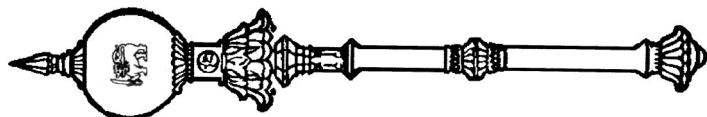


247 வன காண்சிய - 5 வன கலாபய
தொகுதி 247 - இல. 5
Volume 247 - No. 5

2016 மக்னேசர் 20வன ஓக்டோபர் 2016
2016 ஒக்டோபர் 20, வியாழக்கிழமை
Thursday, 20th October, 2016



பார்லிமெந்டு விவாடி

(ஹங்ஸாடி)

பாராஞ்சமன்ற விவாதங்கள்

(ஹங்ஸாட்)

PARLIAMENTARY DEBATES

(HANSARD)

நில வார்தாவ
அதிகார அறிக்கை
OFFICIAL REPORT

(அனேகமான பிழை / திருத்தப்படாதது /Uncorrected)

අන්තර්ගත ප්‍රධාන කරුණු

නිවේදන:

එකතු කළ අයය මත බදු (සංයෝධන) පනත් කෙටුම්පත : ශ්‍රේෂ්ඨයාධිකරණයට පෙන්සම කථානායකතුමාගේ සහතිකය
ශ්‍රී ලංකා ඉංජිනේරුවරුන්ගේ සභාව පනත් කෙටුම්පත : ශ්‍රේෂ්ඨයාධිකරණයේ නීරණය

විසරණ පනත් කෙටුම්පත, 2017:

පළමුවන වර කියවන ලදී

පිරතාන උණෑසාක්කම

අර්ථිවිප්‍රාක්කම්

සේරුපෙනුමත් බාරි (තිරුත්තම) සට්‍රලුලම් : ඉයර් නීතිමණරුක්කු මණුක්කම්
සපානායකරතු යාන්ත්‍රිය සාර්ථකය
இலங்கைப் பொறியியற் பேரவை සට්‍රලුලම් : உயர் நீதிமன்றத் தீர்ப்பு

ஓතුක්කීடුச සට්‍රලුලම්, 2017 :

முතன්මූලීය මතිප්පිටපට්තා

PRINCIPAL CONTENTS

ANNOUNCEMENTS:

Value Added Tax (Amendment) Bill: Petitions to the Supreme Court
Speaker's Certificate
Engineering Council, Sri Lanka Bill: Determination of the Supreme Court

APPROPRIATION BILL, 2017:

Read the First time

**පාර්ලිමේන්තුව
පාරාගුමණ්‍රම
PARLIAMENT**

**2016 අක්‍රෙයා තුන මූල්‍ය පත්‍ර විසින්දා
2016 ජූනි 20, බිමාදික්‍රීමාව
Thursday, 20th October, 2016**

ඡ.හ. 10.30 පාර්ලිමේන්තුව රෝ විය.
කළානායකතුව [ගරු කරු ජයසුරිය මහතා] මූල්‍ය පත්‍ර විය.
පාරාගුමණ්‍රම ආයතනය පාරාගුමණ්‍රම ආයතනය පාරාගුමණ්‍රම ආයතනය
සපානායකරු අවර්කන් [මාණ්‍යප්‍රාථිමික කරු ජායාකුරිය] තැබ්ලය
වකිත්තාර්කන්.

The Parliament met at 10.30 a.m.,
MR. SPEAKER [THE HON. KARU JAYASURIYA] in the Chair.

**නිවේදන
අற්‍යවිප්‍රාක්‍රියාව
ANNOUNCEMENTS**

I

එකතු කළ අය මත බඳු (සංගෝධන) පත්‍ර
කෙටුම්පත : ගෞෂ්ඨාධිකරණයට පෙන්සම්
සේර්පෙරුමති බරි (තිරුත්තම) ජායාකුරිය : මාණ්‍යප්‍රාථිමික සපානායකරු අවර්කන්

VALUE ADDED TAX (AMENDMENT) BILL: PETITIONS TO THE
SUPREME COURT

ගරු කළානායකතුව
(මාණ්‍යප්‍රාථිමික සපානායකරු අවර්කන්)
(The Hon. Speaker)

ආණ්ඩුවෙනු ව්‍යවස්ථාවේ 121(1) ව්‍යවස්ථාව ප්‍රකාරව “එකතු කළ අය මත බඳු (සංගෝධන)” නමැති පත්‍ර කෙටුම්පත සම්බන්ධයෙන් 2016.10.07 දින මා විසින් කරන ලද නිවේදනයේ සඳහන් පෙන්සමට අමතරව, ගෞෂ්ඨාධිකරණය වෙත ඉදිරිපත් කරන ලද තවත් පෙන්සම් තුනක පිටපත් මා වෙත ලැබේ ඇති බව පාර්ලිමේන්තුවට දැනුවත කැමැත්තෙමි.

II

කළානායකතුව ගේ සහතිකය
සපානායකරතු සාම්‍රුණිය
SPEAKER'S CERTIFICATE

ගරු කළානායකතුව
(මාණ්‍යප්‍රාථිමික සපානායකරු අවර්කන්)
(The Hon. Speaker)

ඩී ලංකා ප්‍රජාතාන්ත්‍රික සමාජවාදී ජනරජයේ ආණ්ඩුවෙනු ව්‍යවස්ථාවේ 79 ව්‍යවස්ථාවේ විධිවිධාන ප්‍රකාරව, 2016

එක්නොබර් මස 17 වැනි දින ම්විසින් පහත සඳහන් පත්‍ර කෙටුම්පත්වල සහතිකය සටහන් කරන ලද බව පාර්ලිමේන්තුවට දැනුවත කැමැත්තෙමි.

අපරාධ නඩු විධාන සංග්‍රහය (සංගෝධන)
නීති කොමිෂන් සභා (සංගෝධන)

III

ඩී ලංකා ඉංජිනේරුවරුන්ගේ සභාව පත්‍ර
කෙටුම්පත : ගෞෂ්ඨාධිකරණයේ තීරණය
ඩිලංගකෘප පොත්‍රියියාර් පෙරවෙ ජායාකුරිය : මායාර්
නීතිමණ්‍රත් තීර්ප්පු
ENGINEERING COUNCIL, SRI LANKA BILL: DETERMINATION
OF THE SUPREME COURT

ගරු කළානායකතුව
(මාණ්‍යප්‍රාථිමික සපානායකරු අවර්කන්)
(The Hon. Speaker)

Sir, I wish to inform the Parliament that I have received the Determination of the Supreme Court in respect of the Bill entitled “Engineering Council, Sri Lanka” which has been challenged in the Supreme Court in terms of Article 121(1) of the Constitution. The Supreme Court has determined that -

- (i) the omission to nominate Engineering Technicians in the Council under Clause 3(b) is inconsistent with Article 12(1) of the Constitution;
- (ii) the failure to nominate a fair representation of all the categories of “Engineering Practitioners” referred to in Clause 41 is inconsistent with Article 12(1) and 12(2) of the Constitution;
- (iii) Clauses 3(b), 4(1), 4(2), 4(3), 4(4), 4(6), 5(1), 5(2), 8(2), 8(3), 8(4)(a), 8(4)(b), 8(5), 8(6), 11, 16(6), 20(1), 20(3), 21(1), 21(8), 29, 30(1), 30(2), 31(1), 31(2), 34(1), 34(2) 38(1), 38(2), 38(3)(a) and 38(4) are consistent with Articles 3, 43(1) and 43(3) and require to be passed by the special majority required in terms of Article 84(2) and approved by the people at a referendum by virtue of provisions of Article 83;
- (iv) Clause 9(3) is inconsistent with Article 12(1); and
- (v) Clause 39(2)(e) does not provide for the guidelines that are required to determine the roles, responsibilities and competence of different categories of the engineering practitioners registered under this Act and thereby it violates Article 12(1) of the Constitution.

The Supreme Court has further determined that the inconsistencies will cease if the above Clauses are amended as per the determination of the Court.

I order that the determination of the Supreme Court be printed in the Official Report of today's Proceedings.

[ගරු කට්ටානායකතුව]

ඁ්‍රෝඩ්ස්‌යාධිකරණය තුරෙනය :**ඉයර් නීතිමණ්ඩත් ත්‍රීත්පු:****Determination of the Supreme Court:**

IN THE SUPREME COURT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA
 A BILL TITLED, "ENGINEERING COUNCIL, SRI LANKA"

In the matter of an application made under and in terms of Article 121 read together with Article 78 of the Constitution to determine whether the above Bill is inconsistent with the Constitution of the Democratic Socialist Republic of Sri Lanka.

BEFORE

K. Sripavan
 Priyantha Jayawardena, P.C.
 Prasanna Jayawardena, P.C.

S.C. (S.D.) No. 35/2016

Petitioners

Chief Justice
 Judge of the Supreme Court
 Judge of the Supreme Court

1. Habeeba Mohamed Maraikayar
 Mohamed Azeem, Chief Organizer,
 RDA Engineering Diplomates
 Association Maganeguma Mahamedura,
 Battaramulla.
2. Denesh Sanjeeva Ranasinghe
 President, HNDE Students Union,
 HNDE Institute, Colombo 05.
3. Nallaiah Kangatharan, Jt. Secretary,
 Telecommunication Engineering
 Diplomates Association,
 Colombo 01.
4. Jagath Bandula Gurusinghe
 President, All Employees Union of
 Information and Telecommunications,
 Colombo 01.
5. Gayan Weerasin Haripriya Kamalanath
 Hettiarachchi,
 Treasurer, National Organization of
 Engineering Professionals,
 Colombo.
6. Susanthawenerath Yapa,
 President, Media Professional
 Technologists,
 Sri Lanka Telecom Head Quarters,
 Colombo 01.
7. W.M. Kusal Madawa Chathuranga,
 General Secretary, IET Students Union,
 Institute of Engineering Technology,
 Katunayake.
8. S.M. Pathum Lakshan Samarakoon,
 President, NDT Students Union,
 University of Moratuwa, Katubedda.
9. Mabotuwana Vithanage Chandani,
 Secretary, Engineering Diplomates
 Association,
 Rathmalana.
10. Pujitha Uduwana, Chairman,
 Savinda Enterprises Private Limited,
 Polgaswita.
11. S.A.S. Kalpa, Vice President,
 Engineering Diplomates Association of
 Sri Lanka,
 Land Reclamation and Development
 Corporation,
 Welikada, Rajagiriya.
12. Prasanna Pieris, Secretary,
 Provincial Public Service Engineering
 Diploma Holders Association,
 Pahala Bomiriyka, Kaduwela.

Intervenient - Petitioners

13. Damitha Wijethunge,
 Jt. Secretary, NDES and Special
 Engineering Apprentices Alumni
 Association,
 Dalugama, Kelaniya.

14. S.M.T.L. De Silva, Secretary,
 Engineering Diplomats Association Sri
 Lanka Railway,
 Sri Lanka Railway, Gampaha.

15. Leyart Silva, Managing Director,
 Micro Power Engineering,
 Nilmini Garden, Colombo Road,
 Bokundara, Piliyandala.

16. Wickramarachchige Udayasiri Perera
 Wickramaratna,
 President, Airport and Aviation Services
 (SL) Limited,
 Bandaranaike International Airport,
 Katunayake.

17. Chandana Haputhanthri,
 Managing Director, Tool Sappuwa (Pvt)
 Ltd.
 Kirulapona, Colombo 05.

18. H.H. Sri Lal, Convener, Open University
 Student Unity, Open University of Sri
 Lanka, Nuwegoda.

Respondent**Counsel**

1. Institution of Engineers Sri Lanka,
 120/15, Wijerama Mawatha,
 Colombo 7.

2. Wimalasena Gamage,
 President,

Institution of Engineers Sri Lanka,
 120/15, Wijerama Mawatha,
 Colombo 7.

3. Jayawilal Meegoda,
 President – Elect,
 Institution of Engineers Sri Lanka,
 120/15, Wijerama Mawatha,
 Colombo 7.

4. Jayalath Arachchige Granie Rufus
 Jayalath,
 Secretary,
 Institution of Engineers Sri Lanka,
 120/15, Wijerama Mawatha,
 Colombo 7.

Hon. Attorney General,
 Attorney General's Department,
 Colombo 12.

Manohara de Silva, PC with Hirosha
 Munasinghe instructed by Nimal
 Hippola for the Petitioners.

Faisz Mustapha, PC with Faisza
 Markar and Pulasthi Rupasinghe for the
 Intervenient – Petitioners instructed by
 Mrs. U. Wickramarachchi.

Janak de Silva, Senior Deputy Solicitor
 General with Manohara Jayasinghe,
 State Counsel for the Respondent.

Court assembled for hearing at 10.30 a.m. on 7th October, 2016.

A Bill titled "Engineering Council, Sri Lanka" which states in its Pre-amble "An Act to provide for the establishment of the Engineering Council, Sri Lanka which shall be responsible for the

maintenance of professional standards and conduct of engineering practitioners; registration of different categories of engineering practitioners; and to provide for matters connected therewith or incidental thereto" has been gazetted on 1st August, 2016 and was placed on the Order Paper of Parliament on the 20th of September, 2016.

A Petition has been presented in terms of Article 121 (1) of the Constitution invoking the constitutional jurisdiction of this Court seeking a determination by this Court, in terms of Article 123 of the Constitution. The Intervenient – Petitioners filed a Petition seeking to be heard on this matter and this Court has in terms of Article 134 (3) of the Constitution, heard submissions made on their behalf.

At the hearing, the learned President's Counsel appearing for the Petitioners submitted that, Clause 3 of the Bill which sets out the composition of the Council provides that, 9 members of the Council out of 13 members who are appointed by the Prime Minister to the Council are Chartered Engineers and, thereby Chartered Engineers would form the majority of the Council, which is inconsistent with Articles 3, 4 (d), 12 (1), 12 (2), 14 (1) (g) and 43 of the Constitution.

He further submitted that, although the provisions of the Bill vest the power of registering "Engineering Practitioners" in the Council and Clause 41 defines "Engineering Practitioners" to include Engineering Diplomates and Engineering Technicians, these two categories of "Engineering Practitioners" are not represented in the Council. On this basis, the learned President's Counsel submitted that, Clause 3 (b) of the Bill is inconsistent with Article 12(1) of the Constitution. He submitted that, the inconsistency would cease if provision is made in Clause 3 (b) by including the representation of these two categories on the Council.

Mr. Faisz Mustapha, PC who appeared for the Intervenient – Petitioners submitted that since Clause 3 (a) (ii) provides that the Director – General of Tertiary and Vocational Education Commission established under the Tertiary and Vocational Education Commission Act No. 20 of 1980 or his representative is a member of the Council, there is a representation of Engineering Diplomates. However, both Senior DSG and Mustapha PC agreed that, Clause 3 (b) does not include a representation from "Engineering Technicians" in the Council.

We are in agreement that, the absence of any representation on the Council of "Engineering Technicians" who are a category of "Engineering Practitioners" referred to in Clause 41, results in a violation of Article 12 (1) of the Constitution. However, the said inconsistency would cease if a suitable amendment is made providing to have a representation of the Engineering Technicians.

The learned President's Counsel for the Petitioners also submitted that, in terms of Clause 3 (b), the majority of the composition of the Council consisted of Chartered Engineers. He submitted that all categories of "Engineering Practitioner" referred to in Clause 41 should have reasonable representation on the Council and that, Clause 3 (b) of the Bill should be amended to include a

fair representation of all the categories referred to in Clause 41 of the Bill. He further submitted that the failure to have a fair representation of all the categories referred to above is inconsistent with Articles 12 (1) and 14 (1) (g) of the Constitution.

He further submitted that Clause 4 (1) provides for the appointment of a Chartered Engineer as the Chairman of the Council and that, Clause 9 (1) and Clause 9 (2) (b) provide that, when the Chairman is absent, the members present could elect a Chairman for that meeting, and that, where there is an equality of votes at a meeting, the Chairman shall have a casting vote in addition to his original vote. The Petitioners submitted that, as the majority of the members of the Council consist of Chartered Engineers, this will invariably result in the appointment of a Chartered Engineer to chair the meeting. Counsel argued that, as a result of these provisions, any determination by the Council affecting other Engineers will invariably be in favour of Chartered Engineers. On this basis Counsel submitted that, the said Clauses violate Articles 12 (1) and 12 (2) of the Constitution.

The learned Senior DSG and Mr. Faisz Mustapha agreed that, the said Clause 3 (b) should be amended to provide for a reasonable representation of all the categories of "Engineering Practitioner" referred to in Clause 41 of the Bill whilst Chartered Engineers should continue to form the majority of the members of the Council since there was a rational and reasonable basis of classification which justifies Chartered Engineers forming the majority of the Council .

Having considered the submissions we are of the opinion that the failure to include a fair representation of all the categories of "Engineering Practitioner" referred to in Clause 41 is inconsistent with Article 12 (1) and 12 (2) of the Constitution and such inconsistency would cease if Clause 3 (b) is amended so as to provide for a reasonable representation on the Council of all the categories of "Engineering Practitioners" referred to in Clause 41. We also agree with the submission made by the learned Senior DSG and Mr. Faisz Mustapha that, there is a rational and reasonable basis of classification which justifies Chartered Engineers forming the majority of the Council.

The learned President's Counsel for the Petitioners submitted that in terms of Article 3 of the Constitution sovereignty is vested in the people and is inalienable and that, the executive power of the people is exclusively exercised by the President in terms of Article 4 (b) of the Constitution. Further, though the said executive power may be exercised by the President it can be delegated, but not alienated. Article 43 (2) of the Constitution provides for the President to appoint ministers to be in charge of the ministries to be determined on the advice of the Prime Minister. However, Article 43 (3) has conferred power on the President to change the assignment of subjects and functions and the composition of the Cabinet of Ministers at any time.

Learned President's Counsel submitted that, despite the above provisions of the Constitution which vest the aforesaid powers exclusively in the President, Clauses 3 (b), 4 (1), 4 (2), 4 (3), 4

(4), 4 (6), 5 (1), 5 (2), 8 (2), 8 (3), 8 (4) (a), 8 (4) (b), 8 (5), 8 (6), 11, 16 (6), 20 (1), 20 (3), 21 (1), 21 (8), 29, 30 (1), 30 (2), 31 (1), 31 (2), 34 (1), 34 (2), 38 (1), 38 (2), 38 (3) (a) and 38 (4) of the Bill vest, exclusively in the Prime Minister, the power of appointment and removal of the members of the Council, remuneration of the members of the Council, prescribing regulations regarding professional misconduct, appointing the members of the Appeals Board and making regulations relating to the Appeals Board, issuing directions to the Council, making regulations under the Act and several other powers which are executive functions within the meaning of Article 4 (b) of the Constitution.

He further submitted that, therefore, the aforementioned Clauses of the Bill are in violation of Article 4 (b), 43 (1) and 43 (3).

Mr. Manohara de Silva drew the attention of Court to SD 04/2015 where this Court determined the constitutionality of the Bill entitled "Nineteenth Amendment to the Constitution"; this Court determined that, "*Though Article 4 provides the form and manner of exercise of the sovereignty of the people, the ultimate act or decision of his executive functions must be retained by the President. So long as the President remains the Head of the Executive, the exercise of his powers remain supreme or sovereign in the executive field and others to whom such power is given must derive authority from the President or exercise the Executive power vested in the President as a delegate of the President. The President must be in a position to monitor or to give directions to others who derive authority from the President in relation to the exercise of his Executive power. Failure to do so would lead to a prejudicial impact on the sovereignty of the People.*

Mr. Faisz Mustapha who appeared for the Intervenient – Petitioners agreed with the aforesaid submissions of the learned President's Counsel for the Petitioners.

We agree with the submissions made by the learned President's Counsel for the Petitioners and the Intervenient – Petitioners that the executive power of the President cannot be alienated or abrogated under the Constitution. Therefore, we are inclined to agree that, the aforesaid Clauses amount to an alienation and / or abrogation of the executive power of the President conferred by the Constitution and thus, the said Clauses of the Bill are inconsistent with Article 4 (b) of the Constitution read with Article 3 and Articles 43 (1) and 43 (3) of the Constitution.

Therefore, we are of the opinion that the Clauses No. 3 (b), 4 (1), 4 (2), 4 (3), 4 (4), 4 (6), 5 (1), 5 (2), 8 (2), 8 (3), 8 (4) (a), 8 (4) (b), 8 (5), 8 (6), 11, 16 (6), 20 (1), 20 (3), 21 (1), 21 (8), 29, 30 (1), 30 (2), 31 (1), 31 (2), 34 (1), 34 (2), 38 (1), 38 (2), 38 (3) (a) and 38 (4) are inconsistent with Articles 3, 43 (1) and 43 (3) and required to be passed by the special majority required under Article 84 (2) and approved by the people at a referendum by virtue of provisions of Article 83.

If the aforesaid Clauses of the Bill are amended by replacing the words "Prime Minister" with the word "Minister", there would be no inconsistency with the Constitution.

However, such an amendment would not preclude the President from assigning the subject and functions of the Bill under consideration to the Prime Minister under and in terms of Article 43 (3) of the Constitution.

The learned President's Counsel for the Petitioners submitted that, although Clause 4 (4) states "The Prime Minister may for reasons assigned remove the Chairman from the office of Chairman", the guidelines for taking such a decision are not provided in the Bill, and thereby it violates Article 12 (1) of the Constitution.

In the determination of Private Medical Institutions (Registration Bill) S.D. 2 of 2000 it was held that "the Clause 'A minister may at any time after assigning reasons remove an appointed member of the Council from office.' would become subject to judicial review and the potentiality of arbitrary action being the basis of the inconsistency with Article 12 (1) would thus be removed."

In the light of the aforesaid determination, the Petitioners' contention that the said Clause is inconsistent with the Constitution cannot be sustained.

In the circumstances, we are of the opinion that Clause 4 (4) of the Bill specifies that, reasons need to be assigned for the removal of the Chairman from the office, and as such the said Clause is not inconsistent with the provisions of the Constitution.

The learned President's Counsel submitted that according to Clause 9 (3) Chairman can refuse a meeting being called on a written request by a member of the Council, for justifiable reasons. He submitted that, guidelines have not been stipulated and that, therefore, conferring such a discretion on the Chairman is arbitrary and violative of Article 12 (1) of the Constitution.

We are of the view that, Clause 9 (3) is inconsistent with Article 12 (1). However, if the words "justifiable reasons" in Clause 9 (3) are replaced with the words "for reasons assigned", the said inconsistency would cease to exist.

The learned President's Counsel for the Petitioners submitted that Clause 39 (2) (e) does not provide the guidelines that are required to determine the roles, responsibilities and competence of different categories of the engineering practitioners registered under this Act and thereby it violates Article 12 (1) of the Constitution. The said Clause states as follows; "providing for roles, responsibilities and competence of different categories of the engineering practitioners registered under this Act".

The Senior DSG submitted that a specific provision could be made to add the words "taking into consideration their academic qualifications and practical experience" at the end of the said Clause 39 (2) (e).

Clause 41 of the Bill defines who is to be regarded as an "engineering practitioner". Clause 41 further states that the engineering practitioners referred to in the said Clause should possess

[රු කට්ටායකතුව]

corresponding qualifications specified in Schedule A of the Bill. The learned President's Counsel for the Petitioners submitted that Clause 14 (1) requires that the engineering practitioners shall not engage in the practice of the engineering profession unless such engineering practitioner is registered under Clause 15.

The learned President's Counsel for the Petitioners submitted that the words "and recognized by the Council" do not give any guidelines for the criteria that needs to be adopted in using the discretion of the Council to accord recognition and that, therefore, the use of said phrase in Schedule A is violative of Articles 12 (1) and 14 (1) (g) of the Constitution.

He further submitted that the said institutions and the Tertiary and Vocational Education Commission, referred to in Schedule A are regulated by their respective Acts enacted by Parliament and therefore, that once an engineering practitioner is admitted as member of one of the said institutions or has been recognized by one of the said institutions or has been recognized by the Tertiary and Vocational Education Commission (as the case may be), there is no need for the Council also to separately review whether that person should be recognized as being eligible for registration as an engineering practitioner. On this basis, he submitted that, the use of said phrase in Schedule A is superfluous and violates Articles 12 (1) and 12 (2) of the Constitution. Faiz Mustapha, PC for the Intervenent – Petitioners too agreed with the said submission and learned President's Counsel suggested if the said words "and recognized by the Council" both deleted from Schedule A of the Bill, there will be no inconsistency with Articles 12 (1) and 12 (2) of the Constitution.

We are of the view that, if the words "and recognized by the Council" are deleted from Schedule A which relates to "Chartered Engineer", "Associate Engineer", "Affiliate Engineer", "Incorporated Engineer", "Engineering Diplomat" and "Engineering Technician (i)", it would cease the inconsistency with the Constitution.

In the foregoing circumstances, our determination is summarized as follows;

(i) The omission to nominate Engineering Technicians in the Council under Clause 3 (b) is inconsistent with Article 12 (1) of the Constitution. However, the said inconsistency would cease if a suitable amendment is made to have a fair representation of the Engineering Technicians, in the Council.

(ii) The failure to nominate a fair representation of all the categories of "Engineering Practitioners" referred to in Clause 41 is inconsistent with Article 12 (1) and 12 (2) of the Constitution and such inconsistency would cease if Clause 3 (b) is amended so as to provide for a reasonable representation on the Council of all categories of "Engineering Practitioners" referred to in Clause 41.

(iii) The Clauses No. 3 (b), 4 (1), 4 (2), 4 (3), 4 (4), 4 (6), 5 (1), 5 (2), 8 (2), 8 (3), 8 (4) (a), 8 (4) (b), 8 (5), 8 (6), 11, 16 (6), 20 (1), 20 (3), 21 (1), 21 (8), 29, 30 (1), 30 (2), 31 (1), 31 (2), 34 (1), 34 (2), 38 (1), 38 (2), 38 (3) (a) and 38 (4) are inconsistent with Articles 3, 43 (1) and 43 (3) and require to be passed by the special majority required under Article 84 (2) and approved by the people at a referendum by virtue of provisions of Article 83.

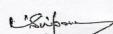
However, if the aforesaid Clauses of the Bill are amended by replacing the words "Prime Minister" with the word "Minister", there would be no inconsistency with the Constitution and the Bill can be passed with a simple majority.

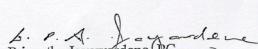
(iv) Clause 9 (3) is inconsistent with Article 12 (1). However, if the words "justifiable reasons" in Clause 9 (3) are replaced with the words "for reasons assigned", the said inconsistency would cease to exist.

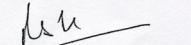
(v) Clause 39 (2) (e) does not provide for the guidelines that are required to determine the roles, responsibilities and competence of different categories of the engineering practitioners registered under this Act and thereby it violates Article 12 (1) of the Constitution. However, if the said Clause is amended as suggested by the Senior DSG by adding the words "taking into consideration their academic qualifications and practical experience" at the end of the said Clause 39 (2) (e) the said inconsistency would cease to operate.

On the foregoing basis, we make a determination in terms of Article 123 (1) of the Constitution, that upon the aforesaid amendments being given effect to, the Bill and the provisions thereof, will be consistent with the Constitution.

We wish to place on record our deep appreciation for the valuable assistance rendered by the Senior Deputy Solicitor General and the President's Counsel representing the Petitioners and the Intervenent – Petitioners.


K. Sripani,
Chief Justice,


Priyantha Jayawardena, PC
Judge of the Supreme Court, and


Prasanna S. Jayawardena, PC
Judge of the Supreme Court

* මෙම අවුණුම පූස්තකාලයේද තබා ඇත.
[මෙන්ත තිබෙන පූස්තකාලයේද සංඝාත්ත්වුම වෙකශකප්පාත්තුන්තු]
[This annex is also placed in the Library.]

රු කට්ටායකතුව
(මාණ්‍යාධික පාර්ලිමේන්තුව)

(The Hon. Speaker)
ප්‍රධාන කටයුතු ආරම්භයේද පනත් කෙටුම්පත් -

රු වාසුදේව නානායක්කාර මහතා
(මාණ්‍යාධික පාර්ලිමේන්තුව)

(The Hon. Vasudeva Nanayakkara)
රු කට්ටායකතුවනී, -

රු කට්ටායකතුව
(මාණ්‍යාධික පාර්ලිමේන්තුව)

(The Hon. Speaker)

රු මත්ත්තීත්තුවනී, mikes ක්‍රියා කරන්නේ නැහැ. ප්‍රධාන කටයුතුවලින් පසුව මම ඔබනාට අවස්ථාව දෙන්නම්.

රු වාසුදේව නානායක්කාර මහතා
(මාණ්‍යාධික පාර්ලිමේන්තුව)

(The Hon. Vasudeva Nanayakkara)
මේ ලේඛනය ගැනීමේ මම කියන්න උත්සාහ කළේ.

රු කට්ටායකතුව
(මාණ්‍යාධික පාර්ලිමේන්තුව)

(The Hon. Speaker)

ශ්‍රී සඳහා මම අවස්ථාව දෙන්නම්.

ප්‍රධාන කටයුතු ආරම්භයේද පනත් කෙටුම්පත් පිළිගැනීම් පිළිබඳ දැනුම්මීම්.

පනත් කෙටුම්පත් පිළිගැනීම් සමර්පිකකප්පාත්ත සංශාලන්කාල

BILLS PRESENTED

විසරජන පනත් කෙටුම්පත, 2017

අත්‍යක්ෂිත්‍යාචාර සංශාලනය, 2017

APPROPRIATION BILL, 2017

"2017 මූදල් වර්ෂයේ සේවා වියදම සඳහා විධිවිධාන සැලකීම සඳහා ද; ඒ සේවා කටරය සඳහා ඩී ලාකාව තුළ හේ ඉන් බැඟුර හේ නය ලබා ගැනීමට බලය දීම සඳහා ද; ඒ මූදල් වර්ෂය තුළ ආණ්ඩුවේ ඇතැම් කටයුතු වෙනුවෙන් මූල්‍ය ප්‍රතිපාදන සැපයීම සඳහා ද, එම මූදල් එකාබද්ධ අරමුදලින් හේ ආණ්ඩුවෙන් හේ ආණ්ඩුවිම සුදුස්සක් කළ නැත් වෙනත් යම් අරමුදලින් හේ මූදල්වලින් හේ අන්තිකාරම වශයෙන් ගෙවීමට ඉඩ සැලකීම සඳහා ද; එකාබද්ධ අරමුදලට ඒ මූදල් ආපසු ගෙවීමට විධිවිධාන සැලකීම සහ ඉහත ක් කරුණු හා ස්ථ්‍යාපන හේ එයට ආනුජාතික කරුණු සම්බන්ධයෙන් විධිවිධාන සැලකීම සඳහා ද වූ පනත් කෙටුම්පතකි.

(අමාත්‍ය මණ්ඩලයේ අනුමතිය දන්වා තිබේ.)"

රු කට්ටායකතුව
(මාණ්‍යාධික පාර්ලිමේන්තුව)

(The Hon. Speaker)

ශ්‍රී සඳහා කැඩිනට මණ්ඩලයේ අනුමැතිය ලැබේ තිබෙනවාද?

ගරු රඩී කරුණානායක මහතා (මුදල් අමාත්‍යතුමා)
 (මාන්‍යප්‍රාථිමික රඩී කරුණානායක - නිති අමෙස්සර්)
 (The Hon. Ravi Karunanayake - Minister of Finance)
 ගරු කට්ටානායකතුමනි, කැබේනට මෙෂ්වලයේ අනුමැතිය
 සම්පූර්ණයෙන් ලැබේ තිබෙනවා.

පිළිහෘවන දෙදේ මුදල් අමාත්‍ය ගරු රඩී කරුණානායක මහතා එසේනි.

2016 නොවුම්වර 10වනී ප්‍රියස්ථානයේ දේ වන වර කියවේය
 යුතුයයි දී, එය මුද්‍රණය කළ යුතුයයි දී නියෝග කරන ලදී.

නිති අමෙස්සර් මාන්‍යප්‍රාථිමික රඩී කරුණානායකක් අවර්කනාල
 සමර්පිකක්පට්ටතු.

2016 නොවුම්වර 10, වියාමුක්ක්මාමය ත්‍රිරැක්කාම්පුහුර යත්පිටප්පත
 වෙෙනුම්වෙනුව් අශ්සිතප්පත වෙෙනුම්වෙනුව් ක්‍රියාත්මක ප්පට්ටතු.

*Presented by the Hon. Ravi Karunanayake, Minister of Finance;
 to be read a Second time upon Thursday, 10th November, 2016 and
 to be printed;*

ගරු කට්ටානායකතුමා
 (මාන්‍යප්‍රාථිමික සපානායකර් අවර්කනාල)
 (The Hon. Speaker)
 ගරු වාසුදේව නානායක්කාර මැතිතුමා.

ගරු වාසුදේව නානායක්කාර මහතා
 (මාන්‍යප්‍රාථිමික වාසුදේව නානායකකාර)
 (The Hon. Vasudeva Nanayakkara)
 ගරු කට්ටානායකතුමනි, "ග්‍රී ලංකා ඉංජිනේරුවරුන්ගේ සහාව"
 නමැති පනත් කෙටුවීපෙන පිළිබඳව ගරු ග්‍රේෂ්යාධිකරණයේ
 තීරණය ඔබතුමා විසින් මේ සහාවට දැනුම් දුන්නා. මම ඉල්ලා
 සිටින්නේ, එම ග්‍රේෂ්යාධිකරණ තීරණයන් සමඟ මෙය නැවතන්
 අදාළ ආංශික අධික්ෂණ කාරක සහාවට යොමු කරන්නය
 කියලායි. එය එසේ විය යුතුයි.

ගරු කට්ටානායකතුමා
 (මාන්‍යප්‍රාථිමික සපානායකර් අවර්කනාල)
 (The Hon. Speaker)
 ඒ පිළිවෙළ අනුගමනය කරනවා, ගරු මන්ත්‍රීතුමනි.

පාර්ලිමේන්තුවේ රෝටිම් පාරාගුමණ අමර්වු Sittings of the Parliament

ගරු ලක්ෂ්මේන් කිරිඇල්ල මහතා (උසස් අධ්‍යාපන හා
 මහාමාර්ග අමාත්‍යතුමා සහ පාර්ලිමේන්තුවේ
 සහානායකතුමා)

(මාන්‍යප්‍රාථිමික ලක්ෂ්මීන් කිරිඇල්ල - ඔයර්කල්ඩ් මත්‍රුව්
 බෙනුංච්සාලෙකන් අමෙස්සර්සුර් පාරාගුමණ අමර්වු
 මුතල්වරුම්)
 (The Hon. Lakshman Kiriella - Minister of Higher
 Education and Highways and Leader of the House of
 Parliament)

ගරු කට්ටානායකතුමනි, මා පහත සඳහන් යෝජනාව ඉදිරිපත්
 කරනවා:

"අද දින විසිර යැමේදී මෙම පාර්ලිමේන්තුව 2016 ඔක්තෝබර් මස 25
 මැයි අභ්‍යන්තරාධා අ.හ. 1.00 වන තෙක් කළේ තැබේ යුතු ය."

ප්‍රශ්නය විමසන ලදීන්, සහ සම්මත විය.
 විනා බිජුක්කප්පත් උත්‍රුක්කොණ්ඩාප්පට්ටතු.
Question put, and agreed to.

කළේතැබීම ඉත්තිවෙප්පු ADJOURNMENT

ගරු ලක්ෂ්මේන් කිරිඇල්ල මහතා
 (මාන්‍යප්‍රාථිමික ලක්ෂ්මීන් කිරිඇල්ල)
 (The Hon. Lakshman Kiriella)

ගරු කට්ටානායකතුමනි, "පාර්ලිමේන්තුව දැන් කළේ තැබේ යුතුය"
 සියලු යොමු යුතුයි. මා යෝජනා කරනවා.

ප්‍රශ්නය විමසන ලදීන්, සහ සම්මත විය.
 විනා බිජුක්කප්පත් උත්‍රුක්කොණ්ඩාප්පට්ටතු.
Question put, and agreed to.

පාර්ලිමේන්තුව ප්‍ර. භ. 10.37ං, අද දින සහ සම්මත ඇතුළු,
 2016 ඔක්තෝබර් 25 වන අභ්‍යන්තරාධා අ.හ. 1.00 වන තෙක් කළේ
 ගියේය.

මු.ප. 10.37ක් පාරාගුමණ අත්‍යත්‍ය ප්‍රියානුරුය
 ත්‍රිමානත්තුක්කිණායක, 2016 ඉක්ටොපර් 25, තේවායක්ක්මාය ප්‍ර.ප.
 1.00 මණ්ඩල ඉත්තිවෙක්කප්පට්ටතු.

Parliament adjourned accordingly at 10.37 a.m. until 1.00 p.m. on
 Tuesday, 25th October, 2016, pursuant to the Resolution of Parliament
 of this Day.

සැ.යි.

මෙම වාර්තාවේ අවසාන මූද්‍රණය සඳහා ස්වකීය නිවැරදි කළ යුතු තුන් දක්වනු රිසි මන්ත්‍රීන් මින් පිටපතක් ගෙන නිවැරදි කළ යුතු ආකාරය එහි පැහැදිලිව ලක්ශ්‍ර කොට, පිටපත ලැබේ දෙසතියක් නොඉක්මවා හැඳුනු සංජ්‍යාරක වෙත ලැබෙන සේ එවිය යුතුය.

ගුර්‍යාපු

ඉරුපිණාර ඇහුතිප පතිපිරි ජේම්යාවිරුම්පුම පිශ්‍යම තිරුත්තංකගෙනාත තමතු පිරතියිල තෙව්‍යාකකක ගුර්‍යාත්තු අතැනෙප පිශ්‍යම තිරුත්තප්පටාත පිරති කිඛෙත්ත ඇරු බාර්නකුන් මුහුණ්සාට පතිප්පාක්‍රියාරුක්ක අනුප්‍රාත්‍යාල බෙන්ඩුම්.

NOTE

Corrections which Members suggest for the Final Print should be clearly marked in their copy and sent to the Editor of HANSARD within two weeks of receipt of the uncorrected copy.

Contents of Proceedings :

**Final set of manuscripts
Received from Parliament :**

Printed copies dispatched :

හැන්සාඩ් වාර්තා

කොළඹ 5, පොල්සේන්ගොඩ, කිරුලපෙ පාර, අංක 163 දරන ස්ථානයෙහි පිහිටී
රජයේ ප්‍රවාන්ත් දෙපාර්තමේන්තුවේ පිහිටි රජයේ ප්‍රකාශන කාර්යාලයෙන්
මිල දී ගත හැක.

මෙම හැන්සාඩ් වාර්තාව www.parliament.lk වෙබ් අඩවියෙන්
බාගත හැක.

හෙන්සාට් අර්ථකාශයින් පිරතිකளා

ඩීල. 163, කිරුලප්පනෙන ඩීල්, පොල්ලෝහුන්කොට, කොළඹ 5 ඇල් අමෙන්තුලා
අර්ථකාශ තකවල් තිණිකකාත්තින් අර්ථකාශ බෙඣියීඉක්සාල අලුවලකත්තිල්
ප්‍රාගම ජේවුත්තිප් පෙරුවුක්කොස්සලාම.

இந்த ஹென்சாட் அறிக்கையை www.parliament.lk எனும் இணையத்தளத்திலிருந்து
பதிவிறக்கம் செய்ய முடியும்.

Hansard Reports can be purchased from the Government Publications Bureau
at the Department of Government Information,
No. 163, Kirulapone Avenue, Polhengoda, Colombo 5.

This Hansard Report can be downloaded from
www.parliament.lk