

2.3 The Executive Presidency and the Seventeenth Amendment

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ABSTRACT

J. R. Jayawardene and his United National Party (UNP) were able to get five upon six majority at the general election held in July 1977. According to the prevailing constitution, Mr. Jayawardene was elected as the Prime Minister of Sri Lanka. In 1978 he brought an amendment to the existing 1972 first republic constitution of Sri Lanka. With the amendment he introduced the executive presidency. In the same year he and his party brought another amendment to repeal the 1972 constitution and introduced a new constitution which is a combination of presidential government system and Westminster Government system. Therefore this constitution is considered as a dual executive system.

The dual executive contains the president and the cabinet. Therefore we can say that both the president and the cabinet have a great responsibility in maintaining the government system. The President is chosen from a presidential election and he plays the main role in the government. The Prime Minister is appointed by the president. The Prime Minister and the cabinet have to support the president in all terms. According to the constitution 1978 in article 4 (b) the executive power of people, including the defence of Sri Lanka, shall be exercised by the president of the republic elected by the people. In article 43 (1) there shall be a cabinet of ministers charged with the direction and control of the government of the republic which shall be collectively responsible and answerable to parliament. In article 43 (3) the president shall appoint as Prime Minister the member of parliament who in his opinions is most likely to command the confidence of parliament.

According to the above mentioned factors the executive president of Sri Lanka has a great power in ruling the country. There is a criticism that the power of the president has exceeded the judicial and legislative power and therefore many have suggested to eliminate the executive presidency or to reduce and control the power of the president. In this regard an important legislative action took place in October 2001. That was the unanimous approval of the seventeenth amendment of the 1978 constitution. By this amendment a constitutional council was established and as a result of this the judicial service and the public service have been able to be saved from politicalization. Because of this amendment the monopolistic power of the president of appointing higher officials of state is controlled. As we all know the seventeenth amendment was brought with the intention of reducing the executive power of the president. However by considering the current situation, It is necessary to inquiry whether the seventeenth amendment was successful or not. Secondary data was collected through the constitution amendments of constitution and other related acts and literature. Also particular attention is given to qualitative methodology.

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