr. Perera : Only in case of doubt.

The Hon. Dahanayake : I said that the Permanent Secretary and the Head of the Department are vested with powers to do an executive act. The Permanent Secretary can send up an article to the press. The Head of the Department can send up an article to the press and they can do so without the Minister knowing anything about

it. The Minister may for the first time read the press statement in the press. The Head of the Department can send up a press release on his own. The Permanent Secretary can do so on his own. But in case of doubt the Minister concerned should be consulted. You will see that the Minister is not vested with any executive powers as a result of this Administrative Regulation. The Minister may be consulted in certain cases. My good Friend knows what a vast difference there is between an executive act and what comes about as a result of a consultation. The Head of the Department consults the Minister and a decision is made. The decision will remain as the decision of the Head of the Department or of the Permanent Secretary.

1721 **Mr. D. P. R. Gunawardena :** With the approval of the Minister.

The Hon. Dahanayake : I am using the very words of the Administrative Regulation. I have no objection to even using the words of the hon. Member for Avissawella (Mr. D. P. R. Gunawardena) but let us see the actual position. The executive act is the act of the Head of the Department and not of the Minister. I repeat—the executive act is the act of the Head of the Department and not of the Minister.

Mr. D. P. R. Gunawardena : What did the Head of the Department do in this particular case ?

The Hon. Dahanayake : If this fact is admitted — this fact which I wish to repeat that the act was the act of the Head of the Department and not of the Minister, I ask my hon. Friends whether they are entitled to make against a Minister the various charges that have been made on the Floor of the House ?

Dr. Perera : Is he not responsible ?

The Hon. Dahanayake : The question is asked whether he is not responsible. In a general way—yes. I am responsible ; my Cabinet is responsible ; my whole Government is responsible. All that responsibility rests on us in a general way.

Dr. Colvin R. de Silva : But you do not propose to shoulder it !

The Hon. Dahanayake : But if you are discussing the actions of a particular Minister, is it not fair for us to ask that those actions should be examined and scrutinized in terms of rules and regulations and not in terms of opinions that may be expressed, however well-intentioned those opinions may be ?

Mr. D. P. R. Gunawardena : Did the Head of the Department do this ?

The Hon. Dahanayake : Allow me to go on to the next sections. 1722

Section 273 says :

“ An officer not specially authorised in that behalf, other than those referred to in regulation 271, is forbidden, to allow himself to be interviewed on, or communicate, either directly or indirectly, any information which he may have gained in the course of his official duties to any person (inclusive of the Press) who is not officially entitled to receive such information.”

In other words, an officer not specially authorised other than those referred to in the earlier sections cannot make a statement like this. I do not mind admitting to hon. Members of the Opposition that I have asked whether the Deputy-Inspector-General of Police is reckoned as the Head of a Department.

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Mr. D. P. R. Gunawardena : Certainly not.

The Hon. Dahanayake : I have asked that question myself.

Dr. Colvin R. de Silva : From whom ?

The Hon. Dahanayake : From the proper authority. I have myself put that question. If my good
10 Friends will listen to me, I am myself telling them about a doubt which has crept into my mind.

Dr. Colvin R. de Silva : From whom did he ask ? Who is this proper authority ?

The Hon. Dahanayake : I have put that question to my Permanent Secretary.

Dr. Colvin R. de Silva : What
20 did he tell you ?

The Hon. Dahanayake : I have asked how it came about that, when the Administrative Regulation in question refers to a Permanent Secretary or Head of Department, and another Administrative Regulation
1723 definitely lays down that an officer not specially authorized in that behalf, other than those mentioned in
30 the earlier regulations, cannot make a press release, how did it come about that a Deputy-Inspector-General of Police sent out this press release ? In order to help the officer concerned to give me an answer, I have asked a further question : " Do you say that a Deputy-Inspector-General of Police is equivalent to the Head of a Department ? " I have yet to get answers
40 to those questions which I have put to my Permanent Secretary only today.

Mr. D. P. R. Gunawardena : What was his reply ? Did he answer them ?

The Hon. Dahanayake : If it is found that the explanation is unsatisfactory then it will be necessary to take further action on how it came about that a person who is not authorized to issue a press release under the relevant Administrative Regulations did in actual fact do so.

Mr. D. P. R. Gunawardena : You had 24 days to do that.

An hon. Member : You asked him to do it.

The Hon. Dahanayake : My good Friend says that it has taken me 24 days. I admit that. I say that if it is found that any Administrative Regulation has been contravened by any officer in this or in any other case, and the matter is brought to light in the proper way, I am sure that justice will be done—[*Interruption*].

Dr. Colvin R. de Silva : To whom ?

The Hon. Dahanayake :—and disciplinary action will be taken.

Dr. Colvin R. de Silva : Against whom ?

Mr. D. P. R. Gunawardena : The officer has been compulsorily retired.

The Hon. Dahanayake : May I
1724 remind my good Friend opposite that if it is found that an officer who is not entitled under rules and regulations to issue a statement to the press did so and that it was done with the approval of a higher officer—

Mr. D. P. R. Gunawardena : Or the Minister.

The Hon. Dahanayake :—then that higher officer himself must take the blame for such action.

Mr. Keuneman : What about the Minister ?

The Hon. Dahanayake : Therefore, why should my good Friend the hon. Leader of the Opposition not accept my word for it when I say that if any Administrative Regulation has been contravened justice will certainly be done and disciplinary action will be meted out at the proper time.

Mr. D. P. R. Gunawardena : What is the proper time ?

The Hon. Dahanayake : It was only this morning, as a result of my going into the papers very carefully, preparing myself to answer the arguments of my good Friends on the other side, that I discovered this particular point that I mentioned. I should be given time to pursue that point a bit further. May I read out Section 274 which is as follows :

“ Officers are strictly prohibited from sending any official correspondence for publication in the newspapers without the previous sanction of the Permanent Secretary to the Ministry concerned, to be applied for through the Head of the Department.”

Section 274 is extremely important in an adjudication of the case that has been stated by the hon. Leader of the Opposition. This section is even more important than the other two sections. My good Friend the Leader of the Opposition nods his approval. May I ask whether Section 274 mentions the Minister ?

Dr. Perera : No.

The Hon. Dahanayake : Section 274 does not make any reference to the Minister. It says that an officer should seek the sanction of the Permanent Secretary through the Head

of the Department That is the proper procedure for Mr. Sidney de Zoysa, D. I. G. Range II, to have taken. It is for him to have applied through the Head of the Department for the sanction of the Permanent Secretary to the Ministry of Justice. That was the proper, correct, regular procedure for him to have followed.

Mr. D. P. R. Gunawardena : There is a difference of opinion between the Head of the Department and the Permanent Secretary.

The Hon. Dahanayake : Then, under Section 271, the Minister should be consulted in case of doubt. It has to be noted that the Minister does not come in unless there is a case of doubt ; he comes in only for purposes of consultation. Neither Section 271 nor Section 274 vests any executive powers in the Minister. Therefore, in terms of Administrative Regulations, the Minister of Justice is an absentee in the case that has been stated by the hon. Members of the Opposition. I repeat that, “ in terms of Administrative Regulations,” and how they should be enforced, the Minister of Justice does not enter at all into the facts of this case.

Dr. Perera : How do you reconcile that with the statement made by the Hon. Minister in the Senate ?

The Hon. Dahanayake : I shall be able to reconcile that if the hon. Member will have a little patience.

The Manual of Procedure gives no power to the Minister to sanction such a press release. Did he, in fact, sanction it ? That is the next question. Did the Hon. Minister in fact sanction it ?

I now come to the questions that have been so pertinently asked by

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my good Friend the hon. Second Member for Ambalangoda-Balapatiya (Mr. P. H. W. de Silva). He wanted to know the time and the dates of the various events that took place. The time and the dates will show not merely the sequence of events but also the person or persons on whom direct responsibility can be placed. I am now arguing the case of the Hon. Minister of Justice and I want to show you that in a fair argument, it will have to be conceded that the Minister of Justice was certainly not the principal party in sanctioning the publication of this particular newspaper article.

I will now proceed to give the various times and the events that took place. On Sunday, at about 3 P.M., Mr. Sidney de Zoysa showed the draft of his letter to the I. G. P.

Dr. Perera : Why on a Sunday ?

The Hon. Dahanayake : I am giving the events in their chronological order. I can answer those questions later. The Inspector-General of Police slightly amended the draft and gave it back to the D. I. G., C. I. D., Mr. Sidney de Zoysa.

Dr. Perera : On that date itself ?

The Hon. Dahanayake : Yes. On Monday morning, at about 8 A.M., Mr. Sidney de Zoysa saw the Hon. Minister of Justice in the latter's bungalow. It is not true that Mr. L. I. de Silva, Superintendent of Police, was present.

Mr. P. H. W. de Silva : I never stated that Mr. L. I. de Silva was present. The Hon. Prime Minister can read my speech.

Dr. Perera : That is only a side issue.

The Hon. Dahanayake : I apologize to my good Friend. I had jotted that down somewhere ; I did not actually say the hon. Member said it. On Monday morning, at about 8 A.M. the D. I. G. saw the Minister of Justice and the Minister said that he had no objection to the letter because he said Mr. Sidney de Zoysa was trying to vindicate his¹⁰ honour. Soon after that Mr. Sidney de Zoysa left to see the Permanent Secretary.

Dr. Perera : After seeing the Minister ?

The Hon. Dahanayake : Yes.

Mr. D. P. R. Gunawardena : Wrong procedure.

The Hon. Dahanayake : That was at about 9 A.M. Then, having²⁰ obtained the permission of the Permanent Secretary—

7 P.M.

Mr. Deputy-Speaker : Order, please ! Mr. Speaker will now take the Chair.

Whereupon MR. DEPUTY-SPEAKER left the Chair and MR. SPEAKER took the Chair.

The Hon. Dahanayake : At³⁰ about 11 A.M., or somewhere about noon, Mr. Sidney de Zoysa telephoned to the I. G. P. who, at that time, was at Katukurunda.

Dr. Colvin R. de Silva : May I interrupt ? Did he see the Permanent Secretary ?

The Hon. Dahanayake : Yes.

Dr. Colvin R. de Silva : At what time ?

The Hon. Dahanayake : At about 9 A.M.

Dr. Colvin R. de Silva : And what happened with the Permanent Secretary?

1728 **The Hon. Dahanayake :** The Permanent Secretary approved. Thereafter, Mr. de Zoysa telephoned to the I. G. P. who was at Katukurunda. He informed the I. G. P. that the whole article had been approved, and the I. G. P. assented. Thereafter, the article in question was sent to the press.

Mr. P. H. W. de Silva : I am sorry to interrupt the Hon. Prime Minister. Is it correct that the approval is not endorsed on the document, because it was by 20 telephone?

The Hon. Dahanayake : Yes, the final approval was by telephone.

Dr. Colvin R. de Silva : So, it was not endorsed on the document?

The Hon. Dahanayake : Probably not. The I. G. P. was at Katukurunda. That is the sequence of events. In this sequence of events, you will notice, Mr. Speaker, 30 that the writer of this article had obtained the approval of the Permanent Secretary through the Head of Department.

Mr. P. H. W. de Silva : No, no; the Hon. Minister's approval first.

The Hon. Dahanayake : Yes. I am now trying to analyze the part played by the Hon. Minister of Justice against whom the Motion of no 40 confidence has been moved. You will see, Mr. Speaker, that there were really four steps in the publication of this particular newspaper

article, and that the Hon. Minister figures in this whole incident merely as one who expressed his opinion.

Dr. Perera : Merely expressed his opinion?

The Hon. Dahanayake : Yes. My good Friend says that the Hon. Minister approved. Let us have it in the way my hon. Friend wants it, namely, that the Hon. Minister approved.

Mr. D. P. R. Gunawardena : 1729 Were the observations of the Permanent Secretary on the document that the Hon. Minister approved?

The Hon. Dahanayake : That is not relevant. First of all, the I. G. P. looked into the document. Mr. de Zoysa took it to the Hon. Minister; then he took it to the Permanent Secretary. Then, again, he got the approval of the Head of Department.

I say that the requirement of the relevant Administrative Regulation had been satisfied in that the sanction of the Permanent Secretary had been applied for through the Head of Department; and technically, the Head of Department had granted the approval.

Mr. P. H. W. de Silva : I am sorry to interrupt, but this is very important. The Hon. Prime Minister stated that the I. G. P., when the document was submitted to him, suggested certain alterations.

The Hon. Dahanayake : He amended it.

Mr. P. H. W. de Silva : Are those amendments recorded? Secondly, the Hon. Prime Minister stated that, from the I. G. P., Mr. Sidney de Zoysa took it to the Hon. Minister;

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He used the words, " He approved of the whole article." What is the significance of the statement that, although the I. G. P. had suggested certain alterations, the Hon. Minister approved the whole article ?

The Hon. Dahanayake : As amended.

Mr. P. H. W. de Silva : Are the amendments recorded ?

The Hon. Dahanayake : Yes.

1730

The facts of the case are as related and as the hon. Second Member for Ambalangoda-Balapitiya (Mr. P. H. W. de Silva) just now stated. I am now trying to seek an inference from what happened. The approval was granted by the Head of the Department, in terms of the relevant Administrative Regulation, after the prior sanction of the Permanent Secretary. I maintain that the Hon. Minister figured in this merely in a consultative capacity and that there was no executive action by him ; nor was an executive action by the Hon. Minister permissible under the relevant Administrative Regulation. In other words, the Hon. Minister could not have granted permission. I repeat, he could not have granted permission. And the Hon. Minister did not grant the necessary permission.

That is my case against that put forward by the hon. Leader of the Opposition.

Dr. Perera : That he did not grant permission ?

Mr. D. P. R. Gunawardena : You have made a mess of it ; there is no case.

The Hon. Dahanayake : I read out the Motion moved by the hon.

Leader of the Opposition, and I said that it is not factually correct that the Hon. Minister of Justice did give permission to Mr. S. G. de Zoysa, D. I. G., (Range II) to send a certain article to the newspapers for publication.

Dr. Perera : Then the Hon. Minister of Justice is a liar ?

The Hon. Dahanayake : The 10 Hon. Minister of Justice does accept responsibility.

Dr. Perera : Why should he ?

The Hon. Dahanayake : And I and all the Members of the Cabinet accept responsibility. But that is not the same thing as saying that the Hon. Minister of Justice did grant permission for the publication of a certain article in the news-20 papers. He could not have done so. He could not have done so under the law. Nor could anybody have asked him to do so. Nor indeed, if he did so, would it have been a valid action. Whatever he may have done 1731 could not have been valid. The approval of the Head of the Department would have been the only proper course of action in this case. 30

I have pointed out precisely what had taken place. Now I can quite realize that hon. Members of the Opposition who did not go so carefully into the details of the case have built up a case on a series of false presumptions and as a result of those false presumptions even certain very serious charges have been made against the Hon. Minister of Justice 40 and against the Government. The hon. First Member for Colombo Central (Mr. Keuneman) said in effect— I have taken down his words ; if I have made a mistake he will please correct me—" the Police Department has

been entrusted to the Minister of Justice on the basis of political expediency." Did he say that? [Pause]. I must certainly say that there is no doubt in my mind.

Mr. Keuneman : Will you allow me to explain? What I meant was that the proper Ministers who should have been assigned the Police Department namely, the Prime Minister and the Minister of Home Affairs, refused to take charge of this department and no other Minister was prepared to take charge. On the basis of political expediency, therefore it was thrown on the Minister of Justice.

The Hon. Dahanayake : My good Friend, in trying to make an explanation, made his position still worse. He says that because two Ministers refused, he calls the offer to the next Minister "political expediency" That is, if something is offered to two of the Ministers and they refuse and it is offered to a third, then that is political expediency, according to him.

Mr. Keuneman : Why did you refuse?

The Hon. Dahanayake : What took place was political inevitability. That was not expediency.

1732 Dr. Colvin R. de Silva : Greater honesty!

The Hon. Dahanayake : My hon. Friend calls that expediency. To call that expediency is to challenge straightway the *bona fides* of the Government.

Dr. Colvin R. de Silva : We do.

Mr. J. C. T. Kotalawela : We have always done that.

The Hon. Dahanayake : Let us see exactly what had happened. On the 24th September when the late Prime Minister assigned the various departments to the different Ministers he had a Cabinet meeting. On that morning of Thursday he assigned the Police Department to the Hon. Valentine Jayawickrama.

Mr. D. P. R. Gunawardena : That was the arrangement.

Dr. Perera : The papers reported that you refused, and that was not denied.

The Hon. Dahanayake : When the Prime Minister died on the 26th September the Hon. Minister of Justice was sworn in with the same functions as before. Now that is called political expediency by my good Friend the hon. First Member for Colombo Central.

What are the things that constitute political expediency? Was the Hon. Minister of Justice a member of the political party to which the rest of the Members of the Cabinet belonged? Was he an artificial creature of the party in power? Did either the late Prime Minister, or the new Prime Minister attempt to place this very important department, the Police Department, in the hands of a hide bound politician?

Mr. D. P. R. Gunawardena : You are hide bound.

The Hon. Dahanayake : The fact that the Police Department was offered to the Minister of Justice who had not been a member of the political party to which the majority of the Members of the Cabinet belonged, the fact that this portfolio was offered without any canvassing or lobbying, on the circumstances that had arisen on the 26th September, show that it

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was not political expediency but political honesty of the highest order.

Mr. J. C. T. Kotalawela :
Question !

The Hon. Dahanayake : Very well. That is my point of view in answer to the point of view that the hon. First Member for Colombo Central has raised.

He also made a very serious charge, perhaps the most serious charge that fell from the lips of any one of the speakers and I believe that same charge was repeated by more or less most of the speakers. He said that the newspaper article in question gravely prejudiced the assassination case.

I am no judge of this matter and I do not ask my good Friend to be a judge of whether something has prejudiced the case or something else has not prejudiced the case. I do not think that I am sufficiently competent to sit in judgement on that matter. Nor will I give to my hon. Friends on the other side the credit for competence to say whether something is or is not prejudicial to the case that is being heard. We are content to leave the matter entirely in the hands of the judicial department in which we have, and the hon. Members of the Opposition have, and the whole country has, the fullest and the most implicit confidence and trust. So if my good Friend says that something has gravely prejudiced the case I refuse to listen to that argument. I refuse to canvass that question. I refuse even to answer him on a point of that nature.

He told us that some explanation is needed in regard to what action has been taken about Mr. Sidney de Zoysa. All that has been done about Mr. Sidney de Zoysa is to recommend

to the Hon. Minister of Justice that he should act as he properly can. Those are the words of the Motion that was passed by the Government Parliamentary party—"as he properly can". The Government Parliamentary party recommended to the Minister to take action "as he properly can" against the officer concerned. The Government Parliamentary party did not seek to dictate to the Minister how he should act. 1784

Then, Sir, my good Friend also said that a special favour had been done to Mr. Sidney de Zoysa. Why, asked the hon. Member for Kotte, did Mr. Sidney de Zoysa take it upon himself to answer on behalf of the entire police department? The answer to that may be found in the various things that have been said against Mr. Sidney de Zoysa. Things had been said against various members of the police and among them Mr. Sidney de Zoysa figured prominently. So, therefore, as it is quite natural for any public officer to do, he sought to vindicate both his honour as well as the honour and integrity of the entire department. 20

I think I should also refer to the statement that was made by the Hon. Minister of Justice in the other Place on this question. My good Friends on the other side interrupted me several times and asked me what he said in the other Place? I am prepared to read out to the hon. Members of this House the entirety of the speech that was made by the Hon. Minister of Justice without omitting a single word. 40

This is what the Hon. Minister of Justice said. I read from column 409 of the Official Report of the Senate of 3rd November, 1959 :

“Mr. Sidney de Zoysa is an officer under my Ministry. He complained that his honour was at stake in some way or another. He found that there had been some paper publications. He wanted to make a statement to the Press, and according to the regulations by which he is governed he has to get the permission of the Inspector-General of Police before writing to the Press. He has also to get the approval of the Minister of Justice. When he brought this thing to me, as it was a personal matter so far as he was concerned, I said, I had no objection to his sending it to the newspapers. It is a personal matter and he is trying to vindicate his honour. Some time earlier, he complained that he was defamed by a Cabinet Minister. Then the late Prime Minister, under the same regulations, gave him permission to sue that Cabinet Minister for defamation. The Attorney-General sanctioned criminal proceedings. Mr. de Zoysa was trying to vindicate his honour. I felt that to refuse his application would be unjust. It was only a matter, from the point of view of the Government, of allowing or disallowing him to vindicate his honour. So, on that basis, I said that I had no objection. In the statement he gives the rumours and the facts. He has been accused of doing so many things and he merely made a statement that he did not do them.”

Now, this statement defends the Hon. Minister of Justice more eloquently than all the words I can use to defend him. He says that when this matter was brought up to him his intention was to see that a public officer who had been assailed should be given the opportunity of defending himself and his honour.

The Hon. Minister says that he had to get the permission of the Inspector-General of Police before writing to the press; those are his words. The words used are, “he has to get the permission of the Inspector-General of Police before writing to the press.” In the very next sentence the Hon. Minister erred against himself when he said, “he has also to get the approval of the Minister of

Justice.” From a close study of the relevant Administrative Regulation I find that the approval of the Minister of Justice was not necessary at all. You will, therefore, see from this statement that, far from doing any injustice to anybody, the Hon. Minister has, if at all, done an injustice to himself and to nobody else.

You will also see from this statement what the intention of the Hon. Minister of Justice was. That intention of his is repeated twice or thrice in his speech. The first time was when he said, “he complained that his honour was at stake in some way or another,” so he wanted to make a statement to the press. Then the Hon. Minister says, “I said, I had no objection to his sending it to the newspapers. It is a personal matter and he is trying to vindicate his honour.” Then again he says, “I felt that to refuse his application would be unjust.”

Now, my good Friend the hon. Member for Wellawatte-Galkissa (Dr. Colvin R. de Silva) will readily admit that in judging a case the intentions, may I say, of an accused should also be carefully considered. Can you, therefore, say from the words used by the Hon. Minister of Justice that he had any intention either to hurt the dignity of this House or to do anything unjust or to do something irregular or to make matters more difficult for anybody? I say that it is plain to anybody that the Hon. Minister of Justice has done everything that was in his power to see that justice was meted out to one and all, including public officers.

This brings me to a personal note about the Hon. Minister of Justice. Very harsh things have been said

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against him that I find it is necessary for me to say that, when this matter was brought up before the Government Parliamentary group meeting, the Hon. Minister of Justice offered to tender his resignation not once but on several occasions. He offered to do so last Tuesday and he repeated his offer yesterday. Mr. Speaker, it is not true, not true in the least to say that he admitted that he had done something wrong and that, therefore, he offered to submit his resignation. It was not a case in which any guilt was admitted but it was a case in which the Hon. Minister of Justice, with the highest sense of rectitude, offered to submit his resignation if his Colleagues thought that his actions had been wrong in any way or if his actions had placed the Government in an embarrassing position.

1737 I might say that the entire Cabinet to a man said, " We do not wish him to submit his resignation. We do not think that his action which has formed the subject matter of a vote of no-confidence is such a serious matter as to warrant his resignation." May I say that, in the very difficult tasks he has had from the 25th of September of being the Minister of Justice with the police department under him, he has discharged his duties with such efficiency—

Mr. J. C. T. Kotalawela : Non-sense !

The Hon. Dahanayake :—and with such rare ability that—

Mr. J. C. T. Kotalawela : Question !

The Hon. Dahanayake :— it would be a tragedy of the first water if at this stage he had to give up his portfolio.

Mr. J. C. T. Kotalawela : He has been stupid.

The Hon. Dahanayake : It is not easy, Mr. Speaker, to find good men to be Ministers of Justice. My good Friend, the Member for Ambalangoda-Balapitiya, has stressed correctly the important place that the Minister of Justice has in the constitution, and that is why we are very keen that a person of acknowledged ability, of the highest competence, a person against whom there cannot even be a breath of suspicion should be our Minister of Justice in these very critical moments of our history.

The record of the Hon. Minister of Justice is well known to my Friend, the Member for Wellawatte-20 Galkissa.

Mr. J. C. T. Kotalawela : Send him to the home for the aged.

The Hon. Dahanayake : He has been for 25 years a member of the judiciary holding high posts in the Courts as Magistrate of various important towns and as District Judge of Colombo and Kandy. He was Commissioner of Assize before he retired.

Mr. J. C. T. Kotalawela : Is this a funeral oration ?

The Hon. Dahanayake : He had taken part in various commissions and his competence, efficiency and integrity have never been questioned. 1738 On this particular occasion, Mr. Speaker, it is sad to reflect on the fact that the hon. Members of the 40 Opposition have cast aspersions on him.

I must say frankly that it is one thing to bring forward such a Motion as this and to allow hon. Members of

this House and the public to judge on the merits and demerits of the case, but it is something else to cast aspersions on the hon. Member who happens to be the Minister of Justice. I assure you, Mr. Speaker, that if the Cabinet thinks that anything has happened which warrants that any particular person should not remain
 10 a Member of the Cabinet, steps will be taken to see that he is not a Member of the Cabinet any longer. But in this particular case, I must frankly say that no case whatsoever has been made against the Minister of Justice.

Mr. Speaker : The hon. Appointed Member.

Dr. Colvin R. de Silva : Am I being deprived of my time? Or are
 20 the arrangements of the Debate subject to sudden change at the wish of the Appointed Members?

Mr. Speaker : No.

Sir Razik Fareed (Second Colombo Central) : I would also like to speak a few words.

Dr. Colvin R. de Silva : The hon. Member for Matale (Mr. Karunatileke) immediately gave way as
 30 soon he was requested. If any Members there opposite wished to speak they had a right to Government time. I was promised 1½ hours; I have now got 57 minutes.

7-33 P.M.

Colonel O. B. Forbes (Appointed Member) : I wish to make a statement on behalf of my Colleague (Mr. Singleton Salmon) and myself.
 40 I would not like my remarks to be interpreted as meaning that we are in agreement with the Government on all the things that it has done in the past two months, but we are opposing this Motion simply and solely for

the reason that we do not consider the present time, conditions and circumstances suitable for a General Election. We, as Appointed Members, do not feel that we can be, in any way, responsible for plunging the country into the chaos of a General Election at the present time.

Mr. J. C. T. Kotalawela : Don't talk nonsense. If you have any decency, abstain from voting.

Sir Razik Fareed : I am an independent Member. I must explain my position.

Mr. Speaker : I am very sorry, I cannot allow the hon. Member to speak now.

Sir Razik Fareed : You are undemocratic. I will vote against the Motion.

Dr. Colvin R. de Silva : You can do as you wish. We cannot help.

Mr. Iriyagolla : Do not be emotional.

7-35 P.M.

Dr. Colvin R. de Silva : Before I begin, I wish to have the ground cleared on one matter. You and the Hon. Deputy-Speaker who were occupying the Chair permitted the Hon. Prime Minister to issue to me a challenge to prove that a statement which was published from Mr. Sidney de Zoysa in any way refers to any matter that was discussed in Parliament. I can answer that main argument of the Prime Minister only by taking certain of the contents of that statement and showing that each one of those statements is taken directly from the words of the hon. Leader of the Opposition—I shall leave all others aside, otherwise I will have to take for instance, the

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words of the hon Member for Avisawella. I wish to know in advance whether I am expected to argue and to rejoin to the Prime Minister with both my hands tied behind my back or with the freedom to give blow for blow. I wish to have a Ruling.

The Hon. Dahanayake : All that I said was—

Dr. Colvin R. de Silva : You are now to blame. The damage has been done. Am I going to get that right or am I not? I want to know that. The Appointed Members have got rights. The hon. Second Member for Colombo (Sir Razik Fareed) has no rights. Very well, have I the right to reply or have I not? I want to know that.

The Hon. Dahanayake : All that I said was that there is no direct reference to any Debate in this House.

Dr. Colvin R. de Silva : That is what I am going to prove and I cannot prove it without reading parts of the statement. Am I going to be allowed to do that or not?

Mr. Speaker : You cannot read it.

Dr. Colvin R. de Silva : Well, I will have to break your Ruling and reply. I am telling you in advance. I am not going to allow the Opposition to be deprived by the Chair of its rights in order that the Prime Minister may get away with his utterly false argument. I have to say it. You can throw me out of the House but I will not give way. I assure you of that in advance. You can exercise your discretion.

I have in this honourable House listened to many a speech from many a Prime Minister in his time. I have

in other places more than once listened to much advocacy to many an imposture. But I have got to tell the Hon. Prime Minister that I have never heard such utterly weak advocacy for so major an imposture in my life. Every answer to my Hon. Friend can be given out of the mouths of his Colleagues without any argument of mine, out of the mouths of 10 the men whom he defends without any argument of mine. But I want to start with the matter with which he ended. For one whole hour, taking us through the arid Public Service Regulations in this country, he has sought to put forward an argument which I will admit is not only 1741 astonishing in its simplicity but is astounding in a Prime Minister. His 20 argument has been simply this. The Hon. the Minister of Justice, under the Public Service Regulations, had no right to give permission. Therefore, if he gave permission he did not give permission. It is like saying that because an accused has not the right in law to murder; therefore, if he did murder, why, he did not murder because he did not have the 30 right to murder! I think we should not be treated even by an evanescent Prime Minister of a passing day to that type of asininity in argument. I am sorry, but I have got to use that language.

He says that the whole Cabinet takes responsibility for the statement of Mr. Sidney de Zoysa. On a previous occasion in this honourable 40 place when the no-confidence Motion was being debated I put a simple question to my Hon. Friend the Prime Minister and showed to him and the world that he did not know what his Ministers were doing. Here is the "Ceylon Observer" of Thursday evening, November 26, 1959. Here is what is said on the front page :

“Anti-Dissolution Memorandum of Government M. Ps.—No responsibility for Sidney’s statement. 25 of the 43 elected Government Members of Parliament last night handed a Memorandum to the Governor-General and the Prime Minister, Mr. W. Dahanayake, dissociating themselves from the Fact and Rumours statement of Mr. Sidney de Zoysa and asking that they consider very carefully the present situation before a decision was taken to dissolve Parliament.”

Presumably the Hon. Prime Minister never reads the documents that are handed over to him by his own Colleagues. Otherwise he would never have had the hardihood to say that what his Colleagues repudiate through his mouth they accept.

1742 But these are secondary points. The first argument of the Hon. Prime Minister was as follows, and in doing so he nailed his colours to the mast. He said that if anyone of those who follow him was able to show that any of the statements made by Mr. Sidney de Zoysa were directed towards any statement made in Parliament, he would accept that and everyone should vote for this Motion of censure on the Minister—[*Interruption*]. He can get up and eat his own words if he wants to.

The Hon. Dahanayake : That is not how I said it.

Dr. Colvin R. de Silva : I agree. I know that he could not have said it with the felicity of my language.

Now, I propose to take up eight separate points in Mr. Sidney de Zoysa’s statement each of which is taken directly, almost in the very words and language, from the speech of the hon. Leader of the Opposition made in this House during the Debate on the no-confidence Motion. Sir, I take only eight points because I have not the time to deal with the lot. The very first statement he

makes in his document is the following :

“Rumour—Police wanted to arrest Rev. Buddharakkita earlier but were not allowed to do so.”

Now, Sir—[*Interruption*].

The Hon. C. P. de Silva (Minister of Agriculture and Lands and Leader of the House) : I rise to a point of Order.

Dr. Colvin R. de Silva : You can raise as many as you want.

Mr. Speaker : Order, please ! Will the hon. Member sit down ?

Dr. Colvin R. de Silva : I am prepared to sit down.

The Hon. C. P. de Silva : I rise to a point of Order. Reference is being made to a matter which is before the courts—[*Interruption*].

Dr. Colvin R. de Silva : In the first place he cannot raise a point of Order from where he sits—[*Interruption*].

The Hon. C. P. de Silva : He is referring to a case— 1743

An hon. Member : Do not talk nonsense.

Mr. Speaker : Order ! The hon. Member must not refer to any matter before the courts.

Dr. Colvin R. de Silva : Do not worry. I think you will appreciate that I know my rights and that I know the rules of this House no less than the occupant of the Chair.

Now, I will give you, not one reference from the no-confidence Debate but I will give you four to

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show you that Mr. Sidney de Zoysa's statement is taken directly from the speech of the hon. Leader of the Opposition. I have been working rapidly, giving my two ears to the Hon. Prime Minister, my two eyes to a book and my hand to a scrap of paper—I have learnt to work in this way in the courts. I refer precisely to column 972 of the HANSARD of 30th October, 1959. Here are two passages. I will read them to you. Before doing that I will refresh your mind with the "Rumour" as mentioned by Mr. Sidney de Zoysa :

"The police wanted to arrest Rev. Buddharakkita earlier but were not allowed to do so."

This has nothing to with the case. Here are the words of my hon. Friend, the Leader of the Opposition—he was referring to the police :

"In fact they told me that for a number of days they have been waiting to arrest Rev. Buddharakkita but that they were not allowed to do so."—[OFFICIAL REPORT, 30th October, 1959. Vol. 37, c. 970].

Does the Hon. Prime Minister now say that that rumour came out of that man's brain? Take another remark made by my hon. Friend the Leader of the Opposition :

"And it is not surprising that it was difficult to get Rev. Buddharakkita arrested. Every possible obstacle was being placed in the way."—[OFFICIAL REPORT, 30th October, 1959. Vol. 37, c. 970].

1744 In Column 971 you have these remarks by my hon. Friend :

"But are we then surprised that there were obstacles placed in the way of action being taken against Rev. Buddharakkita?"—[OFFICIAL REPORT, 30th October, 1959; Vol. 37, c. 971].

Then in column 972 we have these words :

"I say this; every effort was made to prevent the arrest of Rev. Buddharakkita and every effort was made in that Cabinet to prevent the removal of Mrs. Vimala Wijewardene from that Cabinet."—[OFFICIAL REPORT, 30th October, 1959; Vol. 37, c. 972].

I now come to the second rumour as appearing in Mr. Sidney de Zoysa's statement :

10

"The arrest of Mrs. Vimala Wijewardene and Ossie Corea were considered necessary by the Police but they were obstructed."

Here are the very words of the hon. Leader of the Opposition. Those over there having no honour, including the Appointed Members, I will now prove those to be the source of the greatest corruption in this country. If they have any decency they will accept this point and vote with us. But no, you are sold already!—*[Interruption.]* You can accept it—*[Interruption.]* You cannot accept the evidence in their eyes or brain, which they lack—

The Hon. M. P. de Zoysa (Minister of Labour): We have the brains :

30

An hon. Member: Where is your brain?

Mr. Speaker: Order, please!

Dr. Colvin R. de Silva: You are like the pipe that the hon. Member for Maturata (Mr. Banda) smokes. You will find that it has the figure of a head that is empty at the top.

I was drawing attention to the second rumour in that statement. Here are the words of the hon. Leader of the Opposition found in column 973 :

"The arrest of Mrs. Wijewardene had been demanded by the police even when she was a Cabinet Minister. Still it has not been done. Still it has not been done

1745

—why? . . . Several high police officers were expecting her to be arrested at any moment; and yet nothing has happened; up to date nothing had happened.”— [OFFICIAL REPORT, 30th October, 1959; Vol. 37, c. 973].

There is a reference on this second point in column 979—about Ossie Corea. Here is another reference in 10 column 982. At column 982 the hon. Leader of the Opposition says :

“It was well known that if Ossie Corea was arrested a Minister could not hold his post in the Cabinet. Therefore, Ossie Corea was not arrested. That is what happened.”

I will take the third point :

“Rumour—The revolver used in the murder has been removed and another 20 substituted.”

Look at column 988 which of course Mr. Sidney de Zoysa never read in his hurry on Sunday morning. My good Friend here says :

“My fear is that even Somarama Thero will escape; there are rumours that the pistol has been changed.”

And still you say he did not get it from the speech, and of course the 30 hon. Appointed Member who represents the rottenest interests is afraid that the country will be plunged in chaos if they do not vote against this censure Motion. Of course, sometimes we are lucky not to have the company of that kind of rottenness.

Here is the fourth point. Will the Hon. Prime Minister now vote with 40 us? No, Sir, that was only empty rhetoric.

“Rumour—Mr. D. C. T. Pate, D. I. G., C. I. D. and Mr. S. K. Iyer, A. S. P., C. I. D., are under the influence of Mr. S. G. de Zoysa and will do his bidding.”

Will you look at column 988 in regard to that fourth point. Here is

what is said by my hon. Friend whose speech was of course not even in the contemplation of Mr. Sidney de Zoysa when he scurried to the Hon. Minister of Justice to obtain permission that was unnecessary :

“This investigation has been in the hands of Mr. D. C. T. Pate, D. I. G., C. I. D. With all respect to Mr. Pate, I do not rate him very high. That is the least I can say about him.

Associated with him is Mr. S. K. Iyer, Now, Iyer's connections with another D. I. G. are fairly well known in the police and it is also known that Mr. Pate is but a tool in the hands of Mr. Sidney de Zoysa. Everybody knows that in the police force. Everybody knows that Mr. Pate is really controlled by Mr. Sidney de Zoysa.”

There is the rumour he is referring to and you say these were not taken out of this speech. Go and tell that to the marines or to your friends the Appointed Members! They are on a par.

Then I come to the fifth point. Here is the rumour :

“When Ossie Corea's name was mentioned by Newton Perera, Mr. D. C. T. Pate consulted the Prime Minister and the Governor-General on this matter because the arrest of Ossie Corea would have had political repercussions.”

Where did Mr. Sidney de Zoysa get this rumour from? Why, he got it from column 984, from my own Friend's speech, which says :

“At that stage Ossie Corea was arrested. What happened? What is much more important is this. As soon as he was arrested, D. I. G. Pate made a beeline to the Hon. Dahanayake, the Hon. Prime Minister, and then to His Excellency the Governor-General.”

What is the rumour? That when Ossie Corea's name was mentioned, Mr. D. C. T. Pate consulted the Hon.

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Prime Minister and the Governor-General. Of course, Mr. Sidney de Zoysa did not read this speech. His intention was otherwise. A little less pleading and a little more honesty of argument would sit well on a Prime Minister, even a Prime Minister who has been pushed into office by the consequences of the most notorious assassination that has been committed in this country.

1747 **Hon. Members :** Shame ! Get out !

Mr. Speaker : Order, please !

Dr. Colvin R. de Silva : I now come to the sixth point. Here is the rumour :

" Mr. B. W. Perera and Mr. Rajasooriya, two independent officers who could not be influenced complained against interference by S. G. de Zoysa and Mr. B. W. Perera suggested that Mr. C. C. Dissanayake, D. I. G. (Range I), take over the case."

Look at column 988. Excuse me if I read a slightly longer extract in relation to this slightly wronger rumour :

" There were two other officers attached to this investigation, Mr. Rajasooriya and Mr. B. W. Perera, They were quite independent officers. Officers in whom you could place some trust ; people who are not amenable to influence or any type of corruption. Mr. B. W. Perera has more than once complained of interference by Mr. Sidney de Zoysa, interference in the sense of not allowing him to do the work he wants to do.

In point of fact, he made a suggestion at a certain stage that to counteract the influence of Mr. Sidney de Zoysa, Mr. C. C. Dissanayake should be brought in. Before that could be effected, Mr. B. W. Perera has now been removed. He is no longer there, no longer in charge of this investigation. Mr. B. W. Perera has gone."

I come to point seven. Here is the rumour :

" There was more evidence against Ossie Corea than against Newton Perera."

Look at column 984 and see whether you can conclude that Mr. Sidney de Zoysa echoed the hon. Leader of the Opposition, by reason of one of those hearing accidents from which Police Officers sometimes suffer. Here are the hon. Leader of the Opposition's own 10 words :

" In point of fact the police information is that there is more evidence against Ossie Corea than against Newton Perera."

The only difference is that " is " has become " was ". The Hon. Prime Minister says that the Deputy-Inspector-General had no intention of replying to this House. And the Hon. Minister of Justice—why, 20 he also had no intention to refer to this House. I shall soon refer to something with regard to the honour of the Hon. Minister of Justice and I shall place before this House and read a document which will be conclusive in the matter. 1748

I shall finally take the eighth and the last rumour because I have to get on to other things : 30

" Mr. S. G. de Zoysa is trying to make out that this is a leftist plot."

Not even in the understanding of the misunderstanding Minister of Labour could this be brushed aside as not being from the speech of the hon. Leader of the Opposition. Here are the words :

" You are pushing out Mr. B. W. Perera and letting the investigation lie in the hands 40 of Mr. Sidney de Zoysa because his theory is that the leftists have done this. He told me so himself." [OFFICIAL REPORT, 30th October, 1959 ; Vol. 37, c. 987.]

If the Hon. Prime Minister was honourable in his challenge he will be the first to say " Aye " to our

Motion of censure but then we are accustomed to dishonourable challenges from this Front Bench.

I now come to another aspect of this matter. I have proved, to use a legal expression, beyond all manner of doubt, that Mr. Sidney de Zoysa was replying specifically to the hon. Leader of the Opposition and intending to reply to him and I say that only scoundrels would deliberately argue that it was otherwise—
[*Interruption*]

Mr. Speaker : Business is now interrupted.

The Hon. C. P. de Silva : I move “That we continue this Debate till 8-30 P.M.”

Mr. Speaker : Do hon. Members agree ?

Hon. Members : Aye !

Sir Razik Fareed : It is most unfair by some of us.

Dr. Colvin R. de Silva : I have not stood in the hon. Member's way.

1749 **Sir Razik Fareed :** You have ! You are taking all the time.

Dr. Colvin R. de Silva : If you want to vote with the Government you may do so instead of giving false reasons.

Sir Razik Fareed : What does he say ? Bloody fool !

Dr. Colvin R. de Silva : I have no time to waste on a man who wants to explain his dishonest intentions by dishonest interruptions.

Mr. Speaker : If hon. Members are not going to keep Order I shall adjourn the House.

Dr. Colvin R. de Silva : I do not mind Sir ! We will keep Order, but we do not mind the Government escaping by your Ruling either.

Mr. Speaker, I now turn to another aspect of things. Does the Hon. Prime Minister now dare to argue that, when Mr. Sidney de Zoysa referred to subversive elements, rumour mongers, political adventurers and other doubtful characters, he was referring to no others than hon. Members of this House ? Obviously he cannot believe it ! He will continue to pretend not to believe it. But I say this. For my part I do not mind being called by Mr. Sidney de Zoysa or his patrons these names ; subversive element, political adventurer, doubtful character. I must admit my character has always been doubtful, for, in the courts if you want to put a man's character in issue, the first question you ask is, “Is it a fact that you have never been convicted in a court of law ?” I must at once confess that I have been convicted because I once rode a bicycle without a light. As for being a subversive element, my life's task has been to subvert and overthrow both the capitalism and the imperialism that this Government has to back it there. With regard to political adventure, yes, I have engaged all my life in the high political adventure of smoking out rogues from high places and hounding them till they are driven out ; and in this case too, this Government will note that such characters will yet be driven out by the people of this country under our leadership and ours alone. I speak for the Opposition alone. But, of course, these are the terms that were intended to insult us. We are accustomed to swallowing insults. But we had, in the final part of the Hon. Prime Minister's argument, a tremendous character certificate given to the

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Minister of Justice. Now, Sir, there is none who knows the Hon. Minister of Justice so well as Mr. Sidney de Zoysa himself whose honourable intentions the Hon. Prime Minister has defended in this House, while, under the pressure of his Government party he has kicked the poor fellow out. I have with me a copy of the letter Mr. Sidney de Zoysa sent to the Public Service Commission this morning and I wish to read it to hon. Members of the House in order to show them what a dishonourable manoeuvre is being engaged in by the entire Government party in relation to Mr. Valentine Jayawickrema, the Minister of Justice. Mr. Sidney de Zoysa addressing the Public Service Commission has said as follows :

"The urgent press of certain events upon me compel me to address you. First, to seek your guidance. Second, to place on record in the protection of my interest and in defence of myself that for reasons completely extraneous to the requirements of the administration of the Police Department and entirely unconnected with my efficiency as a police officer and a public servant it is apparently proposed by the Hon. the Minister of Justice to retire me compulsorily from the Police Department"

"It is my sincere belief that I am entitled as a public servant to address you in anticipation of an attempt to victimize me and to oppress me with a measure that does not fall short of injustice"

Your friend's estimate of yourselves !

"My understanding of the functions of the Public Service Commission in the light of the Constitution is that a public servant can look to no other constituted authority for protection or for guidance in the circumstances in which I am now, other than the Public Service Commission"

1751 An hon. Appointed Member here, who is representing the Burgher community, is one of them. He had been a distinguished public servant

in his time. It is a pity that, with his entry into Parliament, the conscience he developed as a public servant seems to be stilled. For he should listen to the rest of the letter and vote with us if he has a conscience left.

"On 24.11.59"

Note the date !

" . . . the Hon. Mr. Valentine Jayawickrema, the Minister of Justice, at an interview to which I was summoned by him requested me to go on leave as an alternative to be retired"

Listen to the next phrase :

" . . . to save him personal embarrassment from the vote of No Confidence in him scheduled to be moved in the House of Representatives on 27-11-59"

Several hon. Members : Shame ! 20
Shame !

Dr. Colvin R. de Silva : That is your honourable man and that is your honourable Government !

Mr. Karunatilake : Get out !

Mr. D. B. R. Gunawardena :
Stinking ! Resign !

Mr. Speaker : Order, please !

Dr. Colvin R. de Silva : And you are supposed to be here to look after 30 your permanent officials. Only cads do not defend those whom they do not want to defend. You like that ? Take it !

Let me continue to quote :

" . . . and that he be spared the ignominy of ending his career with a vote of No Confidence against him."

This is the honourable Valentine Jayawickrema ! That is why that 40

official has been kicked out. That is why we have this special pleading. Oh yes! Hon. Members of the Government Parliamentary party, whole sections of you, who up to last night were for this vote of censure, but who on the undertaking that that poor man would be kicked out changed your minds, and your 10 consciences along with your minds: will you now change your minds, if you still have any conscience left?

I quote :

"On the following day, viz., 25th instant, . . ."

Note the date !

" . . . I was again summoned to an interview by the Hon. Minister of Justice in the presence of the I. G. P. and he informed me 20 that he intended to retire me compulsorily. The reasons for his resort to this measure were still the personal embarrassment to him from the said vote of No Confidence . . ."

I propose to read the whole document in fairness to all, including Mr. Sidney de Zoysa whom we do not hesitate to bring under attack when he should be attacked :

"At my request I accompanied him to 30 interview the Prime Minister at Temple Trees. This interview was at about 6 p.m. At this interview the Hon. the Minister of Justice informed the Prime Minister that it was the former's wish . . ."

That is, the Hon. Minister of Justice's wish.

" . . . that I should be removed from the Police Department either by compulsory retirement or by my resignation."

40 Listen to the next paragraph. It will show how, from 6 o'clock of the 25th evening, the Hon. Prime Minister managed to do a complete *volte-face*, an acrobatic feat! Do you think there will not be chaos, my Hon. Friend? Why, this is chaos

enough! And only you hope to thrive by that chaos, like worms in garbage!

"The Hon. Prime Minister asked the Hon. Minister of Justice whether my removal was sought only on the grounds of the said No Confidence motion to which the Hon. the Minister of Justice replied in the affirmative."

Dr. Perera : Hear, hear !

Dr. Colvin R. de Silva : Wait a bit :

"Thereupon the Hon. the Prime Minister stated that, that was no ground for my removal from office.—"

Well, last night you gentlemen were 1758 for kicking that man out.

The Hon. Dahanayake : It is not a correct report of what happened.

Dr. Colvin R. de Silva : If it is as between Sidney de Zoysa and the Prime Minister and the Minister of Justice on this matter I am quite prepared to accept from the Prime Minister that all three are liars. Further :

"—that I was not to be removed from office, that there was neither occasion nor cause for my removal from office. The Hon. the Minister of Justice agreed with the Hon. the Prime Minister."

And here is a man who agreed. Mr. Valentine Jayawickrema, the Minister of Justice, last night instructed his Permanent Secretary to retire Mr. Sidney de Zoysa. What an honourbale man! What an honourable gentleman !

Mr. Karunatilaka : Coward !

Dr. Colvin R. de Silva, No, coward is too good a word. There is something positively canine about it; only canine friends are generally superior in that respect.

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Mr. Subasinghe : There is something fishy about it.

Dr. Colvin R. de Silva : The letter goes on :

"The antecedents of the Hon. the Minister's suggestion to remove me from office are well known and originate prior to the said No Confidence motion and I beg that you will bear with me in recording them because, I regret to say, that personal and political considerations had motivated the moves hitherto to remove me from office."

There was a time when these hon. Members who call themselves Appointed Members, appointed on the basis of the sale of their political souls, namely, as has been admitted in public by them, at their very appointment undertook in all circumstances to keep the Government going—never mind all this nonsense—

1754 **Colonel Forbes :** It is not correct.

Dr. Colvin R. de Silva : I am not giving way to you.

Colonel Forbes : I am not asking you that.

Mr. R. Singleton-Salmon (Appointed Member) : It is not correct.

Dr. Colvin R. de Silva : As far as you are concerned, Mr. Singleton-Salmon, if you wish to speak I am willing to give way. I will answer you in kind also.

Now, these gentlemen have been carrying through this elaborate pretence long enough. They represent, I say, interests which want to see this country in such a state of corruption that their friend upstairs can find a constitutional excuse for taking over this country and establishing a dictatorship. We will not allow it.

We tell you that you may have the cohorts of the British Navy, you may have the cohorts of the British Army, but I say to you that the people of this country will die in the defence of the rights they have won.

Mr. Subasinghe : Tell the man upstairs also.

Dr. Colvin R. de Silva : On the appropriate day the man upstairs 10 also will be replied to as he ought to be dealt with like all men upstairs.

Mr. Iriyagolle : Gogia Pasha !

Dr. Colvin R. de Silva : I am reading further :

"While the investigation into the Bandaranaike assassination was going on, a campaign was initiated circulating false and malicious stories and speculation."

In fairness to this gentleman I am 20 reading his whole statement :

"These, quite apart from hindering the smooth working of the investigation, carried imputations against the investigating police officers and myself. These false stories were causing untold damage to the public morale."

I discussed this dangerous trend that had 1755 arisen with my Inspector-General and the Minister of Justice and with their authority and with that of the Permanent Secretary to 30 the Minister of Justice I issued a statement to the local press entitled 'Facts and Rumours.'"

Listen to this paragraph, Mr. Prime Minister :

"I discussed this dangerous trend that had arisen with my Inspector-General and the Minister of Justice and with their authority"—

You still say that he did 40 not intend—

"and with their authority and with that of the Permanent Secretary to the Minister of Justice I issued a statement to the local press entitled 'Facts and Rumours.'"

Can we believe that the Hon. Prime Minister was not speaking with his tongue in his cheek when he was trying to explain away the statement? To continue with the letter :

“ The facts apparently caused a great deal of annoyance to certain Members of Parliament culminating in a notice of a Vote of Censure being given by the Opposition Parties against the Minister of Justice.

Having granted me that permission the Hon. Minister of Justice finds himself”—

I repeat that—

“ Having granted me that permission the Hon. Minister of Justice finds himself politically and personally embarrassed because of the No Confidence Motion and his mind now runs to appeasing his political opponents and maintaining his political position by removing me forcibly from office by the measure of compulsory retirement.”

Every one of you is a party to this manoeuvre including the hon. Appointed Member (Mr. Poulter) who, according to the papers, improvised the very formula by which this man could be victimized in the interests of preserving the Minister of Justice who should be hounded out of politics.

To continue :

“ I submit that it is unfair in the extreme by me that the Minister in charge of the Police Department should for personal and political reasons adopt such a measure of compulsory retirement of a public officer like myself and in these circumstances I feel myself entitled in the first and last resort to address you for the guidance and protection to which I referred earlier.

In these circumstances, which I have outlined very briefly I beg (1) for the opportunity of appearing personally before your Commission and representing myself more fully in regard to the foregoing; (2) for guidance for myself as to my position and rights; and (3) for protection against victimisation and oppression.”

You are accused of having victimized the very man, of having victimized him, what for? For having tried to stand loyally by you, when you found it politically embarrassing. You are not a Government of men, you are, I say, a Government of plain political cheats after that.

Hon. Members : Shame !

Dr. Colvin R. de Silva : There are other things that have to be cleared up. Now, I propose to refute the Prime Minister out of the mouth of his own Justice Minister. He says that man was an absentee—those were his very words. Then who gave this naive permission? Now look at what the Justice Minister himself says for their failure.

The Hon. Dahanayake : I quoted it.

Dr. Colvin R. de Silva : Yes, you quoted it, but I want to quote it with the correct emphasis and in relation to the proper extract, not to slur over relevancies. Listen, my Friend. He says :

“ I am quite used to saying that justice must be done without fear or favour.”

I quite agree; he is quite used to saying it—

“ Mr. Sidney de Zoysa is an officer under my Ministry. He complained that his honour was at stake in some way or other.”

My Hon. Friend has quoted Public Service Regulations but there are no Public Service Regulations which authorize any officer to issue a statement to defend or vindicate his honour. That is the first point, the basic point which the Hon. Minister's advisers have forgotten.

You can, on facts authorize a statement and say that various things

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could be done but nobody has yet been authorized anywhere to say, " I will give out alleged facts in relation to pretended rumours in order to vindicate my honour." The Hon. Minister of Justice states :

" He found that there had been some paper publications."

I challenged the Hon. Prime Minister to place before this House one single publication other than the newspaper publication of this Debate; he has not placed one document here, it is because he knows that if he dared to place it I would analyse it and show him that that could not be the basis of that statement. There is wisdom and discretion; wisdom and indiscretion.

To continue with what the Hon. Minister of Justice said :

" He wanted to make a statement to the Press."

Listen to what the Hon. Minister of Justice says :

" and according to the regulations by which he is governed he has to get the permission of the Inspector-General of Police before writing to the press."

The Hon. Prime Minister, with the appearance of a new discovery suddenly made, said that it had crossed his mind whether the D. I. G. was the Head of a Department. The answer is that the D. I. G. does not regard himself as the Head of Department and Mr. Valentine Jayawickrama does not regard him as the Head of a Department, and the Inspector-General of Police does not regard him as the Head of a Department. And tomorrow the Permanent Secretary will have the courage to tell the Hon. Prime Minister that the man is not the Head of a Department. But it is an old artful dodge

used by the lowest of advocates to say on the eve of the case, " I have presented a question to somebody but it can only be answered after the case is decided." You should not descend to that level while you are Prime Minister; it is not proper.

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I for one have always tried to pay the highest respect and honour to the Prime Minister of this country. I have not privately respected them very much but always publicly I have given them all the forms of respect because after all they are supposed to be the leaders of our country and by our leaders are we judged. But the present Hon. Prime Minister by his performance today has made it very difficult for me to follow my old habits. [*Interruption.*] No, I will not call him names.

Listen next :

" He has also to get the approval of the Minister of Justice."

What is the good of these arguments? This is the Hon. Minister of Justice advising the Hon. Prime Minister through the Senate.

" When he brought this thing to me, as it was a personal matter so far as he was 30 concerned . . .

The question whether Mrs. Wijewardene ought to be arrested is a personal matter to him. I am beginning to wonder whether the good lady has many more relations than we suspected.

" When he brought this thing to me, as it was a personal matter so far as he was concerned, I said, I had no objection to his 40 sending it to the newspapers. It is a personal matter and he is trying to vindicate his honour."

Where, in these regulations, Mr. Prime Minister, do you find authority to make statements to vindicate

somebody's honour when sometimes it is difficult to discover the honour itself?

"It is a personal matter and he is trying to vindicate his honour."

There is another sentence :

"I felt that to refuse his application would be unjust."

In other words that gentleman applied to him for permission. The Hon. Prime Minister used another argument which was really a dexterous play on words. He said that we are asking for the Hon. Minister of Justice to be censured because he had given permission to Mr. Sidney de Zoysa to make his statement. I think the Hon. Prime Minister who has been an English teacher in his time, who has been a poetaster in his time, should not at all make that kind of trickery with the English language. What is said here in this Motion? I wish to say, if the hon. House will excuse me, that this Motion which was drafted by the Opposition has in its very language none other than the draft of my humble self, and I say that every word of it means what it says. The Motion reads :

"This House censures the Hon. Minister of Justice for permitting Mr. S. G. de Zoysa to make to the Press"

There is nothing about permission there. This man came to the other man with this thing and that other man—I do not know whether he handled this thing or looked at this thing or looked through this thing or over the thing—then said, "Yes, you can publish the thing," and the man published the thing. In other words, the man who published this thing brought it to the notice of that other man that he intends to publish that thing, thereby giving him the oppor-

tunity to prohibit him from publishing it, and nevertheless he allowed him to display that thing publicly, shamelessly. That is the truth. It is dishonourable conduct of the worst type for the Government to come here after that and say that Mr. Valentine Jayawickrama did not permit the display, the advertisement, of this thing in public. We are amazed, Sir. I am sorry, I think some hon. Members have discovered a *double entendre* which was never my intention. But sometimes, as the Hon. Prime Minister will bear out, many a thing done with one intention has another result!

Mr. Speaker : The hon. Member has only three minutes more to finish up.

Dr. Colvin R. de Silva : Yes, Sir, I will sit in three minutes. I will end up in the last couple of minutes I have at my command with some simple points. The Hon. Prime Minister has repudiated the statement that was made by the hon. Member for Kotte (Mr. D. B. R. Gunawardena) that Rs. 163,000 has been passed for eight schools in the Welimada electorate and that tenders have already been called for before the allocation has been made. I hope he will go back, check up and refresh his memory. Probably, I think, he has forgotten the truth—
[*Interruption*]

The Hon. Dahanayake : There is a little more than that for the Kotte electorate, I think.

Dr. Colvin R. de Silva : I have no doubt that he will give more for Kotte but we are constrained to remark that it is precisely the hon. Fair Member for Welimada (Mrs. Kusuma Rajaratna) who one morning announced in the newspapers that she was going to vote for this Motion

No. 2
Petition of
S. G.
de Zoysa
with annexes
marked
"A"—"R"
31-5-60

(xiv) Annex
"N"
27-11-59
—continued.

1760

No. 2
Petition of
S. G.
de Zoysa
with annexes
marked
"A"—"R"
81-5-60

(xiv) Annex
" N "
27-11-59
—continued.

and has on the next day ratted on that announcement in the newspapers. We wonder whether the Rs. 163,000 was allocated in the intervening interval. Is it a fact that to the Pirivena University her husband has been given an appointment?

Mr. Karunatillake : Lecturer in History.

Dr. Colvin R. de Silva : This is how Governments are being kept going—[*Interruption*]

Mr. Speaker : Order, please !

Dr. Perera : The letter was written by you.

An hon. Member : You ordered your Secretary to do that.

The Hon. Dahanayake : I repudiate that suggestion completely.

Dr. Colvin R. de Silva : It has come to this. We will have to depend upon votes of gentlemen who, after handing their resignation from the Government party one morning, rat from that resignation in the evening ! He is welcome to those rat votes. In this honourable House it has been proved beyond any manner of doubt that the honour of this House now rests in the hands of the Opposition only ! If there are any amongst those over there, over and above the hon. Members who have already announced their intention to act honourably, I invite them even at this late hour to repent and be honourable men. But judging by the varied history of Government—[*Interruption*] I have only a minute left and I do not think I have the right to anticipate or expect any such honourable behaviour.

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I think, before I conclude, I should also congratulate the hon. Member for Matugama (Mr. Pasqual) who it seems to me has been the sole public beneficiary of this crisis ! Must we press this Vote ? To the House I have to say this before I sit down. In this Motion of ours we are not concerned with Mr. Sidney de Zoysa—whether you kick him out or not, 10 it is not the concern of this Motion, though I must say I have very little doubt that, just as much as the Hon. Minister of Finance went abroad and returned as hon. Member for Ja-ela and will again become a Minister of this Government, it is quite possible that Mr. Sidney de Zoysa who is being kicked out today may well return and be Inspector-General of 20 Police under this very Government ! Nothing is impossible with these gentlemen. I do say this. This Motion of censure concerns the con- 1762 duct of Mr. Valentine Jayawickrama, Minister of Justice, in that he permitted a subordinate official of his department to attack this honourable House in public.

As I have pointed out, the 30 Appointed Members do not care for the honour of this House. How can they care for the honour of this House when they do not care even for the honour of their own politics ? I say that every hon. Member of this House who has any honour left in him will vote for this Motion. And even if it is defeated it is not enough to kick out the Hon. Valentine Jayawickrema. The task of the Government and the Hon. Prime Minister is to get out with your bag and baggage altogether, go to the people and if you can win, certainly, come back. Otherwise, go home decently and we will even give you a parting pension.

Mr. Speaker : Order, please !

Question put.

Mr. Speaker, having collected the Voices, declared that the "Noes" had it.

Dr. Colvin R. de Silva : Divide, by name !

The House divided : Ayes 45 ;
Noes, 46.

No. 2
Petition of
S. G.
de Zoysa
with annexes
marked
"A"-"R"
31-5-60

(xiv) Annex
"N"
27-11-50.
—continued.

AYES

Mr. V. A. Alegacone
Mr. A. Amirthalingam
Mr. M. D. Banda
Mr. C. R. Belligammana
Mr. S. J. V. Chelvanayakam, Q.C.
10 Dr. Colvin R. de Silva
Mr. P. H. W. de Silva
Mr. C. A. Dharmapala, O.B.E.
Dr. Hector Fernando
Mr. Meryl Fernando
Mr. Cholmondeley Goonewardene
Mr. Leslie Goonewardene
Mrs. Vivienne Goonewardene
Mr. D. B. R. Gunawardena
Mr. D. P. R. Gunawardena
20 Mrs. Kusumasiri Gunawardena
Mr. M. Herath
Mr. D. F. Hettiarachchi
Mr. E. L. B. Hurulle
Mr. Pani Ilangakoon
Mr. I. M. R. A. Iriyagolle
Mr. Y. G. Jayasinghe
Mr. R. E. Jayatilaka

Mr. S. Jinadasa
Mr. M. P. Jotipala
Mr. P. Kandiah
Mr. V. A. Kandiah
Mr. Nimal Karunatilake
Mr. P. G. B. Keuneman
Mr. J. C. T. Kotalawela
Mr. Anil Moonesinghe
Mr. V. N. Navaratnam
Mr. Sagara Palansuriya
Mr. S. A. Peeris, O.B.E.
Dr. N. M. Perera
Mr. C. Rajadurai
Mr. Lakshman Rajapaksa
Mr. N. R. Rajavarithiam
Mr. E. P. Samarakkody
Mr. M. Samaraweera
Mr. Bernard Soysa
Mr. T. B. Subasinghe
Mr. P. Tennakoon
Mr. M. S. Themis
Dr. S. A. Wickremasinghe

NOES

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The Hon. W. Dahanayake
The Hon. Henry Abewickrama
30 The Hon. C. P. de Silva
The Hon. M. P. de Zoysa
The Hon. T. B. Ilangaratne
The Hon. P. B. G. Kalugalla
The Hon. C. A. S. Marikkar
The Hon. M. B. W. Mediwake
The Hon. J. C. Munasinha
The Hon. M. M. Mustapha
The Hon. R. G. Senanayake
The Hon. Maithripala Senanayake
40 Mr. W. P. G. Ariyadasa
Mr. A. Dissanayake
Mr. S. U. Ethirmanasingam, M.B.E.
Mr. Hugh Fernando
Mr. K. D. Goonaratna
Mr. D. S. Goonasekera
Gate Mudaliyar M. S. Kariapper
Mr. V. T. G. Karunaratne
Mr. D. B. Moonekulame
Mr. D. T. Pasqual
50 Mr. D. A. Rajapaksa

Mr. W. G. M. Albert Silva
Mr. T. B. Tennekoon
Mr. P. B. A. Weerakoon
Mr. J. D. Weerasekera
Mr. A. Adikari
Mr. S. D. Bandaranayake
Dr. Eric S. Brohier
Mr. Stanley de Zoysa
Dr. M. P. Drahaman, M.B.E.
Sir Razik Fareed, O.B.E.
Colonel O. B. Forbes, C.B.E., E.D.
Mr. S. Godage
Mr. K. Hemachandra
Mr. N. H. A. M. Karunaratne
Mr. Jayaweera Kuruppu
Mr. A. H. Macan Markar
Mr. M. E. H. Mohamed Ali
Mr. R. S. Pelpola
Mr. R. S. V. Poulter, C.B.E.
Mrs. Kusuma Rajaratna
Mr. S. W. D. Ratnayake
Mr. R. Singleton-Salmon, C.B.E.
Mr. M. Tennekoon

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ADJOURNMENT

And it being past 8-30 p.m., MR. SPEAKER adjourned the House without Question put.

Adjourned accordingly at 8-37 P.M. until 2 P.M. on Tuesday, December 1, 1959.

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Assassination plaint filed: Buddharakkhita heads list SEVEN ACCUSED OF CONSPIRACY



Sidney to be retired: last night's decision

Group against Censure Motion now
(By a "Daily News" reporter)

The Government Parliamentary Group, at an emergency meeting held last night soon after the House of Representatives had adjourned unanimously decided that Mr. Sidney de Zoysa DIG (Range 2) be retired from service.

Mr. P. B. G. Kalugalla moved that "Mr. Sidney de Zoysa be retired from service with effect from 10 a.m. tomorrow, November 27."

Mr. Hugh Fernando seconded the motion.

On a suggestion made by Mr. R. S. V. Poulier, (Appointed Member) the motion was rephrased as follows with both the mover and seconder accepting it—

"The Minister of Justice takes, or initiates steps he properly can, before 10 a.m. tomorrow to carry out the views of the Parliamentary Group in regard to the retirement from service of Mr. Sidney de Zoysa, D.I.G. Police."

At the end of the proceedings, Mr. C. P. de Silva, Minister of Agriculture and Lands moved that the entire group vote against the Opposition censure motion against the Minister of Justice in the House of Representatives.

There were shouts of "Aye" and members raised their hands supporting the motion. There was no dissent voiced after Mr. C. P. de Silva's appeal.

The meeting opened with a statement by the Prime Minister Mr. W. Dahanayake. He reminded them that he was their Prime Minister and was always prepared to carry out their wishes of the Members of Parliament.

"Tell me what you want me to do and I shall do it. We have had a very difficult period for the last two months, and I have always carried out your wishes. This week we have asked for money for over 200 sub-post offices. We have asked for more money for hospitals, and have granted more money for rural development work. Whatever my Ministers have asked me to do, I have done. I am not yielding to anybody. Therefore, I want you to tell me without any hesitation what is on your mind."

"We will now discuss the motion of the Hon. Mr. Kalugalla."

'Sidney must go'

Mr. P. B. G. Kalugalla, Minister of Cultural Affairs suggested that if the Opposition felt that the House had been insulted by Mr. Sidney de Zoysa's press statement the Prime Minister should express his regret to the whole House.



MR. SIDNEY DE ZOYSA
D. I. G. (Range 2)



MR. VALENTINE JAYAWICKREME, Minister of Justice—subject of today's debate.

to all Members of Parliament. He was sure, said Mr. Kalugalla that the Leader of the Opposition was a statesman and above all a gentleman and as such, would accept the apology.

He added that the Prime Minister had acted as a democrat on the whole issue by allowing the Minister of Justice, who was in charge of the Police to handle it. He congratulated the Minister of Justice on carrying out the assassination case to the extent of filing a plaint against seven suspects. He observed that Mr. F. R. (Dickie) de Zoysa, a brother of the former Minister of Finance, had been discharged.

In the interests of the country, pleaded the Minister, Mr. Sidney de Zoysa who was now over fifty years of age should be retired from today (Friday).

Mr. Hugh Fernando, M. P. for Nattandiya, seconded the motion, demanding that Mr. Sidney de Zoysa's services be terminated forthwith—at least by 10 a.m. tomorrow. Otherwise, he said he would be compelled to vote for the Opposition's Censure Motion against the Minister of Justice.

The Prime Minister thereupon, wanted the Group to vote on the motion to retire Mr. Sidney de Zoysa.

A different opinion

Mr. E. E. Jayatilake, M. P. for Nawalapitiya, who attended the Government, Parliamentary Group meeting for the first time in the last three years said—at this stage that he had a point of view.

(Continued on Page 8)

MARIKKAR MAY NOT ATTEND

(By a "Daily News" reporter)

The Minister of Posts, Broadcasting and Information, Mr. C. A. S. Marikkar, told the "Daily News" yesterday that it was very unlikely he would come to Parliament today to vote against the no faith motion against the Minister of Justice Mr. Valentine Jayawickrama.

Mr. Marikkar, who was admitted to hospital yesterday afternoon, said: "My doctors have advised me to be in bed. In any case I don't think the no confidence motion will be debated."

The Minister has been in bed for the last two days. He is said to be suffering from influenza and certain other ailments.

Will Parliament be prorogued?

(From our Parliamentary reporter)

Shortly after the tea interval yesterday, the lobby of the House of Representatives was buzzing with the story that Parliament was to be prorogued with effect from today.

The possibility of Parliament being prorogued today was being discussed by M.P.s shortly after the Ministers had an emergency meeting yesterday afternoon.

'DEBATE EVEN IF MINISTER RESIGNS'

(By a "Daily News" reporter)

After the debate in the House of Representatives, today on the Opposition's censure motion against the Minister of Justice, Mr. Valentine Jayawickreme—over his approval of the press statement on assassination "facts" and "rumours" issued by Mr. Sidney de Zoysa D.I.G. (Range 2)—the Opposition Parliamentary group is scheduled to meet to discuss new developments and a draft motion of No Confidence in the Prime Minister, Mr. W. Dahanayake.

The Leader of the Opposition, Dr. N. M. Perera, who disclosed this, added last night: "Even if the Minister of Justice, resigns, the Opposition will insist that this censure motion be debated."

"His resignation, if it does come, is all the more reason why the motion should be debated. An important principle is involved in the motion namely, that a public servant had cast aspersions on the whole House by calling parliamentarians 'political adventurers'. Whatever happens we will move the motion."

Dr. Perera explained that he could see no basis on which the discussion of the censure motion could be disallowed.

At yesterday's meeting of the Opposition group no decisions were taken in view of the fresh developments.

The Federal Party did not attend yesterday's meeting of the Opposition parties. Dr. N. M. Perera said that the F.P. representatives were away in Vavuniya in connection with the by-election there.

Attanagalla polls on January 16

Dickie de Zoysa freed: Vimala's counsel protests at her arrest

(From our Courts reporting staff)

Plaint was filed before Mr. N. A. de S. Wijesekera, acting chief Magistrate, Colombo in the Bandaranaike assassination case against seven of the eight persons who had been remanded earlier until November 30 in this connection.

Mr. F. R. (Dickie) de Zoysa was discharged.

The accused in the plaint which was filed at 2.30 p.m. yesterday are—

- (1) Mappitigama Buddharakkhita Thero of the Kelaniya Raja Maha Vihare, Kelaniya.
- (2) Hemachandra Piyasena Jayawardena of No. 149/2, Avissawella Road, Wellampitiya.
- (3) Paliyakkarage Anura de Silva of No. 578, Bivagama Road, Kelaniya.
- (4) Talduwe Somarama Thero of Amara Vihare, Obeyesekere Town, Rajagiriya.
- (5) Weerasooriya Arachchige Newton Perera of the Police Plats, Maradana.
- (6) Mrs. Vimala Wijewardene of Bullers Lane, Colombo.
- (7) Amerasinghe Arachchige Carolis Amerasinghe of No. 745/9, Baseline Road, Colombo.

The charges

These seven are charged:—

- (1) with having between about 25th August, 1958 and 26th September, 1959 at Kelaniya, Wellampitiya, Rajagiriya, Colombo, and other places, agreed to commit or abet or act together with a common purpose for or in committing or abetting an offence to wit, the murder of Mr. Solomon West, Ridgeway Dias Bandaranaike, and that they are guilty of conspiracy to commit or abet the murder, in consequence of which conspiracy the murder was committed.
- (2) that on or about 25th September 1959 at No. 65, Rosmead Place, Colombo 7, Talduwe Somarama Thero, the 4th accused, did in the course of the same transaction committed murder by causing the death of Mr. Bandaranaike. The Magistrate informed, the accused individually the charge or charges against each one of them.

Although the court was crowded to capacity there was a hushed silence as the charges were read out.

Somarama kept thumping his thumb against the dock when the charges were read out to him.

When her turn came, Mrs. Vimala Wijewardene looked towards her counsel and smiled.

The Magistrate fixed the inquiry for 7th December and remanded the accused until that day.

Police line road

News that the suspects were to be produced in Court, spread somehow and a crowd gathered in front of the court premises.

Chief Inspector Koelmeyer took no chances. Police vans rushed to the spot and lined both sides of the approach road.

In the precincts of the court, constables stood at a yard's distance from each other not to mention sub-inspectors and inspectors of police.

About 2 p.m. in walked the counsel who are appearing for the accused.

All litigants, witnesses and even persons remanded in other cases were cleared from the premises and court cells.

Led by Mr. Sylvester Perera, Superintendent of Prisons, in a car, there came seven vans with the eight suspects. Somarama was in hospital clothes.

Mrs. Vimala Wijewardene arrived in a van with dark green curtains. She wore a white nylon saree and was escorted by two police-women and a prison matron.

Mr. F. R. de Zoysa wore a China silk suit.

All vans were heavily guarded. A few minutes later the Magistrate came on the Bench and the accused were brought in.

THE SEVEN SUSPECTS, against whom charges of conspiracy to murder were filed yesterday afternoon are brought into court under police escort. In the order in which they

figure in the plaint they are (left to right): 1. Buddharakkhita Thero, 2. H. F. Jayawardena, 3. Anura de Silva, 4. Somarama Thero who is also accused of murder, 5. Newton Perera, 6. Mrs. Vimala Wijewardene and 7. A. C. Amerasinghe.

was on remand till Monday next. Magistrate: I can see no reason to remand him.

Mr. Perera: He may be discharged. We have no objections.

The Magistrate told Mr. Mohamed that as his client was discharged he had no status now.

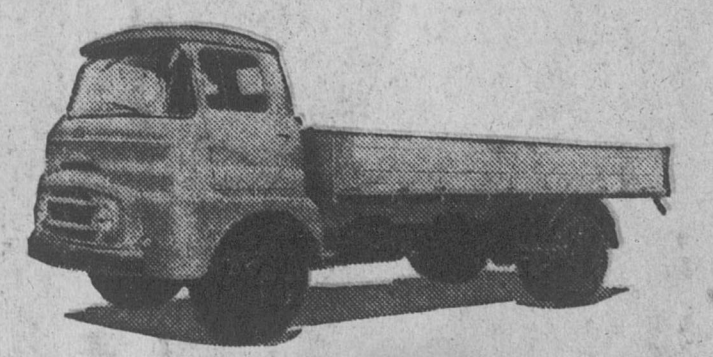
Mr. Mohamed said that his client had been locked up for eight days without an iota of evidence against him in order to satisfy "some political gambling". It was only here as counsel that they could vehemently protest in the name of justice against "such outrageous and despicable political intrigues".

Mr. Ananda Perera: May I Sir, state in reply to Mr. Mohamed that there is a distinction between material on which an arrest could be made and material on which one can be charged.

Vimala's arrest

Mr. C. S. Barr Kumarakulasinghe then addressed court. He (Continued on page 8)

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Plaint filed in Bandaranaike assassination case

FIRST ACCUSED BUDDHARAKHITA

Comment

November 26, 1959.

THE ANGRY FLOODS

THE floodtide of public opinion has beaten relentlessly at the Dahanayake Government attempting to wash away everything rotten in its path, but those who would try anything rather than permit the crumbling bond to perish have offered human sacrifices and prayed that they be spared.

At first the Prime Minister resisted the demand for the removal of Mrs. Vimala Wijewardena from the Cabinet. Only when the floodtide of demands began increasing in tempo and pressure and threatened to engulf the whole Government was she offered up. But the floods came on inexorably. Public opinion surged forward but the Prime Minister held out until his own strength in his Cabinet came to nothing and only then decided to appease the floods by making another "sacrifice"—Mr. Stanley de Zoysa went. The next is to be Mr. Sidney de Zoysa. The Minister of Justice is next in the immolation schedule. Who goes next? The Prime Minister himself?

It is not high time that the Government and the MPs who are still hoping to build emergency dams by regrouping in amorphous botches such as "National Governments" and by other diabolical devices, realised that the flood of public opinion will not be assuaged by anything short of a new election?

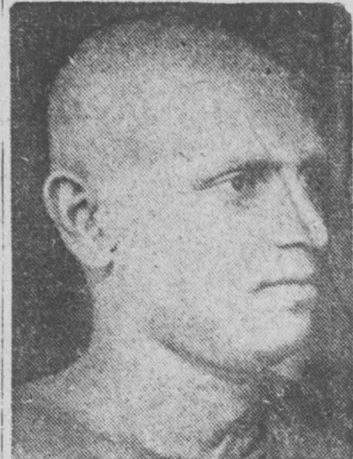
"Evil" day

WHAT is the purpose of all this? In the less picturesque terms of political language: desperate attempts are being made by the Government to postpone what is to them the "evil day", the inevitable moment when they must be removed from office by the people of this country and replaced by others who have earned their confidence.

THE memorandum that was hawked around like a Charity List last night was one such attempt. That memorandum stated that (1) the time is not opportune for elections, (2) assassination enquiries are not completed and (3) some of the major election pledges made in 1956 have yet to be implemented. If the assassination enquiries are still incomplete that can be blamed on the Government itself which has interfered with the course of the enquiries—to the extent of poring over statements recorded by the Police Department, in the Cabinet room.

Rotten tooth

FINALLY there is the pathetic wail about the time not being "opportune" for elections. "Opportune" for whom? Not for the Government, certainly, whose three-year record of fumbling has convinced even themselves that they have earned the wrath of the people. But opportune for the public who must



Somarama Thero



Buddharakkita Thero



Newton Perera



C. Amarasinghe



Vimala Wijewardene



H. P. Jayawardene



Dicky de Zoysa

Police agree to free Dicky Zoysa

(By an "Observer" reporter)

ANTI-DISSOLUTION MEMO OF GOVT. MPs SAYS— No responsibility for Sidney's statement

(By an "Observer" reporter)
TWENTY-FIVE of the 43 elected Government Members of Parliament last night handed a memorandum to the Governor-General and the Prime Minister, Mr. W. Dahanayake, disassociating themselves from the "FACT and RUMOUR" statement of MR. SYDNEY DE ZOYSA, and asking them to consider very carefully the present situation before decision was taken to dissolve Parliament.

The memorandum states: "The Government disassociates itself from the statement issued by the Deputy Inspector-General of Police Range 2, Mr. Sydney de Zoysa, entitled 'FACT and RUMOUR'." It did not get the approval of the Government Parliamentary Group.

Three-pronged tie-up for City polls

(By an "Observer" reporter)
SLFF trade unions, the Jatika Vimukti Peramuna and the Lanka Kamkaru Peramuna have formed a front—Mahajana Prasthanthra Peramuna—to fight the city elections.

- 1. To replace English with Sinhala only in the administration of the Colombo Municipality.
- 2. To oust propagandists for party.
- 3. To Ceylonize trade in Colombo.
- 4. To free the country of imperialists and revolutionaries and the influence of foreign countries in our affairs.
- 5. To levy a capital tax on all foreign owned business houses.
- 6. To grant no employment to non-citizens in the city of Colombo.
- 7. To grant a dole to unemployed citizens.
- 8. To give ownership to tenants of Municipal houses in the case of those living in them for 20 years.
- 9. To control and collect house rent.
- 10. To take over as much as possible all foreign owned property in the city.

Death is here. ON THE BEACH

... Dirty, poisonous, certain death. Death with the stench of hydrogen, of nuclear catastrophe, blotting out life in all its forms....

Beginning in the

PLAINT was filed at 2 p.m. today against seven of the eight suspects in the Bandaranaike assassination case. Mr. F. R. (Dicky) de Zoysa, who was arrested in connection with the case last Thursday was not mentioned in the plaint.

Those against whom proceedings will continue are: Rev. Somarama Thero, Rev. Mappitigama Buddharakkita Thero, Messrs H. P. Jayawardena, C. Amarasinghe, Newton Perera, Anura de Silva and Mrs. Vimala Wijewardene.

These seven have been charged with conspiring to murder the late Prime Minister between Aug. 1958 and September 25, 1959.

Rev. Somarama Thero is charged with murder. Nearly 200 witnesses have been listed for the prosecution. (The possibility of plaint being filed today was reported in our early edition.)

CEYLON NEEDS MORE RESEARCH—U.K., H.C.

(By an "Observer" reporter)

I know that there are excellent Tea, Rubber and Coconut Research Institutes helping Ceylon's major export crops to be efficient and competitive. But is there enough thinking about the need for research into methods of controlling the relevant diseases, of increasing yields and finding new ways of using these products? Or about the need for all the broad scientific training which must precede participation in these activities?

These two questions were posed by Sir Alexander Morley, U.K. High Commissioner in Ceylon when he made the opening address at the annual sessions of the Ceylon Association for the Advancement of Science at King George's Hall, Thurston Road, Colombo, this morning.

Sir Morley said earlier: This is an age of science. Outside this room, however in Ceylon as a whole—I am not sure that the old respect for the arts and the

Overland to N. Zealand



Overland from England to day they were really keen

EMERGENCY SESSION OF GOVT. GROUP

(By an "Observer" reporter)

AN Emergency meeting of the Government Parliamentary Group is due to be held at 8 p.m. tonight on a requisition signed by five Ministers and nine Members of Parliament.

They are Mr. Maitripala Senanayake (Transport and Power), Mr. A. P. Jayasuriya (Health), Mr. T. B. Ilangaratne (Home Affairs), Mr. M. P. de Zoysa (Labour), Mr. P. G. B. Kalugalle (Cultural Affairs), Mr. D. B. Monnekulame, Mr. Hugh Fernando, Mr. T. B. Tennekoon, Mr. W.P.G. Ariyadasa, Mr. Albert Silva, Mr. Mudiyanse Tennekoon, Mr. S. U. Ethirmanasingham, Mr. Andrew Dissanayake, Mr. S. Godage.

This is the first time that any Minister or Ministers have signed a requisition for an Emergency meeting of the Group.

Telegrams asking for this meeting were sent to the Prime Minister, the Leader of the House, Mr. C. P. de Silva, and the Chief Whip, Mr. J. C. W. Munasingha.

TONIGHT'S MEETING IS TO ASK FOR THE REMOVAL OR RETIREMENT OF MR. SIDNEY DE ZOYSA, DIG. RANGE 2, AS FROM MID-NIGHT TODAY.

A resolution asking for Mr. Sidney de Zoysa's removal has been proposed by the Minister of Cultural Affairs, Mr. P. G. B. Kalugalle and seconded by the Junior Minister of Transport and Power, Mr. Hugh Fernando.

Same reason

The Ministers who have signed the request for this meeting have stated to the Cabinet and to the Parliamentary Group that for the same reasons that

Mr. Stanley de Zoysa, the former Finance Minister could not carry on in office, they were asking for the removal or retirement of Mr. Sidney de Zoysa. He is over 50 years—he can be retired, they said. The requisition states, that if the Prime Minister is a true democrat, he would summon the meeting of the Group. Mr. Jim Munasingha, Chief Government Whip, told me, however, that he would have to consult the Prime Minister before calling a Group meeting. "There are various formalities to be gone through, but since these MPs want it I cannot refuse it. Even then I will summon the Group only after I have received the Prime Minister's consent."

Note: The Premier Mr. W. Dahanayake, told the Government Group on Tuesday that he would be willing to summon a special meeting of the Group if they so desired it.



MALIBAN Biscuits

“ Q ”

POLICE HEADQUARTERS,
COLOMBO,
26TH NOVEMBER 1959.

No. 2
Petition of
S. G.
de Zoysa
with annexes
marked
“A”-“R”
31-5-60

(xvii) Annex
“Q”
26-11-59

Chairman, Public Service Commission/I. G. Police

The urgent press of certain events upon me compels me to address you :—

1. To seek your guidance.

2. To place on record in the protection of my interests and in defence of myself that for reasons completely extraneous to the requirements of the administration of the Police Department and entirely unconnected with my efficiency as a police officer and a public servant, it is apparently proposed by the Hon. the Minister of Justice to retire me compulsorily from the Police Department.

It is my sincere belief that I am entitled as a public servant, to address you in anticipation of an attempt to victimize me and to oppress me with a measure that does not fall short of injustice.

My understanding of the functions of the Public Service Commission in the light of the constitution is that a public servant can look to no other constituted authority for protection or for guidance, in the circumstances in which I am now, other than the Public Service Commission.

On 24-11-59 the Hon. Mr. Valentine Jayawickreme the Minister of Justice, at an interview to which I was summoned by him requested me to go on leave as an alternative to my retirement to avoid him personal embarrassment from the vote of No Confidence in him scheduled to be moved in the House of Representatives on 27-11-59, and that he be spared the ignominy of ending his career with a vote of No Confidence against him. I declined to accommodate him in this fashion as I am well entitled to do, but on his further pressing me I said I would make a decision within 24 hours.

On the following day, *viz.* 25th inst. I was again summoned to an interview by the Hon. the Minister of Justice in the presence of the I.G.P. he informed me that he intended to retire me compulsorily. The reasons for his resort to this measure were still the personal embarrassment to him from the said vote of No Confidence.

At my request I accompanied him to interview the Prime Minister at Temple Trees. This interview was at about 6-00 p.m. At this interview the Hon'ble the Minister of Justice informed the Prime Minister that it was the former's wish that I should be removed from the Police Department either by compulsory retirement or by my resignation. The Honble. the Prime Minister asked the Honble. the Minister of Justice whether my removal was sought only on the grounds of the said No Confidence motion, to which the Honble. the Minister of Justice replied in the affirmative. Thereupon the Honble. the Prime Minister stated to the Honble. the Minister of Justice that, that was no ground for my removal from office, that I was not to be removed from office, that there was neither occasion or cause for my removal from office. The Honble. the Minister of Justice agreed with the Honble. the Prime Minister.

Nevertheless I am apprehensive and I am justified in feeling apprehensive that political expediency may cause a recurrence of similar or like moves to remove me from office.

The antecedents of the Honble. the Minister's suggestion to remove me from office are well known and originate prior to the said No Confidence motion and I beg that you will bear with me in recording them because I regret to say, that personal and political considerations had motivated the moves hitherto to remove me from office.

While the investigation into the Bandaranaike assassination was going on a campaign was initiated circulating false and malicious stories and speculations. These speculations, quite apart from hindering the smooth working of the investigation, carried imputations against the investigating police officers and myself. These false stories were causing untold damage to the public morale.

I discussed this dangerous trend that had arisen with my Inspector-General and the Minister of Justice and with their authority and with that of the Permanent Secretary to the Minister of Justice, I issued a statement to the local press entitled *Facts and Rumours*.

These facts apparently caused a great deal of annoyance to certain Members of Parliament culminating in a vote of censure being given by the opposition parties against the Minister of Justice.

Having granted me that permission the Honble. the Minister of Justice finds himself politically and personally embarrassed because of the No Confidence motion and his mind now runs to appeasing his political opponents and maintaining his political position by removing me forcibly from office by the measure of compulsory retirement.

I submit that it is unfair in the extreme by me that the Minister in charge of the Police Department should for personal and political reasons adopt such a measure of compulsory retirement of a public officer like myself and in these circumstances I feel myself compelled in the first and last resort to address you for the guidance and protection to which I referred earlier.

In these circumstances, which I have outlined very briefly, I beg :—

1. For the opportunity of appearing personally before your Commission and representing myself more fully, in regard to the foregoing.
2. For guidance for myself as to my position and rights.
3. For protection against victimisation and oppression.

S. G. DE ZOYSA,
Deputy Inspector-General of Police.

40

26th November, 1959.

True Copy
JULIUS AND CREASY,
Proctors for the Petitioner.

No. 2
Petition of
S. G.
de Zoysa
with annexes
marked
"A"-"R"
31-5-60

(xvii) Annex
"Q".
26-11-59
—continued.

" R "

No. 2
Application
of S. G.
de Zoysa
with annexes
marked
"A" "R"
31-5-60

(xviii) Annex
"R"
27-11-59

POLICE HEADQUARTERS,
COLOMBO,
27th NOVEMBER 1959.
9-00 A.M.

The CHAIRMAN,
PUBLIC SERVICE COMMISSION,
THRO' I. G. POLICE.

Further to my letter of 26-11-59 I wish to place before you further developments affecting my career in the Police Service. 10

I met the Hon'ble the Minister of Justice and the Inspector-General of Police at about 7-30 p.m. last night. The Minister told me that the decision made the previous day at Temple Trees that I should continue in my official post could not be maintained as things had become very serious.

He insisted that if I did not immediately go on leave, he would have to allow action to be taken to retire me. He gave me a few minutes only to think this over and insisted on an immediate decision. He also urged me to make an application for leave as the lesser evil as he had to report this fact to the Parliamentary Group at 8-00 p.m.

I accordingly made a written application for leave from 27th November 20 to 5th December, as I was to leave Ceylon on 5th December to Paris to represent my Department at the International Police Conference there on 8th December.

The Inspector-General of Police and the Hon'ble the Minister then said that the matter was settled satisfactorily and the interview ended.

I have now been informed that the Government Parliamentary Group has made a decision that I be retired from Service and that action be taken from 10-00 a.m. today, which is the time fixed for the debate on the No Confidence motion which is causing all this excitement in Government Parliamentary circles. 30

I crave the protection of your Commission and request that no action be taken to retire me without affording me the opportunity of making further representations and without a careful examination of all circumstances.

(Sgd.) S. G. DE ZOYSA,
Deputy Inspector-General of Police Range II.

True Copy
JULIUS AND CREASY,
Proctors for the Petitioner.

Affidavit of S. G. de Zoysa

No. 3
Affidavit of
S. G.
de Zoysa
31-5-60.

IN THE HONOURABLE THE SUPREME COURT OF THE
ISLAND OF CEYLON

In the matter of an Application for the grant and issue of Mandates in the nature of Writs of Certiorari and Mandamus in terms of Section 42 of the Courts Ordinance (Cap. 6) of the Revised Legislative Enactments of Ceylon.

SIDNEY GODFREY DE ZOYSA
10 of C-37, Mackenzie Road, Colombo 5.....*Petitioner.*

vs.

1. THE PUBLIC SERVICE COMMISSION, the Secretariat, Colombo.
2. SIR HERBERT ERIC JANSZ of 9 and 11, Stag Lane, Thimbirigasyaya, Colombo 5.
3. JOSEPH NALLIAH ARUMUGAM of 115, Macarthy Road, Colombo 7.
4. GEORGE REGINALD DE SILVA of Green Lodge, Skinner's Road North, Colombo 13.....*Respondents.*

20 *To :*

HIS LORDSHIP THE HONOURABLE THE CHIEF JUSTICE AND TO THEIR LORDSHIPS THE HONOURABLE THE PUSINE JUDGES OF THE HONOURABLE THE SUPREME COURT OF THE ISLAND OF CEYLON.

I, SIDNEY GODFREY DE ZOYSA of C-37, Mackenzie Road, Colombo 5, being a Christian do hereby make oath swear and state and say as follows:—

1. I have personal and particular knowledge of the facts and matters as sworn to hereafter by me in this Affidavit, which I swear to from that personal and particular knowledge.
2. The first Respondent is the Public Service Commission created and
30 established by, and in terms of, Section 58 of the Ceylon (Constitution) Order-in-Council 1946.
3. At all times relevant and material to this petition and referred to hereinafter, the second, third and fourth Respondents were the three persons appointed by the Governor-General who in terms of the said Section 58, were the persons who constituted the said Public Service Commission.

No. 3
Affidavit of
S. G.
de Zoysa
31-5-60.
—continued.

The Second Respondent is also the Chairman of the said Public Service Commission.

4. On or about the 7th day of December 1931 I was appointed a Probationary Assistant Superintendent in the Ceylon Police Force and on or about the 7th day of December 1933 I was confirmed in this appointment and promoted to the rank of Assistant Superintendent of Police.

5. I have since my appointment aforesaid and continuously thereafter, served in the Ceylon Police Force as an Officer until the time and date mentioned more specifically hereinafter. I served as a Police Officer in several parts of the Island in the ranks of Assistant Superintendent of Police, Superintendent of Police and Deputy Inspector General of Police. I was promoted and appointed to the rank of Deputy Inspector General of Police on or about the 29th day of January 1955 on a salary of Rs. 15,750/- per annum and in November 1959 I was drawing a salary of Rs. 19,500/- per annum.

6. While I was serving in the said rank of Deputy Inspector General of Police I received from the said Public Service Commission a notification signed by E. G. Goonewardene, Secretary, Public Service Commission and dated 27th November 1959 to the effect that the Public Service Commission has ordered me to be retired from the Public Service with effect from 1st March 1960. (A true and certified copy of the said letter is produced and filed with the Petition marked ' A ').

7. On the 27th day of November 1959 the Permanent Secretary to the Ministry of Justice (G. C. T. A. de Silva) addressed a letter to the Inspector General of Police to the effect that the Public Service Commission had on the 27th day of November 1959 made an order requiring me to retire from service with effect from 1st March 1960 and authorising the Inspector General of Police to place me on leave with immediate effect. The Inspector General of Police by an order dated 27th November 1959 addressed to me and endorsed on the said letter, placed me on leave, in terms of the said letter as from 27th November 1959. (A true and certified copy of the said letter dated 27th November 1959 bearing the said order endorsed on it is produced and filed with the Petition marked " B ").

8. On or about the 30th day of November 1959 I, was lawfully entitled to do, addressed the Chairman of the Public Service Commission (namely the second Respondent abovenamed) by letter and enquired the reason ' for this sudden decision to retire me from the Public Service '. (A true and certified copy of the said letter is produced with the Petition marked ' C ').

9. I received no reply to the said letter marked ' C ' .

10. On or about the 7th day of December 1959 I as I lawfully entitled to do, addressed an appeal to the said Public Service Commission against the aforesaid order of retirement (A true and certified copy of the said appeal is produced and filed with the Petition marked ' D ').

11. On or about the 16th day of December 1959 I received through the Inspector General of Police a copy of a letter dated 11th December 1959 addressed by the Secretary of the Public Service Commission to the Permanent Secretary of the Ministry of Justice, directing the latter to cause me to be informed that the Public Service Commission sees no reason to vary the order made. (A true and certified copy of the copy of the said letter is produced and filed with the Petition marked ' E ').

12. On or about the 15th day of February 1960 I again addressed the said Public Service Commission and appealed against the said order retiring
10 me as aforesaid (A true and certified copy of the said appeal is produced and filed with the Petition marked ' F ').

13. Up to date hereof I have not received any reply or communication whatsoever from the said Public Service Commission in regard to the said appeal.

14. I humbly and respectfully submit to Your Lordships and plead that the said order of the first Respondent and/or the second, third and fourth Respondents is unlawful and was made by it and/or them contrary to law, and in so doing the said Respondents acted wrongfully and unlawfully and in excess of their powers, if any, and/or contrary to their powers and the
20 rules, regulations and law appertaining to my retirement.

15. I produce and file with the Petition marked ' G ' a print of the Public Service Commission Rules as printed in the Government Press, Ceylon and published by the authority of the Public Service Commission which contains and sets forth all the instructions issued by and Rules made by the Public Service Commission.

16. I produce and file with the Petition marked ' H ' a print of the Ceylon Government Manual of Procedure printed in the Government Press of Ceylon (4th edition 1951) published by the authority of the Government of Ceylon.

80 17. I produce and file with the Petition marked ' I ' a true and photostat copy of the Rules made by the Governor-General under Section 2 of the Public and Judicial Officers (Retirement) Ordinance (Cap. 253).

18. I produce and file with the Petition marked " J " a true and photostat copy of a Rule made by the Governor-General on or about the 17th day of September, 1954 by virtue of the powers vested in him by section 2 of the Public and Judicial Officers (Retirement) Ordinance (Cap. 253) amending the Rules referred to in the preceding paragraph.

19. I was born on the 15th day of January, 1909 and accordingly attained the age of 50 years on the 15th day of January, 1959.

40 20. By letter dated the 6th day of November, 1958 signed by the Permanent Secretary to the Ministry of Defence and External Affairs, I was granted an extension of service as Deputy Inspector General of Police for one year with effect from the 15th day of January, 1959. (A true and certi-

No. 3
Affidavit of
S. G.
de Zoysa
31-5-60
—continued.

fied copy of the said letter is produced and filed with the Petition marked " K "). I accordingly served in the said rank and office.

21. By letter dated the 20th day of October, 1959, signed by the Permanent Secretary to the Ministry of Justice, I was granted an extension of service as Deputy Inspector General of Police for one year with effect from the 15th day of January, 1960. (A true and certified copy of the said letter is produced and filed with the Petition marked " L ").

22. Since the 29th day of January, 1959, I have been serving as and in the rank of Deputy Inspector General of Police up to the 27th day of November, 1959 aforesaid. During the said period of my service as Deputy Inspector General of Police, I have served efficiently and in the best of health and there had never been any suggestion nor any hint of a suggestion from any person or body in authority over me that I should be retired from the Ceylon Police on attaining the age of 50 years.

23. On the 27th day of November, 1959, (being the date referred to in paragraph 6 hereinbefore when the first Respondent made the order requiring me to retire from service) I had already been informed and advised by the Permanent Secretary to the Ministry of Justice that I was granted an extension of service for a further year to commence from the 15th day of January, 1960. The Police Department was under the control of the Minister of Justice and the Permanent Secretary to the Ministry of Justice on that date.

24. I submit that :—

(a) in terms of the Rules made by the Governor-General under the Public and Judicial Officers (Retirement) Ordinance (Cap. 253) (' I ' and ' J ' referred to hereinbefore) and paragraph 17 of the Minute on Pensions (which by Ordinance No. 2 of 1947 is part of the written law of Ceylon) and paragraph 188 of the Manual of Procedure (' H ') referred to hereinbefore and paragraphs 60, 61 and 62 of the Public Service Commission Rules (' C ' referred to hereinbefore) which are to be read with the Rules contained in ' I ' and ' J ' hereinbefore, the Respondents could not lawfully and validly make the said order of compulsory retirement against me and that the Respondents did not have the power or the right to retire me and that the said order which purported to be an order of retirement against me was and is illegal and contrary to law and to the Rules hereinbefore referred to and that the order of the said Respondents is invalid and ineffectual.

(b) the said Respondents acted without any jurisdiction, right or power in making or purporting to make the said order of retirement against me.

(c) the Inspector General of Police (M. W. F. Abeykoon) who is the Head of the Department to which I belong did not at any time consider that I should be required to retire under the provisions of the aforesaid Rules made under the Public and Judicial Officers (Retirement) Ordinance (Cap. 253) and did not make any recommendation to the Permanent Secretary of the said Ministry or inform me that it is proposed to retire me. No statement was called for from me and the Permanent Secretary did not

make any recommendation to the Public Service Commission in terms of Rule 61 of the Public Service Commission Rules. The procedure laid down in Rule 61 of the Public Service Commission Rules was not followed nor did any occasion arise as contemplated by the said Rule for the Public Service Commission to have occasion to decide whether I should be retired. The Public Service Commission did not take any decision that I should be retired within the provisions of the said Rule 61 and in any event the Respondents have no power authority or right to take any decision or to decide that I should be retired except as provided for in the said Rule 61.

10 (d) in the premises aforesaid there has been no decision of the Respondents within their powers, rights or authority in regard to my retirement and I submit that I am still an Officer of the Police Service.

25. I submit that the aforesaid order of the Respondents purporting to retire me was made by the Respondents in the following circumstances, namely :—

(a) While the investigations into the assassination of the late Mr. S. W. R. D. Bandaranaike were going on, I prepared a draft statement for release to the Press and thus for public information. The Inspector-General of Police studied this draft and amended it. The amended draft was approved
20 by the Honourable the Minister of Justice at that time — Mr. Valentine S. Jayawickreme and his Permanent Secretary and they endorsed their approval thereon. The Honourable the Minister of Justice admitted that this statement was approved by him for release to the Press when he made a statement on the floor of the Senate on the 3rd day of November, 1959. (A copy of the Hansard of the said date is produced and filed with the Petition marked 'M'). A fair copy of this amended draft was sent to the Press and was published in the evening newspapers on the 2nd day of November, 1959. It was the joint view of the Minister of Justice, his Permanent Secretary, the Inspector-General of Police and myself that it
30 was necessary, expedient and appropriate with the prevailing circumstances that the said statement be released for public information through the Press. This statement was referred to thereafter as the "Facts and Rumour" statement.

(b) the publication of this statement caused a certain amount of comment and also brought upon me and the Minister of Justice the severe criticism of certain parliamentarians.

(c) On or about the 9th day of November, 1959 some Opposition Members of Parliament gave notice of a Vote of Censure to be moved on the Minister of Justice. The said Vote of Censure on the Minister of Justice
40 read as follows :—“That this House censures the Honourable the Minister of Justice for permitting Mr. S. G. de Zoysa, D.I.G. (Range 2) to make to the Press the statement published in the evening newspapers of 2nd November, 1959 ” and the debate thereon was fixed for the 27th November 1959. (A copy of the Hansard of 27th November, 1959 is produced and filed with the Petition marked "N").

(d) On the 24th day of November, 1959 the Minister of Justice at an interview to which I was summoned, requested me to go on leave as an

No. 3
Affidavit of
S. G.
de Zoysa
31-5-60
—continued.

alternative to be retired, in order to save the Minister personal embarrassment from the said Vote of Censure. I refused to accede to this request.

(e) On the 25th November, 1959 I was again summoned to an interview by the Minister of Justice in the presence of the Inspector-General of Police and I was informed by the Minister that he intended to retire me compulsorily. The reason given for this decision was the same as that stated in (d) above. Thereafter at my request the Minister accompanied me and interviewed Mr. W. Dahanayake, who was then the Prime Minister, at about 6 p.m. After discussion the Honourable the Prime Minister stated that there was neither occasion nor cause for my removal from office. The 10 Minister of Justice agreed.

(f) On the evening of the 26th day of November, 1959 the "Ceylon Observer" published a news item entitled "Anti-Dissolution Memorandum of Government M.P.s — No responsibility for Sidney's statement." The news item read as follows:—"25 of the 43 elected Government Members of Parliament last night handed a Memorandum to the Governor-General and the Prime Minister, Mr. W. Dahanayake, dissociating themselves from the "Fact and Rumours" statement of Mr. Sydney de Zoysa, and asking that they consider very carefully the present situation before a decision was taken to dissolve Parliament." (A Photostat copy of the "Ceylon Observer" 20 of the 26th November, 1959 is produced and filed with the Petition marked "O").

(g) On the night of the same day, namely 26th November, 1959, I was sent for to the House of Parliament by the Inspector-General of Police and the Minister of Justice and I was informed that if the Minister of Justice did not inform the Parliamentary Group of the Government Members of Parliament, which was due to meet a few minutes later, that I would be removed from active Police duty that night, the Minister of Justice would have to resign and I would be compulsorily retired. There was a discussion at which it was suggested by Mr. C. P. de Silva, who was then the Minister 30 of Agriculture, that I should accept secondment for service in some other Government Department for a period of about a month or so in order to appease the Members of Parliament who belonged to the Government Parliamentary Group. It was finally agreed that I should take nine days leave as from the 27th day of November, 1959 and should proceed to Paris on the 5th day of December, 1959 as the Ceylon Police Representative at the International Police Conference.

(h) I accordingly handed over to the Inspector-General of Police a formal application for leave from 27th November, 1959, to 5th December, 1959 which he accepted. Thereafter I left for my home. 40

(i) I state that the Parliamentary Group decided at its meeting on the night of the 26th November, 1959 that I should be compulsorily retired before 10 a.m. on the next day (27th November, 1959). (A Photostat copy of the "Ceylon Daily News" is produced and filed with the Petition marked "P").

(j) On the morning of the 27th day of November, 1959 before 10 a.m. I was informed that the Respondents had met that morning and made an order requiring the Permanent Secretary to the Ministry of Justice to retire me from service as from 1st March, 1960 and authorising the Inspector General of Police to place me on leave with immediate effect.

No. 8
Affidavit of
S. G.
de Zoysa
31-5-60
—continued.

(k) I had addressed a letter through the Inspector-General of Police to the Respondents on 26th November, 1959 intimating to them that I feared that an attempt was being made to victimize me for purely personal and political reasons. (A copy of the letter duly certified is produced and filed 10 with the Petition marked " Q ") This was followed by a letter to the Respondents at about 9 a.m. on the 27th November, 1959 through the Inspector-General of Police. When I wrote this I had reason to believe that the Respondents were meeting that morning to carry out the wishes of the Government Parliamentary Group. (A true and certified copy of this letter is produced and filed with the Petition marked " R ").

(l) The said Mr. Valentine S. Jayewickreme was actuated by improper motives in desiring to have me removed or retired in order to protect or further his own interests and he acted maliciously or with malicious motive or intent against me.

20 26. It is respectfully submitted that the Respondents, who were well aware of my fears that an attempt would be made to victimize me acted wrongfully, unlawfully and in violation of the demands of natural justice in making an order of compulsorily retiring me without affording me an opportunity of being heard in my defence.

27. I submit that the Respondents acceded to the requests of or wishes of politicians including the said Mr. Valentine S. Jayewickreme who was at that time the Minister of Justice, who desired for their own purposes and considerations to secure my removal from the Ceylon Police by the afore- 30 said expedient of compulsory retirement and in doing so the Respondents acted contrary to law, illegally and maliciously.

In particular I submit that the Respondents acted contrary to and permitted the violation of, Rule 3 of the Public Service Commission Rules which reads as follows :—" Permanent Secretaries to the Ministries and Heads of Departments are forbidden to forward to the Public Service Commission the views of their Ministers or of Senators, Members of Parliament or Unions or Associations of Public Officers on any matter on which the Public Service Commission has to come to a decision. Any such communication will be tantamount to an attempt to influence the decision of the Public Service Commission by a person not competent to do so under 40 the Constitution. Communications from Permanent Secretaries and Heads of Departments, conveying decisions of Government policy, do not fall within this category. A Permanent Secretary or Head of a Department is at liberty to express his own individual views on any matter on which he seeks the decision of the Public Service Commission. Any communications received direct by the Public Service Commission from persons not entitled to address the Public Service Commission on the subject matter of the communication will not be acknowledged."

No. 3
Affidavit of
S. G.
de Zoysa
31-5-60
—continued.

28. I verily believe and submit that my said compulsory retirement and removal from service as aforesaid was sought and secured for reasons completely-extraneous to the requirements of the administration of the Police Department and entirely unconnected with my efficiency as a Police Officer and a Public Servant and was motivated by purely personal and political considerations. I have hereinbefore placed before Your Lordships the circumstances which I believe and submit led to the order for compulsory retirement.

29. I submit that I have been subjected to very great pain of mind and humiliation in consequence of the said order of the Respondents and 10 very great hardship will be caused to me if I am compelled by the aforesaid actions of the Respondents to be put out of service with the Ceylon Police.

30. In the aforesaid premises I submit that I am entitled in Law to an order from Your Lordships' Court in the nature of Writs of Certiorari and Mandamus quashing the said order of the first Respondent and commanding the Respondents to do their duty and to withdraw all orders or directions to the effect that I am not an Officer in the Ceylon Police and to restore me to my position, rank and office.

SIGNED and SWORN to at }
Colombo this 31st day } (Sgd.) S. G. de ZOYSA. 20
of May, 1960. }

Before me,

R. SABANAYAGAM,
J.P.

No. 4
Motion of
the Proctors
for
Petitioner
1-6-60

No. 4

Motion of the Proctors for Petitioner

IN THE HONOURABLE THE SUPREME COURT OF THE
ISLAND OF CEYLON

In the Matter of an Application for the grant and issue of Mandates in the nature of Writs of Certiorari and Mandamus in terms of Section 42 of 30 the Courts Ordinance (Cap. 6) of the Revised Legislative Enactments of Ceylon.

SIDNEY GODFREY DE ZOYSA of C 37, Mackenzie Road,
Colombo 5.....Petitioner.

vs.

1. THE PUBLIC SERVICE COMMISSION, The Secretariat,
Colombo.
2. SIR HERBERT ERIC JANSZ of 9 and 11, Stag Lane,
Thimbirigasyaya, Colombo 5.

3. JOSEPH NALLIAH ARUMUGAM of 115, Macarthy Road,
Colombo 7.
4. GEORGE REGINALD DE SILVA of Green Lodge,
Skinner's Road North, Colombo 13.....*Respondents.*

No. 4
Motion of
the Proctors
for
Petitioner
1-6-60
—continued.

To :

HIS LORDSHIP THE HONOURABLE THE CHIEF JUSTICE AND TO THEIR
LORDSHIPS THE HONOURABLE THE PUISNE JUDGES OF THE HONOURABLE
THE SUPREME COURT OF THE ISLAND OF CEYLON.

We move as Proctors for the Petitioner abovenamed to tender and file
10 herewith in Your Lordships' Court :—

1. Our appointment and Proxy as Proctors for the Petitioner abovenamed.
2. The Petition of the Petitioner abovenamed (together with annexures marked " A " to " R ").
3. The affidavit of Sidney Godfrey de Zoysa, the Petitioner abovenamed.

And for the reasons stated in the Petition Pray that Your Lordships' Court be pleased to make such order as Your Lordships' Court thinks fit in terms of the Prayer to the Petition, that Your Lordships :—

- 20
1. Do grant and issue a Mandate in the nature of a Writ of Certiorari quashing the order of the said Respondents compulsorily retiring the Petitioner from the Ceylon Police.
 2. Do grant and issue a Mandate in the nature of a Writ of Mandamus compelling, commanding and directing the Respondents and each and every one of them to do their duty, to recognise that the Petitioner was and is an Officer of the Ceylon Police, not to hinder or impede the Petitioner from serving or continuing to serve as an Officer of the Ceylon Police in accordance with the law, rules and regulations appertaining to the service of Police Officers.
- 30
3. To award the Petitioner the costs of this suit and such other and further relief as Your Lordships deem meet.

(Sgd.) JULIUS & CREASY,
Proctors for Petitioner.

1st June, 1960.

Motion of the Proctors for Petitioner

**IN THE HONOURABLE THE SUPREME COURT OF THE
ISLAND OF CEYLON**

In the matter of an Application for the grant and issue of Mandates in the nature of writs of Certiorari and Mandamus in terms of section 42 of the Courts Ordinance (Cap. 6) of the Revised Legislative Enactments of Ceylon.

Application No. 250

IN the matter of an Application for the addition and/or substitution of 10 Hector Senarath Rajakaruna Banda Kobbekaduwa of No. 14, Ampitiya Road, Kandy in place of George Reginald de Silva of Green Lodge, Skinner's Road North, Colombo 13, the 4th Respondent, deceased.

SIDNEY GODFREY DE ZOYSA of C 37, Mackenzie Road,
Colombo 5.....*Petitioner.*

vs.

1. THE PUBLIC SERVICE COMMISSION, The Secretariat,
Colombo.
2. SIR HERBERT ERIC JANSZ of 9 and 11, Stag Lane,
Thimbirigasyaya, Colombo 5. 20
3. JOSEPH NALLIAH ARUMUGAM of 115, Macarthy Road,
Colombo 7.
4. GEORGE REGINALD DE SILVA of Green Lodge,
Skinner's Road North, Colombo 13.....*Respondents.*

To :

**HIS LORDSHIP THE HONOURABLE THE CHIEF JUSTICE AND TO THEIR
LORDSHIPS THE HONOURABLE THE PUISNE JUDGES OF THE HONOURABLE
THE SUPREME COURT OF THE ISLAND OF CEYLON.**

We move as Proctors for the Petitioner abovenamed to tender and file herewith in your Lordship's Court :— 30

1. The Petition of the Petitioner abovenamed (together with the annexure marked XI).
2. The Affidavit of SIDNEY GODFREY DE ZOYSA the Petitioner abovenamed.

And for the reasons stated in the Petition PRAY that Your Lordships' Court be pleased to make such order as Your Lordship's Court thinks fit in terms of the Prayer to the Petition, that Your Lordships :—

No. 5
Motion of
the Proctors
for
Petitioner
—continued.

1. Do direct that Hector Senarath Rajakaruna Banda Kobbekaduwa of No. 14, Ampitiya Road, Kandy be added as a Party Respondent and/or substituted in place of the deceased 4th Respondent abovenamed.
- 10 2. Do direct that the Notice ordered by Your Lordship's Court on the 3rd day of June 1960 to be served on the Respondents abovenamed be served on the said Hector Senarath Rajakaruna Banda Kobbekaduwa of No. 14, Ampitiya Road, Kandy.
3. Do take this matter up for disposal today as this matter is of great urgency.
4. Do award the Petitioner costs of this Application and such other and further relief as Your Lordships Court shall deem meet.

(Sgd. JULIUS & CREASY,
Proctors for Petitioner.

No. 6

No. 6
Petition of
S. G. de
Zoysa re
addition
and/or
substitution
of H.S.R.B.
Kobbeka-
duwa,
2-9-60.

20 **Petition of S. G. de Zoysa re addition and/or substitution of
H. S. R. B. Kobbekaduwa, with Annex marked XI.**

**IN THE HONOURABLE THE SUPREME COURT OF THE
ISLAND OF CEYLON**

IN the Matter of an Application for the grant and issue of Mandates in the nature of Writs of Certiorari and Mandamus in terms of Section 42 of the Courts Ordinance (Cap. 6) of the Revised Legislative Enactments of Ceylon.

Application No. 250.

80 IN the Matter of an Application for the addition and/or substitution of Hector Senarath Rajakaruna Banda Kobbekaduwa of No. 14, Ampitiya Road, Kandy in place of George Reginald de Silva of Green Lodge, Skinner's Road North, Colombo 13, the 4th Respondent, deceased.

SIDNEY GODFREY DE ZOYSA of C 37, Mackenzie Road,
Colombo 5 *Petitioner.*

vs.

1. THE PUBLIC SERVICE COMMISSION, The Secretariat,
Colombo.

No. 6
Petition of
S. G. de
Zoysa re-
addition
and/or
substitution
of H.S.R.B.
Kobbeka-
duwa —
2-9-60.
—continued.

2. SIR HERBERT ERIC JANSZ of 9 and 11, Stag Lane,
Thimbirigasyaya, Colombo 5.
3. JOSEPH NALLIAH ARUMUGAM of 115, Macarthy Road,
Colombo 7.
4. GEORGE REGINALD DE SILVA of Green Lodge,
Skinner's Road North, Colombo 13.....*Respondents.*

To :

HIS LORDSHIP THE HONOURABLE THE CHIEF JUSTICE AND TO THEIR
LORDSHIPS THE HONOURABLE THE PUISNE JUDGES OF THE HONOURABLE
THE SUPREME COURT OF THE ISLAND OF CEYLON. 10

On this 2nd day of September, 1960.

THE Petition of the Petitioner abovenamed appearing by FREDERICK CLAUDE ROWAN, JOSEPH FRANCIS MARTYN, HENRIC THEODORE PERERA, JAMES ARELUPAR NAIDOO and ALEXANDER RICHARD NEVILLE DE FONSEKA, Proctors of the Honourable the Supreme Court of the Island of Ceylon, carrying on business in partnership under the name and style of Julius and Creasy and their Assistants JOHN CLAUDE BRYNELL, ALEXANDER NEREUS WIRATUNGA, LENA CHARLOTTE FERNANDO, FRANCIS LUKE THEODORE MARTYN, REX HERBERT SEBASTIAN PHILLIPS, REGINALD FREDERICK MIRANDO, JOHN AJASATH RANCOTH WEERASINGHE, BERTRAM MANSON 20 AMARASEKERA, JUSTIN MERVYN CANAGERATNA, JAMES ORLANDO DE SAA BANDARANAIKE, MARCIA LUCILLE MARTYN, GERALD EBENEZER ABEYNAIKE, NADARASA RATHINASAPATHY, RAJARATNAM SENATHI RAJA, SHELTON VERNON PERERA and SARAVANAMUTTU KUGAPERUMAL Proctors of the said Honourable Court, his Proctors states as follows :—

1. The Petitioner filed this application on the 31st day of May, 1960 praying that Your Lordships' Court *inter alia* (a) do grant and issue a Mandate in the nature of a Writ of Certiorari quashing the order of the Respondents abovenamed compulsorily retiring the Petitioner from the Ceylon Police Force ; and (b) do grant and issue a Mandate in the nature of a Writ 30 of Mandamus compelling commanding and directing the Respondents and each and every one of them to do their duty, to recognise that the Petitioner was and is an Officer of the Ceylon Police Force, not to hinder or impede the Petitioner from serving or continuing to serve as an Officer of the Ceylon Police Force as aforesaid in accordance with the Law, rules and regulations appertaining to the service of Police Officers.

2. Your Lordships' Court on the 3rd day of June, 1960 directed that Notice be served and issued on the Respondents abovenamed and that copies of the Notice to be served on the 1st Respondent Commission abovenamed be served and issued on each of the three members consisting the 40 1st Respondent commission at that time, namely the 2nd, 3rd and 4th Respondents abovenamed.

3. Notices were duly issued and served in accordance with the Order of Your Lordships' Court on the Respondents abovenamed.

4. ON the 1st of July, 1960, Your Lordships' Court granted the Respondents abovenamed time to file affidavits which have not been filed up to date.

5. ON the 28th of July, 1960 George Reginald de Silva the 4th Respondent abovenamed died. on the 12th of August, 1960. His Excellency the Governor-General appointed Hector Senarath Rajakaruna Banda Kobbekaduwa of No. 14, Ampitiya Road, Kandy, to fill the vacancy created in the composition of the 1st Respondent Commission abovenamed. The said appointment was duly gazetted in the Ceylon Government Gazette 10 No. 12,182 of the 12th August, 1960 which is produced and filed herewith marked X1.

6. The Application is fixed for Hearing on the 12th and 13th of September, 1960 and it is submitted that this being a matter of grave urgency in so far as the Petitioner is concerned, it is desirable that this matter be heard and determined as early as possible.

WHEREFORE THE PETITIONER PRAYS THAT YOUR LORDSHIPS :

- 20 (a) DO direct that Hector Senerath Rajakaruna Banda Kobbekaduwa of No. 14, Ampitiya Road, Kandy, be added as a Party Respondent and/or substituted in place of the deceased 4th Respondent abovenamed ;
- (b) DO direct that the Notice directed by Your Lordships' Court on the 3rd day of June, 1960 to be served on the Respondents abovenamed, be served on the said Hector Senarath Rajakaruna Banda Kobbekoduwa of No. 14, Ampitiya Road, Kandy.
- (c) DO award the Petitioner costs of this Application and such other and further relief as Your Lordships' Court shall deem meet.

(Sgd.) JULIUS & CREASY,
Proctors for Petitioner.

Documents Filed with Petition

- 30 1. Affidavit of Petitioner.
2. Ceylon Government Gazette (Extraordinary) No. 12,182 dated 12th August, 1960, marked X1.

(Sgd). JULIUS & CREASY,
Proctors for Petitioner.

Settled by :

H. L. E. COORAY.
W. T. P. GOONETILLEKE.
S. J. KADIRGAMAR.
H. W. JAYAWARDENE, Q.C..
40 H. V. PERERA, Q.C..
Advocates.

No. 6
Petition of
S. G. de
Zoysa re-
addition
and/or
substitution
of H.S.R.B.
Kobbeka-
duwa,
2-9-60
—continued.

No. 6
Petition of
S. G.
de Zoysa re-
addition
and/or
substitution
of H.S.R.B.
Kobbeka-
duwa,
2-9-60
—continued.

Annex
marked X1

XI
THE CEYLON GOVERNMENT GAZETTE

No. 12,182 — FRIDAY, AUGUST 12, 1960.

(Published by Authority)

Part I: Section (I). — General

No. 338 of 1960.

G.G. O. No. C. 118/47.

IT is hereby notified that the Governor-General has been pleased, under section 58 of the Ceylon (Constitution and Independence) Orders in Council, 1946 and 1947, to appoint Mr. HECTOR SENARATH RAJAKARUNA 10 BANDA KOBBEKADUWA, to be a Member of the Public Service Commission with effect from 12th August, 1960, to fill the vacancy caused by the death of Mr. GEORGE R. DE SILVA.

By His Excellency's command,

N. W. ATUKORALA,
Secretary to the Governor-General.

Governor-General's Office,
Colombo, 10th August, 1960.

No. 7
Affidavit of
S. G.
de Zoysa
2-9-60

No. 7

Affidavit of S. G. de Zoysa

20

IN THE HONOURABLE THE SUPREME COURT OF THE
ISLAND OF CEYLON

In the Matter of an Application for the grant and issue of Mandates in the Nature of Writs of Certiorari and Mandamus in terms of Section 42 of the Courts Ordinance (Cap. 6) of the Revised Legislative Enactments of Ceylon.

In the Matter of an Application for the addition and or substitution of Hector Senarath Rajakaruna Banda Kobbekaduwa of No. 14, Ampitiya Road, Kandy, in place of George Reginald de Silva, of Green Lodge, Skinner's Road, Colombo 13, the 4th Respondent deceased. 80

SYDNEY GODFREY DE ZOYSA, of C-37, Mackenzie Road,
Colombo 5..... *Petitioner.*

No. 250. *vs.*

1. THE PUBLIC SERVICE COMMISSION, the Secretariat,
Colombo.

2. SIR HERBERT ERIC JANSZ of 9 and 11, Stag Lane,
Thimbirigasyaya, Colombo 5.

3. JOSEPH NALLIAH ARUMUGAM of No. 115, Macarthy
Road, Colombo 7.

4. GEORGE REGINALD DE SILVA of Green Lodge.
Skinner's Road North, Colombo 13..... *Respondents.* 40

To :

HIS LORDSHIP THE HONOURABLE THE CHIEF JUSTICE AND TO THEIR
LORDSHIPS THE HONOURABLE THE PUISNE JUDGES OF THE
HONOURABLE THE SUPREME COURT OF THE ISLAND OF CEYLON.

No. 7
Affidavit of
S. G.
de Zoysa
2-9-60
—continued.

I, SIDNEY GODFREY DE ZOYSA, of C-37, Mackenzie Road, Colombo 5, being a Christian do hereby make oath, swear, and state and say as follows :—

1. I have personal and particular knowledge of the facts and matters as sworn to hereafter by me in this Affidavit, which I swear to from that personal and particular knowledge.

2. This Application was filed on the 31st day of May, 1960, praying that Your Lordship's Court *inter alia*

(a) do grant and issue a mandate in the nature of a Writ of Certiorari quashing the order of the Respondents abovenamed compulsorily retiring me from the Ceylon Police Force and

(b) do grant and issue a mandate in the nature of a Writ of Mandamus, compelling commanding and directing the Respondents and each and every one of them to do their duty, to recognise that I was and I am an Officer of the Ceylon Police Force, not to hinder or impede me from serving or continuing to serve as an Officer of the Ceylon Police Force as aforesaid in accordance with the Law Rules and Regulations appertaining to the service of Police Officers.

3. Your Lordship's Court on the 3rd day of June, 1960, directed that notice be served and issued on the Respondents abovenamed and that copies of the Notice be served on the 1st Respondent Commission abovenamed be served and issued on each of the three Members constituting the 1st Respondent Commission at that time, namely the 2nd, 3rd and 4th Respondents abovenamed.

4. Notices were duly issued and served in accordance with the Order of Your Lordship's Court on the Respondents abovenamed including the 4th Respondent above named.

5. On the 1st of July, 1960, Your Lordship's Court granted the Respondents abovenamed time to file Affidavits which have not been filed up to date.

6. On the 28th of July, 1960, George Reginald de Silva the 4th Respondent abovenamed died and on the 12th of August, 1960, His Excellency the Governor-General appointed Hector Senarath Rajakaruna Banda Kobbekaduwa of No. 14, Ampitiya Road, Kandy to fill the vacancy created in the composition of the 1st Respondent Commission abovenamed. The said appointment was duly gazetted in the Ceylon Government Gazette No. 12,182 of the 12th of August, 1960. (A Copy of which is produced and filed with the Petition marked X.1.)

No. 7
Affidavit of
S. G.
de Zoysa
2-9-60
—continued.

7. The Application is fixed for Hearing on the 12th and 13th of September, 1960 and I respectfully submit that this is a matter of grave urgency to me and that it is desirable that the matter be heard and determined as early as possible.

Signed and Sworn to at }
Colombo this 2nd day of } (Sgd.) SYDNEY DE ZOYSA.
September, 1960. }

Before me,

(Sgd.) DAVID MARTENSZ,
J.P. 10

No. 8
Order of the
Supreme
Court re
substitution
of H.S.R.B.
Kobbekaduwa
2-9-60

No. 8

Order of the Supreme Court re substitution of
H. S. R. B. Kobbekaduwa

Application No. 250.

In the matter of an Application for the addition and/or substitution of Hector Senarath Rajakaruna Banda Kobbekaduwa of No. 14, Ampitiya Road, Kandy, in place of George Reginald de Silva of Green Lodge, Skinner's Road North, Colombo 13, the 4th Respondent, deceased.

Present : H. N. G. FERNANDO, J.

Counsel : H. V. PERERA, Q.C., in support.

20

Mentioned on : 2nd September, 1960.

FERNANDO, J.

The application that Mr. H. S. R. B. Kobbekaduwa be substituted in place of the 4th respondent who is stated to be deceased is allowed and the application that notice of the subsequent petition be served on the substituted 4th respondent is allowed.

(Sgd.) H. N. G. FERNANDO,
Puisne Justice.

Petitioner's List of Witnesses

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of an application for the grant and issue of Mandates in the nature of Writs of Certiorari and Mandamus in terms of section 42 of the Courts Ordinance (Chapter 6) of the Revised Legislative Enactments of Ceylon.

S. C. Application No. 250.

SIDNEY GODFREY DE ZOYSA of C-37, Mackenzie Road,
10 Colombo 5..... *Petitioner.*

vs.

1. THE PUBLIC SERVICE COMMISSION, The Secretariat,
Colombo.

2. SIR HERBERT ERIC JANSZ of Nos. 9 & 11, Stag
Lane, Thimbirigasyaya, Colombo 5.

3. JOSEPH NALLIAH ARUMUGAM of 115, MaCarthy
Road, Colombo 7. *Respondents.*

4. HECTOR SENARATH RAJAKARUNA BANDA KOBBE-
KADUWA of No. 14, Ampitiya Road, Kandy,
20 *the substituted 4th Respondent.*

PETITIONER'S LIST OF WITNESSES

1. G. C. T. A. de Silva, Permanent Secretary, Ministry of Justice, Colombo, to give evidence and produce and/or cause to be produced the letter dated about the 26th or 27th November, 1959, addressed to him together with annexures forwarding a copy of the decision of the Government Parliamentary Group to the effect that S. G. de Zoysa, the Petitioner, should be retired from the Police Department by 27th November, 1959, and also to produce or cause to be produced the file containing the above letter and all other letters, communications or documents connected there-
30 with, whether the same be in his custody or in the custody of the Ministry of Defence and External Affairs or any other Ministry or Department.

We move to file the Petitioner's List of Witnesses in the above case and move for summons on him.

Colombo, 9th day of September, 1960.

(Sgd.) JULIUS & CREASY,
Proctors for Petitioner.

Petitioner's List of Documents

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of an application for the grant and issue of Mandates in the nature of Writs of Certiorari and Mandamus in terms of section 42 of the Courts Ordinance (Chapter 6) of the Revised Legislative Enactments of Ceylon.

S.C. Application No. 250.

SIDNEY GODFREY DE ZOYSA of C-37, Mackenzie Road,
Colombo 5.....*Petitioner.* 10

vs.

1. THE PUBLIC SERVICE COMMISSION, The Secretariat,
Colombo.
2. SIR HERBERT ERIC JANSZ of Nos. 9 & 11, Stag
Lane, Thimbirigasyaya, Colombo 5.
3. JOSEPH NALLIAH ARUMUGAM of 115, MaCarthy
Road, Colombo 7..... *Respondents.*
4. HECTOR SENARATH RAJAKARUNA BANDA KOBBE-
KADUWA of No. 14, Ampitiya Road, Kandy,
..... *the substituted 4th Respondent.* 20

PETITIONER'S LIST OF DOCUMENTS

1. Documents marked " A " to " R " and filed with the Petition of the petitioner as exhibits.

2. Letter dated about the 26th or 27th November, 1959, addressed to G. C. T. A. de Silva, Permanent Secretary, Ministry of Justice, together with annexures, forwarding a copy of the decision of the Government Parliamentary Group to the effect that S. G. de Zoysa, the Petitioner, should be retired from the Police Department by 27th November, 1959, and also to produce or cause to be produced the file containing the above letter and all other letters, communications or documents connected therewith⁸⁰ whether the same be in his possession or custody or in the custody of the Ministry of Defence and External Affairs or any other Ministry or Department.

We move to file the Petitioner's list of Documents in the above case.

Colombo, 9th day of September, 1960.

(Sgd.) JULIUS & CREASY,
Proctors for Petitioner.

Order of the Supreme Court

Application No. 250 of 1960.

Application for a Writ of Certiorari and/or Mandamus on the Public Service Commission and 3 others.

Present : T. S. FERNANDO, J.

Counsel : H. V. PERERA, Q.C., with H. W. JAYAWARDENE, Q.C., S. J. KADIRGAMAR, W. T. P. GOONETILLEKE and H. L. E. COORAY for the petitioner.

10 V. TENNEKON, Senior Crown Counsel, for the respondents.

Mentioned on : 13th September, 1960.

T. S. FERNANDO, J.

On the statement made to me by counsel for the applicant I am satisfied that there is real urgency in disposing of this application. Counsel appearing for the respondents agrees that the matter is urgent. Counsel appearing in the case state that the 29th and 30th of September, 1960, will be convenient so far as they are concerned for the hearing of this application.

Let the matter be listed for hearing on the 29th of September, to be continued on the 30th of September if necessary.

20 Application made by counsel for the applicant for summons on the Permanent Secretary of the Ministry of Justice, Mr. G. C. T. A. de Silva, to give evidence and to produce or cause to be produced the letter dated about the 26th or 27th November, 1959, addressed to the Permanent Secretary of the Ministry of Justice forwarding a copy of the decision of the Government Parliamentary Group to the effect that S. G. de Zoysa, the petitioner, should be retired from the Police Department by 27th November, 1959, is allowed.

The date on which the summons is to be answered will be 29th September, 1960.

(Sgd.) T. S. FERNANDO,
Puisne Justice.

Judgment of the Supreme Court

S.C. Application No. 250/1960.

In the matter of an Application for the grant and issue of Mandates in the nature of Writs of Certiorari and Mandamus.

SIDNEY GODFREY DE ZOYSA of C-37, Mackenzie Road,
Colombo 5.....*Petitioner.*

vs.

1. THE PUBLIC SERVICE COMMISSION, The Secretariat,
Colombo 1. 10
2. SIR HERBERT ERIC JANSZ of 9 and 11, Stag Lane,
Thimbirigasyaya, Colombo 5.
3. JOSEPH NALLIAH ARUMUGAM of 115, MaCarthy
Road, Colombo 7.
4. GEORGE REGINALD DE SILVA, (deceased)

(Substituted for 4th Respondent :)

4 A. HECTOR SENARATH RAJAKARUNA BANDA KOB-
BEKADUWA of 14, Ampitiya Road, Kandy.....*Respondents.*

Present : H. N. G. FERNANDO, J.

Counsel : H. V. PERERA, q.c. *with* H. W. JAYEWARDENE, q.c., S. J. KADIR-
GAMAR, W. T. P. GUNETILLEKE and H. L. E. COORAY for
petitioner ;

V. TENNEKONE, Dy. S. G., *with* B. C. F. JAYARATNE, S.C.C. and
R. S. WANASUNDERA, C.C., for 2nd and 3rd Respondents and
4th substituted Respondent.

Argued on : 17th, 18th, 20th and 21st October, 1960.

Decided on : 15th November, 1960.

H. N. G. FERNANDO, J.

The petitioner has been a member of the Police Force since 1931, and at the time of the occurrence of the events which led to the making of this Application, held the appointment of Deputy Inspector-General of Police. In terms of section 57 of our Constitution he held office "during pleasure." Having been born in 1909, he was fifty years of age on January 15th, 1959.

Rules made under the Public and Judicial Officers (Retirement) Ordinance (Cap. 253) and published in the Gazette of April 29, 1949, as subsequently amended by a Rule published in the Gazette of April 29, 1955, (to which I will for convenience refer as the "Retirement Rules") provide *inter alia* that the "competent authority" may require an officer of the Police Department to retire upon his completing the age of fifty years or at any time thereafter. It is beyond dispute that the authority competent in the case of the petitioner to require him to retire under the Retirement Rules was the Public Service Commission.

No. 12
Judgment
of the
Supreme
Court
15-11-60
—continued.

10 There has apparently been a practice, the source of which (if I recollect rightly) was not referred to in the argument, in pursuance of which the Permanent Secretary to the Ministry of Defence and External Affairs, by the document dated 6th November, 1958, granted to the petitioner an extension of service for one year with effect from 15th January, 1959; but this extension was stated to be subject to the "Gazette Notification regarding retirement of Police Officers in Gazette No. 10,790 of 29 April 1955," which was the Notification of the amending Rule to which I have already referred. In view of the terms of this letter of extension it is unnecessary for me to state reasons for the opinion that the extension thus allowed by
20 the Permanent Secretary could not fetter the power of the Public Service Commission to make an order of retirement under the Retirement Rules. I need only note for present purposes that the petitioner must rightly have expected that he would not be called upon to retire prior to 15th January, 1960. Indeed, having regard to a further letter of extension dated 20th October, 1959, issued by the Permanent Secretary to the Ministry of Justice his rightful expectation must have been that he would not be called upon to retire before 16th January, 1961.

Nevertheless on 27th November, 1959, the Public Service Commission made order requiring the petitioner to retire from service on 1st March, 1960,
30 advising him that he should avail himself prior to that date of leave preparatory to retirement. It has not been argued that there is anything in the Retirement Rules themselves which vitiates this order.

In the affidavit attached to his petition, the petitioner states his belief that the Public Service Commission in making the order of retirement acceded to the requests or wishes of politicians including the then Minister of Justice, and sets out a history of events which according to him prompted the desire for his removal from service. It is fortunately unnecessary to enter into a consideration of these allegations of fact, for eminent counsel appearing for the petitioner has conceded that the allegations are not relevant
40 to the decision of the questions of law arising upon the petition. On 31st May, 1960, the petitioner applied to this Court (1) for a Writ of Certiorari quashing the order of retirement made by the Public Service Commission and (2) for a Writ of Mandamus requiring the Commission *inter alia* to recognise that the petitioner was and is an officer of Police. It is clear that a Writ of Mandamus could issue, if at all, only if the order of retirement is first quashed by way of Certiorari.

The principal grounds of the application to quash the order of retirement, as they were stated in the arguments of the petitioner's counsel, are I trust adequately summarised thus :—

- (a) A body empowered to make an order, even though the order be administrative and not judicial or quasi-judicial, is bound to comply with any enactment, having the force of law, which regulates the procedure to be followed in the making of that order. In the event of non-compliance with such an enactment this Court is entitled in appropriate circumstances to quash the order by Writ of Certiorari. Where such an enactment provides that a person likely to be affected or prejudiced by a proposed order will have an opportunity to make his representations, the failure to afford him such an opportunity is an appropriate ground for quashing the order.
- (b) The Public Service Commission Rules, issued by direction of the Commission on August 21, 1956, prescribe the procedure to be followed before the Commission will make an order of retirement under the Retirement Rules. The relevant procedural provisions are set out in Rules 60 - 62 of the Public Service Commission Rules. These Rules have the force of law. If they do not, then alternatively, Rules 62 and 63 of a set of Rules published in the Gazette of September 22nd 1947 which are to a similar effect are still in operation, having the force of law in that they were made by the Governor by virtue of powers conferred by section 87 of the Ceylon Constitution Order-in-Council, 1946. Admittedly, the impugned order of retirement was not preceded by the steps envisaged in these Rules, and the principle stated at (a) above therefore applies.

The Rules thus relied on provide that where a Head of a Department considers that an officer should be required to retire under the Retirement Rules he will make a recommendation to the Permanent Secretary and inform the officer concerned of the proposal to retire him. It is further provided that the Permanent Secretary will make his recommendation to the Public Service Commission forwarding the statement of the officer, if any. It is conceded that in the present instance no appropriate recommendations were made by the Head of the Department or the Permanent Secretary and also that the petitioner was not informed of the proposal to make the order of retirement. The substantial argument for the petitioner has been that the making of these recommendations and the affording to the petitioner of an opportunity to make his representations regarding his proposed retirement were conditions precedent to the exercise by the Commission of its power to make an order of retirement, and that, since the conditions were not fulfilled, the Commission in making the order acted in excess of its statutory powers.

The principal question for determination is whether the Commission is bound by the Rules, or to put the matter differently, whether the Rules have the force of law. In considering this question it is convenient first to examine the origin and what I might call the "legal status" of the Rules

published in the Gazette of September 22nd 1947, for the argument that the existing Public Service Commission Rules have the force of law depends upon the prior contention that the 1947 Rules have that force.

No. 12
Judgment
of the
Supreme
Court
15-11-60
—continued.

The State Council Order-in-Council, 1931 provided that the appointment, dismissal, etc., of public officers shall be vested in the Governor subject to instructions given to him through the Secretary of State ; and Article 89 of that Order established a Public Services Commission to “advise the Governor” in the exercise of his powers, and also empowered the Governor “by regulation subject to the approval of the Secretary of State to pre-
10 scribe the duties of and the procedure to be followed by the Commission in the exercise of their duties.” In pursuance of this power the Governor made the Public Services Regulations which were published in the Gazette of June 30th 1931. Regulations 82 and 87 of those Rules provided as follows :—

“ 82. The age for retirement of pensionable officers from the Public Service is fifty-five years. Every such public officer may be required to retire from the Public Service on or after attaining the age of retirement. If a Head of a Department considers it to be in the public interest that an officer in his Department should be so required to retire, he should make a recommenda-
20 tion to the Public Services Commission accordingly.

“ 87. If a Head of a Department recommends that a public officer whose emoluments exceed Rs. 15,000 per annum should be required to retire in terms of Public Services Regulation 82, and if the officer is unwilling to retire, the Head of the Department shall inform the officer that such a recommendation is being made and call upon the officer to submit a statement of his reasons for wishing to remain in service for submission to the Public Services Commission along with the Head of the Department’s recommendation.”

30 These Regulations remained in force until 1946. In that year the Ceylon Constitution Order-in-Council, 1946, (which ultimately replaced the 1931 Order) provided in Article 60 that the appointment, dismissal, disciplinary control, etc. of public officers is vested in the Governor acting on the recommendation of the Public Services Commission, and Article 61 of this Order-in-Council provided as follows :—

“ (1) The Governor, acting on the recommendation of the Public Services Commission, may make regulations for all or any of the following matters :—

- (a) the exercise of the Commission of any of their functions ;
- 40 (b) the delegation to the Commission, or to any public officer acting with or without the recommendation of the Commission, subject to such conditions as may be prescribed by the regulations, of any of the powers vested in the Governor by subsection (1) of section 60 of this Order.”

Under the heading of “Transitional Provisions,” the same Order-in-Council had an Article 87 which empowered the Governor to modify, add to or adapt “the provisions of any general order, financial regulation, public service regulation or other administrative regulation or order, or otherwise for bringing the provisions of any such administrative regulation or order into accord with the provisions of this Order or for giving effect thereto.” Article 87 (2) read as follows :—

“ Every regulation made under subsection (1) of this section shall have effect until it is amended, revoked or replaced by the appropriate Minister or authority under this Order.” 10

By virtue of the powers vested in the Governor by Article 87 the following notification was published in the Gazette of 22nd September 1947 :—

“ the Administrative Regulations of the Government of Ceylon are by this Regulation modified, added to and adapted with effect from the date of the first meeting of the House of Representatives, to read as set out in the Schedule.”

In the Schedule to this Notification are set out the earlier Regulations as modified, added to and adapted in four sections : I. The Public Service Commission, II. Appointments and Transfers, III. Discipline and IV. 20 Retirements. The Regulations 62 and 63 now relied on by the petitioner are in Section IV of the Schedule ; the gist of them I have noted above.

In support of his contention that these regulations had the force of law, counsel had first to establish that the corresponding regulations previously in force under the State Council Order-in-Council had themselves the force of law. It will be seen that Article 87 of the 1946 Order-in-Council which provided for the adaptation and modification of general orders, regulations, etc., does not expressly declare, as does for example Article 72 or Article 88 of the same Order-in-Council, that the regulations as modified and adapted “ shall have effect as if enacted in this Order ” or “ shall have 30 the force of law.” Counsel had therefore necessarily to concede that in the case of Financial Regulations modified and adapted under Article 87 they would not have the force of law because, not having the force of law before, they could not acquire the force of law by reason of adaptation or modification under Article 87. Similarly it had also to be conceded that the Public Service Commission Regulations so adapted and modified in 1947 would only have the same “ legal status ” as they previously had. But in their case it was argued that they did have the force of law in 1931 and retained that force when adapted and modified under Article 87.

Let me first state my opinion that the 1931 Regulations were not law 40 and were only directions and instructions which public officers were bound to follow, not because they were an “ enactment,” but because non-compliance would expose them to the peril of disciplinary action. The rules as to retirement in the 1931 Regulations as also in the 1947 Regulations and in the current Rules constituted but a small and unimportant section of the set of regulations. Far more important were those dealing with appoint-

ments, discipline and dismissals. The 1931 Regulations relating to appointments provided that certain appointments were subject to the approval of the Secretary of State, while the disciplinary regulations provided that in some instances the final confirming authority was the Secretary of State. The Regulations were, I feel sure, substantially in conformity with similar regulations obtaining in colonial and semi-colonial dependencies of the British Empire, as also with similar regulations obtaining at the time in India. When Article 86 of the 1931 Order-in-Council vested control of the Public Service Commission in the Governor subject to instructions from the
 10 Secretary of State, no legal rights were in my opinion thereby conferred on public officers. If for instance the procedure prescribed for the appointment to a particular public office requiring the approval of the Secretary of State was not followed, nevertheless if the appointment was in fact approved by the Secretary of State, it surely could not have been contended in a Court of law that the appointment was invalid. Similarly if an order of dismissal made by an officer in Ceylon competent under the regulations to make it was in fact confirmed by the Secretary of State, could it have been contended that the order was invalid for failure to comply with the requisite procedure ?

20 A similar question arose in India in three cases which cast light on the legal effect of regulations such as these. Section 96 (B) of the Government of India Act 1919, provided as follows :—

“ (1) Subject to the provisions of this Act and of the rules made thereunder, every person in the Civil Service of the Crown in India holds office during His Majesty’s pleasure, and may be employed in any manner required by a proper authority within the scope of his duty, but no person in that service may be dismissed by any authority subordinate to that by which he was appointed, and the Secretary of State in Council may (except so far as he may provide by rules to the contrary) reinstate any
 30 person in that service who has been dismissed.

“ (2) The Secretary of State in Council may make rules for regulating the classification of the Civil Services in India, the methods of their recruitment, their conditions of service, pay and allowances, and discipline and conduct.”

Rule 14 of the rules referred to in subsection (2) provided *inter alia* that an order of dismissal should be preceded by a properly recorded departmental inquiry at which charges must be framed and explained to the accused, evidence in support and evidence in defence must be recorded, and a finding
 40 recorded on each charge after discussion of the evidence.

In the case of *Vankata Rao vs. Secretary of State, 1937 A.I.R. (PC.) 31*, two Courts in India and thereafter the Privy Council held that “ the procedure prescribed by the rule was not followed at all ” prior to the dismissal of the officer concerned. In an action by the dismissed officer in which he had claimed damages for wrongful dismissal, their Lordships of the Privy Council examined the effect of the rules. Referring to the words in the section 96(B) “ subject to the rules made thereunder ” they regarded the

terms of the section as containing a “statutory and solemn assurance that the tenure of office, though at pleasure, would not be subject to capricious and arbitrary action but will be regulated by rule.” They held that section 96(B) in express terms stated that office is held during pleasure; and that this was an express term of the contract of employment; and they rejected the argument that the rules constituted an added contractual term that the rules are to be observed. One reason for this view was that “the rules are manifold in number and most minute in particularity and are all capable of change.” If indeed the rule in question did have the force of law in the same way as did section 96(B) itself, there appears to me to be no reason why the rule should not, equally with section 96(B), have been regarded as an additional term of the contract of employment.

In *Rangachari v. Secretary of State, 1937 A.I.R. (P.C.) 27*, decided by the same Board, a sub-inspector of Police who had been dismissed sued apparently for a declaration that he was entitled to a pension despite an order of dismissal from the Public Service. One of the grounds for questioning the validity of the order of dismissal was that the order had been made by an official lower in rank than the person who had appointed the sub-inspector. The Privy Council held *inter alia* that the dismissal was by reason of its origin, bad and inoperative. Referring to the express provision in section 96(B)(1) that “no person may be dismissed by an authority subordinate to that by which he was appointed”, their Lordships stated “It is manifest that the stipulation or proviso as to dismissal is itself of statutory force and stands on a footing quite other than any matters of rule which are of infinite variety and can be changed from time to time. It is plainly necessary that this statutory safeguard should be observed with the utmost care and that a deprivation of pension based upon a dismissal purporting to be made by an official who is prohibited by statute from making it rests upon an illegal and improper foundation”. While the dismissal was held to be unlawful, it was only because of the peculiar circumstances of the case that their Lordships decided not to exercise their discretionary power to make the declaration sought for by the dismissed officer.

The decision in *Rangachari's* case establishes that their Lordships drew a distinction between the legal effect of the statutory provision which had been breached in that case and a mere rule, the breach of which was relied on in the first mentioned case. The distinction is well emphasized in the *High Commissioner for India v. Lall, 1948 A.I.R.(P.C.) 121*. The relevant statute in this case was the Government of India Act 1935, section 240. Subsections (1) and (2) correspond to the provisions re-produced above from the 1919 Act, but subsection (3) provided that “no person shall be dismissed until he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him”. The Privy Council (in an action by the dismissed officer for a declaration that the order of dismissal was *ultra vires* and that he was still a member of the Indian Civil Service) was satisfied that sub-section (3) of section 240 had not been complied with. Citing with approval the passage from the judgment in *Rangachari's* case which I have cited above, their Lordships had no difficulty in holding that “the provisions as to a reasonable opportunity of showing cause against the action proposed (i.e., sub-section (3) is now put

on the same footing as the provision now in sub-section (2), and that it is no longer resting on rules alterable from time to time but is mandatory and necessarily qualifies the right of the Crown recognised in sub-section (1).” They regarded sub-sections (2) and (3) of section 240 as prohibitory in form and not merely permissive. It is to be noted that rules providing for an inquiry similar to the rules to that effect earlier in force, still existed at this time ; but the approval of the two earlier decisions of 1937 satisfies me that, if section 240 had not contained the express statutory provision for showing cause which sub-section (3) did contain, their Lordships would not have
 10 held as they actually did that the order of dismissal was void and inoperative. The mere rule itself would not have entitled the officer in that case to the declaration to that effect which was granted by the Privy Council, and that simply for the reason that the rule had not the force of law.

Counsel for the petitioner has sought to distinguish the three Indian cases on the ground, in that of *Vankata Rao*, because the action was for breach of contract, and in the other two cases on the ground that the actions were for declarations that the orders of dismissal were void, whereas the present application is for a quashing by *Writ of Certiorari*. I think I have impliedly stated my reasons for declining to recognise such a distinction as
 20 valid. In *Lall's* case the Privy Council granted the declaration on the basis that there had been a breach of a statutory provision, and in *Ranga-chari's* case the declaration was not accorded on a similar basis only for the reason that their Lordships considered the grant of a declaration unnecessary or inappropriate in the circumstances. What *Venakata Rao's* case decided was that *the rule did not have the same legal effect as a statutory provision*. Indeed the Privy Council in *Lall's* case (at page 152, paragraph 17) found it interesting to contrast the two earlier decisions in one of which a statute was relied on and in the other of which only a mere rule. Each of these decisions turned on the answer to the same question as arises for me to
 30 decide : “ Is the right to dismiss a person who holds office during pleasure qualified by a provision in a mandatory enactment ? ” If this question cannot be answered in the affirmative, no Court can hold for any purpose that an order of dismissal is illegal on the ground of a breach of the provision.

Where a statute confers power on some competent authority to make rules for a particular purpose and the rule is not inconsistent with the statute itself, then if the intention of the Legislature is that the authority should be a subordinate law-making body the rule has the same force of law as the statute itself. If the Secretary of State who made the rule invoked in *Venkata Rao's* case was a subordinate law-making body in this
 40 sense, then in my opinion his rules had the force of law and by virtue thereof constituted a term of the contract of employment just as much as sub-section (1) of section 96 (B) did. The decision in that case to the effect that the rule did not form a term of the contract can only be construed as meaning that its maker the Secretary of State was not empowered to make law. The Regulations made for Ceylon in 1931 were not a mandatory enactment, and their modification and adaptation by the Governor in 1947 did not convert them into such an enactment. For the same reasons, I must hold that the present Rules issued by the Public Service Commission are not a mandatory enactment qualifying the right of dismissal involved
 50 in section 57 of the Constitution.

No. 12
Judgment
of the
Supreme
Court
15-11-60
—continued.

Having reached this conclusion, it is scarcely necessary to consider the more general proposition that, if an officer holding office during pleasure is compulsorily retired without regard to the principle of natural justice that he be first heard on his own behalf, this Court is entitled to quash the order of retirement. I do not agree that natural justice would require such a hearing before an officer is retired under the Retirement Rules. But even if I did so agree, the decision in *Venkata Rao's* case, where there had been a flagrant breach of a rule which ideally embodied the same principle, confirms me in the opinion that the proposition is untenable. Nor is it necessary for me to rely on the decision of Gratiaen, J., in *Wijesundera v. 10 Public Service Commission, 55 N.L.R. 94.*

Having regard to certain of the allegations made by the petitioner, some relevant and some not clearly irrelevant, which have not been contradicted, the petitioner appears to have good ground for his belief that the Retirement Rules were utilized in his case for a purpose which they were not intended to serve and in a manner not contemplated by the Public Service Commission Rules. While I refuse the application, I am not disposed to make an order for costs in favour of the respondents.

(Sgd.) H. N. G. FERNANDO,
Puisne Justice. 20

No. 13

No. 13
Application
for
Conditional
Leave to
Appeal to
the Privy
Council
(i) Affidavit
of S. G.
de Zoysa
1-12-60

**Application for Conditional Leave to Appeal to the
Privy Council**

**IN THE HONOURABLE THE SUPREME COURT OF THE
ISLAND OF CEYLON**

In the matter of an Application for the grant and issue of Mandates in the nature of Writs of Certiorari and Mandamus in terms of Section 42 of the Courts Ordinance (Chapter 6) of the Revised Legislative Enactments of Ceylon.

Application No. 250.

30

and

In the matter of an Application for Conditional Leave to Appeal to Her Majesty-in-Council in terms of The Appeals (Privy Council) Ordinance (Chapter 85) of the Revised Legislative Enactments of Ceylon.

SIDNEY GODFREY DE ZOYSA of No. C37, Mackenzie Road,
Colombo 5.....*Petitioner.*

vs.

No. 18
Application
for
Conditional
Leave to
Appeal to
the Privy
Council

(i) Affidavit
of S. G.
de Zoysa
1-12-60.
—continued.

1. THE PUBLIC SERVICE COMMISSION, The Secretariat,
Colombo.
 2. SIR HERBERT ERIC JANSZ of Nos. 9 and 11, Stag Lane,
Thimbirigasyaya, Colombo 5.
 3. JOSEPH NALLIAH ARUMUGAM of 115, MaCarthy Road,
Colombo 7.
 - 10 4. GEORGE REGINALD DE SILVA of Green Lodge,
Skinner's Road North, Colombo 13.
 5. GINIGE CYRIL THAINE ARTHUR DE SILVA of No. 2,
Police Park Terrace, Colombo 5.....*Respondents.*
- HECTOR SENARATH RAJAKARUNA BANDA KOBBE-
KADUWA of No. 114, Ampitiya Road, Kandy, *Sub-*
stituted-Respondent in place of the 4th Respondent-
Deceased......*Substituted-Respondent.*

I, Sidney Godfrey de Zoysa, of No. C37, Mackenzie Road, Colombo 5,
being a Christian do hereby make oath, swear and state as follows :—

- 20 1. I have personal and particular knowledge of the facts and matters
as sworn to hereafter by me in this affidavit which I swear to from that
personal and particular knowledge.
2. I am the Petitioner abovenamed.
3. Feeling aggrieved by the Judgment of Your Lordships' Court
pronounced on the 15th day of November, 1960, I am desirous of appealing
therefrom to Her Majesty the Queen-in-Council.
- 30 4. The said Judgment is a final Judgment and the matter in dispute
on the Appeal is far in excess of the value of Rupees Five
thousand (Rs. 5,000/-, and involves directly or indirectly some claim, or
question to or respecting some civil right amounting to or in excess of the
value of Rupees Five thousand (Rs. 5,000/-). Alternatively I submit that
the questions involved in the Appeal are questions which by reason of their
great general or public importance or otherwise ought to be submitted to
Her Majesty the Queen-in-Council for decision.
5. Argument on the Application for the grant and issue of Mandates
in the nature of Writs of Certiorari and Mandamus on the 1st to 4th Respon-
dents abovenamed was concluded on the 21st day of October, 1960 when
Your Lordships' Court reserved its Order thereon and the said Order of
Your Lordships' Court was delivered as aforesaid on the 15th day of Nov-

No. 18
Application
for
Conditional
Leave to
Appeal to
the Privy
Council

(i) Affidavit
of S. G.
de Zoysa
1-12-60
—continued.

ember, 1960. The 2nd Respondent abovenamed relinquished his office as Chairman and Member of the 1st Respondent Commission abovenamed as and from the 24th day of October, 1960 on the expiry of his term of office and His Excellency the Governor-General appointed the 5th Respondent abovenamed to fill the vacancy thus created in the composition of the 1st Respondent Commission. The said appointment was duly gazetted in the Ceylon Government Gazette No. 12,219 of 28th October, 1960.

6. Notice of the intended application for Leave to Appeal was given to the Respondents in terms of Rule (2) of the Rules in the Schedule to The Appeals (Privy Council) Ordinance (Chapter 85) on the 25th and 26th days 10 of November, 1960, respectively by sending Notices to the several Respondents abovenamed by :—

- (a) Registered Post.
- (b) Ordinary Post.
- (c) Personal Service.

7. In proof of the service of the aforesaid Notices on the Respondents abovenamed by Registered Post, I produce herewith the receipts issued by the Postal Authorities for the said Registered Articles marked “ A ”, “ B ”, “ C ”, “ D ”, and “ E ”.

8. The said Notices were also served personally by me and on my 20 behalf by Joseph Algernon Ambrose Perera retired Superintendent of Police and presently of Messrs. Photo-Cinex Limited, Colombo, on the 26th day of November, 1960 on the 1st, 2nd, 3rd and 5th Respondents abovenamed and on the abovenamed Substituted-Respondent.

Signed and sworn to at Colombo }
on this 1st day of December, } (Sgd.) S. G. DE ZOYSA.
1960. }

Before me,
(Sgd.) J. B. EDIRIMANASINGHE,
Commissioner of Oaths. 30

No. 18
Application
for
Conditional
Leave to
Appeal to
the Privy
Council

(ii) Petition
of S. G.
de Zoysa
5-12-60

IN THE HONOURABLE THE SUPREME COURT OF THE
ISLAND OF CEYLON

In the Matter of an application for the grant and issue of Mandates in the nature of Writs of Certiorari and Mandamus in terms of Section 42 of the Courts Ordinance (Chapter 6) of the Revised Legislative Enactments of Ceylon.

Application No. 250

and

In the Matter of an Application for Conditional Leave to Appeal to Her Majesty in Council in terms of The Appeals (Privy Council) Ordinance 40 (Chapter 85) of the Revised Legislative Enactments of Ceylon.

SYDNEY GODFREY DE ZOYSA of C37, Mackenzie Road,
Colombo 5.....*Petitioner.*

vs.

No. 13
Application
for
Conditional
Leave to
Appeal to
the Privy
Council

(ii) Petition
of S. G.
de Zoysa
5-12-60
—continued.

1. THE PUBLIC SERVICE COMMISSION, The Secretariat,
Colombo.
 2. SIR HERBERT ERIC JANSZ of 9, and 11, Stag Lane,
Thimbirigasyaya, Colombo 5.
 3. JOSEPH NALLIAH ARUMUGAM of 115, MaCarthy Road,
Colombo 7.
 - 10 4. GEORGE REGINALD DE SILVA of Green Lodge,
Skinner's Road North, Colombo 13.
 5. GINIGE CYRIL THAINE ARTHUR DE SILVA of 2, Police
Park Terrace, Colombo 5.....*Respondents.*
- HECTOR SENERATH RAJAKARUNA BANDA KOBBE-
KADUWA, of 114, Ampitiya Road, Kandy, *Substi-
tuted-Respondent in place of the 4th Respondent-
Deceased.*.....*Substituted-Respondent.*

To :

20 HIS LORDSHIP THE HONOURABLE THE CHIEF JUSTICE AND TO THEIR
LORDSHIPS THE HONOURABLE THE PUISNE JUDGES OF THE HONOUR-
ABLE THE SUPREME COURT OF CEYLON.

On this Fifth day of December, 1960.

The Petition of the Petitioner abovenamed appearing by FREDERICK
CLAUDE ROWAN, JOSEPH FRANCIS MARTYN, HENRIC THEODORE PERERA,
JAMES ARELUPAR NAIDOO and ALEXANDER RICHARD NEVILLE DE FONSEKA,
Proctors of the Honourable the Supreme Court of the Island of Ceylon
carrying on business in partnership under the name and style of JULIUS
AND CREASY and their assistants JOHN CLAUDE BYRNELL, ALEXANDER
NEREUS WIRATUNGA, LENA CHARLOTTE FERNANDO, FRANCIS LUKE THEO-
30 DORE MARTYN, REX HERBERT SEBASTIAN PHILLIPS, REGINALD FREDERICK
MIRANDO, JOHN AJASATH RANCOTH WEERASINGHE, BERTRAM MANSON
AMARASEKERA BRINDLEY RATWATTE, JUSTIN MERVYN CANAGARETNA,
JAMES ORLANDO DE SAA BANDARANAIKE, MARCIA LUCILLE MARTYN,
GERALD EBENEZER ABEYNAIKE, NADARASA RATHINASABAPATHY, RAJA-
RATNAM SENATHI RAJAH, SHELTON VERNON PERERA and SARAVANAMUTTU
KUGAPERUMAL his Proctors, states as follows :—

1. That feeling aggrieved by the Judgment of Your Lordships' Court
pronounced on the 15th day of November, 1960, the Petitioner abovenamed
is desirous of appealing therefrom to Her Majesty the Queen-in-Council.

No. 13
Application
for
Conditional
Leave to
Appeal to
the Privy
Council

(ii) Petition
of S. G.
de Zoysa
5-12-60
---continued.

2. The said Judgment is a final Judgment and the matter in dispute on the Appeal is far in excess of the value of Rupees five thousand (Rs. 5,000/-) and involves directly or indirectly some claim, or question to or respecting some civil right amounting to or in excess of the value of Rupees Five Thousand (Rs. 5,000/-). Alternatively the Petitioner submits that the questions involved in the Appeal are questions which by reason of their great general or public importance or otherwise ought to be submitted to Her Majesty the Queen-in-Council for decision.

3. Argument on the Application for the grant and issue of Mandates in the nature of Writs of Certiorari and Mandamus on the 1st to 4th Respondents abovenamed was concluded on the 21st day of October, 1960 when Your Lordships' Court reserved its Order thereon and the said Order of Your Lordships' Court was delivered as aforesaid on the 15th day of November, 1960. The 2nd Respondent abovenamed relinquished his office as Chairman and Member of the 1st Respondent Commission abovenamed as and from the 24th day of October, 1960 on the expiry of his term of office and His Excellency the Governor-General appointed the 5th Respondent abovenamed to fill the vacancy thus created in the composition of the 1st Respondent Commission. The said appointment was duly gazetted in the Ceylon Government Gazette No. 12,219 of 28th October, 1960. 20

4. Notice of the intended application for Leave to Appeal was given to the Respondents in terms of Rule (2) of the Rules in the Schedule to The Appeals (Privy Council) Ordinance (Chapter 85) on the 25th and 26th days of November, 1960, respectively by sending Notices to the several Respondents abovenamed by :—

- (a) Registered Post.
- (b) Ordinary Post.
- (c) Personal Service.

Wherefore the Petitioner prays :—

- (a) that Your Lordships' Court be pleased to grant him Conditional Leave to Appeal from the said Judgment of Your Lordships' Court dated the 15th day of November, 1960, to Her Majesty the Queen-in-Council, and
- (b) for such other and further relief as to Your Lordships' Court shall seem meet.

(Sgd.) JULIUS & CREAMY,
Proctors for Petitioner.

Settled by :—

H. L. E. COORAY,
W. T. P. GOONETILLEKE,
S. J. KADIRGAMAR,
H. W. JAYAWARDENE, Q.C.,
H. V. PERERA, Q.C.

**Order of the Supreme Court granting Conditional
Leave to Appeal**

**Application for Conditional Leave to Appeal to the Privy
Council in S.C. Application No. 250 of 1960.**

Present : WEERASOORIYA, J. and L. B. DE SILVA, J.

Counsel : H. V. PERERA, Q.C., with H. W. JAYAWARDENE, Q.C., S. J.
KADIRGAMAR, W. T. P. GOONETILLEKE and H. L. E.
COORAY for the Petitioner.

10 MERVYN FERNANDO, Crown Counsel, for the 2nd, 3rd,
5th and Substituted-respondents.

Argued and Decided on : 20th January, 1961.

WEERASOORIYA, J.

This is an application for conditional leave to appeal to the Privy Council. Learned Crown Counsel, who appears for the respondents, concedes that the appeal sought to be preferred is from a final judgment of this Court in a civil suit or action within the meaning of section 3 of The Appeals (Privy Council) Ordinance, and also that the case is one which falls under Rule 1 (b) of the Rules in the Schedule to the Ordinance in that the question
20 involved is one which by reason of its general or public importance ought to be submitted to Her Majesty-in-Council for decision. It is unnecessary, therefore, to consider whether the case is also one which falls under Rule 1 (a) of the Rules in the Schedule to the Ordinance.

The application for conditional leave is granted, subject to the usual conditions. We make no order as to costs.

(Sgd.) H. W. R. WEERASOORIYA,
Puisne Justice.

L. B. DE SILVA, J.—

I agree.

(Sgd.) L. B. DE SILVA,
Puisne Justice.

No. 15

**Decree of the Supreme Court granting Conditional Leave
to Appeal to the Privy Council**

S.C. Application No. 536.

ELIZABETH THE SECOND, QUEEN OF CEYLON AND OF HER OTHER
REALMS AND TERRITORIES, HEAD OF THE COMMONWEALTH

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of an Application by the Petitioner dated 5th December, 1960 for Conditional Leave to appeal to Her Majesty the Queen in Council against the judgment and decree of this Court dated 15th November, 1960 in S.C. Application No. 250 for the grant and issue of Mandates in the nature of Writs of Certiorari and Mandamus in terms of Section 42 of the Courts Ordinance (Chapter 6) of the Revised Legislative Enactments of Ceylon.

SIDNEY GODFREY DE ZOYSA of C37, Mackenzie Road,
Colombo 5.....*Petitioner.*

against

1. THE PUBLIC SERVICE COMMISSION, the Secretariat,
Colombo.
2. SIR HERBERT ERIC JANSZ of Nos. 9 and 11, Stag Lane,
Thimbirigasyaya, Colombo 5. 20
3. JOSEPH NALLIAH ARUMUGAM of No. 115, McCarthy
Road, Colombo 7.
4. GEORGE REGINALD DE SILVA of Green Lodge,
Skinner's Road North, Colombo 13.
5. GINIGE CYRIL THAINE ARTHUR DE SILVA of No. 2,
Police Park Terrace, Colombo 5..... *Respondents.*

HECTOR SENERATH RAJAKARUNA BANDA KOBBE-
KADUWA of No. 114, Ampitiya Road, Kandy,
substituted in place of the 4th Respondent—deceased. 80
.....*Substituted-Respondent.*

This cause coming on for hearing and determination on the 20th day of January, 1961, before the Hon. Henry Winfred Robert Weerasooriya and the Hon. Leonard Bernice de Silva, Puisne Justices, of this Court, in the presence of Counsel for the Petitioner and 2nd, 3rd, 5th Respondents and Subsstituted-Respondent.

It is considered and adjudged that this application be and the same is hereby allowed upon the condition that the applicant do within one month from this date :—

1. Deposit with the Registrar of the Supreme Court a sum of Rs. 3,000/- and hypothecate the same by bond or such other security as the Court in terms of Section 7 (1) of the Appellate Procedure (Privy Council) Order 1921 shall on application made after due notice to the other side approve.

2. Deposit in terms of provisions of Section 8 (a) of the Appellate Procedure (Privy Council) Order, 1921 with the Registrar a sum of Rs. 300/- in respect of fees mentioned in Section 4 (b) and (c) of the Appeals (Privy Council) Ordinance (Chapter 85.).

Provided that the applicant may apply in writing to the said Registrar stating whether he intends to print the records or any part thereof in Ceylon for an estimate of such amounts and fees and thereafter deposit the estimated sum with the said Registrar.

Witness the Hon. Hema Henry Basnayake, Q.C., Chief Justice at Colombo, the 31st day of January, in the year One thousand Nine hundred and Sixty One and of Our Reign the Ninth.

20 SEAL.

(Sgd.) B. F. PERERA,
Deputy Registrar, S.C.

No. 16

**Application for Final Leave to Appeal to the
Privy Council**

**IN THE HONOURABLE THE SUPREME COURT OF THE
ISLAND OF CEYLON**

80 In the Matter of an Application for the grant and issue of Mandates in the nature of Writs of Certiorari and Mandamus in terms of Section 42 of the Courts Ordinance (Cap. 6) of the Revised Legislative Enactments of Ceylon.

No. 250/536.

And

In the Matter of an Application for Final Leave to Appeal to Her Majesty-in-Council in terms of the Appeals (Privy Council) Ordinance (Cap. 85) of the Revised Legislative Enactments of Ceylon.

No. 15
Decree
of the
Supreme
Court
granting
Conditional
Leave to
Appeal to
the Privy
Council
20-1-61
—continued.

No. 16
Application
for Final
Leave to
Appeal to
the Privy
Council
—
(i) Affidavit
of F. C.
Rowan
9-2-61

No. 16
Application
for Final
Leave to
Appeal to
the Privy
Council

(i) Affidavit
of F. C.
Rowan
9-2-61
---continued.

SIDNEY GODFREY DE ZOYSA, of No. C37, Mackenzie Road,
Colombo 5.....*Petitioner-Appellant.*

vs.

1. THE PUBLIC SERVICE COMMISSION, The Secretariat,
Colombo.
2. SIR HERBERT ERIC JANSZ of Nos. 9 and 11, Stag
Lane, Thimbirigasyaya, Colombo 5.
3. JOSEPH NALLIAH ARUMUGAM of 115, MaCarthy
Road, Colombo 7.
4. GEORGE REGINALD DE SILVA of Green Lodge, 10
Skinner's Road North, Colombo 13.
5. GINIGE CYRIL THAINE ARTHUR DE SILVA of No. 2,
Police Park Terrace, Colombo 5.....*Respondents.*

HECTOR SENARATH RAJAKARUNA BANDA KOBBE-
KADUWA, of No. 114, Ampitiya Road, Kandy,
Substituted-Respondent in place of 4th Respondent,
Deceased.....Substituted-Respondent.

I, FREDERICK CLAUDE ROWAN, of Colombo make oath and say as follows :—

1. That I am a Partner of the firm of MESSRS. JULIUS AND CREASY, 20 Colombo who are the Proctors for the Petitioner-Appellant in Supreme Court Application No. 250/536 abovenamed and can speak to the facts hereinafter set forth of my personal knowledge.

2. That the Petitioner-Appellant in Supreme Court Application No. 250/536 abovenamed on the 20th day of January, 1961 obtained Conditional Leave from this Honourable Court to Appeal to Her Majesty the Queen-in-Council against the Judgment of this Court pronounced on the 15th day of November, 1960.

3. That the Petitioner-Appellant in Supreme Court Application No. 250/536 abovenamed has in compliance with the conditions on which ³⁰ such Leave was granted deposited with the Registrar of this Court a sum of Rupees three thousand (Rs. 3,000/-) on the 8th day of February, 1961 and has by Bond dated the 8th day of February, 1961, mortgaged and hypothecated the said sum of Rupees three thousand (Rs. 3,000/-) with the said Registrar.

4. The Petitioner-Appellant in Supreme Court Application No. 250/536 abovenamed has further deposited with the said Registrar a sum of Rupees three hundred (Rs. 300/-) in respect of fees.

SIGNED and SWORN to at }
Colombo this 9th day of } (Sgd.) F. C. ROWAN.
February, 1961. }

40

Before me,
(Sgd.) E. TURNER GREENE,
Justice of the Peace.

IN THE HONOURABLE THE SUPREME COURT OF THE
ISLAND OF CEYLON

In the Matter of an Application for the grant and issue of Mandates in the nature of Writs of Certiorari and Mandamus in terms of Section 42 of the Courts Ordinance (Chapter 6) of the Revised Legislative Enactments of Ceylon.

And

In the Matter of an Application for Final Leave to Appeal to Her Majesty-in-Council in terms of The Appeals (Privy Council) Ordinance (Chapter 85) of the Revised Legislative Enactments of Ceylon.

SIDNEY GODFREY DE ZOYSA of No. C37, Mackenzie Road,
Colombo 5. *Petitioner-Appellant.*

No. 250/536.

vs.

1. THE PUBLIC SERVICE COMMISSION, The Secretariat,
Colombo.
2. SIR HERBERT ERIC JANSZ of Nos. 9 and 11, Stag Lane,
Thimbirigasyaya, Colombo 5.
3. JOSEPH NALLIAH ARUMUGAM of 115, MaCarthy Road,
Colombo 7.
204. GEORGE REGINALD DE SILVA of Green Lodge,
Skinner's Road North, Colombo 13.
5. GINIGE CYRIL THAINE ARTHUR DE SILVA of No. 2,
Police Park Terrace, Colombo 5. *Respondents.*

HECTOR SENARATH RAJAKARUNA BANDA KOBBE-
KADUWA of No. 114, Ampitiya Road, Kandy,
Substituted-Respondent in place of 4th Respondent,
Deceased. *Substituted-Respondent.*

To :

THE HONOURABLE THE CHIEF JUSTICE AND THE OTHER JUDGES OF THE
HONOURABLE THE SUPREME COURT OF THE ISLAND OF CEYLON.

On this 10th day of February, 1961.

The Humble Petition of the Petitioner-Appellant abovenamed appearing by FREDERICK CLAUDE ROWAN, JOSEPH FRANCIS MARTYN, HENRIC THEODORE PERERA, JAMES ARELUPAR NAIDOO, and ALEXANDER RICHARD NEVILLE DE FONSEKA, Proctors of the Honourable the Supreme Court of the Island of Ceylon, carrying on business in partnership under the name and style of JULIUS AND CREASY and their Assistants : JOHN CLAUDE BYRNELL, ALEXANDER NEREUS WIRATUNGA, LENA CHARLOTTE FERNANDO,

No. 16
Application
for Final
Leave to
Appeal to
the Privy
Council

(ii) Petition
of S. G. de
de Zoysa.
10-2-61

No. 16
Application
for Final
Leave to
Appeal to
the Privy
Council

(ii) Petition
of S. G. de
Zoysa.
10-2-61

—continued.

FRANCIS LUKE THEODORE MARTYN, REX HERBERT SEBASTIAN PHILLIPS, REGINALD FREDERICK MIRANDO, JOHN AJASATH RANCOTH WEERASINGHE, BERTRAM MANSON AMARASEKERA, JUSTIN MERVYN CANAGARETNA, JAMES ORLANDO DE SAA BANDARANAIKE, SHELTON VERNON PERERA, GERALD EBENEZER ABEYNAIKE, NADARASA RATHINASAPAPATHY, RAJARATNAM SENATHI RAJAH and SARAVANAMUTTU KUGAPERUMAL, Proctors of the said Honourable Court state as follows :—

1. The Petitioner-Appellant abovenamed on the 20th day of January, 1961 obtained Conditional Leave from this Honourable Court to Appeal to Her Majesty the Queen-in-Council against the Judgment of this Court pronounced on the 15th day of November, 1960.

2. The Petitioner-Appellant abovenamed has in compliance with the conditions on which such leave was granted deposited with the Registrar of this Court a sum of Rs. 3,000/- on the 8th day of February, 1961 and has by bond dated the 8th day of February 1961 mortgaged and hypothecated the said sum of Rs. 3,000/- with the said Registrar.

3. The Petitioner-Appellant abovenamed has further deposited with the Registrar a sum of Rs. 300/- in respect of fees.

WHEREFORE the Petitioner-Appellant abovenamed prays that he be granted Final Leave to Appeal against the said Judgment of this Court dated the 15th day of November, 1960 to Her Majesty the Queen-in-Council and for such other and further relief in the premises as to Your Lordships Court shall seem meet.

(Sgd.) JULIUS & CREASY,
Proctors for Petitioner-Appellant.

Settled by :

H. L. E. COORAY,
W. T. P. GOONETILLEKE,
S. J. KADIRGAMAR,
H. W. JAYAWARDENA, Q.C.,
H. V. PERERA, Q.C.,
Advocates.

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No. 17
Decree
of the
Supreme
Court
granting
Final Leave
to Appeal
to the
Privy
Council
17-2-61

No. 17

Decree of the Supreme Court granting Final Leave to Appeal
to the Privy Council

S. C. Application No. 53.

ELIZABETH THE SECOND, QUEEN OF CEYLON AND OF HER OTHER
REALMS AND TERRITORIES, HEAD OF THE COMMONWEALTH

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of an Application dated 10th February, 1961 for Final Leave to Appeal to Her Majesty the Queen-in-Council by the Petitioner against the decree of this Court dated 15th November, 1960.

SIDNEY GODFREY DE ZOYSA of C37, Mackenzie Road,
Colombo 5.....*Petitioner.*

vs.

No. 17
Decree
of the
Supreme
Court
granting
Final Leave
to Appeal
to the
Privy
Council
17-2-61
—continued.

1. THE PUBLIC SERVICE COMMISSION, The Secretariat,
Colombo.
 - 10 2. SIR HERBERT ERIC JANSZ of Nos. 9 and 11, Stag Lane,
Thimbirigasyaya, Colombo 5.
 3. JOSEPH NALLIAH ARUMUGAM of No. 115, McCarthy
Road, Colombo 7.
 4. GEORGE REGINALD DE SILVA of Green Lodge,
Skinner's Road North, Colombo 13.
 5. GINIGE CYRIL THAINE ARTHUR DE SILVA of No. 2,
Police Park Terrace, Colombo 5.....*Respondents.*
- HECTOR SENERATH RAJAKARUNA BANDA KOBBE-
KADUWA of No. 114, Ampitiya Road, Kandy,
20 *Substituted in place of the 4th Respondent-deceased.*
.....*Substituted-Respondent.*

This cause coming on for hearing and determination on the 17th day of February, 1961, before the Hon. Hema Henry Basnayake, Q.C., Chief Justice and the Hon. Miliani Claude Sansoni, Puisne Justice, of this Court, in the presence of Counsel for the Petitioner and Respondent.

It is considered and adjudged that the Application for Final Leave to Appeal to Her Majesty the Queen in Council be and the same is hereby allowed.

Witness the Hon. Hema Henry Basnayake, Q.C., Chief Justice at
30 Colombo, the 21st day of February, in the year One thousand Nine hundred and Sixty one and of Our Reign the Tenth:

SEAL.

(Sgd.) B. F. PERERA,
Deputy Registrar, S.C.

No. 18

**Application for an Order to print only portions
of certain Documents**

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the Matter of an Application for the grant and issue of Mandates in the nature of Writs of Certiorari and Mandamus in terms of Section 42 of the Courts Ordinance (Chapter 6) of the Revised Legislative Enactments of Ceylon.

S.C. No. 53 of 1961 Final Leave and
Application No. 250 of 1960

10

In the Matter of an Application in terms of the Rules of The Appeals (Privy Council) Ordinance (Chapter 85) of the Revised Legislative Enactments of Ceylon.

SIDNEY GODFREY DE ZOYSA of No. C37, Mackenzie Road,
Colombo 5, now of No. 541, Tewatte Road, Ragama.....*Petitioner.*

vs.

1. THE PUBLIC SERVICE COMMISSION, The Secretariat,
Colombo.
2. SIR HERBERT ERIC JANSZ of Nos. 9 and 11, Stag Lane,
Thimbirigasyaya, Colombo 5. 20
3. JOSEPH NALLIAH ARUMUGAM of No. 115, MaCarthy
Road, Colombo.
4. GEORGE REGINALD DE SILVA of Green Lodge,
Skinner's Road North, Colombo 13.
5. GINIGE CYRIL THAINE ARTHUR DE SILVA of No. 2,
Police Park Terrace, Colombo 5.....*Respondents.*

HECTOR SENERATH RAJAKARUNA BANDA KOBBE-
KADUWA of No. 114, Ampitiya Road, Kandy,
*Substituted-Respondent in place of the 4th Respondent-
deceased*.....*Substituted-Respondent.* 30

We file herewith the Petition of the Petitioner abovenamed together with his Affidavit and move for an order from Your Lordship's Court in terms of Rules 11 and 12 of The Appeals (Privy Council) Ordinance (Chapter 85) directing that only the portions mentioned in paragraph 4 of the Petition of documents "G," "H," "M," "N" and "XI" be printed for the record for transmission to Her Majesty the Queen-in-Council and for costs.

COLOMBO, 2nd day of June 1961.

(Sgd.) JULIUS & CREASY,
Proctors for Petitioner.

Received Notice, with a copy of the Petition and an Affidavit.

40

(Sgd.) A. H. M. SULAIMAN,
Proctor for Respondents.

No. 18
Application
for an Order
to print
only portions
of certain
Documents

(i) Motion
2-6-61

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the Matter of an Application for the grant and issue of Mandates in the nature of Writs of Certiorari and Mandamus in terms of Section 42 of the Courts Ordinance (Chapter 6) of the Revised Legislative Enactments of Ceylon.

S.C. No. 53 of 1961 Final Leave and
Application No. 250 of 1960.

No. 18
Application
for an Order
to print
only portions
of certain
Documents

(ii) Petition
of S. G.
de Zoysa
2-6-61

10 In the Matter of an Application in terms of the Rules of The Appeals (Privy Council) Ordinance (Chapter 85) of the Revised Legislative Enactments of Ceylon.

SIDNEY GODFREY DE ZOYSA of No. C37, Mackenzie Road,
Colombo 5, now of 541, Tewatte Road, Ragama.

.....*Petitioner.*

vs.

1. THE PUBLIC SERVICE COMMISSION, The Secretariat,
Colombo.
2. SIR HERBERT ERIC JANSZ of Nos. 9 and 11, Stag Lane,
Thimbirigasyaya, Colombo 5.
3. JOSEPH NALLIAH ARUMUGAM of No. 115, MaCarthy
20 Road, Colombo.
4. GEORGE REGINALD DE SILVA of Green Lodge,
Skinner's Road North, Colombo 13.
5. GINIGE CYRIL THAINE ARTHUR DE SILVA of No. 2,
Police Park Terrace, Colombo 5.....*Respondents.*

HECTOR SENERATH RAJAKARUNA BANDA KOBBE-
KADUWA of No. 114, Ampitiya Road, Kandy,
*Substituted-Respondent in place of the 4th Respondent-
deceased.*.....*Substituted - Respondent.*

To :
30 THE HONOURABLE THE CHIEF JUSTICE AND THE OTHER JUDGES OF THE
HONOURABLE THE SUPREME COURT OF CEYLON.

On this 2nd day of June, 1961.

The Petition of the Petitioner abovenamed appearing by Frederick Claude Rowan, Joseph Francis Martyn, Henric Theodore Perera, James Arelupar Naidoo and Alexander Richard Neville De Fonseka, Proctors of the Honourable the Supreme Court of the Island of Ceylon carrying on business in partnership under the name and style of Julius and Creasy and

No. 18
Application
for an order
to print
only portions
of certain
Documents

(ii) Petition
of S. G.
de Zoysa
2-6-61
—continued.

their Assistants : John Claude Byrnell, Alexander Nereus Wiratunga, Lena Charlotte Fernando, Francis Luke Theodore Martyn, Rex Herbert Sebastian Phillips, Reginald Frederick Mirando, John Ajasath Rancoth Weerasinghe, Bertram Manson Amarasekera, Justin Mervyn Canagaretna, James Orlando De Saa Bandaranaike, Gerald Ebenezer Abeynaike, Nadarasa Rathinasapathy, Rajaratnam Senathi Rajah, Shelton Vernon Perera and Saravana-muttu Kugaperumal, his Proctors, states as follows :—

1. The Petitioner applied to Your Lordships' Court for the grant and issue of Mandates in the nature of Writs of Certiorari and Mandamus as against the abovenamed Respondents and Your Lordships' Court on the 10th 15th day of November, 1960 made order refusing the said application.

2. The Petitioner thereupon made an application to Your Lordships' Court for Leave to Appeal from the said order to Her Majesty the Queen-in-Council and Your Lordships' Court on the 17th day of February, 1961, granted the Petitioner Final Leave to Appeal.

3. The Petitioner submits that in order to reduce the bulk of the record for transmission to Her Majesty the Queen-in-Council, it would be necessary to exclude from the record portions of the documents marked "G," "H," "M," "N" and "X1" (which have been annexed to and pleaded as part and parcel of the Petition) which portions the Petitioner submits are 20 not relevant to the subject matter of the appeal.

4. The Petitioner submits that the portions of the said documents "G," "H," "M," "N" and "X1" which are relevant to the subject matter of the appeal are as follows :—

(G) The Public Service Commission Rules —

(a) The Front Cover.

(b) Section I — Pages 9 to 13. (*i.e.* Sections 6 to 22).

(c) Section III — Pages 33 and 34. (*i.e.* Sections 60 to 69).

(H) The Ceylon Government Manual of Procedure —

(a) The Front Cover. 30

(b) Chapter III — Section I — Pages 16 to 20.

(c) Chapter III — Section II — Pages 34 to 37.

(M) Parliamentary Debates — Volume 13 No. 10 (Senate) of 3rd November, 1959 —

The Front Cover and from the caption "Adjournment" on Column 390 to the end of Column 410.

(N) Parliamentary Debates — Volume 37 No. 12.

(House of Representatives) of 27th November, 1959 —

The Front Cover and from the caption "Vote of Censure on Minister of Justice" on Column 1599 to the end of Column 1764. 40

(X1) The caption on the cover page from the words *ලකුණු* to the words "Part 1 : Section (I) — General" and the notice on the cover page from the words and figures "No. 333 of 1960" to the words and figures "Colombo, 10th August, 1960."

No. 18
Application
for an Order
to print
only portions
of certain
Documents

(ii) Petition
of S. G.
de Zoysa
2-6-61
—continued.

5. The Petitioner further submits that the Respondents have objected, *inter alia*, to the exclusion of those portions of the aforesaid documents "G," "H," "M," "N" and "X1" which as the Petitioner submits are not relevant to the subject matter of the appeal, and it has now become
10 necessary in the said premises to apply to Your Lordships' Court for an Order in regard to the printing of the documents for the record.

WHEREFORE the Petitioner prays :—

- (a) for an order from Your Lordship's Court in terms of Rules 11 and 12 of The Appeals (Privy Council) Ordinance (Chapter 85) directing that only the portions hereinbefore mentioned in paragraph 4 hereof of documents "G," "H," "M," "N" and "X1" be printed for the record for transmission to Her Majesty the Queen-in-Council ;
- (b) for costs ; and
- 20 (c) for such other and further relief as to Your Lordships' Court shall seem meet.

(Sgd.) JULIUS & CREASY,
Proctors for Petitioner.

Settled by :

S. J. KADIRGAMAR,
W. T. P. GOONETILLEKE,
Advocates.

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

30 In the Matter of an Application for the grant and issue of Mandates in the nature of Writs of Certiorari and Mandamus in terms of Section 42 of the Courts Ordinance (Chapter 6) of the Revised Legislative Enactments of Ceylon.

No. 18
Application
for an
Order to
print only
portions of
certain
Documents

(iii) Affidavit
of S. G.
de Zoysa
2-6-61

S.C. No. 53 of 1961 Final Leave. and
Application No. 250 of 1960.

In the Matter of an Application in terms of the Rules of the Appeals (Privy Council) Ordinance (Chapter 85) of the Revised Legislative Enactments of Ceylon.

No. 18
Application
for an Order
to print
only portions
of certain
Documents

(iii) Affidavit
of S. G.
de Zoysa
2-6-61
—continued.

SIDNEY GODFREY DE ZOYSA of No. C37, Mackenzie Road,
Colombo 5, now of No. 541, Tewatte Road, Ragama.....*Petitioner.*

vs.

1. THE PUBLIC SERVICE COMMISSION, The Secretariat,
Colombo.
2. SIR HERBERT ERIC JANSZ of Nos. 9 and 11, Stag Lane,
Thimbirigasyaya, Colombo 5.
3. JOSEPH NALLIAH ARUMUGAM of No. 115, MaCarthy
Road, Colombo.
4. GEORGE REGINALD DE SILVA of Green Lodge, 10
Skinner's Road North, Colombo 13.
5. GINIGE CYRIL THAINE ARTHUR DE SILVA of No. 2,
Police Park Terrace, Colombo 5.....*Respondents.*

HECTOR SENERATH RAJAKARUNA BANDA KOBBE-
KADUWA of No. 114, Ampitiya Road, Kandy,
Substituted-Respondent in place of the 4th Respondent-
deceased.....Substituted-Respondent.

I, SIDNEY GODFREY DE ZOYSA, of No. C37, Mackenzie Road, Colombo 3,
now of No. 541, Tewatte Road, Ragama, being a Christian do hereby make
oath, swear and state as follows :— 20

1. I am the Petitioner abovenamed.
2. I applied to Your Lordships' Court for the grant and issue of
Mandates in the nature of Writs of Certiorari and Mandamus as against the
abovenamed Respondents and Your Lordships' Court on the 15th day of
November, 1960 made order refusing the said application.
3. I thereupon made an application to Your Lordships' Court for
Leave to Appeal from the said order to Her Majesty the Queen-in-Council
and Your Lordships' Court on the 17th day of February, 1961 granted me
Final Leave to Appeal.
4. I submit that in order to reduce the bulk of the record for trans- 30
mission to Her Majesty the Queen-in-Council, it would be necessary to
exclude from the record portions of the documents marked "G," "H,"
"M," "N" and "X1" (which have been annexed to and pleaded as part
and parcel of the Petition) which portions I submit are not relevant to the
subject matter of the appeal.
5. I submit that the portions of the said documents "G," "H," "M,"
"N" and "X1" which are relevant to the subject matter of the appeal are
as follows :—

(G) The Public Service Commission Rules —

- (a) The Front Cover.
- (b) Section I — Pages 9 to 13. (*i.e.* Sections 6 to 22).
- (c) Section III — Pages 33 and 34 (*i.e.* Sections 60 to 69).

(H) The Ceylon Government Manual of Procedure —

- (a) The Front Cover.
- (b) Chapter III — Section I — Pages 16 to 20.
- (c) Chapter III — Section II — Pages 34 to 37.

(M) Parliamentary Debates — Volume 13 No. 10 (Senate) of 3rd November, 1959 —

The Front Cover and from the caption “ Adjournment ” on Column 390 to the end of Column 410.

(N) Parliamentary Debates — Volume 37 No. 12. (House of Representatives) of 27th November, 1959 —

The Front Cover and from the caption “ Vote of Censure on Minister of Justice ” on Column 1599 to the end of Column 1764.

(X1). The caption on the cover page from the words **ලංකාවේ රජයේ පත්‍රය** to the word “ Part 1 : Section (I) — General ” and the notice on the cover page from the words and figures “ No. 333 of 1960 ” to the words and figures “ Colombo, 10th August, 1960.”

6. I further submit that the respondents have objected, *inter alia*, to the exclusion of those portions of the aforesaid documents “ G,” “ H,” “ M,” “ N ” and “ X1 ” which as I submit are not relevant to the subject matter of the appeal, and it has now become necessary in the said premises to apply to Your Lordships’ Court for an Order in regard to the printing of the documents for the record.

Signed and sworn to at }
 30. Colombo on this 2nd } (Sgd.) S. G. DE ZOYSA.
 day of June, 1961. }

Before me,

J. B. EDIRIMANASINGHE,
Commissioner of Oaths.

No. 18
 Application
 for an
 Order to
 print only
 portions of
 certain
 Documents

(iii) Affidavit
 of S. G.
 de Zoysa
 2-6-61
 —continued.

No. 18
Application
for an Order
to print
only portions
of certain
Documents

(iv) Order of
the Supreme
Court
16-6-61

SUPREME COURT MINUTE PAPER ON APPLICATIONS.

Subject : Application in terms of Rules 11 and 12 of the Appeals (Privy Council) Ordinance (Cap. 85) for an order that only portions of documents be printed for the record for transmission to the Privy Council in S.C. Application No. 250.

Date : 6-6-61.

ORDER

Registrar :

10

Has the appellant complied with the provisions of para 10 of The Appellate Procedure (Privy Council) Order of 1921. If so submit it with the minute Book required to be kept under para 17 of the same Order.

(Intld.) N. S.,
15/6

Later :

The minute book produced for my inspection. The provisions of the Order have been complied with.

Order made in terms of Rule 13 of the Schedule rules. Let all the objected documents also be printed with an index in terms of this Rule. 20

(Intld.) N. S.,
15/6

16-6-61.

MR. H. W. JAYEWARDENE, for the Appellant.

MR. JAYARATNE, for the Crown.

Mr. Jayawardene refers to the letter sent by Julius and Creasy to the Registrar dated 20-3-60 and asks that only the portions referred to therein of the documents there specified are necessary for the purpose of his appeal.

Mr. Jayaratne states that from the point of view of the Crown none of these documents are required for the appeal. 30

In the circumstances I make order that in regard to these documents only the portions specified in the letter of 20-3-61 need be printed. My order of yesterday is varied to that extent.

(Intld.) N. S.,
16-6-61.

50 1961

Supreme Court of Ceylon,
No. 250 of 1960.

Application for the grant and
issue of Mandates in the nature
of Writs of Certiorari and
Mandamus.

*In Her Majesty's Privy Council
on an Appeal from
the Supreme Court of Ceylon*

BETWEEN

SIDNEY GODFREY DE ZOYSA of
No. C 87, Mackenzie Road, Colombo 5, now of No. 541,
Tewatte Road, Ragama..... *Petitioner-Appellant.*

AND

1. THE PUBLIC SERVICE COMMISSION,
The Secretariat, Colombo 1.
2. SIR HERBERT ERIC JANSZ of
Nos. 9 and 11, Stag Lane, Thimbirigasyaya, Colombo 5.
3. JOSEPH NALLAH ARUMUGAM of
No. 115, McCarthy Road, Colombo 7.
4. GEORGE REGINALD DE SILVA of
"Green Lodge" Skinner's Road North, Colombo 13.
5. GINIGE CYRIL THAINE ARTHUR DE SILVA of
No. 2, Police Park Terrace, Colombo 5.
..... *Respondents.*
6. HECTOR SENARATH RAJAKARUNA BANDA
KOBBEKADUWA of No. 114, Ampitiya Road, Kandy,
substituted in place of the 4th Respondent-deceased
..... *Substituted-Respondent.*

RECORD
OF PROCEEDINGS
