

I English Media Exposés

THE ISLAND - FRIDAY 30TH JUNE, 1995 Japanese companies write off Rs. 10.2 b DAILY NEWS - SATURDAY JULY 01, 1995

Hilton hotel dispute settled

by Ravi Ladduwahetty
Government has signed a Hilton hotel dispute settlement agreement with Japanese contractors on Wednesday. This will help Sri Lanka to save a large sum in foreign exchange, informed sources said yesterday.

The construction of Colombo Hilton have been withheld due to allegations that these contractors had completed the hotel minus several floors as originally contracted to build. Sources said under the terms of the settlement that two companies had agreed to forfeit a tidy sum from the moneys owed to them. Justice and Constitutional Affairs Minister and Deputy Minister of Finance Prof. G. L. Peiris will explain the terms of the settlement at a press briefing this afternoon at the Finance Ministry.

Hilton Hotel dispute settled

The Hilton Hotel dispute which was a major irritant in Sri Lanka - Japan relations has been settled with the Japanese companies agreeing to write off interest payments and a portion of the capital amounting to Rs. 10.2 billion. Ministers G.L. Peiris and Lakshman Kadirgamar who were involved in working out this settlement described it as a major achievement. Today is a happy day. We have reached the Japanese to invest in Sri Lanka as many Japanese businessmen had spoken about the Hilton dispute. This is now over. I hope Japanese investors will come here now, Mr. Nozuchi said.

Hilton Hotel Enjoining order halts payments

The Colombo District Court on Tuesday issued an enjoining order restraining Hotel Developers (Lanka) Ltd, the owing company of asa PC. Among the declarations sought by the plaintiff are: That the 1st and 2nd defendants are not



Minister of Justice and Constitutional Affairs and Deputy Minister of Finance Prof. G. L. Peiris, is seen briefing the media personnel following the settlement of the Hilton Hotel issue on more favourable terms to Sri Lanka. Also in the picture are, Minister of Foreign Affairs, Lakshman Kadirgamar, Minister of Media, Tourism and Aviation, Dharmasiri Senanayake, Japanese Ambassador, Yasuo Noguchi, Secretary to the Ministry of Finance, A. S. Jayawardena and consultant, Ministry of Finance Nihal Amarasekera.

'Hilton Hotel loan negotiated in Japanese Yen and not in US dollar'

The original loan of \$50 million at an interest of 8.5 per cent was provided by the Japanese Government to the Hilton Hotel Developers (Lanka) Ltd. The loan was negotiated in Japanese Yen and not in US dollars. The settlement of the loan is a significant step towards the completion of the hotel project.



The Hilton Hotel under construction. Courtesy, Ravaya Publishers

Hilton Hotel settlement

The settlement of the Hilton Hotel loan is a significant step towards the completion of the hotel project. The Japanese companies have agreed to write off interest payments and a portion of the capital amounting to Rs. 10.2 billion.

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Hilton to embark on construction of shopping complex

Hilton Hotel Developers (Lanka) Ltd is embarking on the construction of a shopping complex. The project is expected to be completed within the next few months.

Misleading misinformation being spread

Suren Wickremesinghe, Chairman and Managing Director of Hilton Hotel Developers (Lanka) Ltd, has issued a statement refuting misleading information being spread by interested and affected parties. He stated that the settlement is a fair and reasonable one.

The Hilton fiasco

The Hilton fiasco has been a major setback for the hotel project. The settlement of the loan is a significant step towards the completion of the hotel project.

The unmaking of ethics in politics

The unmaking of ethics in politics is a major concern. The settlement of the Hilton Hotel loan is a significant step towards the completion of the hotel project.

Prof. Peiris moves Bill to establish Board to monitor Accounting, Auditing standards

Prof. G. L. Peiris has moved a Bill to establish a Board to monitor Accounting and Auditing standards. The Bill aims to improve the quality of financial statements and ensure transparency in business operations.

New Hilton deal saves US \$ 207m

The recent settlement of the Hilton Hotel loan has saved the country a considerable amount in foreign exchange. The deal is valued at US \$ 207 million.

Govt. stops Hilton payments

The Government has stopped payments to the Hilton Hotel Developers (Lanka) Ltd. This move is aimed at reducing the foreign exchange outflow and ensuring that the settlement is implemented as agreed.

Professor, your slip is showing

A professor's slip is showing that the settlement of the Hilton Hotel loan is a significant step towards the completion of the hotel project. The deal is valued at US \$ 207 million.

President suspends Hilton Hotel agreement

The President has suspended the Hilton Hotel agreement. This move is aimed at ensuring that the settlement is implemented as agreed and that the interests of the country are protected.

Govt. was legally bound to honour agreements with Hilton

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Professor Calculus or calculator?

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Suspension of Hilton Hotel agreement by President unavoidable — FM

The suspension of the Hilton Hotel settlement agreement by the President was unavoidable in the light of the unsatisfactory features discovered to have been incorporated in it which were found sometime after signing it, said Minister of Foreign Affairs Lakshman Kadragama in Parliament yesterday.

Hilton case dismissed

Colombo District Judge D. J. De S. Balapatabendi yesterday dismissed the Case filed by Hotel Development Lanka Ltd. shareholder A. P. D. Ranjani

Amarasekera ready to serve on part-time basis

Explains position on 'Hilton matter'

C.V. says Govt has performed satisfactorily in short run

As explained, I wish to spend yesterday making such observations. I agreed to an operative order in writing or in proceeding as requested. I handled the matter.

Continuing transparency in the public interest

The second instalment in our Hilton Agreements series

Hilton's unhappy days

End of the Hilton Drama

Confusion & the Presidency

Can PA afford to lose G.L.?

GL, AS clash on budget eve

GL will remain, AS has to go?

Suspension of Hilton Hotel settlement

The Hilton Hotel settlement agreement was suspended by the President on August 15, 1995.

Ameresekere to sue G.L.

Parliament on what action was to be taken on Treasury Secretary A.S. Jayawardene's resignation.

This is transparency!

Serializing the Hilton Agreements

Adjournment Question

Hilton Hotel settlement

The Hilton buck stops with Chandrika

G. L. tenders resignation as Deputy Finance Minister

Finance Minister Matter can be resolved — Chandrika

TIME WASTED, PROBLEMS CREATED

GL, AS clash on budget eve

GL will remain, AS has to go?

Shame, shame Professor Peiris!

The Hilton issue continues to stink



Decision on devolution proposals postponed

From Cyril Wimalawendura in Kandy

In Parliament adjournment query

Professor Peiris — the clause of his downfall

Adjournment

Prof. G. L. Peiris (Minister of Justice, Constitutional Affairs and Deputy Minister of Finance)

Prof. Pieris, A. S., in open conflict

Confusion & the Presidency

Can PA afford to lose G.L.?

GL, AS clash on budget eve

GL will remain, AS has to go?

President Chandrika Bandaranaike Kumaratunga is likely to remove Finance Secretary Mr. A. S. Jayawardana before the presentation of the PA's second budget tomorrow.

As a pro-people's Alliance spokesman last night said that the President has informed some Ministers of her decision to ask the Finance Secretary to step down.

Minister of Justice and Constitutional Affairs and Deputy Minister of Finance Prof. G. L. Peiris was most likely to resign his Finance portfolio today or

with Japanese contractors of the Hilton Hotel in Colombo.

The settlement signed by Minister Peiris was cancelled after new facts emerged that the sum exceeded the amount the previous government

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Crisis over — GL stays, AS to step down

By Prabhu Subramanian
President Chandrika Bandaranaike Kumaratunga has ordered the resignation of Finance Secretary Jayawardena and Justice Minister Peiris. She also ordered the resignation of the Attorney General, A.S. Jayawardena, who has been in the cabinet since 1993.

Resignations & small talk

By Ravi Ladduwahetty
The resignation of Prof. Peiris and Mr. Jayawardena is a major development in the political scene. The President's decision to order the resignation of the Finance Secretary and Justice Minister is a clear signal that the government is determined to resolve the crisis.

THE SUNDAY LEADER - NOVEMBER 19, 1995

THE ISLAND - SUNDAY NOVEMBER 19, 1995

THE SUNDAY TIMES - SUNDAY NOVEMBER 19, 1995

Govt. in major crisis over A. S. G. L. refuses to present budget

The Government plunged into a crisis on Friday with Justice Minister and Deputy Minister of Finance Prof. G.L. Peiris refusing to present the Budget in Parliament, unless Treasury Secretary A.S. Jayawardena is removed.

Shanmugalingam sends in his papers

Deputy Secretary to the Treasury K. Shanmugalingam has sent in his retirement papers. He deduced to retire because there was speculation that he would be transferred to the 'pool', he told 'The Island'.

Shanmugalingam sends in his papers

Among the other government positions he has held are: Director in the Ministry of Planning, Assistant Government Agent, Batticaloa, Regional Director, Customs

Deputy Treasury Sec. quits before transfer

The Treasury's deputy secretary, K. Shanmugalingam has tendered his retirement papers prematurely in an apparent protest against a plan by the government to transfer him out of the Treasury.

Unfair transfer says Shanmugalingam

DEPUTY Secretary to the Treasury K. Shanmugalingam has submitted retirement papers following last week's

Not customary to table resignation letter in House

In Parliament at adjournment time
The Minister of Justice, Constitutional Affairs and Deputy Finance Minister Prof. G. L. Peiris said in a written answer to a question tabled in Parliament yesterday that it is not customary to table resignation letters in the House.

Legal action against GL

FORMER Advisor to the Finance Ministry, Nihal Sri Amerasekera has written to his lawyers with a view to filing action against Justice Minister G.L. Pieris for contempt of

Legal action against GL

to the MF and World Bank, before he completed his full term is it correct to say that the Cabinet of Ministers decide to appoint Mr. A.S. Jayawardena as the Governor of the Central Bank? What were the reasons to

Deny statement or face legal action writes Nihal's attorney

Mr. Nihal Sri Amerasekera of Sri Vipulasena Mawatha, Colombo 8, through his solicitors and attorneys, had written to Member of Parliament of the TNP, Mr. Mahin

Deny statement or face legal action writes Nihal's attorney

at a UNP Parliamentary Group meeting and Published in a Sunday newspaper of 3.12.95. The statements published in the said newspaper have said that, questions raised by Mr

Deny statement or face legal action writes Nihal's attorney

Mr. Nihal Sri Amerasekera had sent to the said MP, a statement made by Minister G. L. Peiris, where it is stated that, the contract of Mr. Amerasekera has expired on 21.9.95, and the Government

Deny statement or face legal action writes Nihal's attorney

Amarasekera is said to have informed the Minister of Finance that, he does not wish to have his contract renewed. Copies of all these statements had been sent to the Leader of

Supreme Court reserves its order on fuller bench in Hilton matter

The Supreme Court has reserved its order on an application by Hilton Developers (Lanka) Ltd. seeking a writ of certiorari to quash the order of the District Court granting Special Leave to Appeal to the Supreme Court.

Supreme Court reserves its order on fuller bench in Hilton matter

The Supreme Court while granting Special Leave to Appeal only on the question whether the Court of Appeal had exceeded its jurisdiction and/or directed to stay proceedings in the District Court has reserved the matter for hearing before Your Lordships on 20th June 1996.

SC refuses plea for fuller bench

The Supreme Court on Thursday refused with costs an application by Hotel (Lanka) Developers Limited, owning company of Colombo Hilton Hotel and its nominee directors for a constitution of a fuller bench of the court to review its order delivered on February 28, 1996 in the application for special leave to appeal by Mr. Cornel Perera.

SC refuses plea for fuller bench

FORD Rhodes, Thornton & Company, the Auditors of the controversial seventh annual report of the Hilton Hotel told The Sunday Leader that their audit report was "Qualified" and not a clean

Damages claimed by Hilton

Justice Mark Fernando (with Justices Dhoeeraratne and Wijetunga agreeing) said: The present petitioners have not established a prima facie case of error in the order made on 28.2.96, their complaint is, basically, that

Damages claimed by Hilton

of the Constitution and is thus demonstrably and manifestly wrong, causes injury to the Defendants and occasions miscarriage of justice. In view of the above, I have sought a direction that this matter be heard by a fuller bench or even the entire Bench of the Supreme Court as a serious question of Constitutional Law has arisen, and a matter of great public and general importance.

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agreement therewith read together with the notes referred provided the information required by the Companies Act No. 17 of 1982 and subject to note 19 to the Accounts given a true and fair view

Wrangle over right to file proxy fixed for inquiry

Mrs. Chandra Ekanayake, District Judge of Colombo on October 16 granted Hussain Ahmed, attorney-at-law, who had filed

Wrangle over right to file proxy fixed for inquiry

of HDL had resolved to revoke the proxy granted to Mr. Ahmed. Believing the said letter to be true he signed

Wrangle over right to file proxy fixed for inquiry

Corporate Services Ltd. and moved that Mr. Ahmed be granted time to set out all the facts in an affidavit to enable the

Wrangle over right to file proxy fixed for inquiry

enjoining orders that until the interim injunction filed by them is heard, Mr. A. S. Jayawardena, the then secretary to the Treasury or the nominee directors of

Chandrika breaks her word to the nation on Hilton issue

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Noboru Kishida, Executive Managing Director Mitsui Company of Japan who visited Sri Lanka recently paid a courtesy call on President Chandrika Bandaranaike Kumaratunga at 'Temple Trees'. He was accompanied by Tsuneo Ishibashi, Managing Director of the Colombo Branch of the firm and Katsuhiko Nakajima of the parent company in Japan.



Mr. Noboru Kishida, Executive Managing Director of Mitsui Company, one of the biggest business ventures in Japan with worldwide interest called on President Chandrika Kumaratunga at Temple Trees on Wednesday. Messrs. Katsuhiko Nakajima from Mitsui Japa and Tsuneo Iihashi from Mitsui (Sri Lanka office) were also present. (Picture by P. Ranjini)

"Hilton: thorn in our side" Treasury bosses on contempt charge

Cornel's case thrown out of court SC affirms order of the Court of Appeal

SC refuses leave to appeal on CA ruling Commercial High Court dismisses Cornel & Co case



Hilton hanging on a thread Hotel Developers to be wound up

THE JAYASUNDERA/HDL SAGA Apparel sector likely to list on CSE this year

We'll jail stock market offenders if necessary, says SEC boss

Govt acquires Hilton Hotel Hilton taken over by govt.

Govt takes over Hilton Five star governance?

Hilton hotel case back in focus

By Suresh... The Hilton Hotel case has been back in focus... The Supreme Court has dismissed the appeal...

Cornel Perera's removal valid in law, court holds

The District Court of Colombo dismissed with costs the application for interim injunctions made by Cornel L. Perera seeking to remain as Managing Director of Hotel Developers (Lanka) Ltd. (HDL).

SC affirms order of the Court of Appeal

The Supreme Court has affirmed the order of the Court of Appeal in the case of Cornel Perera, who had sought to remain as Managing Director of Hotel Developers (Lanka) Ltd. (HDL).

District Judge requests counsel to reconsider application

The District Judge has requested the counsel to reconsider the application for interim injunctions made by Cornel L. Perera.

Hilton case: Court allows remitting money to Japan

The Court of Appeal has allowed the remitting of money to Japan in the Hilton case, following the decision of the Commercial High Court.

Hilton hopelessly bankrupt Govt. now owns Hilton - Basil

Hilton is hopelessly bankrupt, says Basil Rajapaksa. The government has now acquired the Hilton Hotel.

Hilton Colombo owning firm HDL's debt tops Rs. 11 b

The debt of Hilton Colombo owning firm HDL has topped Rs. 11 billion, according to reports.

Bankrupt but boom!

Asset-less, debt-ridden and loss-making Hotel Developers peeks to near all time high yesterday.

Colombo Hilton owning firm HDL celebrates 'Decade of default' today

Colombo Hilton owning firm HDL celebrates its 'decade of default' today, marking ten years since the company's collapse.

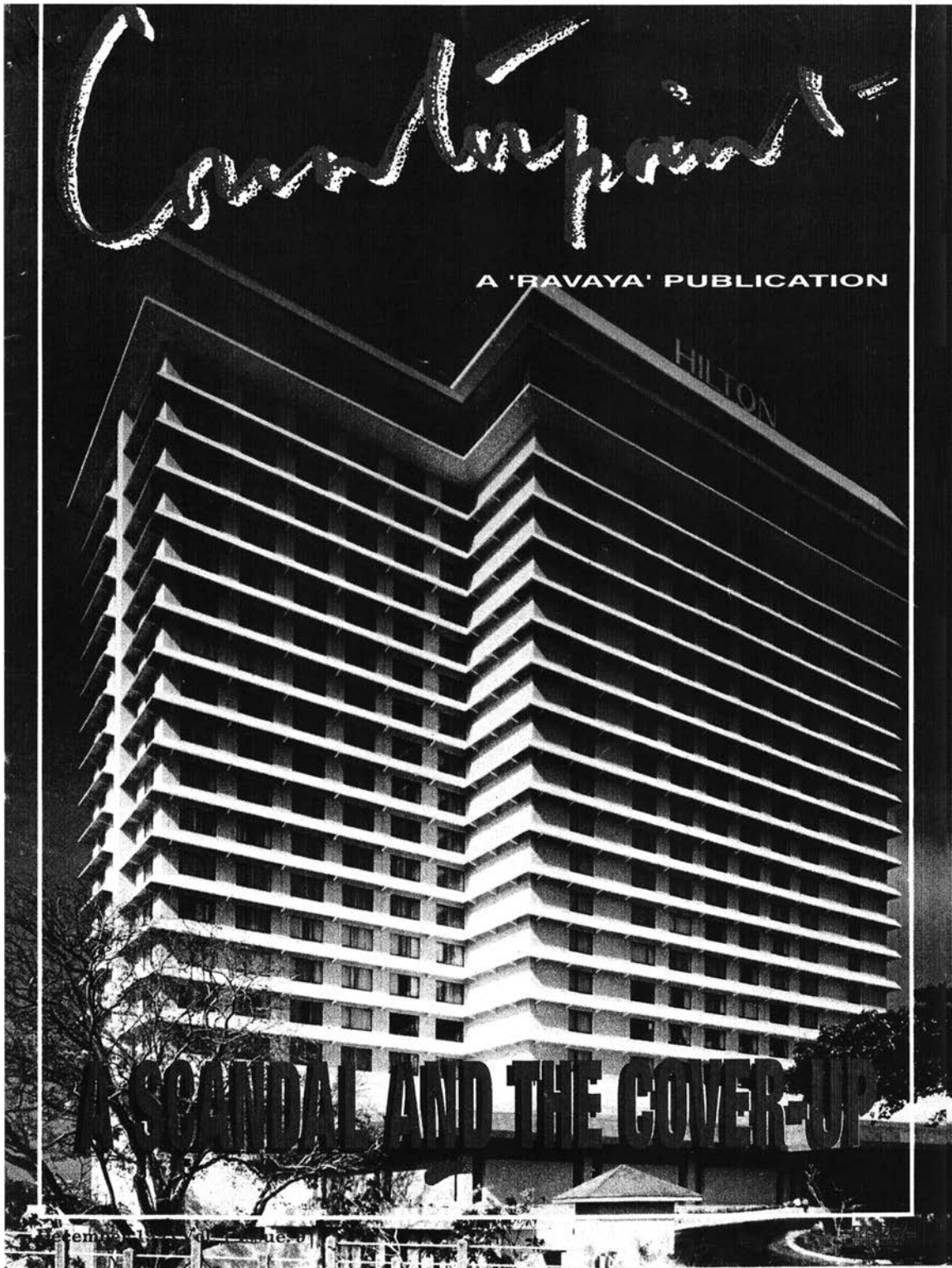
Five star governance?

The government's takeover of Hilton Hotel is seen as a test of its governance and management skills.

Table with financial data, including columns for 'Debt', 'Assets', and 'Liabilities'.

II

Exposé in English Magazine



Source - www.consultants21.com

- Courtesy, Ravaya Publishers

HILTON

The Hotel, The Scandal, The Cover up

Right from the beginning it was clear that the Hilton was destined for preferential treatment. The seven acres of land on which the hotel is sited in Echelon Square was a "gift" from the late President Premadasa. How else can one describe the 99 year lease at a total cost of Rs 125 million, amounting to Rs 110,000/- a perch, to be paid back over 33 years with no interest levied at all? The fact that even these absurdly easy terms have not been adhered to by HDL who haven't paid the Urban Development Authority a penny is further evidence of the spirit in which this transaction took place.

Mitsui of Japan, whose local agents are closely related to former President Jayewardene, were a shoo-in for the construction contract for the Hilton. In fact, to this date the Hilton remains the one and only private sector enterprise which has received a government guarantee of its liability to Mitsui and Taisei (another Japanese multinational specialising in civil engineering work) to construct, equip and furnish the hotel. For instance, none of the other hotels in similar circumstances received such concessions.

The Hilton Hotel is owned by Hotel Developers (Lanka) Limited (HDL) who, in March 1984, issued a prospectus to solicit public funds on the basis of their plans to build a twin-tower 22 storey, 452 room hotel with basement parking for 400 vehicles. It must be noted that such a prospectus is a legal document and not one that

can be altered at will.

Profitability forecasts and cashflow forecasts with which to finance the cost of building and equipping the hotel were made by Hilton International and Mitsui/Taisei on the basis of these specifications. On receiving the government guarantees, Mitsui/Taisei entered into loan agreements with HDL where the cost of construction and supplies were deemed loans to the company.

The basis for all these agreements, the guarantees, the prospectus, the profitability analysis and so on was the 452-room plan which was approved by the Board of Directors in March 1984 and duly submitted to the UDA. Construction by Mitsui/

notice of the Board of Directors. The changes can only be described as drastic. Instead of 452 rooms (known as bays) there were now only 357, and the underground parking had been dispensed with altogether. Obviously, the hotel's ability to generate revenue to pay back its loans was adversely affected by these changes. Most troubling, however, was the fact that neither the architects nor the contractors had informed the Board of Directors or anyone else for that matter about these crucial changes. In addition, the circumstances in which the original plans were allegedly lost is hard to believe. The plans (Mitsui/Taisei's, the architects and even HDL's own copy) were supposedly destroyed in a fire at the site at 2.38 a.m. on 18/10/1985. The Fort Police Report on this fire is as strange a document as any. The Report which is undated does not even indicate the date of the fire, but states that the "report submitted to us [Fort Police] by you [Mitsui/Taisei Consortium] has been found to be completely accurate



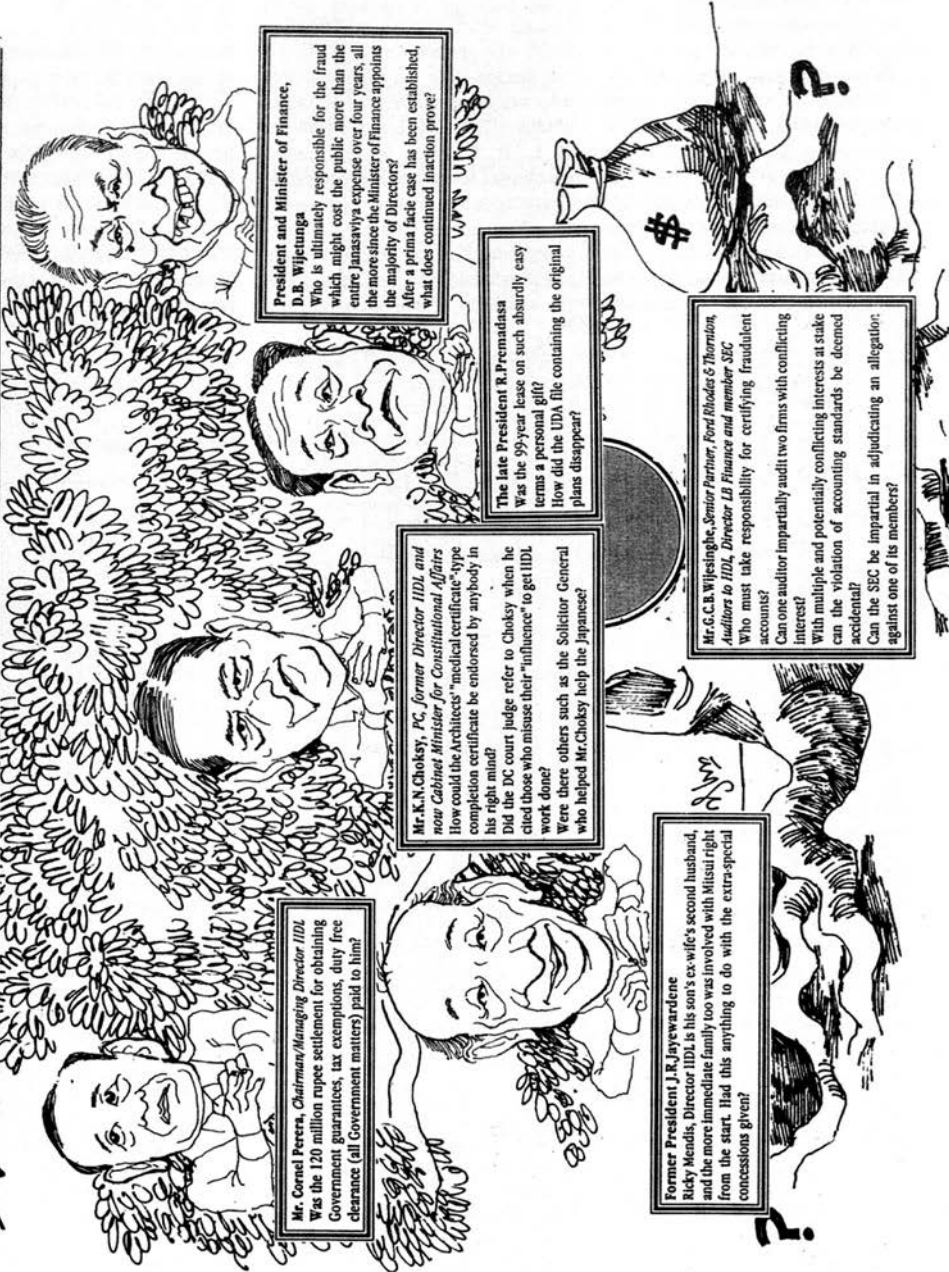
Nihal Sri Ameresekere in consultation with his lawyers K. Kanagisvaran, P.C., and attorney Harsha Cabral.

Taisei began shortly after on the basis of these building plans approved by the UDA. These building plans were submitted to the UDA in October 1983 and ratified in March 1984.

The hotel was completed and handed over in April 1987 and began operations in July. It was only in October 1987 that it was discovered that the hotel had been built to a "revised" set of plans which had not been approved or even brought to the

and honest." However, no copy of this report alluded to is attached, but the report has been certified and endorsed by the Police to be used "as evidence to the relevant authorities, Government Departments and also your Head Office in Tokyo." Such a thoughtful and all-encompassing endorsement must have really touched Mitsui/Taisei to the quick! Particularly since fires like this are getting to be more and more necessary

The Happy Hilton Family



Mr. Cornel Pereira, Chairman/Managing Director IIDL
 Was the 120 million rupee settlement for obtaining Government guarantees, tax exemptions, duty free clearance (all Government matters) paid to him?

Mr. A.N. Choksy, PC, former Director IIDL and now Cabinet Minister for Constitutional Affairs
 How could the Architects' "medical certificate" type completion certificate be endorsed by anybody in his right mind?
 Did the DC court judge refer to Choksy when he cited those who misuse their "influence" to get IIDL work done?
 Were there others such as the Solicitor General who helped Mr. Choksy help the Japanese?

The late President R. Premadasa
 Was the 99-year lease on such absurdly easy terms a personal gift?
 How did the UDA file containing the original plans disappear?

President and Minister of Finance, D.B. Wijetunga
 Who is ultimately responsible for the fraud which might cost the public more than the entire Jansaviya expense over four years, all the more since the Minister of Finance appoints the majority of Directors?
 After a prima facie case has been established, what does continued inaction prove?

Former President J.R. Jayewardene
 Risky Mendis, Director IIDL, is his son's ex-wife's second husband, and the more immediate family too was involved with Mitsui right from the start. Had this anything to do with the extra-special concessions given?

Mr. G.C.R. Wijesinghe, Senior Partner, Ford Rhodes & Thomson, Auditors to IIDL, Director LB Finance and member SEC
 Who must take responsibility for certifying fraudulent accounts?
 Can one auditor impartially audit two firms with conflicting interest?
 With multiple and potentially conflicting interests at stake can the violation of accounting standards be deemed accidental?
 Can the SEC be impartial in adjudicating an allegation against one of its members?

in Japan.

To make matters worse Tokyo claimed that it had lost its copy and the UDA, Mr. Premadasa's first love, had just as mysteriously lost its Hilton file. Thus, it was not possible to compare the new plans with the original ones, though it does seem more than a little strange that the old plans went up in smoke just a month after unauthorised new plans had been surreptitiously sent to the UDA for approval in September 1985. There is a minute on file at the HDL office to say that its plan copy was "borrowed by the Japanese architects" and was

of whom Cornel Perera, Chairman and Managing Director of HDL, has an interest in around 1.25%.

Mr. G. C. B. Wijesinghe, Senior Partner, Ford Rhodes & Thornton (FRT) who are auditors to HDL, did not disclose that his firm was also responsible for auditing the accounts of Mitsui/Taisei. He is also a Director of L. B. Finance which has a substantial interest in this company. There is clearly a conflict of interest in Mr. Wijesinghe's multiple commitments here. Thus, in a context where the Directorate was itself split about the reliability of the accounts, the

accounts, a Director of HDL, Nihal Sri Ameresekere had challenged the value of the building stated in the balance sheet, and this was brought in as Supplementary Note 19 in its final form. The auditors had advised HDL to also include, as a post balance sheet event, the fact that the change in the value of the buildings and fittings would also affect the total figure shown as liability to the lender, which instead reads in the annual report as "This may also affect the total figure shown as liability to the Contractor under the Construction agreement dated 31/1/84." This is a

DATE	ISSUANCE CASE NO.	AMOUNT	TRANSFER TO	SHARE AND AMOUNT OF TRANSFEROR	SHARES	REMARKS
1-1-1992	L.B. FINANCE LIMITED 101, VIMANALANKARA MADURUWA, COLOMBO	31,700	307	TAT GARMENTS (EXTRA) LIMITED 105, SWGA, MITITTA, MADURUWA, COLOMBO 13	3000	2779990 2780290
3-1-1992		12,800	308	DO	1000	2780290 2780350
3-1-1992		12,800	309	DO	1000	2780350 2780390
3-1-1992		10,750				

DATE	NO. OF SHARES	AMOUNT	PRICE CHANGE	TOTAL
JAN. '92	2,300	22.50	0.50	51,750.00
02.01.92	1,500	23.00		34,500.00
03.01.92	11,500	23.00		264,500.00
06.01.92	31,600	24.00		728,600.00
07.01.92	13,800	26.00		331,200.00
07.01.92	2,800	27.00	4.25	87,000.00
07.01.92	3,000	27.25		81,900.00
07.01.92	2,000	32.00		64,000.00
07.01.92	2,000	38.00	8.75	114,000.00
08.01.92	3,000	38.00		432,000.00
08.01.92	12,000	41.00		220,000.00
08.01.92	5,500	41.00		56,000.00
09.01.92	13,300	40.75	4.00	81,500.00
09.01.92	-2,000	40.00		420,000.00
09.01.92	1,400	40.00		575,600.00
09.01.92	10,500	40.25	1.25	12,375.00
10.01.92	14,400	41.25		92,000.00
10.01.92	300	40.00		68,425.00
10.01.92	2,300	40.25	(0.50)	40,750.00
13.01.92	1,700	40.75	(1.75)	154,000.00
13.01.92	1,000	38.50	1.50	230,000.00
13.01.92	4,000	40.00		80,000.00
16.01.92	5,500	40.00		99,375.00
17.01.92	2,000	39.75		1,160,000.00
17.01.92	2,500	40.00		9,250.00
17.01.92	25,000	37.00		320,000.00
17.01.92	50	40.00	(2.00)	57,000.00

"burnt in the fire in 1984" which is more than one year before the actual fire on record!

FAMILY TIES

Mitsui had long since made Delmege Ponsyth & Co. Ltd. its agents for its business activities in Sri Lanka, whose Chairman is Ricky Mendis, married to Charmaine -- the mother of J. R. Jayewardene's three grandchildren by an earlier marriage to Ravi Jayewardene. Delmege through its subsidiary company L. B. Finance, purchased 2 million rupees worth of shares in Hotel Developers Limited (HDL), the owning company of Colombo Hilton which is approximately 0.5% of the total issued share capital, the rest being owned by the Treasury (64%), Mitsui (28%) and about 1000 public shareholders,

Annual Report for the year ending 31/3/1990 of Hotel Developers Ltd. (HDL) was blithely audited and endorsed by FRT despite the fact that Mr. Wijesinghe was a Director of a company with substantial share-interest in HDL on the one hand, and a partner of the auditing firm on the other. During the preparation of the

clear case of misrepresentation for in the mind of any person there cannot be any doubt regarding the degree of certainty conveyed through "would" and "may". Substitution of "Contractor" instead of "lender" furthermore shows a keen interest in the Contractor Mitsui, and raises questions on the all-consuming role

played by the Contractor in this controversial project. Moreover, the liability to the "lender" directly affects the company (HDL) since the lender must be given the money back at some point, whereas liability to "the contractor" distances the liability of HDL.

It is interesting to note that this concern for the Contractor by HDL is given new meaning when the Chairman LB Finance, Mr Eric Amarasinghe appeared as lawyer for Mitsui, in the subsequent court action instituted on behalf of HDL itself by a shareholder against the contractors and architects!

When Nihal Sri Ameresekere appealed to the Government to investigate what appeared blatant fraud to all but the other Directors of HDL, the State brought Justice J F A Soza out of retirement to conduct an inquiry into Ameresekere's allegations. Whilst the choice may never be ideal, it is nonetheless astonishing that the learned gentleman accepted the brief knowing full well that his son, Harsha Soza, married to Ricky Mendis's niece, was a Director of two Companies in the Delmege Group, who in general have been agents for Mitsui products. Moreover, Mendis himself was one of those cited in the plaint as having aided and abetted the Japanese multinationals to perpetrate the fraud on HDL. Not surprisingly, having taken on the assignment, he found "no irregularities in the implementation of the project". In the next phase of the Court action brought against Mitsui by Ameresekere, Harsha Soza was to appear for Mitsui, confirming, beyond a shadow of a doubt, his loyalties in this conflict.

AND THE COVER UP

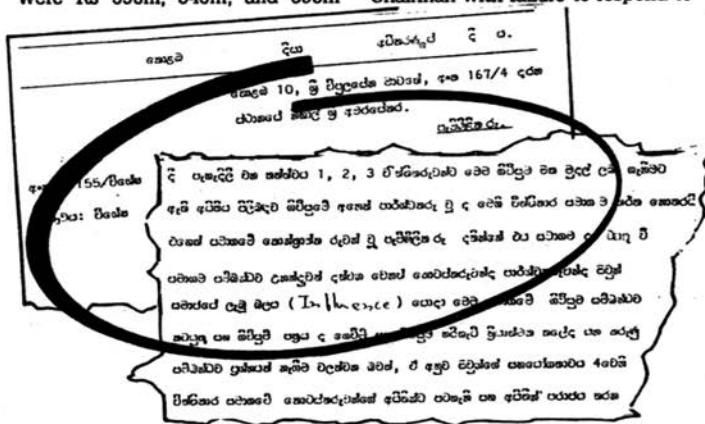
More recently, continuing a lonely crusade, Ameresekere wrote to the Director General, SEC through his lawyer, in August 1992 drawing attention to 10 letters written to the Commission during the period August 91 to March 92, calling for their intervention in matters that clearly contravened Sri Lankan law. He

charged that the Commission had deliberately failed and neglected to take action against HDL, and to investigate these complaints made in the interests of the investors, and the public in general by using its semi-judicial power to look into, and above all safeguard this very interest.

In addition to the Commission not taking any action at all regarding the financial misrepresentation in HDL's published annual reports, he draws the attention of the SEC to the losses for the years 1989 to 1991, which were Rs 393m, 343m, and 395m

unconscionable profit, before the price plummeted when the actual position was revealed. G. C. B. Wijesinghe is also a member of the SEC, and in an earlier letter to the Director General SEC, Mr Stanley Jayawardene, Ameresekere had questioned the propriety of G C B Wijesinghe sitting in at meetings convened to look into his allegations, of a company in which he had a financial interest.

In his letter to Stanley Jayawardana, Chairman SEC, dated 28/12/1991, Nihal Sri Ameresekere charges the Chairman with failure to respond to



respectively. In each year mentioned, the interest costs exceed the total turnover. In other words, the company could not generate sales even to cover interest costs, let alone other expenditure. He states that upto 30/9/92, the cumulative losses of the company, at Rs 1914m, is more than four times its share capital.

In a grave case of misrepresentation, he points out that by misreporting the net assets at 31/3/90 as a surplus of Rs 171m, whereas in reality it was a massive deficit of Rs 1306m, the investing public were deliberately misled regarding the actual financial position of the company. In the three months following the report being published, the share price rose from Rs 10/- per share to over Rs 40/-, and LB Finance, of which G. C. B. Wijesinghe, Senior Partner of the auditors FRT, is a Director, as well as Delmege Forsyth itself unloaded much of their holding of 200,000 shares onto the public, at what is an

several serious irregularities in the published company accounts of 90/91. In particular, he refers to the fact that the company has understated its current liabilities in contravention of accounting standards that give the company a surplus of Rs 171 million instead of the actual deficit of Rs 1,231 million. The regulation which is legally binding by gazette notification clearly stipulates the condition under which the current liabilities falling within the forthcoming 12 months may be excluded from the statement of current liabilities, for example in the case of refinancing. This requirement attempts to safeguard both existing and potential investors, to convey unambiguously, the liquidity position of the company, its ability to service its long term debt and remain an on-going concern.

Instead, HDL has misstated its true position to show a comfortable financial state when, in fact, on its own admission, its inability to service

debt had defaulted in both capital and interest, circumstances under which normally winding-up proceedings would be instituted.

The effect of misleading the public has been to sustain their interest in the share as a financially sound business, and permit continued trading of share in the stock market. The movement in share price cannot be disregarded in the events immediately after the publication of the in-effect falsified annual accounts. The price moved from Rs 10/- to Rs 22/50, an increase of 114% following the Colombo Stock Exchange's letter overriding Ameresekere's objections, and, for all intents and purposes, confirming that there were no irregularities. As mentioned above, the share price went upto Rs 40/-, and LB Finance disposed of its shares in the company in a steady stream of instalments, making a handsome profit at the expense of the deceived public. The record shows, for instance, that on January 9, 1992 just as the controversy was at its height, L. B. Finance sold 31,700 shares at just over 40/- per share. When the company, in an undated circular admitted that they had contravened the accounting standards, the price fell to what they were considered worth, by which time LB Finance and its sister-companies had made a killing. One can hardly envisage a 300% price increase on hearing that the Company had a deficit of Rs 1.2 billion, nor even that it couldn't generate sufficient funds to meet its loan interest, let alone capital plus interest. Can anyone under these circumstances honestly say that these amazing events were simply a miracle via the Fairy Godmother's wand?

Despite drawing to the notice of the Chairman, SEC, this gross matter of misrepresentation in the annual report, the Commission did nothing, although its own gazetted rules required the share to be suspended from being traded. In other, less influential instances, the SEC has been known to "interfere" as in the case of Kelani Cables and of Cargo Boat Company. What compounds this shocking state of affairs is the attitude

CHRONOLOGY OF EVENTS OF THE SCANDAL

Preliminary Agreement signed with Mitsui/Taisei for construction of the Colombo Hilton. All costs and supplies defined in this agreement. Project Plans of July 1980 reconfirmed	March 1983
Profitability forecast by Hilton International and Mitsui based on original plans	March 1983
Letter of award for construction to Mitsui/Taisei	March 1983
Original Plans submitted to UDA	October 1983
99-year lease of 7 acres at Echelon Square	January 1984
Investment Agreement, Construction Agreement, Supplies Contract, Loan Agreement and Design and Supervision Agreement entered into as approved by the Attorney General	January 1984
Government Guarantees granted	February 1984
Plans approved by UDA	March 1984
Prospectus issued by HDL	March 1984
Construction by Mitsui/Taisei begins	March 1984
Agreement Signed	April 1984
Requests for Progress Reports on construction	July 1985
New set of Plans submitted to UDA without Board approval (discovered in March 1990)	September 1985
Fire at Construction Site Office at which all plans, including HDL's copy "borrowed" by Architect, burnt	October 1985
Architect's completion certificate given and hotel handed over by M/T. Change in plans not indicated	April 1987
Hilton Hotel opened for operations	July 1987
Mitsui submits revised profitability forecasts on the basis of original plan of 452 rooms	July 1987
Discrepancy in number of rooms discovered by Director Ameresekere	October 1987
Mitsui profitability forecasts changed to tally with actual number of rooms (387)	October 1987
Memo to Board by Ameresekere stressing that loans can't be serviced even with 100% occupancy at a rate of \$100.00 per day	December 1987
Final Inspection by Architects conducted	March 1988
Request of independent engineering examination and inspection by Director (Govt) Fernando who alleges connection between architects and construction companies	March 1988
Choksy upholds architect's completion certificate	August 8, 1988
Final Inspection Certificate by Architects submitted. Still no reference to change of plans	August 25, 1988
Mortgage of hotel property to Mitsui/Taisei, done despite Board's rejection	July 1989
Commitment to mortgage hotel to Mitsui/Taisei discovered. Secretary/Finance directs deletion from Agreement	November 1989
Director Ameresekere raising discrepancies objected in writing to any payments to M/T until clarification received from architects. He states, unless matter properly resolved monies should be refunded to private shareholders	December 1989
Choksy accompanies Cornel Perera and Mitsui/Taisei to meet Paskaralingam where \$2 million paid to Mitsui/Taisei, of which \$1m from govt funds	January 1990
Choksy's second letter ratifying Architects' Inspection Certificates, despite Ameresekere's detailed protests	February 1990
Illegal substitution of plans discovered by Ameresekere and reported to the Board	March 1990
Government Director Shanmugalingam reiterates that guarantees were given on the basis of original plans	March 1990
Ameresekere's Memo to the Board indicating the serious nature	

Cover Story II

of the problem and suggesting arbitration	April 1990
HDL admits that it does not have Bills of Quantities & Final Measurements to support Architects' certificates	April 1990
Cabinet-appointed committee assigned to negotiate with Mitsui/Taisei	April/May 1990
J.F.A. Soza (ret'd. Supreme Court Judge) appointed by Finance Ministry as one-man-committee to investigate this issue, and finds no irregularities	May 1990
Deletion of mortgage clause surreptitiously included in Agreement	May 1990
UDA discovers that it doesn't have original building plans approved in March 1984	June 1990
HDL admits not possessing owner's copy of original plans	July 1990
HDL admits not possessing original schedules of furniture, fixtures and equipment of the supplies contract with Mitsui	September 1990
Ameresekere institutes legal action on behalf HDL against Mitsui/Taisei aided and abetted by some Directors, before the District Court. The derivative action is premised on fraud by wrong-doers controlling the company.	
Judge issues Enjoining Orders preventing payment to M/T	September 1990
Accounts for year ending 31/03/1990 certified by Auditors (FRT) despite serious discrepancies brought to their notice by Ameresekere.	
Accounts in violation of AG and Enjoining Orders of Court	November 1990
Ameresekere removed from HDL Board of Directors	December 1990
Ameresekere institutes Accounts Action in District Court preventing HDL from adopting the certified annual accounts of 31/3/1990	January 1991
Wijeratne J issues Enjoining Orders preventing any payments to Mitsui/Taisei	January 1991
After having considered the objections of M/T District Judge Wijeratne issues Interim Injunction preventing any payments to M/T as there was no basis for such payment	October 1991
Second of many complaints (in over 12 letters) by Ameresekere to Stock Exchange and Securities Council regarding accounting violations. No action to date	October 1991
Application to Court by Ameresekere to conduct architectural inspection of hotel premises	March 1992
Solicitor General Shibley Aziz appearing for HDL opposes application by Ameresekere for an independent architect's inspection and examination supervised by Court on grounds that it would affect interests of M/T	March 1992
Interrogatories filed in District Court by Ameresekere	March, April 1992
Justice Palakidnar, President Court of Appeal allows Mitsui/Taisei and the Japanese Architects leave to appeal against the Interim Injunctions. Choksy and Shibley Aziz support this application.	January 1992
Ameresekere allowed Special Leave to Appeal to the Supreme Court by Justice Bandaranaike. Choksy and Aziz refused permission to participate	May 1992
Supreme Court presided by Chief Justice G.P.S. de Silva upholds District Court order and issuance of Interim Injunctions. The judgement states that Ameresekere has established a prima facie case of fraud with real prospect of success even in the light of the defence. The Interim Injunctions were granted to prevent "syphoning out of money" from the Company and the Country	December 1992
Repeated requests supported by specific charges and evidence by Vasudeva Nanayakkara, MP, to President to initiate an inquiry into this fraud (In addition to letters dated 08/8/91, 05/9/91, 18/11/91, 17/12/91)	Jan, Feb, March 1993
Choksy resigns from HDL Board of Directors on becoming a Cabinet Minister	June 1993

of the Chairman of the Securities Council, Stanley Jayawardana, and the Council's careless callous disregard for its own mandate in the face of the fraud taking place and being brought to their notice. Jayawardana adduces a host of excuses which are merely alibis for inaction and evading an investigation into the complaint because of obvious vested interests. For example, inadequate staff, pleaded by him, cannot be a valid excuse when a three member committee should look into the complaint.

Clearly, if the Commission did not intend to investigate such cases it really has no *raison d'être*. Moreover, he states in the *Daily News* of 9/8/91 "I would like to assure investors that the SEC is deeply conscious of its responsibilities to protect the interests of investors and I invite investors who have complaints or constructive comments or suggestions to write to the SEC." And later in the third of a series of press advertisements, "most certainly, you can expect that all valid complaints will be looked into in-depth, by either the Stock Exchange or the Securities & Exchange Commission, who will make a full inquiry and take the necessary action."

Jayawardana in his reply to Ameresekere of 3/12/91 then tries to justify his inertia by using the popular dilatory stratagem of "sub judice". As Ameresekere points out this refers to a court action brought against Mitsui/Taisei for an injunction against payment of dues by HDL because they had not completed the construction of the hotel according to its prospectus and the original plan, allegedly burnt and lost, at the hotel site and at Tokyo and the Urban Development Authority respectively! Misrepresentation of company accounts and the construction can are clearly two different matters, but it is in their coming together that they constitute the cover up of the decade.

As the matter had been on the agenda for discussion at the immediately-following meeting of the Securities Council, it is important to note that G. C. B. Wijesinghe, who had already allowed the inaccuracies