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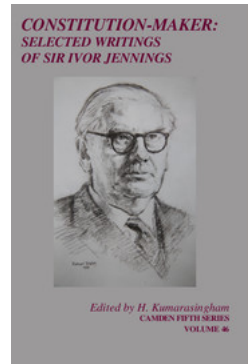
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SECTION A: CEYLON

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SECTION A: CEYLON

Jennings was in Ceylon from 1941 to 1955, serving from 1942 as the first vice-chancellor of the University of Ceylon. During his time on the island he acted as the informal but highly influential and well-known adviser to D.S. Senanayake and other leading Ceylonese figures. Ceylon was the official name of the country until 1972, when it became a republic and was renamed as Sri Lanka. Apart from the published books and articles that he wrote about Ceylon, Jennings also produced a manuscript, never published during his lifetime, of his personal involvement in Ceylon's path to independence. This will be part of a collection entitled *Sir Ivor Jennings and the Constitutional Development of Ceylon: selected writings*, ed. H. Kumarasingham (Colombo, 2015).

1. 'Anecdotes of D.S.', c.1952

Those of us who worked with D.S.¹ ought to put our recollections in writing, for they will soon be forgotten. Only a few weeks ago Sir Oliver Goonetilleke² reminded me of an incident in Bandarawela, narrated below, which has passed out of my memory until he recalled it.

It soon ceased to be a secret that the "Minister's Draft", which ultimately formed the basis of the new Constitution, was being worked out in Civil Defence Headquarters in Union Place. A newspaper columnist painted an imaginary picture of the scene. D.S. was walking up and down dictating to stenographers. Sir Oliver was lying in a chaise longue with hands folded on his stomach. The constitutional expert was sitting by, interminably smoking, and putting in a word here and there. Only one detail of that picture was accurate. These meetings usually took place after sundown, when D.S. had finished

¹Don Stephen Senanayake, commonly referred to as 'D.S.'. First Prime Minister of Ceylon, 1948–1952; founder-leader of the United National Party (UNP).

²Sir Oliver Ernest Goonetilleke, leading Ceylon administrator and minister, who was a friend and colleague of Jennings; Governor-General, 1954–1962. Often referred to as 'O.E.G.'.

at the Ministry of Agriculture and Lands and I had finished at the [*illegible*]. Sir Oliver was seated bolt upright at his desk, sipping a glass of water, and with the fan racing full speed immediately over his head. D.S. sat opposite him, drinking a cup of unsweetened black coffee. I sat in a G.O.H.³ Chair, out of the range of the fan, “interminably smoking” and supplying a “smokescreen”. There were no stenographers. The story of the stenographers showed that the picture was imaginary, for D.S. could not dictate.

On the rare occasions on which a stenographer was called in, D.S. began “I mean to say, what I want to say is, as a matter of fact . . .” and then left Sir Oliver and me to do the job. In fact, though, a stenographer was rarely used. It was much better I let D.S. tell his story in his own way and then go away to think out how to put it into writing. It could then be read to him the next day and amended to suit his views.

The “sundowner” much impressed D.S. though himself a teetotaler, he was always tolerant of other people’s opinions and habits, and he considered that, if I liked a “sundowner” I ought to have one. As soon as D.S. received the proof copy of the Soulbury Report⁴ in August, 1945, Dr David de Silva⁵ phoned. I was at [*illegible*]. “The Boss” wanted me at once, and would I bring a bag to stay at least a week? I took the next train, collected the report from the Boss, and took it to Dr de Silva’s bedroom. On the table was a full bottle of whisky. Now, a bottle of whisky was unprocurable in London in 1945, and I had not had a “sundowner” for four months. Naturally I enquired where the bottle came from. I discovered that D.S. had made friends with the barman of his hotel and asked his advice. The barman had pointed out that the only way to get a bottle of whisky was to buy all the drinks in his bottle across the counter. D.S. did so, and so that bottle cost something like £5. It was a gross extravagance – which came out of his own pocket – and I would have stopped it had I known. Nevertheless, the story is worth the telling as an example of his tolerance and generosity.

There was an occasion on which D.S. undertook to drink alcohol and another occasion on which he did. Nearly every evening when we were in London he had official guests, with whom a little propaganda was injected by his staff. On one such occasion he was due to learn from the Secretary of State what was the decision of the British cabinet

³Government-owned housing.

⁴Britain appointed the Soulbury Commission in 1944 to recommend constitutional reforms for Ceylon. The Commission’s report laid the foundations for the first constitution of Ceylon. The head of the Commission was Herwald Ramsbotham, Baron (later Viscount) Soulbury. He later served as Governor-General of Ceylon, 1949–1954.

⁵A friend of both Jennings and D.S. Senanayake.

on his application for independence. The staff was eager to know the result but knew that nothing could be said while guests were present. It was therefore arranged that if its answer was favourable he should, on returning, order a glass of sherry – an act which he would not do without motive aforethought. When he came in we watched him breathlessly. He looked at us with a grin and called a waiter to him. “Bring me,” he said, “a glass of water”.

The second occasion was on the 11th November 1947. The decision to confer independence had been reached and all the documents had to be agreed by the Ceylon Cabinet. It was learned, however, that some slight amendments to the Ceylon Independence Bill were required. They were said to be unimportant and it was necessary that approval should be expressed forthwith because, if the Bill was not passed within the next month it would have to be postponed until the New Year. The Cabinet therefore agreed that if the Prime Minister were satisfied he should have authority to sign. We assembled at Queen’s House⁶ at 9 p.m. that evening, but they were long in coming through. Just before 11 p.m. Mr Mulhall⁷ brought in the decoded telegram. Sir Alan Rose⁸ and I at once explained that the amendments had nothing to do with Ceylon. They were amendments to the United Kingdom legislation necessitated by the fact that Ceylon was ceasing to be a colony. D.S. agreed to sign. The formulation being completed, Sir Henry Moore⁹ invited us into the dining-room, where the champagne was on ice, to drink to “Independent Lanka”. It was explained to D.S. that by the constitutional convention this toast had to be drunk, at least on the first occasion, in champagne, and so he tried a little. He pronounced it to be poor stuff, not up to the standard of sweet toddy.

It was a few months earlier that he committed his one indiscretion in a public speech. He knew from Sir Oliver Goonetilleke, who was in London, that a telegram offering independence was being drafted. Since this was the termination of 35 years of political work, the news was much on his mind, and in a speech in Sinhalese, in a small village near Negombo, when he thought that no reporters were present, he said that in a few days he hoped to make a most important announcement. There was a reporter present and the statement got in the headlines. D.S. was most embarrassed, especially by the question of his political friends, some of whom did not even know that negotiations

⁶The official Colombo residence of the Governor (and, after independence, Governor-General) of Ceylon.

⁷Official Secretary to the Governor (and later Governor-General) of Ceylon.

⁸Legal officer in Ceylon; Attorney-General, 1947–1951; Chief Justice, 1951–1955.

⁹Sir Henry Monck-Mason Moore, Governor of Ceylon, 1944–1948; Governor-General of Ceylon, 1948–1949.

were going on. He got out of it very nicely. "I am going to announce" he said, "Dudley's¹⁰ engagement to be married".

There were some amusing incidents during the drafting of the Constitution of 1946, and they illustrate Mr Senanayake's particularity. He wanted the Constitution drafted in his way and not in Sir Robert Drayton's,¹¹ because this Constitution was to be the platform from which he could demand Independence. The person responsible was the Secretary of State for the Colonies, and he asked Sir Barclay Nihill¹² to make the preliminary draft. Sir Barclay would of course consult Sir Robert. My job was to see that Sir Robert took his pound of flesh but not a drop of blood. The last edition of the Senanayake draft had been sent to Sir Henry Moore, and so much of it had received the approval of the Soulbury Commission that huge chunks had to be inserted. Nevertheless, Sir Robert Drayton and Sir Barclay Nihill, with Mr B.P. Peiris,¹³ spent Christmas at Nuwara Eliya working on a new draft. D.S. insisted that he and I should see it. We started out with no less than 88 suggestions. Sir Barclay and I went to Temple Trees¹⁴ and dealt with all but the more important amendments, and then D.S. came in to discuss the substantial points of difference. Sir Henry Moore who was in Nuwara Eliya, was anxious to take part in the discussions, and D.S. agreed: indeed he may have suggested it.

Sir Henry, again supported by D.S., was anxious to have me present, so as to have legal opinion on both sides. Sir Robert Drayton objected that I had no official status, and Sir Henry had to agree. What is more, by accident or design, (probably the former), the conference was fixed for a week-end when I should be in India, bringing my wife from Bombay. D.S. was not to be defeated by such an arrangement. My wife and I flew back by air. We were met in Colombo by D.S., who took us straight to the Senanayake bungalow in Nuwara Eliya, where a small staff had been assembled. A list of objections had been made and D.S. was briefed on each of them. So long as one did not wrap up the law in verbiage, he got a point very quickly. In fact, he had once acted in a case. He had accompanied a friend to a Magistrate's Court where the friend was charged with some offence. The Magistrate apparently mistook D.S. for another and asked D.S. for his opinion. D.S. took the bait and spoke at length. As he said when he told the story: "It's useful not to be a lawyer, I got the man off."

¹⁰Dudley Shelton Senanayake, eldest son of D.S. Senanayake; UNP Prime Minister of Ceylon, 1952–1953, 1960, 1965–1970.

¹¹Chief Secretary of Ceylon, 1942–1947.

¹²Legal Secretary of Ceylon, 1945–1947.

¹³Legal draftsman in the Ceylon civil service; later Cabinet secretary.

¹⁴The official residence of the Prime Minister of Ceylon.

The idea was that, as soon as the conference was over, Sir Barclay should fly to London with the draft. By one of those remarkable coincidences which he attributes to his horoscope, Sir Oliver Goonetilleke was on leave in London. What is more, Mr L.M.D. de Silva¹⁵ was also in London and was available for consultation. D.S. insisted that Sir Oliver be consulted about all changes to the draft. The procedure was as follows. D.S. had a complete brief on each question. He noted on it whether Sir Robert and Sir Barclay had agreed, disagreed or reserved a question. He then came back to the bungalow and gave me the full story, which I promptly wrote out and sent to Sir Oliver by air. Sir Oliver's job was to see that an agreed change was not altered and to argue any point which the Officers of State had refused to concede. Actually, the Secretary of State and his advisers were much readier to concede changes than the Officers of State, and indeed he had a wide discretion. Sir Oliver was thus able considerably to improve the draft.

In spite of these precautions, D.S. had insisted that his approval should be sought to the final draft. Before it arrived, Sir Oliver was back in Ceylon. The Governor was in Nuwara Eliya and I was in Bandarawela, and so D.S. and Sir Oliver drove up to Bandarawela with the text so that we could discuss it before they went on to Nuwara Eliya. They did not arrive until 9 p.m. and so we adjourned to my room, where the discussions went on until nearly midnight. Next door was a European, probably a planter. He soon came in to complain, very politely, that we were keeping him awake. We tried to moderate our voices, but he was in again after 15 minutes, and this time he was more vehement. When he came in a third time he was quite angry. We apologised, but we could not tell him that the first Prime Minister was settling the lines of the Constitution.

The turning point in the negotiations was the debate in which the State Council approved the White Paper by 51 votes to 3. Oddly enough the most difficult job was to draft a suitable motion. It had to be an outright acceptance so as to pledge H.M.G. On the other hand it had to be an acceptance which expressed disappointment and asked for more. That sounds easy, but the difficulty about drafting is that when an idea is in one's head, it is difficult to remove. When we went in Sir Oliver's house I had two drafts and A.G. Ranasinghe¹⁶ had one. We tried various combinations, but after two hours we still had no satisfactory resolution. At that stage somebody remembered that Sir Barclay had a draft, and so we adjourned to the Galle Face

¹⁵A prominent Ceylonese jurist and former solicitor-general.

¹⁶Senior Ceylon civil servant; later Cabinet secretary.

Hotel, where at last a combination of Sir Barclay's and Ranasinhe's was accepted.

2. 'Notes on the formation of a new Government, March 1952'

D.S. Senanayake had a stroke while horse riding on the morning of Friday, 21st March 1952. He fell heavily and cracked his skull. He died on Saturday, 22nd March, at 3.30 p.m.

The Governor-General, Lord Soulbury had gone on leave and in fact arrived in England on the 22 March. The Chief Justice, Sir Alan Rose, was O.A.G.¹⁷ Sir Alan phoned me on Saturday morning and asked me to return to Colombo from Peradeniya. We learned of the death from Claire,¹⁸ whose car we stopped on the way down. I dined with Sir Alan that night, Sir Oliver Goonetilleke being the only other guest.

Before he left, Lord Soulbury had asked Mr D.S. Senanayake who he considered ought to be his successor if he died while Lord Soulbury was away. D.S. replied that he hoped his son would succeed him. Lord Soulbury had told this to Sir Alan and had added that if the need did arise he (Lord Soulbury) would like to be recalled.

Sir Alan had sent a warning message as soon as the accident occurred. He had then sent a second message announcing the death and stating the political position. He had arranged for Lord Soulbury to telephone between 8 p.m. and 9 p.m.

Even before D.S. died the political manoeuvres started. Sir John Kotelawala,¹⁹ who was Leader of the House and the only Minister who had been in office since 1936, thought that the succession fell to him. Sir Oliver agreed with him at first, and pressed Sir Alan to appoint Sir John. It was at this stage that Sir Alan phoned for me. I expressed the opinion that, apart from Lord Soulbury's request, it was the duty of the O.A.G. to inform the G.G. and give him an opportunity of returning to take charge of the situation. I was prepared, if need be, to give this opinion in writing. Sir Alan did not in any case want to take a decision because it would embarrass him in his position as C.J. if he were responsible for a split in the U.N.P.²⁰

In the interval between the call to me at 1 p.m. and my arrival at 7.30 p.m. the position had changed. The opposition to Sir John had

¹⁷Officer administering the Government.

¹⁸Claire Dewing, Jennings' elder daughter.

¹⁹Sir John Kotelawala, nephew of D.S. Senanayake and UNP Prime Minister, 1953–1956.

²⁰The United National Party (UNP) was founded by D.S. Senanayake in 1946.

made its strength felt, and there was a growing volume of support for Dudley Senanayake. O.E.G. had therefore changed his opinion that an immediate appointment was desirable. Lord Soulbury telephoned soon after 8 p.m. He stated that he was leaving England on the evening of the 24th March and would arrive in Ceylon at 1.30 p.m. on the 26th March.

Sir Alan called a meeting of Ministers to Queen's House on the morning of the 23rd. He explained that Lord Soulbury had requested him to recall Lord Soulbury in the event of a vacancy in the office of Prime Minister, and that Lord Soulbury would be returning on Wednesday afternoon. Until then he did not propose to make any appointment to the office of Prime Minister.

Before the meeting on the 23rd, J.R. Jayewardene,²¹ Minister of Finance, phoned to ask my opinion of the propriety of the summons. I explained that the death of the Prime Minister did not in itself affect the Ministers. They remained in office, but their offices were at the disposal of the new Prime Minister, so that he could supersede them if he wished. There was therefore no constitutional objection to a meeting of the Ministers, whether summoned by the Governor-General or by one of the Ministers. It should not, however, be treated as a Cabinet meeting.

During the next two days opinion crystallized against Sir John Kotelawala. I am told that 37 members, supporters of the U.N.P., sent a memorial to the Governor-General advising the appointment of Dudley Senanayake. The European members sent a separate memorial in the same sense. It was known too, that the Opposition preferred Dudley.

Lord Soulbury arrived at 1.30 p.m. on the 26th March and was met by Sir Alan. They drove straight to Queen's House, and Sir Alan stayed to lunch. Dudley was summoned at 1.55 p.m. Sir Alan phoned me at 2.15 p.m. to ask whether the Governor-General could appoint a Prime Minister then and there, or whether he had to commission a Prime Minister and send him away to see if he could form a Government. I said that the latter was the usual practice, but that there was no particular reason for it, and that in view of local conditions it was better to appoint the Prime Minister there and then. Lord Soulbury took over at this point and I explained the position to him. It appears that Dudley was with him. He went at once to the meeting of Ministers and came back in ten minutes to accept the appointment.

²¹Junius Richard Jayewardene, senior UNP minister; Prime Minister, 1977–1978; Executive President of Sri Lanka, 1978–1989. Often referred to as 'J.R.'.

3. Note of proposal to dismiss Sir John Kotelawala, 15 September 1952

On Tuesday, 9th October 1952, I was summoned from Peradeniya and saw the Prime Minister at Temple Trees before 10 a.m. He explained to me that Sir John Kotelawala, Minister of Transport and Works, had written (or on his behalf had had written) a diary of the formation of the government under the title "The Premiership Stakes in 1952". It had been shown to several people, and a copy got into the hands of [*illegible*], an opposition weekly, which had published it. It contained false and defamatory material relating to the Governor-General, the Chief Justice, Members of the Cabinet, Parliamentary Secretaries, and Members of Parliament. The Prime Minister had therefore written to Sir John, who was in New York, asking for his resignation. Sir John had cabled that he was returning for consultations and in fact he was expected on the 10th October. The Prime Minister asked what I thought of the situation and whether a Minister could be dismissed on such grounds.

I asked if there was any doubt that Sir John was responsible for this document. The P.M. replied that Sir John himself had shown it to several people. I asked what would happen if Sir John denied the association. The P.M. replied that Sir John would have to deny not only his association with the document but also the allegations in the document.

I said that I had no doubt that a Minister could be dismissed. (I had already advised Lord Soulbury in this sense. He put it as a hypothetical case, though of course he knew that I knew why the question was asked.) The usual practice was for a Minister to resign when his resignation was sought, but a Minister held his office at the pleasure of the Queen, and if he refused to resign there was no need for the P.M. to resign and reform his government. It would be enough for him to write to the Minister something in the form:

"I have advised the Governor-General that Her Majesty should be pleased to dispense with your services as Minister of Transport and Works. The Governor-General has considered my advice and accordingly I have to inform you that it is no longer Her Majesty's pleasure that you be employed as Minister of Transport and Works."

The P.M. said that the U.N. Parliamentary Party would perhaps wish to be consulted in the matter – he gave the impression that the Party would want Sir John dismissed even if Sir John gave satisfactory assurances. I stated emphatically that in my opinion the P.M. should not allow such a discussion. His attitude should be that

if the Parliamentary Party did not want him as P.M. he would resign, but that so long as he was Prime Minister he would exercise the prerogatives of his office. If he once gave way on a point of that kind we should have not Cabinet Government but Consensus Government. The P.M. said that he had already taken that line on two previous occasions. He had refused to allow the Party to discuss the composition of the Cabinet or to discuss whether a particular person should or should not be a Minister. He entirely agreed with my point of view. He had never wanted to be Prime Minister and he had fully determined to retire from politics when his father died, but he had agreed to serve under pressure from the U.N.P. members.

The real question for him was whether Sir John would be a bigger nuisance outside the Cabinet than he was inside. It was Sir John who had forced Banda²² out of the Cabinet. His faction had tried to keep the party together. Also, Sir John was incapable of keeping his mouth shut. He went along to the Orient Club and gossiped about all that went on in the Cabinet. He lacked a sense of judgement (perhaps my phrase and not his, but it is what he meant). I offered my services if they were needed, pointing out that there were usually two ways of saying the same thing. I then left.

On the 11th the newspapers published a statement by Sir John, issued by the Information Office from Temple Trees, to the effect that he had no connection with the document, that he disassociated himself from it, and that the Prime Minister had accepted these assurances.

I do not think the matter will end here. The Ministers concerned, especially J.R. Jayewardene (“Dirty Dick”), + the U.N.P. members will not be satisfied. The Opposition is apparently considering raising the attacks on the members of the House as a breach of privilege.

4. ‘The Queen of Ceylon’, c.1953

When the consequences of India’s becoming a republic were under discussion by the Prime Ministers in 1949,²³ Mr D.S. Senanayake remarked that he spoke for the oldest monarchy in the

²²Solomon West Ridgeway Dias Bandaranaike, Sri Lanka Freedom Party (SLFP) Prime Minister, 1956–1959.

²³Not long after independence in August 1947, India had formally announced its intention to become a republic, but its desire to remain in the Commonwealth. At the 1949 Commonwealth Prime Ministers’ Meeting, the ‘London Declaration’ allowed republics to be members of the Commonwealth, which had hitherto been made up only of Dominions, which held the British monarch as head of state. The meeting also created a new role for George VI as ‘the symbol of the free association of its member nations, and as such Head of the Commonwealth’, which is now held by his daughter by consent of all Commonwealth

Commonwealth. His claim rested on the theory that the Sovereign held the Kingdom of Kandy under the Kandyan Convention²⁴ and that the Kandyan Kingdom was the successor of the ancient Sinhalese kingdoms. Possibly if claims had been critically examined there would have been other claimants, for many monarchies have been fused into the present royal line: but no doubt what Mr Senanayake meant was that a country which had been a monarchy for nearly 2,500 years would require notice of any question relating to its abolition.

The Indian decision was an odd mixture of sentiment and reason like the monarchy itself. It would have been wholly logical if the Constituent Assembly had wished to give substantive powers to the Head of the State: for one would not give such powers to a hereditary monarch. In fact, though, it did not. It reproduced the British Constitution with almost perfect fidelity replacing the monarch by an elected President. It would have been equally logical if India like Burma²⁵ had wished to dissociate itself from the Commonwealth. Again it did not. The Government of India stated that it wished to remain within the Commonwealth and suggested that, in relation to India, the monarch be "Head of the Commonwealth". Except in matters of pure form, India differs in no respect from the other members of the Commonwealth.

The main consequence of the change of form was that India had to invent some device for securing a Head of the State.²⁶ Its success will of course depend not on the nature of the device but on the manner in which it is operated. At the first election the electoral college was dominated by the Congress²⁷ and accepted the candidate nominated by the Prime Minister. In other words, the person who would have been appointed Governor-General was elected President. This may not always happen, however. In future there may be a contest on political lines, with the result that the President may be a partisan elected by partisans, like the President of the United States – but the President of the United States is elected to carry out a policy and not to act as an impartial and ceremonial Head of the State. Moreover, the President of India and the Prime Minister of India may

members. The office of Head of the Commonwealth has no constitutional powers over any member state.

²⁴An agreement between the Kandyan nobles and the British in March 1815 that replaced the Kandyan monarchy with the British one and completed British rule over the whole island.

²⁵Burma became an independent republic in January 1948 and did not seek membership of the Commonwealth.

²⁶The Indian President is elected by the Electoral College, consisting of members of both houses of Parliament and of the state legislatures.

²⁷Indian National Congress, a leading Indian political party, founded in 1885.

be drawn from parties in opposition to each other, for the electoral college is so weighted that it need not contain the same majority as the House of the People.²⁸ Even more dangerous I think, is the fact that the President has been given powers comparable to those of the Queen. In Britain (and in Canada, Australia and New Zealand) those powers are exercised according to well-settled constitutional conventions. In India Dr Rajendra Prasad²⁹ is applying the same conventions. It need not be so. Indeed some Indian lawyers draw from the fact that the monarchy has been abolished the conclusion that the President's powers are substantive powers and that the monarchical conventions of Britain do not apply.

If a future President of India is antagonistic to his Government and refuses to act on its advice, what happens? There seems to be no remedy except a constitutional amendment. The President cannot be impeached except for a breach of law; and he will have broken no law. It is remarkable that in Ceylon care was taken to see that both the Sovereign and the Governor-General were required to observe the conventions. India has no such requirement: and yet in Ceylon the Governor-General can be recalled by the Queen on the advice of the Ceylon Government, while in India nobody can get rid of a President who sticks to the letter of the law and refuses to observe the conventions.

These considerations suggest that the Constituent Assembly, swayed by the emotional release which independence brought after nearly fifty years of conflict, abolished the monarchy without adequate discussion of the consequences. The case against monarchy as a constitutional device is now untenable. The case against the monarchy on social grounds, which was put by the Radical Movement in the nineteenth century and by a minority group in the Labour Movement in the present century, has disappeared in Britain through the caution of George V and George VI and their advisers. Whether it has disappeared in Ceylon is not a question on which I am entitled to an opinion. Social conditions are in fact changing rapidly in this country – a fact which is probably more obvious to a detached observer like me than to a Ceylonese who lives in them and has his ideas moulded by them. Monarchy is certainly a very adaptable instrument, and I see no reason why it should fail to adapt itself to the changing conditions.

Constitutional lawyers are not always safe guides because they have to emphasise formal rules. Off the record they sometimes realise the truth of Mr Bumble's proposition: "If the law supposes that . . . the

²⁸Also known as the Lok Sabha.

²⁹First President of India, 1950–1962.

law is a ass – a idiot”.³⁰ Nevertheless the aspect of monarchy has changed in Ceylon since 1948.

When territory is annexed to the Crown, whether by settlement, cession or conquest, the main principles of English constitutional law apply. When the maritime Provinces were ceded by the Treaty of Amiens in 1802 and the Kandyan Provinces ceded by the Kandyan Convention in 1815 the people of Ceylon became subjects of George III, his heirs and successors according to law, with exactly the same rights and duties (unless the written law made a distinction, which it rarely did) as Englishmen and Scotsmen. This did not imply that Ceylon had forthwith the same system of government as the United Kingdom, though it did imply that in the United Kingdom a British subject from Ceylon had (and still has) the same rights and duties as a British subject from England. In Ceylon, as elsewhere, the Crown set up a local legislature which provided only gradually for Ceylonese participation, and which was for all practicable purposes under the control of the Government of the United Kingdom.

This control was weakened in 1931³¹ and abolished in 1948.³² As in Canada, Australia, New Zealand and South Africa, the formal relationship with the Crown remained unaltered. Indeed, it became closer, both as a matter of fact and as a matter of law, because, the Government of the United Kingdom having been removed as an intermediary, the Crown appeared directly in the Constitution. A Governor represents the Crown, but he also represents the Government of the United Kingdom. Since 1948 the Governor-General represents the Crown, while the Government of the United Kingdom, like other Governments, is represented diplomatically by the High Commissioner. In matters affecting Ceylon the Queen is advised direct, either through the Governor-General or by personal advice given in London. The Government of the United Kingdom like the Government of the United States or the Government of the U.S.S.R., has nothing whatever to do with the matter.

As I have said, English constitutional law is part of the law of Ceylon, subject however to the Constitution and to any local legislation.

The Queen succeeded in February 1952 by virtue of the Act of Settlement, 1701, as amended by His Majesty's Declaration of Abdication Act, 1936. These are Acts of the Parliament of the United Kingdom (or, in the case of the Act of Settlement, of England) which

³⁰Quoted from Charles Dickens' *Oliver Twist*.

³¹The Statute of Westminster (1931) confirmed that Dominion parliaments, upon ratification, were independent legislatures and discontinued the imperial parliament's ability to legislate for them without consent.

³²Ceylon became an independent Commonwealth realm in February 1948.

are part of the law of Ceylon, and therefore they may be repealed or amended by the Parliament of Ceylon in accordance with the Ceylon Independence Act, 1947. No doubt the succession would be changed, if at all, by agreement among the Commonwealth countries but an Act of the Parliament of Ceylon would be needed and, legally speaking, there is nothing to stop it establishing a different line of succession on its own account. Hence, when the Queen was proclaimed in February 1952 it was correctly claimed that she had succeeded by “our law”, i.e. the law of Ceylon.

On the other hand, though Canada proclaimed Elizabeth II as “Queen of Canada”, Ceylon did not proclaim her as “Queen of Ceylon”. In relation to Ceylon the Queen acts on Ceylon advice just as, in relation to Canada, she acts on Canadian advice. In fact, therefore, she was both “Queen of Canada” and “Queen of Ceylon”; but Ceylon did not say so because, as a legal proposition, the statement was incorrect. Since the Act of Union with Scotland the royal style and titles have been governed by Act of the Parliament of the United Kingdom. The latest of them was the Royal and Parliamentary Titles Act, 1927, which applied to Canada as to Ceylon. Hence the Queen’s title was “Queen of Great Britain, Ireland and the British Dominions beyond the Seas” etc. That title could be changed in relation to Canada by Act of the Dominion Parliament, and in relation to Ceylon by Act of the Parliament of Ceylon: but until that was done it was wrong to describe the Queen officially as “Queen of Canada” or as “Queen of Ceylon”.

The Queen’s titles were discussed by the Commonwealth Prime Ministers at their meeting in December 1952. Separate titles, containing a common element, were then agreed upon. It then became necessary for each of the Commonwealth countries (except India) to pass legislation which in effect amended the Royal and Parliamentary Titles Act, 1927. This was done in Ceylon by the Royal Titles Act, 1953. Hence one of the titles by which the Queen is being proclaimed at the Coronation is “Queen of Ceylon and of her other realms and territories, Head of the Commonwealth”. In this respect, of course, she is being advised by the Government of Ceylon.

The reader may think this a long rigmarole about a title. He must however remember that the monarchy lies in the realm of sentiment and emotion, which are important. In Ceylon sentiment and emotion attach to Sri Lanka, a personage which is not the less real for being entirely mythical. The older generation of educated Ceylonese was brought up in the nationalist conflict against colonial rule and therefore its extreme wing seems to an Englishman (whose forbears [*sic*] got rid of colonial rulers about 800 years ago by the simple process of providing them with English wives and making their

children English) to be almost chauvinist. We have to have a national culture, national languages, national medicine, national costume, a national flag, a national anthem, national music and national dancing, while some would like to have a national religion and a national university, though as the very name implies a national university is like cold steam or hot ice. These emotions are easily understood, and only occasionally do they become excessive. They are in fact being tempered among the new generation, where nationalist “leftism” (if one may coin a word out of a Ceylonism) has a wide appeal.

[T]hus, Ceylon has a nationalism within the monarchy rather different in texture from that of Canada, 40 per cent of whose people trace their descent from the United Kingdom. Thirty years ago King George V and his advisers thought out the consequences of the new Commonwealth and adapted the monarchy accordingly. It will be the task of Queen Elizabeth II to work out the consequences of the independence of India, Pakistan and Ceylon.

5. Notes on the royal visit to Ceylon, 1954

Local opinion seems to be exaggerating the success of the Royal Visit. The Queen was surrounded by friendly V.I.P.s., and huge well-disposed crowds turned out, often in most uncomfortable positions, to see her. There has not been a single report of any unfriendly action. Nevertheless one must remember that all the tamashas were boycotted by two important groups.

(1.) The Swadeshi Movement³³

This name is given because the movement is entirely unorganized and therefore it has no name. Its characteristic is rejection of western ideas. Upon analysis, of course, one finds Aristotle, Christian morality, liberty, equality, fraternity and all the rest. They have learned a lot from the West and forgotten only that it came from the West. Nevertheless, there is conscious rejection of what is consciously western. English must be superseded by Swabasha;³⁴ western music must be superseded by Indian music; western art by eastern art; western drama by Sanskrit drama; western clothes by Swadeshi; western philosophy by Indian philosophy; and so on. We have to develop “our ancient culture” and our inspiration must come from India, whence it always has come.

³³This refers to South Asian independence movements from the late nineteenth century that drew upon South Asian culture.

³⁴A term that refers to use of indigenous languages.

It is an intellectual movement which is particularly strong among the Sinhalese in the Faculty of Oriental Studies; and my recollection is that not one of the younger Sinhalese in that Faculty attended the Opening of the University. If one could get an agreed statement from them, it would probably claim that the contacts with European countries since 1505 have been destructive of Sinhalese culture, that British ideas have been particularly destructive because they have infiltrated so deeply, that the "brown sahibs" who surrounded the Queen were traitors to their own culture, and that to have a British monarch at all is foolish.

If this affected only the University it would be unimportant, but the University is merely the English-speaking spearhead of the whole Swabasha movement, which spreads through the schools (especially the Swabasha schools) and the Swabasha press: the latter is becoming more and more important. It is not merely Swabasha; in the realm of ideas it is also at least superficially, Swadeshi.

My impression is that at University level it is not organically connected with politics, and certainly none of our Swabasha enthusiasts take an active part in politics. Nevertheless, it is at the lower levels such an important section of opinion that all political parties have to pay attention to it.

(2.) The Political Opposition.

The boycott carried out by the Opposition did not concern only the Members of Parliament. Those members of the University staff who are known to be members of the Sri Lanka Freedom Party,³⁵ the Lanka Sam Samaja Party,³⁶ and the Communist Party stayed away from the University function. The press poked fun at Opposition politicians who, so to speak, satisfied their curiosity by peeping through the blinds: but it would be wrong to assume that the boycott was a mere vote-catching political demonstration. The monarchy and the Commonwealth have not been "sold" to large sections of the English-speaking middle class. The Queen is not their Queen and they do not want to belong to the Commonwealth.

2. It is difficult to estimate the effect of the Royal Visit on the United National Party. Sir Oliver Goonetilleke used the opportunity to promote the Prime Minister³⁷ to the rank of Maharajah of Sri Lanka. Whether this had any effect on the general population I do not know, but I very much doubt it. Unlike D.S. Senanayake and Dudley Senanayake, the Prime Minister has little influence in the villages.

³⁵Founded by S.W.R.D. Bandaranaike in 1951, as noted above.

³⁶Leftist party founded in 1935 and often referred to as the LSSP.

³⁷Sir John Kotelawala.

His pujas at the Dalada Maligawa do not make him a Buddhist as the Senanayakes are Buddhists. His sherwani and his Privy Council uniform become him far better than a morning coat and the same uniform became D.S. Senanayake: but this merely showed that D.S. was “one of us” who was called to higher things, while Sir John is a “brown sahib” who pretends to be one of us because he is Prime Minister. Sir Oliver’s influence ceases where his arm cannot stretch; and he has never succeeded in embracing more than the couple of lakhs of the English-speaking official class. The difficulty is that the Senanayakes have no successors. The Members of Parliament are proctors, schoolmasters, and the like who had Senanayake support. Most of them have too little local influence to be elected by Kotelawala support, which has no influence outside a couple of North Western Province constituencies. In 1952 a great many people voted for D.S. Senanayake, though he was dead. Will anybody vote for Sir John Kotelawala in 1957?³⁸

3. I think the Queen caught the imagination of the ordinary man in the areas where she could be seen. The antagonism to the white face is, I believe, limited to the middle class. The villager and the bungalow servant are not supporters of the Swabasha nationalists. They approved of their English civil servants because, though remote, they were just and they had no uncles and nephews.³⁹ They do not always approve of the gentlemen from Moratuwa and the University of Ceylon who are sent to govern them. Indeed university graduates sometimes say that they can do very little because the villager is so caste-conscious; the English had no caste. Nor is the urban or suburban worker of the west coast, who votes L.S.S.P., very different. He is more politically conscious; he thinks he can better his lot either by political action or by trade union action (the two are really the same): but he is not a Swabasha nationalist, a republican or a Marxist. Swabasha nationalism, republicanism and Marxism are middle-class movements. Indeed they are in large measure (using English terms) lower middle-class movements. In large measure they are a reaction against the dominance of the England-educated who superseded the European. This must not be carried too far. All the Opposition leaders – S.W.R.D. Bandaranaike, N.M. Perera,⁴⁰ Colvin R. de Silva, S.A. Wickremasinghe and P.G.B. Keuneman⁴¹ – were

³⁸The election was actually held in 1956. The SLFP under Bandaranaike won a landslide.

³⁹The abbreviation UNP was satirically said to stand for Uncle Nephew Party on account of the multiple kinship ties within the party.

⁴⁰LSSP leader and Leader of the Opposition.

⁴¹De Silva, Wickremasinghe, and Keuneman were all major Leftist leaders and members of the Ceylon House of Representatives.

England-educated: but politically they cash in on the lower middle-class, the clerks and the teachers among the English-educated, the teachers and the vedaralas⁴² among the Sinhalese-educated.

4. All parties in Britain have to be monarchist because they would lose votes if they were not. The Opposition parties in Ceylon need not be monarchist because the ordinary voter does not regard monarchy as relevant. The Queen does not belong to him or he to the Queen. The Ceylonese child does not – or at least has not in the past – acquire at home and at school the personal loyalty which the English or Scottish child acquires. Indeed he could not in many cases, because the Governor of Ceylon, though the representative of the monarch, was the representative of the United Kingdom Government also, “British imperialism”. Since his teachers, and possibly his parents also, were advocates of “freedom”, the child tended to be antagonistic to “British imperialism” and therefore to the King’s representative. This may be changing. The most significant of the Colombo pandals was the rather shoddy one in Thurstan Road: “We the children of Lanka, welcome our Queen”. It was put up by the Education Department and so it was not a spontaneous expression of loyalty; but it was an indication that loyalty to the Queen is being taught. This was not so in the past. Indeed, the wartime propaganda from Britain, which stressed loyalty to the monarch, was a hindrance to our propaganda in Ceylon. The change must not be exaggerated. Many of the teachers are among the strongest and most influential supporters of the Opposition groups. It is, however, possible to foresee a change in a generation if the position of the monarchy can somehow be consolidated.

5. The conversion of India and (presumably) Pakistan to republicanism makes the position in Ceylon more difficult. Little Ceylon has to strut among her greater neighbours. A Ceylonese Governor-General had to be nominated because it was *infra dig* for the representatives of Asian nations to be received by an Englishman on behalf of Sri Lanka. Sir Oliver promoted the Prime Minister during the Queen’s visit not merely to catch votes for the U.N.P. but also because he did not want Lord Soulbury to be too prominent. Sir Oliver as Governor-General will be *plus royaliste que la Reine*. Indeed he has already told his Permanent Secretary that the standards of Queen’s House must be maintained. It is true that he will be the U.N.P.’s principal propagandist: but he will also be a propagandist for royalty more effective than any English successor of Lord Soulbury could possibly be. On the other hand, if the Government found it

⁴²Indigenously trained physicians.

politically expedient to create a republic Sir Oliver would find it expedient to become President.

6. The Queen could exercise a very great influence – as the recent visit has demonstrated – if she could pay frequent visits. Visits by other members of the Royal Family, as we have seen from the visits of the Duke of Gloucester and the Duchess of Kent, have nothing like the same influence. They are useful; and they would be even more useful with Sir Oliver as Governor-General because he would play them up. Even so, the Queen is the Queen and the others are mere delegates. On the other hand, it is clear that the Queen's visits must be rare and fleeting. Possibly more use could be made of royal messages. Could not the Queen have a Ceylonese equerry who would be prominent on Commonwealth occasions and who could draft messages of congratulation and condolence? For instance, there should be a personal message from the Queen, read by the Governor-General, on every celebration of Independence. Also, it must be noted that everybody in Ceylon wants what is still called an 'Imperial honour'. The Order used for this purpose is usually the Order of the British Empire, which is singularly inappropriate. Should not a special Order be created for Ceylon as the Order of Sri Lanka with the Governor-General as Grand Master and with a Registry in Ceylon? The Governor-General himself should always be a G.C.V.O. rather than a G.C.M.G.,⁴³ which savours of 'colonialism', while the Royal Victorian Order is personally associated with the Queen.

7. These are minor matters; but they have to be dealt with because the major problem has no ready solution. One cannot even guarantee that the U.N.P. will hold together until 1957. The S.L.F.P. is of small importance, the L.S.S.P. has lost strength lately; the 'common front' is still a small minority movement. Nevertheless, the U.N.P. may lose most of the west-coast seats from Colombo South to Hambantota, all seats in the Northern Province, and some seats elsewhere. Unless it remains in power it will not get Independent support. It is therefore possible to envisage a 'common front' Government with S.W.R.D. as Prime Minister. More likely is a split in the U.N.P.; for Sir John's handling of his colleagues is not likely to be very tactful, especially if all this adulation goes to his head. There is already the nucleus

⁴³British imperial honours – GCMG: Knight Grand Cross of the Order of St Michael and St George; GCVO: Knight Grand Cross of the Royal Victorian Order. The latter is given at the discretion of the Sovereign, while the former is given on the advice of the Prime Minister.

of an Opposition – not only Bandaranaike but also Ponnambalam⁴⁴ and Sir Lalitha Rajapakse.⁴⁵ Both would be monarchists. But if (say) J.R. Jayewardene broke away it is possible to imagine a quite strong republican Opposition supported (against the U.N.P.) by the L.S.S.P., the Communists, and the Indians.

8. Hence though the Queen's visit has helped to strengthen monarchy and ties with the Commonwealth, the future is far from secure. A republic needs a two-thirds majority in the House of Representatives, which is difficult to obtain. Hence the problem would arise not in 1957 but in 1962. If things could be kept going until 1977 all should be well: but this cannot be guaranteed.

⁴⁴G.G. Ponnambalan, former Cabinet minister and Tamil Congress Leader. Often referred to as 'G.G.'

⁴⁵Former Cabinet minister.