



[Seventh Parliament -First Session]

No. 247.]

ORDER PAPER OF PARLIAMENT

FOR

Thursday, January 10, 2013 at 1.00 p.m.

AT THE COMMENCEMENT OF PUBLIC BUSINESS

Notice of Presentation of Bills

1.

The Minister of External Affairs,— Convention on the Suppression of Terrorist Financing (Amendment),— Bill to amend the Convention on the Suppression of Terrorist Financing Act, No. 25 of 2005.

Notice of Motions

2.

The Leader of the House of Parliament,— Sittings of the Parliament,— That notwithstanding the provisions of Standing Order No. 7 and the motion agreed to by Parliament on 09.07.2010, the hours of sitting this day shall be 1.00 p.m. to 6.30 p.m.. At 6.30 p.m. Mr. Speaker shall adjourn the Parliament without question put.

3.

Hon.(Al-Haj) A. H. M. Azwer,— Leave to introduce Bill (No. 1),— That leave be granted to introduce the following Bill:—

“ Bill to incorporate the Sri Lanka Writers Organization of Sri Lanka.”

4.

Hon. Arundika Fernando,— Leave to introduce Bill (No. 2),— That leave be granted to introduce the following Bill:—

“ Bill to incorporate the M.K.A.D.S. Gunawardana Foundation.”

NOTICE OF MOTIONS AND ORDERS OF THE DAY

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1.

Hon. T. Ranjith De Zoysa
Hon. Palany Thigambaram
Hon. Douglas Devananda
Hon. Mohan Lal Gero

Hon. V. S. Radhakrishnan
Hon. S. B. Dissanayake
Hon. Reginold Cooray
Hon. Nandimithra Ekanayake
Hon. Weerakumara Dissanayake
Hon. Gitanjana Gunawardena
Hon. Mahinda Amaraweera
Hon. Muthu Sivalingam
Hon. Lasantha Alagiyawanna
Hon. Sanath Jayasuriya
Hon. Lakshman Wasantha Perera
Hon. Jagath Balasuriya
Hon. (Al-Haj) A. H. M. Azwer
Hon. Dullas Alahapperuma
Hon. Mahindananda Aluthgamage
Hon. (Mrs.) Pavithradevi Wanniarachchi
Hon. Duleep Wijesekera
Hon. (Mrs) Sriyani Wijewickrama
Hon. (Mrs) Malani Fonseka
Hon. Dayasritha Thissera
Hon. Vinayagamoorthis Muralidaran
Hon. M. L. A. M. Hizbullah
Hon. A. L. M. Athaulla
Hon. M. K. A. D. S. Gunawardana
Hon. Bandula Gunawardane
Hon. Nirmala Kotalawala
Hon. Vijitha Berugoda
Hon. Janaka Wakkumbura
Hon. H.R. Mithrapala
Hon. Lalith Dissanayake
Hon. Wijaya Dahanayake
Hon. Sarana Gunawardena
Hon. Lakshman Senewiratne

Hon. Achala Jagodage
Hon. Salinda Dissanayake
Hon. Rohitha Abeygunawardana
Hon. (Miss) Kamala Ranathunga
Hon. Jayarathne Herath
Hon. Rohana Dissanayake
Hon. Lakshman Yapa Abeywardena
Hon. A. P. Jagath Pushpakumara
Hon. Arundika Fernando
Hon. Shantha Bandara
Hon. (Dr.) Ramesh Pathirana
Hon. Victor Antony
Hon. Sarath Kumara Gunaratne
Hon. S. M. Chandrasena
Hon. Manusha Nanayakkara
Hon. Janaka Bandara Tennakoon
Hon. Milroy Fernando
Hon. Lohan Ratwatte
Hon. Hunais Farook
Hon. (Mrs) Upeksha Swarnamali
Hon. (Mrs.) Sumedha G. Jayasena
Hon. Piyankara Jayaratne
Hon. Hemal Gunasekera
Hon. Thenuka Vidanagamage
Hon. Kumara Welgama
Hon. Janaka Bandara
Hon. Vidura Wickramanayaka
Hon. A. R. M. Abdul Cader
Hon. Ruwan Ranatunga
Hon. Felix Perera
Hon. Tharanath Basnayaka
Hon. (Dr.) Rohana Pushpa Kumara
Hon. Premalal Jayasekara

Hon. Sanee Rohana Kodithuvakku
Hon. Neranjan Wickremasinghe
Hon. C. B. Rathnayake
Hon. Duminda Dissanayake
Hon. Mahinda Yapa Abeywardena
Hon. Gamini Wijith Wijithamuni De Zoysa
Hon. P. Dayaratna
Hon. Thilanga Sumathipala
Hon. Gamini Lokuge
Hon. Earl Gunasekara
Hon. C. A. Suriyaarachchi
Hon. Udith Lokubandara
Hon. V. K. Indika
Hon. T. B. Ekanayake
Hon. P. Piyasena
Hon. Gunaratne Weerakoon
Hon. A. M. Chamika Buddhadasa
Hon. Siripala Gamalath
Hon. Indika Bandaranayake
Hon. Tissa Karalliyadda
Hon. Praba Ganesan
Hon. Susantha Punchinilame
Hon. (Dr.) (Mrs.) Sudarshini Fernandopulle
Hon. Jeewan Kumaranatunga
Hon. Ranjith Siyambalapitiya
Hon. S. B. Nawinne
Hon. (Dr.) Sarath Weerasekara
Hon. Sajin De Vass Gunawardena
Hon. J. R. P. Suriyapperuma
Hon. Shehan Semasinghe
Hon. Keheliya Rambukwella
Hon. Dilum Amunugama
Hon. Eric Prasanna Weerawardhana

Hon. W. B. Ekanayake
Hon. Roshan Ranasinghe
Hon. Nimal Wijesinghe
Hon. S.C. Mutukumarana
Hon. Nishantha Muthuhettigamage
Hon. (Ven.) Ellawala Medhananda Thero
Hon. Perumal Rajathurai
Hon. Silvastrie Alantin
Hon. (Mrs.) Nirupama Rajapaksa
Hon. Y. G. Padmasiri
Hon. Navin Dissanayake
Hon. Chandrasiri Gajadeera
Hon. Basheer Segu Dawood

Hon. H. M. M. Harees,—Resolution as per Article 107(2) of the Constitution for a motion of Parliament to be presented to His Excellency the President for the removal of the Hon. (Dr.) (Mrs.) Upatissa Atapattu Bandaranayake Wasala Mudiyanse Ralahamilage Shirani Anshumala Bandaranayake from the office of the Chief Justice of the Supreme Court of the Democratic Socialist Republic of Sri Lanka,—

1. Whereas by purchasing, in the names of two individuals, i.e. Renuka Niranjali Bandaranayake and Kapila Ranjan Karunaratne using special power of attorney licence bearing No. 823 of Public Notary K.B. Aroshi Perera that was given by Renuka Niranjali Bandaranayake and Kapila Ranjan Karunaratne residing at No. 127, Ejina Street, Mount Hawthorn, Western Australia, 6016, Australia, the house bearing No. 2C/F2/P4 and assessment No. 153/1-2/4 from the housing scheme located at No. 153, Elvitigala Mawatha, Colombo 08 belonging to the company that was known as Ceylinco Housing and Property Company and City Housing and Real Estate Company Limited and Ceylinco Condominium Limited and is currently known as Trillium Residencies which is referred in the list of property in the case of fundamental rights application No. 262/2009, having removed another bench of the Supreme Court which was hearing the fundamental rights application cases bearing Nos. 262/2009, 191/2009 and 317/2009 filed respectively in the Supreme Court against Ceylinco Sri Ram Capital Management, Golden Key Credit Card Company and Finance and Guarantee Company Limited belonging to the Ceylinco Group of Companies and taking up further hearing of the aforesaid cases under her court and serving as the presiding judge of the benches hearing the said cases;

2. Whereas, in making the payment for the purchase of the above property, by paying a sum of Rs 19,362,500 in cash, the manner in which such sum of money was earned had not been disclosed, to the companies of City Housing and Real Estate Company Limited and Trillium Residencies prior to the purchase of the said property;
3. Whereas, by not declaring in the annual declaration of assets and liabilities that should be submitted by a judicial officer, the details of approximately Rs. 34 million in foreign currency deposited at the branch of NDB Bank located at Dharmalpala Mawatha, Colombo 07 in accounts 106450013024, 101000046737, 100002001360 and 100001014772 during the period from 18 April 2011 to 27 March 2012;
4. Whereas, by not declaring in the annual declaration of assets and liabilities that should be submitted by a judicial officer the details of more than twenty bank accounts maintained in various banks including nine accounts bearing numbers 106450013024, 101000046737, 100002001360, 100001014772, 100002001967, 100101001275, 100110000338, 100121001797 and 100124000238 in the aforesaid branch of NDB Bank;
5. Whereas, Mr. Pradeep Gamini Suraj Kariyawasam, the lawful husband of the said Hon. (Dr.) (Mrs.) Upatissa Atapattu Bandaranayake Wasala Mudiyanse Ralahamilage Shirani Anshumala Bandaranayake is a suspect in relation to legal action initiated at the Magistrate's Court of Colombo in connection with the offences regarding acts of bribery and/or corruption under the Commission to Investigate into Allegations of Bribery or Corruption Act, No 19 of 1994;

Whereas, the post of Chairperson of the Judicial Service Commission which is vested with powers to transfer, disciplinary control and removal of the Magistrate of the said court which is due to hear the aforesaid bribery or corruption case is held by the said Hon. (Dr.) (Mrs.) Upatissa Atapattu Bandaranayake Wasala Mudiyanse Ralahamilage Shirani Anshumala Bandaranayake as per Article 111D (2) of the Constitution;

Whereas, the powers to examine the judicial records, registers and other documents maintained by the aforesaid court are vested with the said Hon. (Dr.) (Mrs.) Upatissa Atapattu Bandaranayake Wasala Mudiyanse Ralahamilage Shirani Anshumala Bandaranayake under Article 111H (3) by virtue of being the Chairperson of the Judicial Service Commission;

Whereas, the Hon. (Dr.) (Mrs.) Upatissa Atapattu Bandaranayake Wasala Mudiyanse Ralahamilage Shirani Anshumala Bandaranayake becomes unsuitable to continue in the office of the Chief Justice due to the legal action relevant to the allegations of bribery and corruption levelled against Mr. Pradeep Gamini Suraj Kariyawasam, the lawful husband of the said Hon. (Dr.) (Mrs.) Upatissa Atapattu Bandaranayake Wasala Mudiyanse Ralahamilage Shirani Anshumala Bandaranayake in the aforesaid manner, and as a result of her continuance in the office of the Chief Justice, administration of justice is hindered and the fundamentals of administration of justice are thereby violated and whereas not only administration of justice but visible administration of justice should take place;

6. Whereas, despite the provisions made by Article 111H of the Constitution that the Secretary of the Judicial Service Commission shall be appointed from among the senior judicial officers of the courts of first instance, the Hon. (Dr.) (Mrs.) Upatissa Atapattu Bandaranayake Wasala Mudiyanse Ralahamilage Shirani Anshumala Bandaranayake acting as the Chairperson of the Judicial Service Commission by virtue of being the Chief Justice, has violated Article 111H of the Constitution by disregarding the seniority of judicial officers in executing her duties as the Chairperson of the Judicial Service Commission through the appointment of Mr. Manjula Thilakaratne who is not a senior judicial officer of the courts of first instance, while there were such eligible officers;
7. Whereas, with respect to the Supreme Court special ruling Nos. 2/2012 and 3/2012 the said Hon. (Dr.) (Mrs.) Upatissa Atapattu Bandaranayake Wasala Mudiyanse Ralahamilage Shirani Anshumala Bandaranayake has disregarded and /or violated Article 121 (1) of the Constitution by making a special ruling of the Supreme Court to the effect that the provisions set out in the Constitution are met by the handing over of a copy of the petition filed at the court to the Secretary General of Parliament despite the fact that it has been mentioned that a copy of a petition filed under Article 121 (1) of the Constitution shall at the same time be delivered to the Speaker of Parliament;
8. Whereas, Article 121(1) of the Constitution has been violated by the said Hon. (Dr.) (Mrs.) Upatissa Atapattu Bandaranayake Wasala Mudiyanse Ralahamilage Shirani Anshumala Bandaranayake despite the fact that it had been decided that the mandatory procedure set out in the said Article of the Constitution must be followed in accordance of the interpretation given by the Supreme Court in the special decisions of the Supreme Court bearing Nos. 5/91, 6/91, 7/91 and 13/91;

9. Whereas, irrespective of the absolute ruling stated by the Supreme Court in the fundamental rights violation case, President's Counsel Edward Francis William Silva and three others versus Shirani Bandaranayake (1992 New Law Reports of Sri Lanka 92) challenging the appointment of the Hon. (Dr.) (Mrs.) Upatissa Atapattu Bandaranayake Wasala Mudiyanse Ralahamilage Shirani Anshumala Bandaranayake, when she was appointed as a Supreme Court judge, she has acted in contradiction to the said ruling subsequent to being appointed to the office of the Supreme Court judge;
10. Whereas, the Supreme Court special rulings petition No. 02/2012 filed by the institution called Centre for Policy Alternatives to which the Media Publication Section 'Groundview' that had published an article of the Hon. (Dr.) (Mrs.) Upatissa Atapattu Bandaranayake Wasala Mudiyanse Ralahamilage Shirani Anshumala Bandaranayake, while she was a lecturer of the Law Faculty of the University of Colombo prior to becoming a Supreme Court judge, has been heard and a ruling given;
11. Whereas, in the case, President's Counsel Edward Francis William Silva and three others versus Shirani Bandaranayake (1992 New Law Reports of Sri Lanka 92) that challenged the suitability of the appointment of the Hon. (Dr.) (Mrs.) Upatissa Atapattu Bandaranayake Wasala Mudiyanse Ralahamilage Shirani Anshumala Bandaranayake who holds the office of the Chief Justice and thereby holds the office of the ex-officio Chairperson of the Judicial Service Commission in terms of the Constitution, Attorney-at-Law L.C.M. Swarnadhipathi, the brother of the Magistrate Kuruppuge Beeta Anne Warnasuriya Swarnadhipathi filed a petition against the appointment of the said Hon. (Dr.) (Mrs.) Upatissa Atapattu Bandaranayake Wasala Mudiyanse Ralahamilage Shirani Anshumala Bandaranayake owing to which the Hon. (Dr.) (Mrs.) Upatissa Atapattu Bandaranayake Wasala Mudiyanse Ralahamilage Shirani Anshumala Bandaranayake has harassed the said Magistrate Kuruppuge Beeta Anne Warnasuriya Swarnadhipathi;
12. Whereas, the Hon. (Dr.) (Mrs.) Upatissa Atapattu Bandaranayake Wasala Mudiyanse Ralahamilage Shirani Anshumala Bandaranayake who holds the office of the Chief Justice and thereby holds the office of the ex-officio Chairperson of the Judicial Service Commission in terms of Article 111D (2) of the Constitution has, by acting ultra vires the powers vested in her by the Article 111H of the Constitution ordered the Magistrate (Mrs.) Rangani Gamage's right to obtain legal protection for lodging a complaint in police against the harassment meted out to her by Mr. Manjula Thilakaratne, the Secretary of the Judicial Service Commission;

13. Whereas, the said Hon. (Dr.) (Mrs.) Upatissa Atapattu Bandaranayake Wasala Mudiyanse Ralahamilage Shirani Anshumala Bandaranayake being the Chief Justice and thereby being the Chairperson of the Judicial Service Commission, in terms of Article 111D (2) of the Constitution, has abused her powers by ordering the Magistrate (Mrs.) Rangani Gamage to obtain permission of the Judicial Service Commission prior to seeking police protection thereby preventing her from exercising her legal right to obtain legal protection;
14. Whereas, the Hon. (Dr.) (Mrs.) Upatissa Atapattu Bandaranayake Wasala Mudiyanse Ralahamilage Shirani Anshumala Bandaranayake by performing her duties as the Chairperson of the Judicial Service Commission has referred a letter through the Secretary of the Judicial Service Commission to the Magistrate (Mrs.) Rangani Gamage, calling for explanation from her as to why a disciplinary inquiry should not be conducted against her for seeking protection from the Inspector General of Police by exercising her legal right;

By acting in the aforesaid manner,—

- (i) whereas it amounts to improper conduct or conduct unbecoming of a person holding the office of the Chief Justice;
- (ii) whereas she had been involved in matters that could amount to causes of action or controversial matters,
- (iii) whereas she had influenced the process of delivery of justice,
- (iv) whereas there can be reasons for litigants to raise accusations of partiality/ impartiality,

she has plunged the entire Supreme Court and specially the office of the Chief Justice into disrepute.

Therefore we, the aforementioned Members of Parliament resolve that a Select Committee of Parliament be appointed in terms of Article 107 (3) of the Constitution read with the provisions of Article 107 (2) and Standing Order 78 A of Parliament enabling the submission of a resolution to His Excellency the President for the removal of the Hon. (Dr.) (Mrs.) Upatissa Atapattu Bandaranayake Wasala Mudiyanse Ralahamilage Shirani Anshumala Bandaranayake from the office of the Chief Justice of the Democratic Socialist Republic of Sri Lanka in the event the Select Committee reports to Parliament that one or more of the charges that have been levelled have been proved after the aforesaid charges of misconduct have been investigated.

*2.

Code of Criminal Procedure (Special Provisions) Bill— Second Reading.

*3.

The Minister of Transport,— Regulations under the Motor Traffic Act,— That the Regulations made by the Minister of Transport under Sections 140, 141 and 164 of the Motor Traffic Act (Chapter 203), read with Section 237 of the aforesaid Act, and published in the Gazette Extraordinary No. 1763/26 of June 22nd, 2012 and amended by the Gazette Extraordinary No. 1779/17 of October 10th, 2012, which were presented on 07.12.2012, be approved.

*4.

The Minister of External Affairs,— Resolution under the Constitution of the Democratic Socialist Republic of Sri Lanka (No.1),— That this Parliament resolves under Article 157 of the Constitution of the Democratic Socialist Republic of Sri Lanka, that the Agreement between the Government of the Democratic Socialist Republic of Sri Lanka and the Government of the State of Kuwait for the Reciprocal Promotion and Protection of Investments, signed on 05th November 2009, being an Agreement for the Promotion and Protection of Investments in Sri Lanka of such foreign State, its nationals or corporations, companies and other associations incorporated or constituted under its Laws, which was presented on 07.09.2011 be approved, as being essential for the development of the national economy.

(Cabinet approval signified.)

*5.

The Minister of External Affairs,— Resolution under the Constitution of the Democratic Socialist Republic of Sri Lanka (No.2),— That this Parliament resolves under Article 157 of the Constitution of the Democratic Socialist Republic of Sri Lanka, that the Agreement between the Government of the Democratic Socialist Republic of Sri Lanka and the Government of the Socialist Republic of Vietnam for the Promotion and Protection of Investments, signed on 22nd October 2009, being an Agreement for the Promotion and Protection of Investments in Sri Lanka of such foreign State, its nationals or of corporations, companies and other associations incorporated or constituted under its Laws, which was presented on 07.09.2011 be approved, as being essential for the development of the national economy.

(Cabinet approval signified.)

*6.

The Prime Minister and Minister of Buddha Sasana and Religious Affairs,— Determination under the Constitution,— That this Parliament determines that the salary of Mr. H.A.S. Samaraweera, the incumbent Auditor - General appointed with effect from 15.08.2011 shall be as follows in terms of Article 153(2) of the Constitution of the Democratic Socialist Republic of Sri Lanka.

That this Parliament further determines that Mr. H.A.S. Samaraweera, Auditor - General shall be placed on the salary point of Rs.48,940/- which is the 2nd step in the salary scale of SL-4-2006, with effect from 15.08.2011 when he was appointed to the said post and that he be paid the other allowances relevant to the post and such annual salary increments as specified in the salary scale.

(Cabinet approval signified.)

*7.

The Minister of Lands and Land Development,— Regulations under the Registration of Title Act,— That the Regulations made by the Minister of Lands and Land Development under Section 67 of the Registration of Title Act, No. 21 of 1998 read with Section 60 and 62 of that Act and published in the Gazette Extraordinary No. 1616/23 of August 24th, 2009, which were presented on 06.05.2010, be approved.

(Cabinet approval signified.)

*8.

Order under the Code of Criminal Procedure (Special Provisions) Act,—Adjourned Debate on Question (08th September, 2011) Motion made and question proposed,— “ Order made by the Minister of Justice under subsection (2) of Section 7 of the Code of Criminal Procedure (Special Provisions) Act, No.42 of 2007, and published in the Gazette Extraordinary No. 1708/5 of May 30th, 2011, which was presented on 23.08.2011, be approved.”

*9.

The Prime Minister and Minister of Buddha Sasana and Religious Affairs,— Order under the Fauna and Flora Protection Ordinance,— That the Order made by the Minister of Agrarian Services and Wildlife under subsection (1) of Section 2 of the Fauna and Flora Protection Ordinance (Chapter 469) and published in the Gazette Extraordinary No. 1735/21 of December 06th, 2011, which was presented on 13.12.2011, be approved.

10.

Sri Lanka Women’s Conference (Incorporation) Bill — Consideration.

11.

State Employees’ Development Finance Corporation (Incorporation) Bill— Consideration.

12.

Institute of Martial Arts (Incorporation) Bill — Consideration.

13.

Society of the Ceylonese Brothers of St. Joseph (Amendment) Bill — Consideration.

* *Indicates Government Business*
