IN THE SUPREME COURT
OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

In the matter of an application in terms of Article 121 read with Article 120 of the Constitution to determine whether the Bill titled "Appropriation" or any part thereof is inconsistent with the Constitution.

1. Centre for Policy Alternatives (Guarantee) Limited,
   No.24/2, 28th Lane, Off Flower Road,
   Colombo 7.

2. Dr. PaikiasothySaravanamuttu
   No. 03, Ascot Avenue, Colombo 5.

Petitioners

S.C. (S.D.) No. 19/2013

- VS -

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

Respondent

TO: THE CHIEF JUSTICE AND THEIR LORDSHIPS THE OTHER HONOURABLE JUDGES OF THE SUPREME COURT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

WRITTEN SUBMISSION ON BEHALF OF THE PETITIONERS

1. The instant Application was filed, impugning certain clauses of the Bill titled "***Appropriation***" (hereinafter sometimes referred to as "the Bill") was published in the Gazette of the Democratic Socialist Republic of Sri Lanka Part II of October 04, 2013 issuedon07.10.2013on the order of the Minister of Finance and Planning and placed on the Order Paper of Parliament on 22nd October 2013.

2. The Petitioners' main grounds of challenge have been that:

- **Clause 2(1)(b)** dealing with the power to raise loans is inconsistent with the provisions of Articles 148, 4(a) and 3 of the Constitution;
- **Clause 5(1)**dealing with the power to transfer money within Heads is inconsistent with the provisions of Articles 151, 148, 4(a) and 3 of the Constitution;
- **Clause 6(1)** dealing with the power to transfer money OUTSIDE a given Head is inconsistent with the provisions of Articles 152, 151, 148, 150, 4(a) and 3 of the Constitution;
- **Clause 7(b)** dealing with the power to withdraw monies allocated is inconsistent with the provisions of Articles 148, 4(a) and 3 of the Constitution.

These submissions also deal with the inconsistency and / or violation of Article 76(1).

3. When this matter was taken up before in Court on the 4th of November 2014, Your Lordships' Court indicated that H.E the President had made a reference in terms of Article 129 of the Constitution which in effect queried the constitutionality of the same provisions of the Appropriation Bill which are impugned in the instant Application.

4. As submitted to Your Lordships' Court, neither the Petitioners nor their Counsel were aware and / or took part in the proceedings in the said Reference.

5. It is further respectfully submitted that the Reference made in terms of Article 129 and the opinion of Court thereon, will not be binding on Your Lordships' Court with regard to the instant Application, inasmuch as the instant application is in terms of Article 121 of the Constitution intended to examine the Constitutionality of the provisions of a Bill and can only take place once a bill has been Gazetted and placed on the Order Paper of Parliament.

6. Therefore the full exercise of such right of a citizen to invoke such jurisdiction should not be curtailed due to the invocation by the President of an alternate jurisdiction. It is respectfully submitted that an Opinion under Article 129 cannot be binding on the instant Application for a Special Determination, and that to hold otherwise, in effect, would amount to a deprivation of the right of the Petitioners to effectively invoke Article 121 of the Constitution.

7. Article 120 to Article 124 of the Constitution clearly sets out the mechanisms by which the constitutionality of a bill may be examined by the Supreme Court. A plain reading of the provisions of Article 124 of the Constitution makes it clear that the constitutionality of a Bill or any part thereof cannot be examined in any other proceedings otherwise than as set out in Article 120 to Article 122 of the Constitution.

Article 124 provides that:

"*Save as otherwise provided in Articles 120,121and 122, no court or tribunal created and established for the administration of justice, or other institution, person or body of persons shall in relation to any Bill, have power or jurisdiction to inquire into, or pronounce upon, the constitutionality of such Bill or its due compliance with the legislative process, on any ground whatsoever*."

8. In fact the Supreme Court recently, when determining the Constitutionality of a Private Member's Bill titled **"*The Twenty First Amendment to the Constitution*" (SC SD 17 / 2013)**, referring to Article 124 stated that:

"*The Article makes it patently clear that the Supreme Court exercises its jurisdiction in regard to Bills* ***only to the extent as is assigned to it in terms of Article 120, 121 and 122****. If jurisdiction to inquire into or pronounce upon the constitutionality of a Bill or its due compliance with the legislative process bestowed with the Supreme Court or any Court for that matter, the Constitutionality of the Bill or its due compliance with the legislative process cannot be pronounced upon any ground whatsoever*" (emphasis added)

Court had previously stated (in the same determination):

"*It is a basic tenet of law that court must be clothed with jurisdiction as any assumption of jurisdiction would render a decision devoid of legal effect and null and void*"

9. Therefore it is respectfully submitted that since the Court has stated, in the aforesaid Special Determination, that the jurisdiction to pronounce on the Constitutionality of a Bill is limited to situations covered in Articles 120 – 122, a pronouncement in terms of Article 129 (on the Constitutionality of a Bill) in any event, will have no binding effect on the instant Application.

10. The main submissions on behalf of the Attorney General appeared to be based on 'practicality' - rather than Constitutionality - that there are adequate checks and balances already in place (and those arguments will be more fully dealt with in the course of these submissions).

11. Additionally it was sought to be argued, on behalf of the Attorney General, that Your Lordships' Court has dealt with identical provisions in previous Special Determinations.

However, the instant Application is made in terms of Article 120 read with Article 121(1) of the Constitution ***to determine any question as to whether any Bill of any provision thereof is inconsistent with the Constitution***. It is respectfully submitted that Court will ascertain whether the provisions of the Bill are Constitutional, and not be unduly concerned with the so-called 'precedents', which it is respectfully submitted are not judgments and are thus not binding.

In any event these previous determinations are distinguishable, and in some cases have not considered the Constitutional provisions / arguments urged before Court in this Application.

FURTHER, and WITHOUT PREJUDICE to the above, in any event, where Constitutional rights and the Sovereignty of the People is involved *"circumstances may arise which would render* ***it a lesser evil for a court to override its own legal opinion, clearly shown to be wrong, than indefinitely to perpetuate its error****." –* ***Habib Motan v. Transvaal Government*** **[(1904) T. S. 404 at 413]** *(cited in* ***Bandahamy v. Senanayake*** **62 N.L.R. 313, 326**)

In ***Moosajee v. Carolis Silva*** **70 N.L.R. 217, 229** Lord Denning's dictum in ***Ostime v. Australian Provident Society*** **(1959) 2 A. E. R. 245 at 256** was cited with approval - "***The doctrine of precedent does not compel your Lordships to follow the wrong path until you fall over the edge of the cliff. As soon as you find that you are going in the wrong direction, you must at least be permitted to strike off in the right direction, even if you are not allowed to retrace your steps***."

A. APPLICABLE PROVISIONS OF THE CONSTITUTION

12. **Article 148 of the Constitution** mandates that:

Parliament shall have FULL CONTROL over public finance*. No tax, rate or any other levy shall be imposed by any local authority or any other public authority, except by or under the authority of a law passed by Parliament or of any existing law.*

13. **Article 3 of the Constitution** recognizes the pre-existing fact that:

*In the Republic of Sri Lanka sovereignty is in the people and is inalienable. Sovereignty **includes** the powers of government, fundamental rights and the franchise.*

14. **Article 4(a) of the Constitution** states that:

The Sovereignty of the People shall be exercised and enjoyed in the following manner:-

(a) The legislative power of the People shall be exercised by Parliament, consisting of elected representatives of the People and by the People at a Referendum;

15. **Article 76(1) of the Constitution** mandates that:

Parliament shall not abdicate or in any manner alienate its legislative power, and shall not set up any authority with legislative power.

16. **Articles 150(1) and (2)** of the Constitution mandate that:

(1) Save as otherwise expressly provided in paragraphs (3) and (4) of this Article, no sum shall be withdrawn from the Consolidated Fund except under the authority of a warrant under the hand of the Minister in charge of the subject of Finance.

(2) No such warrant shall be issued unless the sum has by resolution of Parliament or by any law been granted for specified public services for the financial year during which the withdrawal is to take place or is otherwise lawfully, charged on the Consolidated Fund.

17. **Article 151 of the Constitution** provides that:

(1) Notwithstanding any of the provisions of Article 149, Parliament may by law create a Contingencies Fund for the purpose of providing for urgent and unforeseen expenditure.

(2) The Minister in charge of the subject of Finance, if satisfied-

(a) that there is need for any such expenditure, and

(b) that no provision for such expenditure exists,

may, with the consent of the President, authorize provision to be made therefor by an advance from the Contingencies Fund.

(3) As soon as possible after every such advance, a Supplementary Estimate shall be presented to Parliament for the purpose of replacing the amount so advanced.

18. **Article 152 of the Constitution** provides that:

No Bill or motion, authorizing the disposal of, or the imposition of charges upon, the Consolidated Fund or other funds of the Republic, or the imposition of any tax or the repeal, augmentation or reduction of any tax for the time being in force shall be introduced in Parliament except by a Minister, and unless such Bill or motion has been approved either by the Cabinet of Ministers or in such manner as the Cabinet of Ministers may authorize.

19. In the Determination (made by a bench of seven judges of the Supreme Court) related to the Bill titled ***"the 19th Amendment to the Constitution"*** **(SC SD Nos. 11 – 40 / 2002)** Court interpreted what is meant by FULL CONTROL as envisaged in Article 148.

These principles were affirmed in the ***Determination related to the Appropriation Bill 2008*** **(SC SD 3 & 4 of 2008)** where it was stated that:

"According to that Determination in terms of Article 4(a) of the Constitution, Parliament is the sole custodian of legislative power of the People and will exercise that power in trust for the People in whom sovereignty is reposed. Legislative power includes the "full control over public finance" as stated in Article 148 cited above, which in our opinion is also a vital component of the balance of power firmly established by the Constitution in relation to the respective organs of government.

…One important check on the exercise of executive power is that finance required for such exercise remains within the full control of Parliament – the legislature. There are three vital components of such control in terms of the Constitution viz:

(i) ***Control of the source of finances****, i.e. imposition of taxes, levies, rates and the like and the* ***creation of any debt of the Republic****;*

(ii) ***Control by way of allocation of public finances*** *to the respective departments and agencies of Government and setting of limits of such expenditure;*

(iii) ***Control by way of continuous audit and check*** *as to due diligence in performance in relation to (i) and (ii).”*

Determination related to the Appropriation Bill 2008

(SC SD 3 & 4 of 2008) at page 3

...an Act lacking in such transparency or being an ***alienation*** *of control by Parliament would be inconsistent with Article 148 of the Constitution.*

Determination related to the Appropriation Bill 2008

(SC SD 3 & 4 of 2008) at page 4

20. Thus, any legislation affecting Public Finance must ensure that Parliament continues to exercise ALL of the following:

(i) ***Control of the SOURCE of finances****, including with regard to* ***creation of any debt of the Republic****;*

(ii) ***Control by way of ALLOCATION of public finances*** *to the respective departments and agencies of Government and setting of limits of such expenditure;*

(iii) ***Control by way of continuous AUDIT and CHECK*** *(which is IN ADDITION to the above aspects of Control)*

21. The reasoning in the ***Determination related to the Development Councils Bill*** **(SC SD 4 of 1980)** suggests that a violation of Article 148, could also amount additionally to an abdication of the legislative power, and thus contravene Article 76(1) and in turn Article 3 of the Constitution.

22. In the course of these submissions, it will be contended that the Appropriation Bill sought to be enacted will result in Parliament NOT having FULL CONTROL over foreign loans to be raised, or the allocation of funds, since the Bill attempts to place an absurdly high limit, and within that supposed 'limit', grant wide and unfettered decision making powers to Public Officers. This is turn could facilitate corruption / mismanagement, at enormous financial cost to the People.

23. There is NO CONTROL or REVIEW by Parliament – but Parliament would simply be (post-fact) INFORMED of these transactions in terms of OTHER laws (and these laws too it is noted may be subject to repeal – thus denying Parliament even the INFORMATION related to these transactions).

24. With regard to ALL the clauses, it is submitted that the **Fiscal Management (Responsibility) Act No. 3 of 2003 does NOT facilitate Parliamentary Control**. It only provides a reporting requirement, and Parliament is NOT able to PREVENT undesirable transactions.

Thus the existence of the Fiscal Management (Responsibility) Act is not a justification for a lack of Control in the impugned Bill.

FURTHER, Parliament may at any time repeal the **Fiscal Management (Responsibility) Act** and in such event there would NOT even be a reporting to Parliament.

There is no justification for the total absence, abdication and alienation of Parliamentary Control which the impugned Appropriation Bill seeks to permit.

25. While Public Officers may be held accountable by other mechanisms should they engage in corrupt or reckless conduct in the exercise of those powers, **this will not serve the Public, who will be left to foot the bill, since it is unlikely that losses could be recovered from those Public Officers**.

26. This is exactly why Parliament needs to retain Full Control – merely relying on other mechanisms to prosecute / deal with Public Officers will not result in adequate protection of Public Finances. In **any event, the abdication of Parliamentary Control over public finance, as is sought to be done, contravenes the Constitutional provisions, as more fully setout hereinafter**.

27. In the ***Determination related to the Appropriation Bill 1986***, only Clause 7 thereof was challenged (similar to the present clause 8, which is not challenged). In that Determination Court recognized that "*The issue in this matter is more the question of the extent of Parliamentary control over national Finance that one of delegation of legislative power simpliciter. Incidentally* ***it would be anomalous for Parliament which has to exercise financial control over expenditure by the Executive to delegate that power to the very authority which it has to supervise without devising suitable checks to control the use of that power****. In our view* ***some amount of direct and actual control however nominal has to be retained by Parliament*** *in this matter. The effect of our determination is to restore to Parliament the right to exercise a power which rightly belongs to it.*" (Page 35)

28. In the ***Determination related to the Appropriation Bill 2012*** (As reported in the Hansard of 6th November 2012) in reference to the importance of FULL CONTROL of public finance as a check on Executive Power the court stated that; *"Another perhaps less explicit but dominant control is enshrined in Article 148 of the Constitution,* ***which mandates that all 'Public Finance', including the control of the 'spring' or source of the finance whether it be through taxes etc, and the control of the allocation of public finance pass through and only through the "eye" of Parliament****…*

"In practice, fiscal accountability can only be assured by a process where Parliamentary control is exercised in full in a transparent manner where matters are placed in the public domain, enhancing the credibility of the process through patent disclosures and public debate on implications"

B. CLAUSE 2(1)(b) AND THE POWER TO RAISE LOANS

29. For the reasons set out hereinafter it will be submitted that clause 2(1)(b) dealing with the power to raise loans is inconsistent with the provisions of Articles 148, 4(a) and 3 of the Constitution.

30. **Clause 2(1)(b)** states:

> *(1) Without prejudice to any other law authorizing any expenditure and subject to the provisions of subsection (4) of this section, the expenditure of the Government which is estimated will be rupees one thousand five hundred and forty two billion two hundred and fifty two million five hundred and eighteen thousand for the service of the period beginning on January 1, 2014 and ending on December 31, 2014 (in this Act referred to as the "financial year 2014"), shall be met –*
>
> *(b) from the proceeds of loans which are hereby authorized in terms of relevant laws to be raised whether in or outside Sri Lanka, for and on behalf of the Government, so however that the aggregate of such proceeds does not exceed rupees one thousand one hundred billion and the details of such loans shall be incorporated in the final Budget Position Report which is required to be tabled in Parliament under section 13 of the Fiscal Management (Responsibility) Act, No. 3 of 2003.*

31. **Clause 2(1)** recognizes that:

- the expenditure estimated will be approximately Rs. 1542 BILLION;
- loans authorized should not exceed Rs. 1100 BILLION

32. It is therefore clear that clause 2(1)(b) attempts to grant a **blanket authorization to raise Rs. 1100BILLION as loans** during the year 2014. This is **OVER 71% of the (First Schedule) expenditure** of Rs.1542 Billion!

33. What is shocking is that clause 2(1)(b) does not require Parliamentary authorization / review of the individual loans. Thus theoretically the WHOLE of Rs. 1100 Billion may be raised at foreign loans, at an exorbitant interest rate.

34. This is all the more serious considering Head 249 on page 39 of the Appropriation Bill which suggests that during the year 2014 the following sums are authorized as expenses in respect of loans:

Recurrent	Rs.421 BILLION
Capital	Rs.551 BILLION
Total	Rs.972 BILLION

That is to say, **in ADDITION to the First Schedule expenses ANOTHER Rs.972 BILLION (approximately equal to 63% of the First Schedule expenses) is authorized as loan related payments, during the year 2014.**

35. When so much money is spent on Loan repayments (interest and capital) it is respectfully submitted that Court will interpret the Constitutional requirements strictly, and not permit vague clauses such as clause 2(1)(b), which leave much room for abuse / mismanagement.

36. In this regard it is respectfully submitted that the principles of Constitutionalism and the Rule of Law REQUIRE that power be viewed with suspicion. In other words, one cannot charitably assume that public officers will act properly. One MUST assume that they may, or will, act negligently, recklessly and / or wrongfully and thus in accordance with the principles of Constitutionalism, place the maximum controls in place to ensure the eradication (to the maximum extent possible) of such reckless and / or wrongful acts.

37. EVEN IF there were 'executive' checks and balances, such could NOT SUBSTITUTE the checks and balances Constitutionally mandated, vizthat ***Parliament shall have FULL CONTROL over Public Finance***.

38. In the past Sri Lanka has faced mismanagement problems such as the **Petrol Hedging Saga** where it was alleged that Public Officers misused their powers. **The People of Sri Lanka are left to foot the bill.**

39. In fact recently during the debate in Parliament on the report tabled by the Committee on Public Enterprises (COPE) a Member of Parliament pointed out that a loan was obtained in 2007 from the Export Import Bank of China (Exim Bank) for US$ 306 Billion at an interest rate of LIBOR+0.9% (which at the time worked out to an interest rate of 6.9%) however with the LIBOR rate plummeting the loan was renegotiated for a fixed rate of 6.3% p.a. According to the members speech if the earlier arrangement was in place at present Sri Lanka would only be paying an interest rate of 1.26% p.a. (See **Parliamentary Debates, Volume 219 – No 11, Friday 11th October 2013** at p. 1374) considering that the loan amount is US$ 306 Billion this, it is submitted, is a large financial burden which has been imposed on the people of the country.

40. It is respectfully submitted that the mere fact that Sri Lanka has an excellent loan repayment record cannot be used as a justification for the unnecessary imposition of such a burden on citizens, especially when such imposition is sans Parliamentary approval.

41. It is respectfully submitted that this clause will not be permitted to be enacted as it is, as there is grave risk of abuse / mismanagement, and a serious violation of the relevant Constitutional provisions.

42. It is respectfully submitted that what is sought to be enacted would amount to ABDICATION and ALIENATION of control. Parliament is seeking to authorize:

- Raising of loans with a ceiling of Rs. 1100 BILLION;
- The Executive to decide on the TERMS of the loan (including period and interest).

43. Article 148 mandates that FULL CONTROL of Public Finance be maintained by Parliament. This includes, as recognized in the ***Determination related to the Appropriation Bill 2008*** **(SC SD 3 & 4 of 2008) at page 3**

> ***Control of the source of finances****, i.e. imposition of taxes, levies, rates and the like and the* ***creation of any debt of the Republic****;*

44. Therefore, Parliament cannot DELEGATE this function, or ABDICATE or ALIENATE its powers with regard to same. Parliament MUST maintain FULL CONTROL. Therefore, clause 2(1)(b) would ONLY be Constitutional if the clause were amended to require that PRIOR to any loan being obtained, the TERMS of such loan were made known to Parliament, and Parliament approved same by way of Resolution.

45. Merely INFORMING Parliament of loans (post fact) does NOT give Parliament CONTROL. Control necessarily envisages the right to say "NO" or to PREVENT the taking of a loan.

If this clause is allowed to pass into law Parliament will lose CONTROL and the right to REVIEW loans… it will merely be informed of the loans… Even if Public Officers act recklessly and are punished, **the People will be left to foot the (loan) bill, for generations to come**.

46. Obtaining a foreign loan is a matter planned well in advance. The Learned DSG on behalf of the Attorney General was heard to say that the Central Bank studies the impact prior to obtaining such loans which was evinced by the many reports referred to in the course of her submissions. Considering the meticulous planning involved there is no difficulty in bringing the proposed LOAN AGREEMENTS and TERM SHEETS before Parliament and securing approval by way of a resolution, PRIOR to signing the Loan Agreement. Doing so will not result in any administrative difficulties.

47. In the case of local Treasury Bills, it was contended on behalf of the Attorney General that certain limits were imposed by Parliament. Similarly, there is no reason why TERM SHEETS cannot be brought before Parliament for prior approval.

While there may be SOME situations in which certain terms such as interest are finalized at the negotiating table, so to speak, EVEN in such situations, there is no reason why prior Parliamentary approval cannot be obtained for the terms of such loans (eg. interest not to exceed X%, loan repayment period to be over Y months etc)

48. In terms of the **Foreign Loans Act No. 29 of 1957** as amended Parliament is merely (post fact) NOTIFIED of Foreign Loans.

49. **Clause 2(1)(b)** is thus a CLEAR violation of Article 148, and denies Parliament Full Control over the SOURCE of Finances. It is an Abdication and Alienation of Parliamentary Control. If enacted it will leave room for irresponsible and / or fraudulent decisions to be made, resulting in a huge financial burden on the People.

50. The principle stated in the **Special Determination of 1986**, related to the Appropriation Bill, would be of equal application here: "***it would be anomalous for Parliament which has to exercise financial control over expenditure by the Executive to delegate that power to the very authority which it has to supervise without devising suitable checks to control the use of that power****. In our view* ***some amount of direct and actual control however nominal has to be retained by Parliament*** *in this matter. The effect of our determination is to restore to Parliament the right to exercise a power which rightly belongs to it.*" (page 35)

51. In this regard, the Supreme Court in ***Re the Appropriation Bill (SC SD 15/2012)*** dealing with an almost identical clause, stated:

"*…****Only if such adequate information is provided prior to obtaining these loans, would there be a comprehensive opportunity to Parliament to scrutinize and exercise full control over public finance****. This anomaly could be rectified if the impugned clause is amended to read, that prior to the obtaining of the loan, the terms of such loan must be approved by Parliament. If not* ***this Court is of the view that clause 2(1)(b) would be unconstitutional as under its scheme, Parliament would fail to exercise the due and full financial control envisioned under Article 148****.*"

52. The Principle enunciated in Article 148 of the Constitution finds its roots in the concept that "persons should be taxed only with their own consent, given by their Representatives".

53. In the case of loans raised in accordance with Clause 2(1)(b) the citizens of Sri Lanka (at a future date) will be called upon to repay such loans together with interest. Therefore the necessary implication being that the people through their representatives should have agreed to the terms of such repayment if they are to be bound to repay same.

54. Furthermore whilst Parliament can obtain the assistance of technical experts from the various departments and agencies of the Treasury and the Central Bank, it is respectfully submitted that FULL CONTROL over public finance would require that Parliament cannot abdicate the decision making to such public officials and be content with merely being post-fact informed of such decisions. The FULL CONTROL of public finance would only be satisfied if the "spring" or sources of finance, especially foreign debt, **passes through the eye of Parliament.**

55. It is submitted that there is no reason to depart from the principle laid down in ***Re the Appropriation Bill (SC SD 15/2012)*** with regard to clause 2(1)(b).

56. The inclusion of post-fact reporting to Parliament, does not ensure Full Control by Parliament, since the act would already have been given effect to. As recognized in ***Re the Appropriation Bill (SC SD 15/2012)*** *this anomaly could be rectified if the impugned clause is amended to read, that prior to the obtaining of the loan, the terms of such loan must be approved by Parliament. If not… clause 2(1)(b) would be unconstitutional…*

57. Further, it is respectfully submitted that the instant Application is one in which Your Lordships' Court is called upon to determine whether the impugned Bill or any provision thereof ***is inconsistent with the Constitution.*** Court is not called upon to consider whether extraneous circumstances (such as those referred to in the Determinations concerning the Appropriation Bills of 2007 and 2008) warrant a violation of the applicable Constitutional provisions.

58. It is further submitted that efficacy is not a sufficient ground for violating the applicable Constitutional provisions.

59. Clause 2(1)(b) is thus inconsistent with and violates Articles 148, 76(1), 4(a) and 3 of the Constitution.

C. UNCONSTITUTIONALITY OF CLAUSE 5(1) – TINKERING WITH ALLOCATIONS

60. For the reasons set out hereinafter it will be submitted that clause 5(1) dealing with the power of Public Officers to re-allocate allocations already made by Parliament is inconsistent with the provisions of Articles 151, 148, 4(a) and 3 of the Constitution.

61. If the Bill is passed into law, the expenses set out in the First Schedule would be (as also submitted by the learned Deputy Solicitor General) those on which Parliament has deliberated and voted. The deliberations would involve Parliament being informed of what exactly is included within the figures specified in each Head / Programme. For example teacher's salaries Rs. XXXX, equipment Rs. YYYY etc

62. **Clause 5(1)** states:

> *5.(1) Any moneys which by virtue of the provisions of the First Schedule to this Act, have been allocated to Recurrent Expenditure under any Programme appearing under any Head specified in that Schedule, but have not been expended or are not likely to be expended, may be transferred to the allocation of Capital Expenditure within that Programme or to the allocation of Recurrent Expenditure or Capital Expenditure under any other Programme within that Head, by order of the Secretary to the Treasury or by Order either of a Deputy Secretary to the Treasury or the Director General of the National Budget Department, who may be authorized in that behalf by the Secretary to the Treasury.*

63. **<u>Clause 5(1)</u>** will thus permit:

- The Secretary to the Treasury (or the other Public Officers named);
- If they form a (subjective) opinion that money is not likely to be expended;
- To transfer from Recurrent to Capital Expenditure within a Programme;
- To transfer from Recurrent to Recurrent or Capital in other Programmes within a Head

64. It is NOT submitted that Parliament should micro-manage everything within the Economy. Such was not intended by FULL CONTROL.

HOWEVER, Parliament passed the 'Budget' after deliberating and receiving much information on what is included in Programmes/Heads. The details in the Schedule can be described as a more macro-level allocation.

Since these figures contained in the Schedule are Macro-level details, and are specifically approved by Parliament, and INCLUDED in the Act itself, Public Officers should not be permitted to amend same without prior Parliamentary approval.

If changes are to be made at this level, such should only be with Parliamentary approval, since to recognise otherwise ***<u>in effect permits the Public Officers to amend the details in the Schedule, and thus to amend a law</u>***!

65. The dangers of permitting such powers to be granted to Public Officers can be illustrated by way of examples:

Page 21 of the Bill *inter alia* contains the following:

Head 126	**Minister of Education**	**Recurrent**	**Capital**
Programme 1	Operational Activities	595,850,000	78,200,000
Programme 2	Development Activities	23,871,916,000	11,714,816,000

66. This means that Parliament having considered the requirements has decided (if the Bill is passed) that Rs. 595,850,000 should be spent on operational activities such as teachers' salaries etc.

67. **WITHIN** the 595,850,000 the Public Officers concerned may legitimately make certain changes (for example salaries can be increased and spending on other operational expenses reduced, so that it remains within the 595,850,000 limit).

68. However the fact that 595,850,000 was voted for recurrent expenses means that Parliament has made a MACRO-level decision on same. The MACRO level (i.e. total) allocation of 595,850,000 should only be varied with Parliamentary sanction. To hold otherwise would mean that Parliament was effectively permitted to almost wash its hands off budgeted expenditure once the Bill is passed.

69. Consideration must also be had of Sri Lanka's social context, and the prevalence of corruption / mismanagement must also be considered, towards giving full effect to the Public Trust Doctrine and protecting the Sovereignty of the People.

70. If Public Officers are permitted to reallocate finances, for example moving part of the 595,850,000into Capital expenditure (where more tenders are involved, and there is thus more room for corruption) there is more room for unchecked decisions and resulting corruption.

71. There is no need for urgent decisions to be made. Finances would be planned well in advance. If a MACRO-level decision is to be made changing an allocation made by Parliament, such should ONLY be done with the PRIOR APPROVAL of Parliament.

72. As recognized in the ***Determination related to the Bill titled "the 19th Amendment to the Constitution"*** **(SC SD Nos. 11 – 40 / 2002)** and set out in the ***Determination related to the Appropriation Bill 2008*** **(SC SD 3 & 4 of 2008) at page 3,** FULL CONTROL includes:

Control by way of allocation of public finances *to the* ***respective departments and agencies of Government*** *and setting of limits of such expenditure;*

73. To permit the clause to be enacted as is would violate Parliamentary control at the macro-level, as mandated by Article 148.

74. Parliament CANNOT be permitted to sub-delegate, alienate or abdicate this power. ***Delegatus non potest delegare*** *– a delegated authority cannot be re-delegated, or in other words, one agent cannot lawfully appoint another to perform the duties of agency*. (**N S Bindra's, Interpretation of Statutes, 8th Ed., page 145**).

75. Bindra goes on to cite **Cooley's *Constitutional Limitations***:

"***One of the settled maxims in constitutional law is that the power conferred upon the Legislature to make laws cannot be delegated by that department to any other body*** *or authority. Where the sovereign power of the State has located the authority, there it must remain; and by constitutional agency alone the laws must be made until the Constitution itself is changed.* ***The power to whose judgment, wisdom and patriotism this high prerogative has been entrusted cannot relieve itself of the responsibility by choosing other agencies upon which the power shall be devolved****…*" (***page146***)

76. The gross irrationality of the UNFETTERED power sought to be sub-delegated, is highlighted by comparison with clauses 8 and 9. Those clauses require maintaining FULL CONTROL with respect to a comparatively smaller aspect, that of ADVANCES to Public Officers (set out in Schedule 3).

77. Although the sums set out in Schedule 3 are much smaller, limits cannot be changed without the prior approval of Parliament.

78. That principle in the **1986 Determination** is of equal application to clause 5(1): "***it would be anomalous for Parliament which has to exercise financial control over expenditure by the Executive to delegate that power to the very authority which it has to supervise without devising suitable checks to control the use of that power***. *In our view* ***some amount of direct and actual control however nominal has to be retained by Parliament"***. (page 35)

79. There is no justifiable reason why much larger EXPENSES (as opposed to mere advances) can be unilaterally decided upon by the Executive sans Parliamentary Control.

80. If this clause is allowed to pass into law Parliament will lose CONTROL and the right to REVIEW transfers made with regard to MACRO-level allocations… it may merely be informed of the transfer… Even if Public Officers act recklessly and are punished, the People will be left to bear the consequences.

81. Additionally, this against amounts to the Public Officers varying details in the Act / Schedule, and is thus tantamount to amending the Appropriation Act by an Executive decision, **and thus also contravenes Article 76(1)** and would deny the Public their Constitutional right under Article 121, since if the act were done legislatively, it could be challenged by way of an Application for a Special Determination.

82. Clause 5(1) also violates **Article 152**, inasmuch as a Bill affecting Public Finance such as the present can only be tabled by a Minister – however, the Public Officers are effectively granted power to AMEND the law, when EVEN a Private Member cannot table such an amendment in Parliament.

83. It is respectfully submitted that the inconsistency with Article 152 was not considered in the Special Determinations relating to the Appropriation Bills of 2002, 2007, 2008 or 2012.

84. Further, it is respectfully submitted that the instant Application is one in which Your Lordships' Court is called upon to determine whether the impugned Bill or any provision thereof ***is inconsistent with the Constitution.*** Court is not called upon to consider whether extraneous circumstances (such as those referred to in the Determinations concerning the Appropriation Bills of 2007 and 2008) warrant a violation of the applicable Constitutional provisions.

85. Therefore it is respectfully submitted that clause 5(1) violates Articles 148, 150(1), 150(2), 152, 76(1), 4(a) and 3 cannot be enacted into law by a simple majority, UNLESS amended to require that PRIOR to any monies being transferred in the manner envisaged by clause 5(1) the reasons are made known to Parliament, and Parliament approval by way of Resolution obtained.

D. CLAUSE 6(1) AND THE POWER TO TRANSFER FUNDS TO OTHER HEADS

86. Clause 6(1) states:

"Any money allocated to Recurrent Expenditure or Capital Expenditure under the ***"Development Activities" Programme appearing under the Head "Department of National Budget"*** *specified in the First Schedule, may be transferred subject to guidelines stipulated in printed Budget Estimates approved by Parliament for the relevant year, to any other Programme under any other Head in that Schedule, by Order of the Secretary to the Treasury or by Order either of a Deputy Secretary to the Treasury or the Director General of the National Budget Department, who may be authorized in that behalf by the Secretary to the Treasury. The money so transferred shall be deemed to be a supplementary allocation made to the particular Ministry, and a report containing the amount of money so transferred and the reasons for the transfer, shall be submitted to Parliament within two months of the date of the said transfer.*"

87. For the reasons set out hereinafter it will be submitted that clause 6(1) dealing with the power to transfer moneys to OTHER HEADS is inconsistent with the provisions of Articles 148, 150(1), 150(2), 151, 152, 4(a) and 3 of the Constitution.

88. **Clause 6(1)** attempts to permit the Public Officers specified therein to:

- *Transfer any money allocated to Recurrent Expenditure or Capital Expenditure under the "Development Activities" Programme - to any other Programme under any other Head*
- *And the money so transferred shall be deemed to be a supplementary allocation made to the particular Ministry*

89. The Public Officers specified are in effect sought to be given the power to transfer monies NOT JUST WITHIN the Head, but to ANY HEAD. In effect Parliament is seeking to establish a Contingency Fund of sorts within the Budget.

90. The People, through the Constitution, have set out specific 'rules' as to how EVEN in an emergency, the Executive can deal with Public Funds. These are set out in Article 151 of the Constitution.

These safeguards include:

- That the money is to be used only for urgent and unforeseen expenditure (an example may be an unforeseeable natural disaster such as a tsunami)
- That the withdrawal should only be by the Minister of Finance with the consent of the President
- Thereafter the matter is to be reported to Parliament

91. Parliament however is seeking to create a Contingency Fund, calling it the 'Development Activities' Program, which will run EVEN if there is NO emergency, and over which the Secretary to the Treasury (NOT the Minister) has full control.

92. In addition to violating the principle of Parliament's Full Control, this also violates the provisions of Article 151 relating to the Contingencies Fund.

93. It is respectfully submitted that **the argument that maintaining a Contingency Fund is too expensive is NOT a justification for violating the provisions of the Constitution**!

94. Sri Lanka HAS established a Contingencies Fund (vide the **Contingencies Fund Act No. 35 of 1979**). IN ANY EVENT, IF the provisions of Article 151 are too difficult to comply, they must be amended in accordance with law. They cannot be simply violated due to alleged practical difficulties!

95. It is not permissible for the legislature to create a second 'disguised' Contingencies Fund which will operate sans the safeguards mandated by Article 151.

96. Consideration must also be had to Sri Lanka's social context, and the prevalence of corruption / mismanagement must also be considered, towards giving full effect to the Public Trust Doctrine and protecting the sovereignty of the People.

97. If Public Officers are permitted to change around finances to areas where more Tenders etc are involved there is more room for unchecked decisions and resulting corruption. As submitted previously, one cannot assume that Public Officers will act 'properly'. Constitutionalism requires that all power be viewed with suspicion, and that constitutional safeguards be given maximum effect, so as to minimize the potential for abuse.

98. As recognized in the ***Determination related to the Bill titled "the 19th Amendment to the Constitution"*** **(SC SD Nos. 11 – 40 / 2002)** and set out in the ***Determination related to the Appropriation Bill 2008*** **(SC SD 3 & 4 of 2008)page 3,** FULL CONTROL includes:

Control by way of allocation of public finances *to the* ***respective departments and agencies of Government*** *and setting of limits of such expenditure;*

99. If Parliament allocates funds to ONE HEAD, it is ABSURD to permit a Public Officer to effectively override Parliament and allocate it to another Head.

100. Parliament CANNOT be permitted to sub-delegate, alienate or abdicate this power. ***Delegatus non potest delegare.***

101. The sheer absurdity of the UNFETTERED power sought to be sub-delegated, is highlighted by comparison with clauses 8 and 9. Those clauses require maintaining FULL CONTROL with respect to a comparatively smaller aspect, that of ADVANCES to Public Officers (set out in Schedule 3).

102. Although the sums set out in Schedule 3 are much smaller, limits cannot be changed without the prior approval of Parliament.

103. There is no justifiable reason why much larger EXPENSES (as opposed to mere advances) can be unilaterally decided upon by the Executive sans Parliamentary Control.

104. The principle in the **1986 Determination** should be of equal application to clause 6(1): "***it would be anomalous for Parliament which has to exercise financial control over expenditure by the Executive to delegate that power to the very authority which it has to supervise without devising suitable checks to control the use of that power****. In our view* ***some amount of direct and actual control however nominal has to be retained by Parliament*** *in this matter. The effect of our determination is to restore to Parliament the right to exercise a power which rightly belongs to it.*" (page 35)

105. If this clause is allowed to pass into law Parliament will lose CONTROL and the right to REVIEW transfers made with regard to MACRO-level allocations… it may merely be informed of the transfer… Even if Public Officers are punished, the People will be left to bear the consequences.

106. The attempt to deem the monies transferred to be a supplementary allocation also violates Article 150(1) and (2), since it is an attempt to circumvent the procedure by which monies should be withdrawn.

107. Additionally, this against amounts to the Public Officers varying details in the Act / Schedule, and is thus tantamount to amending the Appropriation Act by an Executive decision, thus **contravening Article 76(1)** and denying the Public their Constitutional right under Article 121, since if the Act were done legislatively, it could be challenged by way of a Special Determination Application.

108. **Clause 6(1) also violates Article 152, inasmuch as a Bill affecting Public Finance such as the present can only be tabled by a Minister – however, the Public Officers are effectively granted power to AMEND the law, when EVEN a private Member of Parliament cannot table such an amendment in Parliament.**

109. It is respectfully submitted that the inconsistency with Article 152 was not considered in the Special Determinations relating to the Appropriation Bills of 2002, 2007, 2008 or 2012.

110. Further, it is respectfully submitted that the instant Application is one in which Your Lordships' Court is called upon to determine whether the impugned Bill or any provision thereof ***is inconsistent with the Constitution.*** Court is not called upon to consider whether extraneous circumstances (such as those referred to in the Determinations concerning the Appropriation Bills of 2007 and 2008) warrant a violation of the applicable Constitutional provisions.

111. It is further submitted that efficacy is not a ground for violating the applicable Constitutional provisions.

112. If the power of REVIEW is granted to Parliament that would ensure Parliamentary Control.

113. Therefore it is respectfully submitted that clause 6(1) violates Articles 148, 150(1), 150(2), 151, 152, 76(1), 4(a) and 3 and cannot be enacted into law by a simple majority, UNLESS amended to require that PRIOR to any monies being transferred in the manner envisaged by clause 6(1) the reason for same is made known to Parliament, and Parliamentary approval for same by way of Resolution is obtained.

E. CLAUSE 7(b) AND THE POWER OF THE MINISTER TO WITHDRAW FUNDS ALLOCATED

114. For the reasons set out hereinafter it will be submitted that **Clause 7(b)** dealing with the power of the Minister to withdraw funds is inconsistent with the provisions of Articles 148, 4(a) and 3 of the Constitution.

This also includes contravention of Article 76(1) of the Constitution.

115. **Clause 7** states:

"*Where the Minister is satisfied* –

(a) that receipts from taxes and other source will be less than the amounts anticipated to finance authorized expenditure; or

(b) that amounts originally appropriated for a particular purpose are no longer required,

he may with the approval of the Government, withdraw in whole or in part any amounts previously released for expenditure under the authority of a warrant issued by him, from the Consolidated Fund or from any other fund or moneys of or at the disposal of the Government, to meet any authorized expenditure and the details of all such withdrawals shall be incorporated in the Final Budget Position Report which is required to be tabled in Parliament under section 13 of the Fiscal Management (Responsibility) Act, No. 3 of 2003".

116. **Clause 7(b)** attempts to grant the Minister, with the approval of the Government (i.e. the Cabinet) the power to *withdraw in whole or in part any amounts previously released for expenditure* if HE is satisfied *that amounts originally appropriated for a particular purpose are no longer required*.

117. It is NOT submitted that Parliament should micro-manage everything within the Economy. Such was not intended by FULL CONTROL.

HOWEVER, Parliament passes the 'Budget' after deliberating and receiving much information on what is included in Programmes/Heads. The details in the Schedule can be described as a more macro-level allocation.

Since these figures contained in the Schedule are Macro-level details, and are specifically approved by Parliament, and INCLUDED in the Act itself, the MINISTER should not be able to change them around.

If changes are to be made at the macro-level, such should only be with Parliamentary approval, since to recognise otherwise in effect permits the MINISTER to amend the details in the Schedule, and thus to amend a law!

118. The dangers of permitting such powers to be granted to the Minister sans Parliamentary Control can be illustrated by way of example:

Page 21 of the Bill *inter alia* contains the following:

Head 126	**Minister of Education**	**Recurrent**	**Capital**
Programme 1	Operational Activities	595,850,000	78,200,000
Programme 2	Development Activities	23,871,916,000	11,714,816,000

119. This means that Parliament having considered the requirements has decided (if the Bill is passed) that 595,850,000should be spent on operational activities such as teachers' salaries etc.

120. The fact that 595,850,000 was voted for recurrent expenses means that Parliament has made a MACRO-level decision on same. The MACRO level (i.e. total) allocation of 595,850,000 should only be varied with Parliamentary sanction. To hold otherwise would mean that Parliament was effectively permitted to *wash its hands off* budgeted expenditure once the Bill is passed.

121. The impugned Clause 7(b) will permit the Minister (without Parliamentary approval) to withdraw the Rs.595,850,000 allocated for Education, Recurrent, Operational Activities at his discretion, on the basis that he thinks it is not required!

122. There is no need for urgent, spur of the moment decisions to be made. Finances would be planned well in advance. If a MACRO-level decision is to be made changing an allocation made by Parliament, such should ONLY be done with the prior APPROVAL of Parliament.

123. As recognized in the ***Determination related to the Bill titled "the 19th Amendment to the Constitution"*** **(SC SD Nos. 11 – 40 / 2002)** and set out in the ***Determination related to the Appropriation Bill 2008*** **(SC SD 3 & 4 of 2008) at page 3,** FULL CONTROL includes:

Control by way of allocation of public finances *to the* ***respective departments and agencies of Government*** *and setting of limits of such expenditure;*

124. To permit the clause to be enacted as is would violate Parliamentary control at the macro-level, as mandated by Article 148.

125. Parliament CANNOT be permitted to sub-delegate, alienate or abdicate this power – not even to a Minister. ***Delegatus non potest delegare.***

126. The sheer absurdity of the UNFETTERED power sought to be sub-delegated, is highlighted by comparison with clauses 8 and 9. Those clauses require maintaining FULL CONTROL with respect to a comparatively smaller aspect, that of ADVANCES to Public Officers (set out in Schedule 3).

127. Although the sums set out in Schedule 3 are much smaller, limits cannot be changed without the prior approval of Parliament.

128. There is no justifiable reason why much larger EXPENSES (as opposed to mere advances) can be unilaterally decided upon by a Minister sans Parliamentary Control.

129. The principle in the **1986 Determination** should be of equal application to clause 7(b): "***it would be anomalous for Parliament which has to exercise financial control over expenditure by the Executive to delegate that power to the very authority which it has to supervise without devising suitable checks to control the use of that power****. In our view* ***some amount of direct and actual control however nominal has to be retained by Parliament*** *in this matter. The effect of our determination is to restore to Parliament the right to exercise a power which rightly belongs to it.*" (page 35)

130. It is submitted by the learned Deputy Solicitor General that **THE POWER OF THE MINISTER TO WITHDRAW FUNDS ALLOCATED** WAS dealt with in the **Appropriation Bill Special Determination of 2002**.

However a perusal of that Determination demonstrates that the matter was 'settled' by the inclusion of an amendment:

"*learned Deputy Solicitor General sought an adjournment and obtained necessary instructions in the matter. Thereupon he submitted that specific provision would be made to state that such funds would be utilized "to meet any authorized expenditure*"

Learned Counsel for the Petitioner submitted that such an amendment would remove the unconstitutionality submitted by the Petitioner.

On the foregoing basis, we make a determination in terms of Article 123(1) of the Constitution, that neither the Bill nor any provisions thereof, is inconsistent with the Constitution."

131. The 2002 Determination does not consider the aspects which are urged in this Application. As such it is not, in any event, precedent with regard to the aspects now urged.

Further the ***Special Determination related to the Appropriation Bill in 2002*** has been made without considering the principle established in the ***Determination related to the Appropriation Bill 1986***.

132. If this clause is allowed to pass into law Parliament will lose CONTROL and the right to REVIEW transfers made with regard to MACRO-level allocations… it may merely be informed of the transfer…

133. In this regard, the Supreme Court in ***Re the Appropriation Bill (SC SD 15/2012*** dealing with an almost identical clause, stated:

"*To permit the clause to be enacted as it is, would obstruct the exercise of full Parliamentary fiscal control at the macro level, as mandated by Article 148, and would clearly result in 'delegation' and / or abdication of Parliamentary control, relegating to the Minister of Finance the ability to override the dictates of Parliament without its approval. It places an unfettered power in the hands of the Minister of Finance which does not accord with the spirit and letter of the Constitution which assures full control of public finance with Parliament. The scope and ambit of this clause contrasts strongly with clauses 8 and 9 of the Bill, which mandates that Parliamentary prior approval was needed even for a relatively lesser and smaller category…*"

134. The Court thus concluded that:

"…*Additionally this provision permits the Minister of Finance to have unfettered power to vary details in the Appropriation Act and its Schedules, which tantamount to amending the Appropriation Act by an executive decision, sans any Parliamentary control, and the abrogation of powers over public finance in contravention of Article 148 of the Constitution. This could be cured if amended to read that it could only be done with Parliamentary approval.*"

135. It is submitted that there is no reason to depart from the principle laid down in ***Re the Appropriation Bill (SC SD 15/2012)*** with regard to clause 7(b).

136. The clause thus also contravenes Article 76(1) and would deny the Public their Constitutional right under Article 121, since if the executive act in question were done legislatively, it could be challenged by way of a Special Determination Application.

137. The inclusion of post-fact reporting to Parliament, does not ensure Full Control by Parliament, since the executive act would already have been given effect to. As recognized in ***Re the Appropriation Bill (SC SD 15/2012)*** *this could be cured if amended to read that it could only be done with Parliamentary approval.*

138. Therefore it is respectfully submitted that Clause 7(b) violates Articles 148, 76(1), 4(a) and 3 cannot be enacted into law by a simple majority, UNLESS amended to require that PRIOR to any monies being withdrawn in the manner envisaged by clause 7(b) the reason for same is made known to Parliament, and Parliament approval for same by way of Resolution is obtained.

CONCLUSION

139. It is respectfully submitted that while the existence of certain 'executive' checks and balances is desirable, the existence of such checks and balances must be in addition to, and **cannot substitute**, the checks and balances which the Constitution mandates – i.e. Parliament's Full Control over Public Finance.

140. For the reasons set out above, it is respectfully submitted that Your Lordships' Court will examine the impugned provisions of the Bill to ***determine… …as to whether any Bill of any provision thereof is inconsistent with the Constitution*** **(Article 120)**, and that Your Lordships' Court will be pleased to Determine that:

(a) the provisions of **Clause 2(1)(b)** of the said Bill are inconsistent with and / or in contravention of the provisions of Articles 3, 4, 76(1) and 148 of the Constitution and cannot be enacted into law except if approved by the People at a Referendum in addition to a two-thirds vote of the whole number of the members of Parliament in favour as required by Article 83(a) of the Constitution **UNLESS** the Clause is amended and provision is made requiring the prior approval of Parliament, prior to the obtaining of the loans envisaged by Clause 2(1)(b);

(b) the provisions of **Clause 5(1)** of the said Bill is inconsistent with and / or in contravention of the provisions of Articles 3, 4, 148, 150(1) & (2) and 152 (as well as Article 76(1)) of the Constitution and cannot be enacted into law except if approved by the People at a Referendum in addition to a two-thirds vote of the whole number of the members of Parliament in favour as required by Article 83(a) of the Constitution **UNLESS** the Clause is amended and provision is made requiring the prior approval of Parliament, prior to the transfer of funds envisaged by Clause 5(1);

(c) the provisions of **Clause 6(1)**of the said Bill are inconsistent with and / or in contravention of the provisions of Articles 3, 4, 148, 150(1) & (2), 151 and 152 (as well as Article 76(1)) of the Constitution and cannot be enacted into law except if approved by the People at a Referendum in addition to a two-thirds vote of the whole number of the members of Parliament in favour as required by Article 83(a) of the Constitution **UNLESS** the Clause is amended and provision is made requiring the prior approval of Parliament, prior to the transfer of funds envisaged by Clause 6(1);

(d) the provisions of **Clause 7(b)**of the said Bill are inconsistent with and / or in contravention of the provisions of Articles 3, 4 and 148 (as well as Article 76(1)) of the Constitution) and cannot be enacted into law except if approved by the People at a Referendum in addition to a two-thirds vote of the whole number of the members of Parliament in favour as required by Article 83(a) of the Constitution **UNLESS** the Clause is amended and provision is made requiring the prior approval of Parliament, prior to a withdrawal of funds envisaged by Clause 7(b).

On this 7th day of November 2013

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Registered Attorney-at-Law for the Petitioners

Settled by:
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