

7. Mr. Shelton Ranaraja,
8. Mr. Dinesh Gunawardene,
9. Mr. V. Dharmalingam,
10. Mr. Sarath Muttetuwegama,
11. Mr. Maithripala Senanayake.

Prior to the commencement of the first meeting, Mr. V. Dharmalingam ceased to be a Member, when the Members of the TULF vacated membership in the Parliament. Since then, Mr. Speaker, other Members have been appointed at different stages. They are Mr. Anura Bandaranaike, Mr. D. E. W. Gunasekera and Mr. Anil Moonesinghe.

The Select Committee concluded its sittings on 29th February, 1988, when a decision was taken to submit the Final Report to the Parliament. First and Second Interim Reports had been submitted on 7.8.84 and 22.3.85 respectively.

Mr. D. E. W. Gunasekera, M.P. for Kalawana and Mr. Dinesh Gunawardene, M.P. for Maharagama, dissented on three matters. They disagreed on the increase in membership of the Parliament from 196 to 225, the retention of the 12 1/2 per cent Cut-Off Point and the award of Bonus Seats. This dissent is incorporated as a part of the Report. Orders have been already issued to the Government Printer to print it as Sessional Paper No. 109 of 1988. **This Report will include a verbatim record of the proceedings of the Committee.**

This was an All-Party Select Committee of Parliament. Except on the three points mentioned above, on which the Members of Parliament for Kalawana and Maharagama dissented, there is a consensus of opinion amongst the Members. Every opportunity was given to all the Recognized Political Parties as at that time, to make written as well as oral representations. **Hence, it is evident that the conclusions are the product of constructive and collective thinking on the part of a broad segment of political opinion.**

The Fourteenth Amendment to the Constitution: Mr. Speaker, what is this Fourteenth Amendment to the Constitution? I have to raise this question, because there has been a discussion of a Fourteenth Amendment, which, as I came to understand later, is different from the Amendment to the Constitution that I speak of, in this instance. The Fourteenth Amendment presented today is the result of deliberations of the Select Committee on Franchise and Elections. This Committee comprised all Political Parties represented in the Parliament. The Final Report of this Select Committee consisting of the Members I mentioned earlier had the approval of all its Members, except the Members for Kalawana and Maharagama who dissented on three matters. In other words, other than

these two Members dissenting on the three issues of increased membership, Cut-Off Point and the Bonus Seats, there was a unanimity of opinion, in all other matters.

Apparently some sections of the media in Sri Lanka had been formulating a Fourteenth Amendment on their own, creating a certain amount of confusion in the minds of the people. Mr. Speaker, I can understand the media attempting to discuss what they think are possibilities. I can also understand the mistake made by some sections of the general public, that this Fourteenth Amendment includes what one section of the media had been mentioning in relation to the creation of an Electoral College to elect a President and making provision for the incumbent President to contest a third term. But what defies my imagination is the fear and a degree of confusion that had entered the minds of those who had been associated in this Committee on this matter.

Let me therefore make it very clear, that the Fourteenth Amendment presented today, is the result of decisions taken by the Select Committee on Franchise and Election which concluded its sittings on 29th February, 1988. It is based on the Report adopted by this Committee.

Is there any truth in the allegation that the Fourteenth Amendment has been rushed as an urgent Bill? This criticism would have been justified, if at least these Amendments were a decision of the Government or the Cabinet of Ministers alone. But in this instance, the Amendment is a decision taken by the Select Committee of the Parliament which had representatives of all Parties whose deliberations lasted over four years and, to which the views and opinions of Recognized Political Parties who are not even represented in Parliament today, were also brought in. It was in fact based on written and oral submissions. It was in fact mentioned at the last meeting of the Select Committee that this Fourteenth Amendment and the other Amendments deserve to be presented, as urgent Bills because of two main reasons:

- (a) That there had been exhaustive discussions prior to arriving at decisions; and
- (b) The operative use of these Amendments like the zoning of Electoral Districts, require further action and more time.

With the talk of Parliamentary Elections let no one turn round and say that these Amendments were going to cause further delay in the fulfilment of their dream of such an Election. In fact everyone in the Committee was keen to ensure, that there should not be any delay in the passage of these Bills, so that the prerogative of His Excellency the President, to call for a General Election, would not be unduly impeded.

(சட்ட அமர்வு தொடங்கியது)

What are the main features of this Fourteenth Amendment? Firstly, it will remove the inability imposed by the immunity of the President under Article 35, in regard to hearing of election petitions.

I understand that some have held the view that since the Presidential immunity is an expression of the sovereign will of the people, it cannot be diminished without the approval of the people at a Referendum. The acting Attorney-General had effectively argued when this matter came before the Supreme Court that the immunity of the President is not a component of sovereignty. In fact the reduction of the immunity is to enable the people to incorporate a President as a Respondent, where a President participates at a Referendum or a Parliamentary General election campaign in challenging a referendum or an election of a Member of Parliament. The effect of such reduction would then help to advance the Franchise.

Secondly, it is intended to increase the membership of the Parliament from 196 to 225, where the additional 29 Members will be elected in proportion to the national total of district votes received by each Party.

Will this provision to elect 29 Members in proportion to the national vote alongside the district election of other Members, create two tiers in the Parliament? All Members will be elected on the number of votes that the Parties have received. The names of all the candidates will be published for the information of the voters. The Parliament remains unicameral. Members are not to be appointed or nominated by the Party. When the people vote for the Party they will be aware that some candidates in this list, are likely to be elected, on the strength of such votes.

The provision of an extra membership of 29 Members to be elected in proportion to the national total of votes received by each party and the creation of Zones within Electoral Districts, should help to bring in leadership talent at the national level, as well as guarantee representation to any unrepresented or under-represented interest groups. Fears that have been recently expressed by some of them—

சபைத் தலைவர்
(சபைத் தலைவர் அவர்கள்)
(Mr. Speaker)

Order, please! I would like the hon. Members not to interrupt the Hon. Prime Minister. You are carrying on with private conversations.

அ. ப. முத்துசாமி
(அ. ப. முத்துசாமி)
(Mr. R. Premadasa)

—that a P.R. System with preferences for individual candidates would reduce their representation should be allayed, by this provision.

Thirdly, it provides for a time period within which a Referendum Petition can be filed.

The proposal to provide for a Referendum Petition is really an attempt to fulfil a deficiency in the Referendum Act.

Fourthly, it provides for a Delimitation Commission to re-carve Electoral Districts into Zones.

The appointment of a Delimitation Commission to re-carve larger Electoral Districts into zones has created some misgivings on the basis that carving seats on racial, religious or other grounds is contrary to the Principle of Franchise. Discrimination on any of these grounds has been made a violation of fundamental rights under the Constitution. In effect their right to equality has been assured here. If any consideration is to be given on these grounds in carving out zones, it will only help to guarantee the concept of that equality and therefore it would not violate the Principle of Franchise. The establishment of zones would help the elected representatives to be closer to the people as against very large Electoral Districts.

Fifthly, the award of Bonus Seats, and the 12 1/2 Cut-Off Point will be retained.

Will these Amendments erode the sovereign rights of the People? Franchise and Sovereignty are wide concepts which would be meaningful only if the law ensures fair representation to the people including minorities. These Amendments will ensure closer association of the people with Members of Parliament even on the principle of voting for the Party, stability of the Government elected by the free will of the people and the framework for the establishment of a national ethnic leadership while offering inducements for small Parties to buildup at national level. The provisions of the Fourteenth Amendment viewed as a whole are designed to achieve this result by—

- providing for voter preference to candidates;
- providing for zoning of particular electoral districts to balance against any disadvantages to minorities resulting from voter preference;
- retaining the 12 1/2 percent Cut-Off Point in electoral districts and the bonus seats; and
- providing for 29 National Members on the basis of the votes of the people in the entire country but without a Cut-Off Point or bonus seats.

There is a misconception, Mr. Speaker that all these 29 National Members will be chosen from the Party that receives the highest number of votes at the National level. This is totally unfounded. These 29 seats will be allocated to the different Parties contesting an

