

# Saturday Review

## SRI LANKA

Vol. 3 No. 7

31st March 1984

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# WHO KILLED COCK ROBIN?

**CENSORED**

## What's in a Name? — much, very much!

Last week, I telephoned a top public official at Palaly to seek an interview.

As I mentioned my name, he asked me whether I am "Gamini Navaratne" or "Gamini Navaratnam."

I was surprised at this response because my name and my presence in Jaffna are known to him.

Besides, he is an avid reader of the SATURDAY REVIEW!

After I satisfied his curiosity on the first point, he asked me: "Are you a Sinhalese or a Tamil?"

I said "Sri Lankan" and there the conversation ended.

If this is the mentality and approach of top officials sent to the North by the Government, what can one expect from officials lower down the line?

## Select Committee

The Government is likely to move the motion to appoint a Parliamentary Select Committee to inquire into a recent speech made by the Chief Justice, Mr. Neville Samarakoon, on 3rd April.

Government spokesmen have indicated that the motion will be debated to a finish that day and a motion will be moved to suspend standing orders.

The SLFP's no-confidence motion against the Government is likely to be debated on 6th April.

## Official Version

The following communique was issued by the Ministry of Defence on 28th March:

This morning Sri Lanka Air Force personnel on their return after depositing money at a bank at Chunnakam fired at a group of terrorists when fired upon.

In the ensuing melee, terrorists as well as bystanders, numbering seven, were killed and several others injured.

In a subsequent incident at Mallakam, several persons received injuries.

The Ministry of State, in another communique, stated:

A policeman attached to Jaffna police station was shot at on 27th March on the way to the railway station by an unknown assailant.

## GA's Transfer Deferred

The transfer of Mr. Devanesan Nesiah, Govt. Agent of Jaffna, has been deferred for three months.



## Saturday Review

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GAMINI NA. ARATNE

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### STUDY OF THE PAST

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# A MOMENT — WITH DIOGENES

Diogenes was not totally unacquainted with the game of Cricket. In his boyhood days, besides playing marbles in the drain at Anderson Road, he used to wield the willow with his urchin friends who roamed about near the Kollupitiya Market. Of course, now his only exercise is walking and talking and this has given him a reputation of being a philosopher even as Gamini Disanayake's politics has given him a reputation of being a cricketer.

Diogenes had his education in the Night School, years before Gamini went to Trinity for his studies. But one thing both had in common. The reputation of Diogenes as a philosopher was thrust upon him because he loafed about the street talking nonsense and the reputation of Gamini as a cricketer was also thrust upon him because he loafed about the world as a successful politician.

"This is how reputations are made" Diogenes said "Talking of cricket, I heard the cricket commentary last week and was thrilled at the record last wicket partnership between Vinodhan John and Jayantha Amerasinghe. What a perfect Sinhala-Tamil partnership which saved Sri Lanka from disgrace!

"I thought to myself—if Vinodhan John was butcher-

ed and burnt in July at Ratmalana, what a loss it would have been for Sri Lanka Cricket. Vinodhan John took three New Zealand wickets at the very next match vs New Zealand.

"What a loss it would have been to Buddhist thought if the Ven. Rahula did not receive all the support and encouragement from Teacher Thangarajah from St. Joseph's!

"Let at least the cricketing fans and Ven. Rahula placate the Sinhala fury in the South against the Tamils who have nothing to do with what is happening in the North.

"The Irish in England have nothing to do with the Irish Terrorists and they never got bashed butchered and burnt even when Lord Mountbatten was a victim of Irish Terrorism in a bomb blast.

"Even as I talk to you, Vinodhan John has taken two wicket in the second innings of the New Zealanders. I hear it right now on the commentary from that pocket radio of the boy over there. Why can't Ven. Rahula preach love and friendship as a Buddhist dignitary and as a patriot? I am sure he is being misreported by mischief-makers. If the A.P.C. talks fail, it will not fail due to him. I like to meet him and learn the Dhamma from him. I am sure he will teach me the Dhamma.

"He is a Priest we can be proud of. Surely, he is not a Priest only in name. He is not a politician. He has no Tanha. He knows, whether in cricket or outside cricket, the dignity and equality of the Tamils must be meaningfully assured and this security is the responsibility of the State and the Sangha. He is not going to deny this.

"I don't want to meet the Foreign Professor of Philosophy who wants to have an interview with me. I want to meet Ven. Rahula. He is a Buddhist scholar of international repute. He has the solution for peace, and dignity for all the people in Sri Lanka. He will not allow one community to suppress and oppress another. I have great faith in him. Don't believe what the Press says about him. I want to meet him. I will meet him after he finishes his meditation in the morning, one of these days."

"Master", said his friend, "This Foreign Professor from the States is very anxious to meet you."

"What is he coming to meet me for? I am ignorant. I know nothing of philosophy. What can he learn from me?"

"He can learn the truth."

"There is no truth," said Diogenes, "beside the True Self. We live with truth and falsehood. In other words, with our True self and false self—with our large self and our tiny little puny self. We are split personalities, unlike animals, birds, insects and worms. They live on their instinct and have no conflicts.

"Man with his reason and intelligence has done a frightening mileage in a material world. That tiny little puny self in him has conquered nature. He has conquered everything except life and death. He can't create life and he can't eliminate death. He has discovered, however, the nuclear weapons to destroy Mankind.

"Discoveries are made by the little self inspired by a spark from the larger self. It is the larger self that gives the glow of Divinity to man. It gives him true Happiness. It is the realisation of the True Self that gives Man—Peace, Understanding and Contentment. Everything else is false.

"My true Self and your true Self and the true Selves of every human being are one and the same. It is the Divine Intelligence, the Divi-

### Let's be Courteous

Terms like "Thank you", "Sorry", "Please excuse me", "Beg your pardon" and "Please" appear to be fast disappearing from the vocabulary of most Sri Lankans, caught up in the frenzied race for existence in a harsh world.

One of the rare people who is trying to keep alive these old world virtues is Mr. S. I. K. Arnold, Chief Station Master, Jaffna.

Displayed prominently at the Jaffna Station are cards titled "Let's be courteous" asking people to Smile, say Thank You, etc.

ne Energy and the Divine Life. This is the Truth. There is no other truth. This knowledge is within us. This is all that I know. Be still. There is no Evil.

"Why is this American Professor coming to see me? Perhaps he has been awarded a scholarship to meet chaps like me. This fellow will go back. Having heard the simple truth from me, which he also knows, he will go back and complicate it with his intellectual jargon, he will do a lot of name dropping, mentioning the names of Hegel, Kant, Byron, Chaucer, Kingsley Silva, Gananath Obeyesekere and A. J. Wilson and with all the borrowed wisdom make a cocktail of it all, complicate it and take this simple truth beyond the understanding of the Common Man. He will add a lot of footnotes.

"Please tell him that I do not want to meet him. I want to meet the Ven. Rahula. He writes in a very simple way the simplest of Truths. I do not want to be transported into this intellectual elitist circle on foot notes. I am the Street Philosopher on my feet on Galle Face Green. We must not export our wisdom to the elite. Our wisdom is for all the peoples of the World."

### PATA PARLEY

The 33rd annual conference of the Pacific Area Travel Association (PATA) will be held in Colombo from 2nd to 6th April 1984. About 1,400 delegates and 100 invitees from the international travel press and media are expected to attend it.

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# The heir to the throne?

Is President Jayewardene grooming Mr. Lalith Athulathmudali for the succession?

This is the question that is agitating political circles following his appointment on 23rd March as Minister of National Security.

From Trade to Defence is a far jump — and a jump ahead of several other United National Party stalwarts who believe they have prior or better claims to the succession.

At least one of those affected by the new development displayed his anger by an outburst in Parliament recently on an unrelated subject.

The late Mr. S. W. R. D. Bandaranaike left the UNP Government of Mr. D. S. Senanayake in 1951 when he found that the "Old Man" preferred someone else to succeed him.

His assessment was proved correct when, after Mr. Senanayake's sudden death in 1952 Mr. Dudley Senanayake became Prime Minister in a devious manoeuvre to which the then Governor-General, Lord Soulbury was privy. This left Sir John Kotelawala and Mr. J. R. Jayewardene, who believed they had prior and better claims, to the Premiership, in a huff.

President Jayewardene has said he has no dynasty to maintain. Too true. His only son Ravi is not interested in politics. His favourite

nephew, Mr. Ranil Wickremasinghe, Minister of Education, is a political pup.

What could, or should, he do to assure an orderly succession by someone whom he likes when he is no longer on the scene? This thought must be uppermost in the mind of the 78-year-old leader as he goes about this business of State.

## RAJA YOGA

As is usual in Sri Lanka, the seers have been consulted by various politicians, all of whom have been told that there is a "Raja Yoga" in their horoscopes which could elevate them to Kingship.

Now, most of them are in a huff that Mr. Athulathmudali has been given the top-most berth in the Government after the President himself. When the President goes to the United States

of America in June, Mr. Athulathmudali will be in total command of the Armed Forces and the Police. The Prime Minister will be in the shade.

Mr. Athulathmudali has all the qualities, including the right caste, that is expected by most of our people of a person who aspires to the highest office in the land.

But the rumblings within the UNP are so ominous that his hopes may be dashed.

The power struggle within the UNP has become accentuated.

As Mr. Bandaranaike did in 1951, will a powerful section of the UNP break away to form a new party

with the party colour as orange, thereby possibly precipitating a general election?

The Intelligence Service Division of the Police could have their work cut out if they planted "bugs" under the breakfast and dinner tables of politicians who think no end of themselves.

As for Mr. Athulathmudali I wish him all success in his new job. Because he is not as familiar with Jaffna and its people as myself, I suggest that he read the past copies of the SATURDAY REVIEW, particularly No. 5, of the resurrected series, before he evolves the master strategy to achieve the objective which he said in his

## POLITICAL CAUSERIE

by Gamini Navaratne

first newspaper interview after assuming office that he hoped to achieve.

### ABSENT LEADERS

I am sorry if I hurt the feelings of most of the Tamil United Liberation Front leaders by blaming them—in my column in the 10th March issue—for being abroad for most of the time since July 1983.

One of them, Mr. M. Sivasithamparam, TULF President, has written a letter explaining why several of them, including himself had to go abroad.

It has not been possible to publish the letter for reasons stated on page 4.

But the fact remains that Tamil people were left leaderless at a time when leadership was most needed. They had no one to turn to at their greatest hour of crisis in the post-independence history of Sri Lanka.

No leader worth the name will start a movement and leave the people to face the brunt of repression and oppression. Even Mr. Rohana Wijeweera did not.

## 'Traditional Tamil Homelands'

The Editor, SATURDAY REVIEW.

I wish to comment on two recent news items that appeared in the so-called national Press and would crave your indulgence to grant me the valuable space to do so.

Even though a decision had been taken voluntarily by all parties concerned not to queer the pitch during the period of the Roundtable Conference, it is indeed a matter for genuine regret that the state-controlled Sunday Observer should have published an insane article titled "Traditional Tamil homelands is a myth".

The word "traditional", according to the dictionary, means, among other things, the following — "that has prevailed or accepted from generation to generation". It will, therefore, be appreciated that the Tamils are, in fact, correct in maintaining that the North and the East of this country has been populated by the Tamil-speaking people (both Tamils and Moors) for centuries and thus becomes the traditional homelands of these Tamil-speaking people.

Not only has Sunday Ob-

server thought fit to publish this insane article but it has gone on to publish a reader's letter in support of it, which maintains that the Sinhalese were driven out of the North and the East by the Portuguese and Dutch and that the Tamils and Moors came to colonise these territories as a result. This theory is so preposterous that it does not merit comment. It must, however, be stressed that the Tamils only claim these regions as their traditional homelands and not historical lands.

The other point on which I wish to comment is the alleged statement of the Chief Justice, Mr. Neville Samarakoon at a social function that the July 1983 riots were "not ethnic". This worthy individual who holds the highest judicial post in this country has a way of putting his foot in his mouth.

It was not very long ago that he said at a meeting of Sri Lankans in London that there was no racial discrimination in this country and, by way of illustration, went on to assert that his brother judges comprised Sinhalese Buddhists, Sinhalese Christians, Hindu Tamils,

## LETTERS

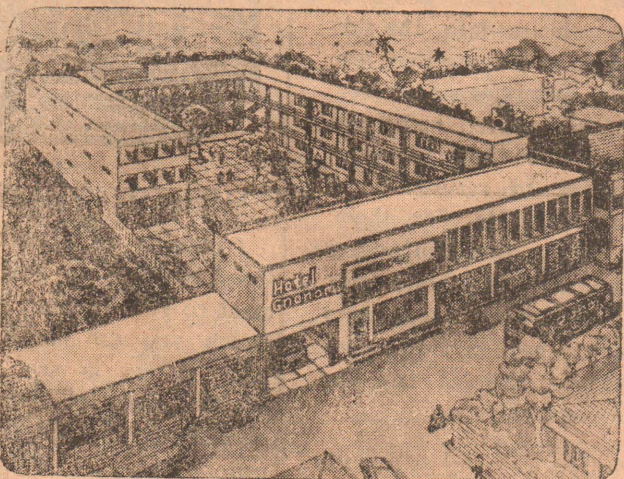
Christian Tamils, a Moor and a Burgher. What he failed to realise was that all his brother judges, regardless of their race, religion, etc., were there on the bench on their own merits and not because they belonged to this or that race or religion. Even if they all belonged to one race and religion, that should be no cause for complaint or applause in normal circumstances.

Now, as for his novel theory that the July 1983 riots were not ethnic, would he also contend that the disgraceful demonstration outside the homes of Supreme Court judges was also due to frustration with the establishment or would he, along with another VIP, maintain that in this democratic country the "Hoi Polloi" even have the freedom to demonstrate outside the homes of judges and the police have the freedom to ignore such demonstrations if they so wish?

S. Vengadasalam  
Thunnaalai South,  
Karaveddy.

(More letters on page 4)

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# The Little 'Blue Book'

The Editor,  
SATURDAY REVIEW

One is very much moved to read in the SATURDAY REVIEW of 17th March Dr. Nihal Jayewickreme's view that 'human rights are universal, inalienable and indivisible'.

But immediately my mind flashed back to the Seventies when the then Mr. Nihal Jayewickreme, enjoying power as Secretary to the Minister of Justice, published a little blue book, printed by the Department of Printing and distributed to the foreign delegates to the Conference of Heads of Non-Aligned States.

In 1974, referring to Lord Avebury, Mr. Jayewickreme is reported to have accused him trying to 'smuggle himself into a prison under false pretences' and whose report on human rights in Sri Lanka he said was 'completely devoid of truth'. He then had the power of suspending or modifying any provisions of the Prisons Ordinance and rules. Lord Avebury was rather inquisitive about the youths then detained without trial or charge under the emergency regulations.

In the little blue book, he has said that 'out of a total of Rs. 19.3 million granted for subsidiary food crops.... Jaffna district alone received Rs. 11.8 million'. It was all about Jaffna onions and chillies and not a word about Government subsidies on tea, rubber and coconut.

According to the book, minority groups in Sri Lanka 'enjoy a degree of prosperity often higher than the average member of the majority community'.

Indians lived apart from the indigenous people, did not integrate with them, created serious political problems where they were in a majority by electing members of their communal organisation virtually disenfranchising the Kandyan Sinhalese and so on.

What does the above escalate? We are reaping now what was sown then and before.

N. Deva Rajan  
Arasady Road, Jaffna.

SELF-IMPOSED BAN?  
The Editor,  
SATURDAY REVIEW.

No, Mr. Editor, never, never. You must ignore the fact that a censorship has been imposed on you and carry on regardless.

No government can suppress the TRUTH, though many have tried it. 'The Freedom of the Press' must be and should be the last

bastion of liberty and freedom. You must and ought to carry on.

All avid readers of your journal will stand by you and support your efforts.

B. Pushparajah  
Kopay.

## HELD UP

A letter written to the SATURDAY REVIEW by the Tamil United Liberation Front President Mr. M. Sivasithamparam, former M.P. for Nallur, on why a number of TULF leaders, including himself, had to go abroad after the tragic events in July-August 1983, has had to be held back because we have been asked by the Censor to refer it to the Ministry of State for approval.

The letter was in response to the 'Political Causerie' column in our issue of 10th March where in we blamed most of the TULF leaders for being abroad since July 1983.

-Editor

## DESPONDENCY AND URGENCY IN JAFFNA

The Editor,  
SATURDAY REVIEW,

A friend who dropped in thought that the title seemed contradictory. It would have been easy enough to answer the charge by saying that some in Jaffna were despondent and others were earnest and eager. But it would not have been true. For often it was in the same person or group that despondency and urgency seemed not merely to alternate with each other but to be so deeply intertwined as to be merely two aspects of the same intellectual understanding and two components of the same complex emotion.

In Jaffna recently what was more noticeable at the beginning was the despondency, the sadness, the feeling that things had gone beyond control that certain elemental forces of evil had taken control of the two extremes on either side of the great divide, while those in the centre were reduced to the status of helpless spectators. It was as if a frenzied bull with his equally enraged matador had broken out of the ring and stampeded on to the stands to injure and to kill all who stood in their way.

There are few persons on the streets after dark and even during the daylight hours movement is studied and restrained. It is as if the people of Jaffna had im-

posed upon themselves a stern code of self-discipline. It is dangerous to be between 18 and 30 in Jaffna today, and the closer you are to 18, the more dangerous it is to be young. In the University and in schools where young people gather together it is altogether rare to hear the loud banter of irrepressible youth. The sound of songs does not fill the air nor does noisy youthful laughter. It is as if a period of national mourning has been declared or as if a summons to silent prayer and meditation had been issued to the people.

Yet, one has not to stay long in Jaffna to sense the urgency that emerges from the very sadness, the hope that springs from the very hopelessness. The urgency

as late as the elections of 1970 the Federal Party had resolutely opposed what was then called the bifurcation of the country.

They ask whether we ask ourselves how it is that the people of Jaffna, once so quiet and so conservative in the matter of respect for established law and order as to ostracize anyone who carried anything larger than a small penknife, now so often get the morning headlines for violence exerted or violence endured.

They ask us to hear the cry Eelam as the desperate cry of a desperate people and we may hope that the cry will probably be muted as fast as it arose if recognised grievances are redressed and rational solutions are genuinely implemented.

# LETTERS

gives evidence of itself in two ways.

One: Let the worst that has to happen, happen quickly. For the disaster itself cannot be much worse than the agony of the unending suspense. What has to happen? A massive uprising of the militant adolescents or a blanket come-down of the Government forces, or both in an orgied bloodbath, in which no one wins but both lose blood and life and all?

The other: There must be a rational solution. That everyone has tremendously to lose if it is not found is, they feel, the best guarantee that it will be found. The thought of failure is altogether too terrible even to consider. They hope, no matter if it is against hope, that something must come from the All Party Round-table and from other initiatives towards rationality. It is my view, it may be my own hope, that this position would win on a numerical count of people in Jaffna.

They refuse to believe that all of us in the South could have forgotten the unequivocal 1977 Government recognition that the Tamils have legitimate grievances in the areas of language, land, employment and education.

They ask whether we in the South remember that even

From the looks on their faces, it seems that the same sense of despondency and urgency fills the Armed Forces and the Police in Jaffna. No soldier or serviceman moves unaccompanied in Jaffna. Service trucks move as if in battle formation. They drive at breakneck speed along the narrow main roads not because they delight in driving pedestrians and even other vehicles into the side drains but because they fear surprise ambushes and attacks. They, too, have their families at home and desperately want to return home alive and whole. For them, too, there is despondency broken only by hope that the madness is temporary and that sanity and peace will soon return to the land.

Military control is not the answer and may only deepen confrontation. Parents in Jaffna are concerned about this: children barely up to the age of reason are losing all fear of heavy armoured trucks and the game that has begun to thrill them most is cops and robbers. The fundamental answer to the non-cooperation of the people is not to terrorize them into cooperation but to seek all possible avenues—and they are by no means exhausted to win that cooperation.

The fundamental answer to

militancy is not military.

The way to meet despondency is to act with urgency in order to discover all that in history in political science and in the art of human living together can contribute to the solution of the greatest and most anxious problem of our times.

K. Chula Piyadasa  
Colombo 3.

## GOOD WISHES

The Editor,  
SATURDAY REVIEW,

We had the opportunity of reading your valuable journal recently.

We feel sincerely that it is worth reading this paper to understand correctly what is going on in the North and elsewhere.

Our Peasants Congress is interested in the Tamil people's struggle for their rights, their culture, and their education and their freedom.

In these circumstances, we would like to exchange our experiences and strengthen our friendship.

With best wishes and greetings!

Dharmapriya Jayakody

Vice-President  
Peasants Congress  
Minuwangoda.

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# No 'Star Chamber' in Sri Lanka

(Continued from last week)

Judges, however independent in their tenure and in the discharge of their duties, are bound to administer statute law in accordance with its terms. They cannot question its wisdom or its efficacy. Whatever their private feelings be, they will nonetheless be bound to give effect to the law. They have to administer justice according to the law. They cannot by way of interpretation distort the language of an act of Parliament as to make it accord with what they think is reasonable.

## Emergency Rule

It is not the law that statutes invading the liberty of the subject should be construed after one manner and statutes not invading it after another: that certain words should in the first class have a meaning put upon them different from what the same words would have put upon them when used in the second. The tribunal whose duty it is to interpret a statute of the one class or the other should endeavour to find out what, according to the well-known rules and principles of construction, the statute means and if the meaning be clear to apply it to that case.

Should the statute be ambiguous, equally susceptible of two meanings, one leading to an invasion of the liberty of the subject, and the other not, it may all be that the latter should be preferred on the ground of the presumed intention of the legislature not to interfere with it.

In construing statutes or regulations the courts should show the greatest solicitude to protecting the liberty of the subject. But they cannot go beyond the natural construction of the statute. Their function is to give words their natural meaning and not put a strained construction on words whatever the terms be.

As Lord Justice Scrutton said, "The Jurisdiction of the Majesty's judges was of one and the only refuge of the subject against the unlawful acts of the sovereign. It is now frequently the only refuge of the subject against the unlawful acts of the executive, the higher officials or more frequently the subordinate officials. I hope it will always remain the duty of His Majesty's Judges to protect these people."

I conceive that it is no less the duty of our Judges to afford the same protection,

provided they bear in mind that they must proceed with the utmost impartiality and caution lest they unduly fetter the legitimate action of the Executive.

The greatest of the common law presumptions is that Parliament does not intend to deprive the subject of his common law rights except by express words or necessary implication. This is the generic presumption of which the following are species; that in the absence of express words or necessary intendment, statutes are not to be interpreted so also to authorise interference with the liberty of the person, but this presumption may yield to the maxim—*Salus Populi est Suprema Lex* in wartime or emergency.

During an emergency, it cannot be disputed that the Executive should be armed with necessary powers to bring the situation under control and to restore law

emergency has to be brought under control by strong measures, irrespective of the principles of Magna Carta. Very wide powers have to be given to the Executive to act on information or even on suspicions in matters affecting the interests of the State. The responsibility for giving these powers rests not with the judges, but with the President and Parliament. The power is committed not to the judges but to the competent authority appointed by the President and it is upon him and not upon the Judiciary that the responsibility for the exercise of that power rests. The judges have only to be satisfied that there is ground for the exercise of these powers.

The Executive is geared to defuse the emergency. The judges are ill-equipped for

alert that any coercive action is justified in law.

Emergency or no emergency, the judges must not surrender their supervisory powers to see that law, whether it consists of statute law or regulation, are conformed to and that the executive in its zeal does not act in excess of powers vested in it by that law or in disregard of the reasonable restrictions enjoined by the law.

It will be an unfortunate day for Democracy and Rule of Law if and when courts succumb to the Executive and endorse all their actions irrespective of their legal validity.

We are able to see that in the last few years respect for law and order is declining among the people. One frequently hears of offences against person and property being committed in broad daylight or in the highways

the inefficiency of the Police. Respect for law is not merely a question of enforcement. It is cultivated and not ordered about.

One cannot also underrate the influence of religion and ethics as a binding and cohesive force on society. Prior to Sri Lanka obtaining independence, it was held that the country was effectively ruled not by a handful of foreigners and their local collaborators, but by the ethical and religious values cherished by the people which made them law-abiding. Can the spectre of rising crime be due to a deterioration of our value system?

During the pre-independence period the policing of the country was not so intensive as it is today. But respect for law was so great and its transgression so rare and difficult that an erroneous concept has prevailed that the system was more efficient than what it is today.

The service after independence has suffered by contrast. The efficiency of the Police is often judged by the relative absence of crime and the degree of success they achieve in bringing the law-breakers to the courts of justice for being dealt with according to law. When the criminal is brought to court, the court takes over the responsibility for dealing with him.

Police officers often feel disheartened by the solicitude shown for the offender by

(Continued on page 8)

by

Justice S. Sharvananda

and order. To achieve the desired end and of defusing the emergency, the Executive may sometimes exceed the statutory mandate and then the question of *ultra vires* arises.

In so far as the mandate is exceeded there lurks the elements of a transition to arbitrary government and therein of grave constitutional danger. That danger would be increased tenfold if the judiciary were to approach any such action of the Executive in a spirit of compliance rather than of independent scrutiny.

Maitland in his Constitutional history of England described the "Star Chamber" as a Court of politicians enforcing a policy, not a court of judges, administering the law. I am glad to say that, thanks to the concept of an independent judiciary, courts in Sri Lanka have never fallen so low for such description to be applied to them.

## Wide Powers

The courts are always keen to protect the subject's freedom. They do so both in the interests of the subject himself and in the interests of the State. In times of emergency, in the nature of things, there must be reasonable restriction of the subject's freedom in the interests of peace and order.

Lord Scrutton said "that a war cannot be conducted on the principles of the Sermon on the Mount and that it might also be said that a war could not be carried on according to the principles of Magna Carta."

I would say similarly an

that task and not competent to sit in judgment over the exercise of the very wide powers vested in the Executive in an emergency. They can only see that the powers are exercised within the prescribed limits. They can check the arbitrary or *mala fide* exercise of such powers, but cannot question the propriety of the exercise, if there is some basis for the exercise.

## Honest view

If the Competent Authority honestly takes a view of the facts which can reasonably be entertained, then his decision cannot be questioned in courts if Parliament gives extensive powers to an authority, the courts must allow them to him.

That does not mean that the role of the court in an emergency is that of a rubber stamp; such insinuation must be strongly repudiated. The court is not sub-servient to any organ of the State. The court's function is only to see that emergency powers are exercised in accordance with the law and not abused. The court will be vigilant in doing so and if it intervenes to set aside the action of the official, it does so, not in a spirit of competition to frustrate his action or to assert its superiority, but to see that the authority keeps within the bounds of the law and acts according to law.

The Judges are no respectors of persons. They stand between the citizen and any infringement of his freedom by the executive,

with impunity. The outburst of violence last July undisputedly hit the water mark for the disrespect and contempt manifested for law and order.

## Rising Crime

It is necessary to examine the problem of respect for law comprehensively. It is quite easy to place the blame for this rising crime in the country on diminishing respect for law and on

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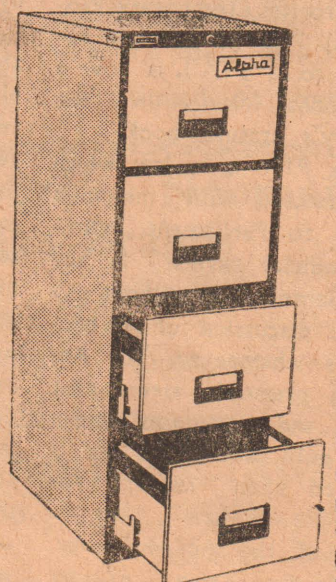
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# Prevention of Terrorism Act:

The Prevention of Terrorism (Temporary Provisions) Act, No. 48 of 1979, is described in its long title as "An Act to make temporary provision for the prevention of acts of terrorism in Sri Lanka, the prevention of unlawful activities of any individual, group of individuals, association, organisation, or body of persons within Sri Lanka or outside Sri Lanka and for matters connected therewith on incidental thereto". The bill for this Act had been examined by the Supreme Court on 17 July 1979. It had been referred to that Court by the President, with a certificate from the Cabinet that the bill was "urgent in the national interest" and that it was intended to be passed by a special two-thirds majority. The only determination required from the Court was whether or not the bill or any of its provisions offended any of the Articles of the Constitution whose amendment required approval by referendum as well. With the assistance of a Deputy Solicitor-General, the court answered that question in the negative, within twenty-four hours of the bill being referred to it. On 19 July, standing orders of Parliament were suspended to enable this bill to be presented and read a second and third time and passed at one sitting. The TULF did not attend Parliament on that occasion. The SLFP did, but having declared that it is "opposed unreservedly" to the bill 2, appears not to have voted against it: there were Ayes 138; Noes 'Nil' 3.

Section 29 of the Act confine its operation to a period of three years from the date of its commencement. On 11 March 1982, Parliament passed an amending Act, No. 10 of 1982, which, inter alia, repealed section 29. The Prevention of Terrorism (Temporary Provisions) Act (hereinafter referred to as 'PTA'), is now a permanent law in the country's statute book.

The PTA is a law which was enacted with minimum notice to Parliament, without judicial review in any real sense, and without any public discussion of its provisions whatsoever. The Act in its preamble asserts that "men and institutions remain free only when freedom is founded upon respect for the Rule of Law". Any analysis of the Act, however, reveals that many of its

provisions are themselves contrary to the accepted principles of the Rule of Law. The preamble adds that "other democratic countries have enacted special legislation to deal with acts of terrorism"; in fact, the Minister of Justice who introduced the bill sought to draw a comparison with the Prevention of Terrorism (Temporary Provisions) Act 1976 of the United Kingdom. Again, an analysis of the Act demonstrates that many of its provisions draw inspiration, not from the British Act, but from the infamous 1967 Terrorism Act of South Africa.

The following are the principal features of the PTA. In several respects, the Law offends against universally accepted international norms, particularly those set out in the international Covenant on Civil and Political Rights (ICCPR) which Sri Lanka ratified in 1981, and in Sri Lanka's own 1978 Constitution.

## 1. Retrospective Operation

"Unlawful activity" under the PTA is defined to mean: "any action taken or act committed by any means whatsoever, whether within or outside Sri Lanka, and whether such action was taken or act was committed before or after the date of coming into operation of all or any of the provisions of this Act in the commission or in connection with the commission of any offence under this Act or any act committed prior to the date of passing of this Act, which would, if committed after such date, constitute an offence under this Act".

Several of the offences created by the PTA already exist under the Penal Code, the Firearms Ordinance and the Offensive Weapons Act. However, the penalties attached to these offences have been considerably enhanced by the PTA. For instance, the offence of kidnapping or abducting, which is punishable with imprisonment for a term not exceeding seven years under section 356 of the Penal Code, is made punishable with a mandatory sentence of imprisonment for life and the forfeiture of all movable and immovable property held by the offender on the date of the commencement of the Act. Similarly, the offence of mischief to property, which is punishable with imprisonment which may extend to two years under section 410 of

the Penal Code is, under the PTA made punishable with imprisonment for a period not less than five years and not exceeding twenty years and the forfeiture of property.

Some of the offences appear to be new. For example, any person who:

by words spoken or intended to be read or by signs or by visible representation or otherwise causes or intends to cause commission of acts of violence or religious, racial or communal disharmony or feelings of ill-will or hostility between different communities or racial or religious groups, is guilty of an offence 5. It is perhaps very desirable that incitement to communal violence should be prohibited by law. But the phraseology of the sub-section cited above is so open-ended that even an attempt by a minority ethnic group to express publicly its legitimate grievances may be regarded by a law enforcement officer as an act which is likely to cause disharmony between different racial groups. Be that as it may, the relevance of this sub-section at this stage lies in the fact that it is a new offence.

It appears, that the PTA can be applied to make a person liable for "unlawful activity" by reason of any action taken by him before the statute came into operation, which action when so taken was not contrary to law. On the other hand, since the PTA clearly envisages the trial under its provisions of offences committed prior to its enactment (vide s.23), the effect of enhancing the penalties of existing offences is to secure the imposition of a penalty more severe than that which was in force at the time such offence was committed. Thus, the PTA like the Terrorism Act of South Africa<sup>6</sup>, is retroactive in nature. This is not only in breach of Sri Lanka's international commitments under the ICCPR (see Article 13), it also in violation of the fundamental right guaranteed by Article 13 (6) of the Constitution:

No person shall be held guilty of offence on account of any act or omission, which did not at the time of such act or omission, constitute such an offence, and no penalty shall be imposed for any offence more severe than the penalty in force at the time such offence was committed.

## 2. Offences Under the Act

The PTA seeks to prevent "acts of terrorism" by (a) prescribing enhanced penalties for certain existing offences, whenever such offences are committed in respect of "specified persons" or public property; and (b) by creating certain new offences.

In the first category are the offences of culpable homicide, kidnapping and abducting (which are made punishable with life imprisonment and the forfeiture of property), criminal intimidation, robbery, mischief, and the importation, manufacture, collection or possession of firearms, offensive weapons, ammunition or explosives or any article or thing used or intended to be used in the manufacture of explosives (which are made punishable with imprisonment for a period ranging from five years to twenty years and the forfeiture of property).

In the second category are the following new offences:

crimination in the matter of employment, or gives expression to a legitimate aspiration of a distinct community for a share of executive and legislative power. It is interesting to note under the South African Act, too, a person who has committed or attempted to commit an act which is likely "to cause, encourage or further feelings of hostility between the White and other inhabitants of the Republic" is regarded as a "terrorist".

(ii) Without lawful authority, to erase, mutilate, deface or otherwise interfere with any words, descriptions, or lettering appearing on any board or other fixture on, upon or adjacent to, any highway, street, road or any other public place<sup>8</sup>.

This offence is probably intended to deter the defacement of street names, an activity which was freely indulged in the early years of communal agitation. In the mid and late 'fifties, the

by Dr. Nihal Jayewickreme

(i). To cause or intend to cause commission of acts of violence or religious, racial or communal disharmony or feelings of ill will or hostility between different communities or racial or religious groups, by words either spoken or intended to be read or by signs or by visible representations or otherwise<sup>7</sup>.

It has already been noted that this broad definition could make a terrorist out of a person who articulates a genuine grievance of an ethnic minority such as dis-

"tar-brush campaign" resulted in the erasure of street names in all but the language acceptable to the wielder of the tar brush. In consequence, some hardship must have been caused to sections of the community, whether they be pedestrians or motorists. In South Africa however, it is only when a person does any act which is likely "to obstruct or endanger the free movement of any traffic on land" that he is regarded as participating in "terroristic activities"<sup>9</sup>

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# A Critique

(iii) To harbour, conceal or in any other manner prevent, hinder or interfere with the apprehension of, a proclaimed person or any other person, knowing or having reason to believe that such person has committed an offence under the Act 10.

This offence is in almost identical terms to section 3 of the Terrorism Act of South Africa:

Any person who harbours or conceals or directly or indirectly renders any assistance to any other person whom he has reason to believe to be a terrorist, shall be guilty of an offence and liable on conviction to the penalties provided by law for the offence of treason.

This second category of offences are all punishable with imprisonment for a period not less than five years and not exceeding twenty years and with the forfeiture of property.

A "specified person" is defined to mean the President, a diplomat, a member of Parliament or of a local authority, a member of a Special Presidential Commission of inquiry; or of a commission of inquiry; a lawyer, juror or officer of court; or a member of the police or of the armed forces. A witness to an offence is also similarly protected.

In recent years, ethnic violence has manifested itself in four forms:

1. Attacks by members of one ethnic group on the person or property of the members of another ethnic group, as happened on a wide scale in 1956, 1958, 1977, 1981 and more recently, in July 1983,

2. Attacks by police and service personnel on civilians and on private property, such as the burning of Jaffna in May/June 1981 and the summary execution of civilians, also in Jaffna, on 24 July 1983.

3. Attacks by politically-motivated members of an ethnic group on the person or property of other members of that same ethnic group who do not share those political motivations such as the killing of Alfred Duraiappah, the SLFP Mayor of Jaffna, in 1975 and of several UNP organisers in the North in more recent times.

4. Attacks by politically-motivated members of an ethnic group on law enforcement officers and other persons in authority, and on public property, which is now a regular occurrence in the Northern and Eastern Provinces.

Each of these forms of violence is terrorist in nature. Yet, the PTA seeks to prevent only the last-mentioned manifestation. The enhanced penalties are applicable only if the violence is directed against a "specified person" or public property. In short, the terrorism which the PTA contemplates is that which is directed at the state machinery. The small category of persons it seeks to protect are high State functionaries and law enforcement officers. This is in sharp contrast to the British Act which understands "terrorism" to mean: the use of violence for the purpose of putting the public or any section of the public in fear 11.

The British definition is narrower in content, but is directed specifically at the evil which is sought to be contained and eradicated.

### 3. Detention Without Trial

Article 9 of the ICCPR requires the Sri Lanka Government to ensure that:

(a) Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.

(b) Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. In shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and should occasion arise, for execution of the judgment.

(c) Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide if the detention is not lawful.

Each of these principles, though now re-affirmed in Sri Lanka's 1978 Constitution, is violated by the PTA:

1. The Minister may order the detention of a person or restrict his movements for a period of eighteen months if he "has reason to believe or suspect that such person is connected with or concerned in any unlawful activity." The restriction order may apply to residence, employment, movement or to political activity. No charge need be made, nor any further reasons be given for the arrest.

The Minister's order is "final and shall not be called in question in any court or tribunal by way of writ or otherwise". This means that the person arrested will not be brought before a judge; will not be brought to trial; and will not be able to take proceedings before a court to test the legality of the detention. He is completely at the mercy of the executive. There is an Advisory Board appointed by the President to which he may make representations, but the Board's only function is to "advise the Minister in respect of such representations"; the Minister is not obliged to act in accordance with such advice. The detainee will be held "in such place and subject to such conditions as may be determined by the Minister". This means that the Prisons Ordinance and the Rules made thereunder, which seek to give effect to the UN Standard minimum Rules for the Treatment of Prisoners, will not apply. Accordingly, a detainee may be held incommunicado and denied visits from relatives and lawyers if the Minister so determines. Even the fact of his arrest or the place of detention may not be communicated to his family.

2. A police officer not below the rank of Superintendent who, without a warrant, arrests a person "connected with or concerned in or reasonably suspected of being connected with or concerned in any unlawful activity", may keep such person in police custody for three days without producing him before a magistrate. This is 48 hours longer than the time permitted under the normal law. There are no rules which regulate the treatment of a suspect thus held in police custody. His family is not required to be notified, nor is he entitled to consult a lawyer or receive a visit from a relative. In the experience of many countries, circumstances such as these often lead to the abuse of power by law enforcement officers.

3. If an application is made to remand a person who has been arrested by the police, the magistrate "shall make order that such person be remanded until the conclusion of the trial of such person". The magistrate's judicial discretion is transformed into a purely ministerial function. He is not required to satisfy as to the necessity for remand nor as to the adequacy of the evidence available against the

Based on a paper presented at a seminar on "Security in a Multi-Ethnic Society" held at the Marga Institute, Colombo, early this month.

suspect. The purpose of bringing an arrested person before a judge is three-fold: firstly, to interpose a person is independent both of the executive and of the party concerned; secondly, to enable such person to hear the individual brought before him; and thirdly, to enable him to review the circumstance militating for and against detention and to order release if there are no such reasons. None of these purpose can be served when the magistrate is directed by law to make an order of remand.

4. After criminal proceedings against a person remanded under the PTA have commenced with the serving of an indictment on him, the Secretary to the Ministry of Defence may, "if he is of opinion that it is necessary or expedient so to do, in the interests of national security or public order", transfer such accused person from the custody of the Commissioner of Prisons to the custody of "any authority", to be held "in such place and subject, to such conditions as may be determined by him having regard to such interests". When such a transfer is effected, "the provisions of the Prisons Ordinance shall cease to apply in relation to the custody of such person". Since the Secretary's order is "subject to such directions as may be made by the High Court to ensure a fair trial of such person", some of the salutary provisions of the Prisons Ordinance, such as regular access to defence lawyers, will probably continue to operate. But if an accused person is handed over during the pendency of his trial either military or police custody (the only two authorities, apart from the Prisons, who have the capacity to hold prisoners), the effect it would have on his trial would be almost irremediable. On the one hand, the police may continue to interrogate him even while his trial is proceeding, and thereby disengage his mind from his immediate trial. More seriously,

while police and service personnel are being cross-examined on his instructions by his counsel, and even while he is giving evidence on his own behalf, he would be returned each evening on the adjournment of court, to the custody of his accusers. This is a provision which is perhaps unique in criminal jurisprudence for the reason that it destroys the very basis of a fair trial.

The British Act does not provide for an executive detention, although it does enable the police to arrest a person without a warrant and then hold him in custody "in such place as the Secretary of State may from time to time direct" for seven days (the last five days being with the sanction of the Secretary of State.) 12

Under the South African Act, however, persons suspected of being terrorists or of withholding information relating to terrorists may be detained by the police without the need for an order of court, for an indefinite period for purposes of interrogation. Such a person may be detained until the Commissioner of Police is satisfied that he has satisfactorily replied to all questions at the said interrogation or that no useful purpose would be served by his further detention. 13 As in Sri Lanka, "no court of law shall pronounce upon the validity of any action taken under this section, or order the release of any detainee." 14

### Trial of Offences

The PTA Contains several deviations from normal criminal procedure. For instance the usual pre-trial non-summary magisterial inquiry is not held. An accused person, therefore, has no opportunity of knowing in advance the evidence that will be brought against him at the trial. More importantly, the right to trial by jury is withdrawn. Every trial takes place upon indictment before a Judge of the High Court sitting alone without a jury.

(Continued on page 8)

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# No Star Chamber...

(Continued from page 5)

the court. In the court's concern for his reform and rehabilitation, very little attention is shown to the victim and the punishment meted out is inadequate. As a result, criminal justice increases a victim's trauma and his feelings of frustration. Besides, the police also become apathetic and society suffers in consequence.

We have to keep in mind that the police system is only one aspect of criminal justice system. Delay in the trial of the offenders affects the efficiency of that system. It has been quite appropriately stated that justice delayed is justice denied. Every effort should therefore be made to expedite the early disposal of trials of accused, and sentence must be made to fit the crime.

The efficiency of the police system is often judged on one side by the results in the spheres of maintenance of law and order and, on the other, by the public acceptability of the methods employed to preserve peace. The end of law, it is said, is not to extinguish individual liberty but to regulate and preserve it. The degree to which the law enforcing agency has occasion to restrict individual liberty for the common good determines at once both the popular image of the police and its efficiency.

Quite often we hear people saying that the Police have not yet outlived their colonial styles of functioning. While this may be true to very small extent, one has a right to ask whether the people have on their part performed their duties as law-abiding citizens in a free country, by offering their co-operation to the apprehension and successful prosecution of offenders. Anyway, the preservation of law and order is the first responsibility of the State. The Police and the courts are the agencies of the State charged with that function.

## The Bar

In the drama of the law, Judges and advocates play complementary roles. But fundamentally those are not distinct and separate roles. A judge must often take the part of the advocate and no advocate can become great unless he has also the qualities of a judge. In the great task of administration of justice, there is, so to say, a division of duty. The division is necessary in the interests of thoroughness, efficiency and impartiality. The decision of Judges reflect to a large extent the assistance which they have received from the Bar.

The service rendered by judges demands the highest qualities of learning, training and character. These qualities are not to be measured in terms of pounds and pence and according to the quantity of work done. A form of life or conduct far more severe and restricted than that of ordinary people is required from judges and has been most strictly observed. They are at once privileged and restricted. They have to present a continuous aspect of dignity and decorum.

To a certain extent, isolation and detachment from social life are essential for a person who occupies the post of a judge, because only by maintaining such a posture can one create in the public mind the requisite confidence in the man's integrity, independence and detachment as a judge sitting on the bench.

## Unique Status

Though the Judiciary is the weakest organ, in terms of coercive power, in a democratic structure, the judges enjoy a unique status. Their security of tenure and irremovability except for good cause make them less vulnerable to day-to-day pressures and momentary gusts of passion and this affords opportunities for more dispassionate consideration of competing claims. Selected as they are from a group of professional men who are specially trained to make decisions in terms of principles rather than expediency, disregarding extraneous matters and irrelevancies, they are better equipped to deal with sensitive or controversial issues with a detachment and balanced judgment.

The judges have a heritage of a long tradition of impartiality, integrity and independence. They stand between citizen and citizen and between citizen and the State in the vindication of legal rights. In any realistic appraisal of the role of the Judiciary, we cannot overlook existing constraints which are part of the constitutional structure and their impact on the Judiciary. We have to have regard to its limited capacity to exercise coercive powers, its dependence for financial resources and the general unwillingness on the part of other organs of government to give up their powers. So, in the state of this present realities of the power structure, while the Judiciary enjoys a certain prestigious position, it is well to recognise its relative competence and its inability to involve itself in

a power struggle with the other two organs of the State.

In a democracy, the elected representatives of the majority exercise supreme power and, as it should be, play a more creative and dynamic role than judges. Assumption of such role by judges will erode its tradition of impartiality and independence and endanger its credibility.

Next to the approbation of his conscience, the approval and appreciation of his judicial work by the members of the Bar and the litigants is the highest reward for any Judge.

## Public Confidence

Let us remember that the strength of the court lies in the confidence that it enjoys from the litigating public and its representatives - the members of the Bar.

It must be the duty of all lawyers and judges to maintain the confidence of the public, for it is the confidence of the public which is the sole basis of the strength and the status of the judiciary.

It may sound platitudinous, but it is nevertheless absolutely true that the success of democracy in our country depends substantially, if not wholly, on the success of the Rule of Law. In a modern democratic state, the functions of the Legislature, the Executive and the Judiciary are well-defined and the spheres of their respective activities are well-established. The progress and stability of a modern democratic state depends upon the vision, the wisdom and the foresight of the Legislature, the efficiency and incorruptibility of its Executive and the independence, impartiality and integrity of its Judiciary.

The edifice of democracy has to be built on the sure foundation of a fearless but informed Judiciary and any erosion in the quality of members comprising it is bound to reflect ultimately in the success of our democratic system.

Professor Schwartz in his book *American Administrative Law* has aptly observed 'that the quality of justice depends more upon the quality of the men who administer the law than the contents of the law they administer'.

In conclusion, I wish to state that, though it may sound visionary or utopian, I always like to look upon courts of law as temples of justice. It is our proud privilege as judges to be working at this time in the history of our country. Let us contribute to the progress and democratic development of the country by doing

# PREVENTION OF TERRORISM....

(Continued from page 7)

The normal rules of evidence have also been varied. For instance:

1. Under the Evidence Ordinance, a confession made to a police officer or while in police custody to any other person (except a magistrate) is inadmissible. The inadmissibility of such a confession perhaps often makes it futile for a police officer to subject a suspect to threats or inducements during the limited period of 24 hours that such suspect remains in his custody. In fact, it is probably one of the most effective safeguards against the use of torture while in custody. The PTA now authorises the use against an accused of such a confession, provided that in the case of a confession made to the police it has been made to an officer not below the rank of an Assistant Superintendent. This purposeful change in the law must be viewed in the context of another provision in the PTA which now enables a suspect to be held in police custody for prolonged periods, without access to lawyers, relatives or to a judge.

2. Under the Evidence Ordinance, a confessional statement made by one accused person effecting himself and any other accused persons is admissible only against the maker of it. The PTA enables such statement to be used as evidence as against the other accused persons, too, if it is corroborated in material particulars by independent evidence.

3. A document found in the custody, control or possession of an accused person, or of an agent or representative of such person, may be used as evidence against such person without the maker of such document being called as a witness and the content of such document may be treated as evidence of the facts stated therein. An almost identical provision exists in the South African Act 15. What it means, in effect is that a document may be acted upon against an accused person in the absence of any connection between such accused and the document, itself is genuine.

4. If in the course of trial, any witness were to contradict, on any material point, a previous statement made by him to a magistrate, our utmost, each one in his or her own sphere of activity, to attain the ideal which the Constitution has placed before us. I am sure that we will not be found wanting in our response to that summons.

(Concluded)

the judge may reject his evidence and act on such statement and then deal with such witness for intentionality giving false evidence in a judicial proceeding. This means that the evidence given on oath is as disregarded and a previous statement, which might well have been made under duress while being in prolonged police custody, is acted upon to the detriment of an accused person.

5. The PTA prescribes a mandatory sentence of life imprisonment and forfeiture of property in respect of certain offences, and a minimum sentence of five years imprisonment in respect of others if such offences are committed against "specified persons" or in respect of public property. The Criminal Law (Special Provisions) Act, No. 1 of 1962, contained similar provisions. That law was struck down by the Privy Council as being *ultra vires* the then Constitution. But the Supreme Court, which was called upon to apply the minimum and mandatory sentence while the law was yet in force, had this to say:

The Act removed the discretion of the Court as to the period of the sentence to be imposed, and compels the Court to impose a term of ten years' imprisonment, although we would have wished to differentiate in the matter of sentence between those who organised the conspiracy and those who were induced to join it. It also imposed a compulsory forfeiture of property. These amendments were not merely retroactive; they were also *ad hoc*, applicable only to the conspiracy which was the subject of the charges we have tried. We are unable to understand this discrimination. To the Courts which must be free of political bias, treasonable offences are equally heinous, whatever be the complexities of the government in power and whoever be the offenders. 16.

## NOTES

1. Parliamentary Debates, 19 July 1979, c. 1414.
2. Ibid., c. 1457: speech of Mr. Maithripala Senanayake.
3. Ibid., c. 1596.
4. S. 31 (1).
5. S. 2(1) (h).
6. S. 9 (1).
7. S. 2 (1) (h).
8. S. 2 (1) (i).
9. S. 2 (2) (k).
10. S. 2 (1) (j).
11. S. 12.
12. S. 12.
13. S. 6 (1).
14. S. 6 (5).
15. S. 5.
16. The Queen V. Liyanage 67 NLR at 424.

(Continued Next Week)



# D. S. Senanayake

## offered G. G. 60 : 40

(Continued from the issue of 10 March)

With this general understanding of the National Question, let us now proceed to study the specific situation in Sri Lanka. The first point that we must notice is that the National Question as it has developed in Sri Lanka is completely different from the way in which it had developed in other parts of the world. Normally, the national minorities are less developed both economically and culturally. Such was the case with the national minorities that inhabited the border regions of Russia at the time of the October Revolution. There, the task of advanced Russia was to help in the development of backward national minorities in its territory and to help them to develop as national states which were voluntarily united in a federation of Soviet Republics.

But, in Sri Lanka, we have the peculiar case where the Tamil minority is equally, if not more developed, than the majority Sinhalese community. Another distinguishing factor is that the Tamils were not conquered in battle. They were both separately conquered by European invaders and brought together inside a single multi-national state by the British. It is only during the last ten years that a progressively increasing "army of occupation" has been sent to the North to repress the people there. The overwhelming majority of soldiers are Sinhalese and there are hardly any Tamils in the Army. The soldiers are not only in an alien area but also speak an alien language which is not understandable to the local people. It is in these circumstances that the Tamils feel like a conquered people.

It is useless to have an armchair discussion as to whether the Tamils are a nation and whether they fulfil all the four conditions set out by Stalin to be considered as a nation. They may lack one or the other of these attributes. But the circumstances under which they are being repressed and harassed by a Sinhala "army of occupation" and the trauma experienced by the Tamils in the South during the July

1983 communal violence directed against them and the fact that nearly eighty thousand of them had to flee to Jaffna or South India has now entitled them to be considered as a nation even though several thousands of them still live as an interspersed minority among the Sinhalese.

### Much in Common

We must now trace the story of how these developments took place.

The Sinhalese and the Tamils are not different races. They speak different languages but share almost identical culture and belong to two religions which have many things in common. Race can only be defined in terms of physical characteristics that are inherited through the genes. There are several races that speak the same language-like those in the United States.

The popularly accepted mythical story of Vijaya and his 700 followers who are accepted to be the first settlers of Sri Lanka clinches the point. The story goes that, at the time when Vijaya was to be consecrated as a king, he wanted to marry a woman from a noble house and, therefore, sent for a princess from Madura to be his queen. His 700 followers also followed suit. It is their descendants who are now called the Sinhalese. Thus, from the very beginning, the Sinhalese are a mixed race. So are the Tamils.

Many times during Sri Lanka's history Sinhalese kings married Tamil princesses from South India. Some of the Sinhalese kings were themselves Tamils. Buvanaka Bahu VI, who married the daughter of Parakrama Bahu VI and became king, was the Tamil prince, Sapumal. Even the Karava, Salagama and Durava castes are reported to have originally come from India between the 13th and 18th century. ("Cast conflict and elite formation" by Michel Roberts). But they were fortunate in settling among Sinhalese people with whom they integrated, unlike the Indian Tamil plantation workers who came in the 19th century and were segregated inside plantation line rooms, thereby preventing them from assimilation with the Sinhalese.

Thus we have in Sri Lanka

two groups who speak different languages but have a common ancestry and culture. After the British conquest, when they were brought together inside a single multi-national state, the leaders of these two groups fought together to obtain more and more reforms from the British Colonialist. The story of how during the 1915 martial law days, Sir Ponnambalam Ramanathan braved the torpedo-infested seas to go to White Hall to plead the cause of the detained Sinhalese leaders, like Mr. D. S. Senanayake, is well-known. In fact, the first President of the Ceylon National Congress, which was formed in 1919, was his brother Sir Ponnambalam Arunachalam. In two successive elections, Sir P. Ramanathan won the Ceylonese educated seat in the old Legislative Council despite the fact that the majority of the voters were Sinhalese.

But as the imperialists gave more and more reforms, the leaderships of the two communities failed to agree about how to share the spoils. The apple of discord turned out to be the demand of the Tamil leaders for a separate seat in the Western Province. The Sinhalese leaders rejected this demand on the ground that it was a communal one. We will always find that the majority community would demand territorial representation which would give them more seats on account of their greater numbers while the minority community would ask for communal representation or safeguards in order to protect themselves from being subjugated by the majority.

This rift was the reason for the resignation of the Ponnambalam brothers from the Ceylon National Congress which they had helped to found.

### Adult Franchise

Then came the Donoughmore Constitution and the elections to the first State Council under adult franchise and territorial representation in 1931. The Donoughmore Constitution contained within itself the germs of communal dissension. Adult franchise and territorial representation are ideal for a homogenous country. But when the picture is complicated by the presence of racial and linguistic differ-

ences, adult franchise and territorial representation, would ultimately bring about the subjugation of the minority by the majority. This is what has happened in Sri Lanka.

But the situation was made worse in 1936 by the action of Mr. D. S. Senanayake in forming a pan-Sinhala Board of Ministers, excluding any representatives of the minority communities. This happened after the elections to the second State Council. The worst fears of the minorities were proved correct. Communal politics became the order of the day.

While the avowedly communal organisation, the Sinhala Maha Sabha, was formed in the south and was turned into an effective political organisation by Mr. S. W. R. D. Bandaranaike, in the north Mr. G. G. Ponnambalam, united the Tamils behind an equally communal organisation, the All Ceylon Tamil Congress, and put forward the demand of Fifty - Fifty.

to it in return for safeguarding of their economic interests in its colonies. This was the kind of freedom that was granted to India, Burma, Sri Lanka. Lord Soulbury came to an agreement with Mr. D. S. Senanayake, who never appeared before the commission in public but gave his views to Lord Soulbury in private. The Soulbury Commission rejected the demands of the Tamils for balanced representation 50 : + : 50 and granted Sri Lanka a parliamentary constitution with a Cabinet and Prime Minister. The Tamils who had played a lot of faith in British assurances were left out in the cold and became a permanent minority in parliament.

### Joined U. N. P. Govt.

Within a period of one year, the Tamil leader, Mr. G. G. Ponnambalam changed his tactics and decided on "responsive co-operation." He entered the Cabinet of Mr. D. S. Senanayake as Minister for Industries and was responsible for the Cement

by N. Sanmugathasan

Reduced to simple terms this demand meant that in a legislature of hundred members, fifty should be Sinhalese with the rest going to the minorities (25 to the Tamils, and 25 to the others).

Rumour has it that before the 1947 election, Mr. D. S. Senanayake offered, through Mr. A. Mahadeva - Sir Ponnambalam Arunasalam's son - that he would write into the Constitution a 60 : 40 ratio. But Mr. Ponnambalam was not enough of a statesman to accept it.

Then came the Soulbury Commission. This was the period when British imperialism was going through the transition from direct rule, to indirect rule, from colonialism to neo-colonialism. British imperialism had come out of the Second World War badly damaged and as a second class world power. It knew that it could no longer rule its colonies as formerly through the stationing of its own troops. It decided to come to a compromise with the dominant local bourgeoisie and transfer political power

Factory at Kankesanthurai and the Chemical Factory at Paranthuran.

He also voted for Mr. Senanayake's Citizenship Acts which deprived the majority of the Tamil plantation workers of their citizenship rights and voting rights.

This split the Tamil Congress and Mr. S. J. V. Chelvanayakam went out to form the Federal Party, which now put forward the demand for a federal state for the North and the East. Although he remained a member of Parliament till 1970, Mr. Ponnambalam lost the leadership of the Tamils which now passed to Mr. Chelvanayakam. Both these leaders were thoroughly bourgeois in their class nature and therefore anti-left. Although they had no hesitation in negotiating with the bourgeois leaders of the Sinhalese, they were averse to any agreement with the left, which was certainly sympathetic to the just demands of the Tamils.

(To be continued next week)



# 4-PARTY STATEMENT ON MAY DAY

THE "open economy" of the present UNP government has produced a most profound and dangerous crisis.

This crisis is not merely economic and financial. It affects the state structure and the political system itself. It has aggravated the crisis in inter-community relations that has developed under UNP rule. It threatens democratic processes and institutions that have evolved over the past half century.

In less than seven years all the government's boasts and promises have turned into their opposite.

Those who promised continuous economic development have now frozen future development activity. They are busily cutting down even the development projects started earlier.

Those who promised to lower the prices of foodstuffs and other essential goods now admit that these prices have increased several times and are still rising!

Those who promised more jobs dismissed over a lakh of workers in July 1980 for striking for higher wages. They are now laying off thousands more in the name of "financial discipline".

Those who spoke lyrically about the peasants had no difficulty in withdrawing the fertilizer subsidy and raising irrigation rates.

Those who promised to work for the poor and underprivileged have only helped a handful to become millionaires, while the vast majority find it difficult to make ends meet, keep out of debt, or feed and clothe their children.

Those who promised to uphold the freedom of the press have monopolised and misused the mass media for their own purposes while closing down and attacking newspapers and journals critical of government.

Those who promised in 1977 that general elections would not be put off even by a single day have had no difficulty in putting them off until the end of the 1980s through a spurious "referendum". They have devalued the vote through a fraudulent "proportional representation" system and by creating a "chit" Parliament, by virtually abolishing by-elections, and by destroying grass-root democratic bodies like the village and town councils.

Those who promised to do away with the need to rule through emergency powers have resorted to such powers during most of their term of office. They have

also made emergency powers part of the ordinary law of the land.

Those who promised to improve inter-community relations have presided over three of the most devastating examples of ethnic violence in recent times.

Those who spoke about ushering in a "dharmista" society have created a situation where bribery and corruption flourish where social morality is eroded, and where national cultures are debased.

Those who promised to uphold "law and order" now concede that lawlessness and violent crime have swollen to such proportions that even the elementary security and protection to which every citizen is entitled cannot be guaranteed.

Those who promised to defend and extend democracy have subjected democratic and trade union rights, as well as civil and fundamental rights, to constant and severe attack. The private hooligan armies of important governmental personalities threaten and assault trade unionists, and even the clergy, distinguished academics and judges. Such private armies are now to be legalised under the name of "Home Guards".

In the past seven years, the government has moved steadily from authoritarian to more openly dictatorial and terroristic forms of rule. The economic bankruptcy and social chaos it has created has provided an opportunity for important circles of the ruling class to agitate for the abolition of political parties as a further step in their drive for a more fascistic dictatorship or for military rule.

## External Threat

The government's almost total dependence on the imperialist powers in its desperate search for financial aid threatens to compromise the traditional non-aligned policy of this country in external affairs.

In the United Nations and Non-aligned Movement, Sri Lanka is coming to be viewed with suspicion and mistrust and regarded as a mere appendage of imperialist policy.

In addition to giving the transnational corporations and foreign banks an open field in Sri Lanka, the government is allowing the imperialists, especially the US imperialists, to expand their political and military presence in this country.

The Voice of America has already been given new facilities to expand its propaganda war against our neighbours and other friendly countries and to augment US

naval communications in the Indian Ocean. The US Peace Corps and Asia Foundation, which were earlier expelled for subversive activities, have been allowed to return.

The government's attempts to give the United States naval facilities at Trincomalee have already provoked international and domestic concern. A stream of high-level representatives of the US Departments of State and Defence are now visiting Sri Lanka in an attempt to obtain concessions before President Jayawardene's visit to the USA in mid-1984.

These efforts to involve Sri Lanka in the global and regional war strategies of US imperialism is already recklessly pushing the world to the brink of a nuclear holocaust. Its military and nuclear build-up in the Indian Ocean makes a mockery of the wish of the United Nations and the Non-aligned Movement that this ocean should be a zone of peace. This has brought to our doorstep the danger of involvement in nuclear war.

The UNP government has been able to get away with all this owing to the disunity that prevails among its opponents. It has further fostered this disunity by rudely interfering in the internal affairs of some opposition parties, often with the connivance and assistance of right-wing forces within these parties. Unfortunately the Left and progressive forces, who constitute the uncompromising opponents of the UNP and its policies, have not been able to close their ranks up till now and provide united leadership to the evergrowing anti-UNP opinion in the country.

Considering all this, the LANKA SAMA SAMAJA PARTY, the COMMUNIST PARTY OF SRI LANKA, the MAHAJANA EKSATH PERAMUNA, and the SRI LANKA MAHAJANA PAKSHAYA have decided to celebrate MAY DAY 1984 unitedly.

The main themes of our united MAY DAY demonstrations and rally will be:

1. Defend the living standards and vital interests of the working-people against the disastrous consequences of the Government's "Open Economy" Policies.

2. Defend democratic rights, institutions and processes against the Government's attempts to erode or destroy them.

3. Uphold Sri Lanka's sovereignty and national independence, oppose the Go-

## SPORTS

by Victor Kiruparaj

## Draw - Despite Sportive Declarations

The prestigious 86th of the North between Jaffna Central and St. John's ended in a draw despite a sportive declaration on the part of the former in the second innings setting a not too difficult task of scoring 202 in 90 minutes and 20 mandatory overs. The Johnian's never for a moment put up the shutters but played their normal game to collect 135 for 4 at close.

Jaffna Central, batting first, after winning the toss, lost two quick wickets with that of opener Karunraj and Andrew Gratton with but three runs on the board. Young K. Rajasekar and opening bat M. Mathivathanan then put down their heads, and in a dour struggle, took the score up to 65 when the latter fell a victim to Bartlett for a well-earned 32.

Skipper Sutharshan joined Mathivathanan at this stage and they plodded on to hoist 94 when the latter fell a victim to Muralidaran for 29.

It was a run crawl all the way and the first hundred came up in the woefully-slow time of 186 minutes. Sudarshan collected a cautious 54 and with his exit at 124 two quick wickets fell and the Centralites were in due straits after having lost the first seven wickets for 127. There was yet another dull and boring run crawl, and the Centralites managed to register 221 for 9 in 332 minutes of play thanks to an unbeaten 50 by tailender S. Jeyakumar.

The Johnians, who had but 65 minutes of play left raced to 51 for 2 at close on first day.

Continuing their overnight score, the Johnians were shot out for 142 after 130 minutes of play. A. Vaheesan top scored with an elegant 41 while useful contributions from P. Nishyanthan 22 and J. N. George 28 helped the Johnians to avert the follow on.

government's attempts to barter them away for still more crippling loans from foreign banks and imperialist-states.

4. Resist U. S. imperialism's attempts to involve Sri Lanka in its global and regional war strategies.

The signatories to the Statements are: Dr. Colvin R de Silva, Bernard Soysa, for L. S. S. P. K. P. Silva, Pleter Keuneman, for C. P. S. L. Dinesh Gunewardene, K. Anthony Perera, for M. E. P. T. B. Illangaratne, Vijaya Kumaranatunge, for S. L. M. P.

With a lead 79 of runs, the Centralites going in a second time hit up a breezy 122 for 3 declared in even time skipper V. Sutharshan being unbeaten on 59. Other useful contributions came off the willoos of K. Karunraj 25 and M. Mathivathanan a 21.

Set with the target of 202 runs to be made in 150 minutes of play, St. John's were 135 for 4 at close opener Kathirgamanathan top scored with an effervescent 45 while Vaheesan was unbeaten on 33.

Among the Central wicket-getters, Raviraj collected 4 for 55 in the first innings while Terry Maha Ganesalingam did well to claim 3 victims giving away 35 runs. K. Manojkumar's share was 2 for 08. Skipper Sutharshan took 3 of the four Johnian second innings wickets for 42 runs.

Among the Johnians, A. Sumanthiran bowled best to capture three of Central's first innings wickets for 20 runs. T. S. Bartlett also collected 3 wickets at a personal cost of 52 runs. Y. Muralidaran claimed two of the three Second Innings wickets of Central for 24 runs.

The following won the awards:-

1. Best Batsman A. Vaheesan (St. John's)
2. Best Fielder J. M. George (St. John's)
3. Best Bowler P. Raviraj (Jaffna Central)
4. Best All rounder K. Jeyakumar (Jaffna Central)
5. Man of the Match V. Sutharshan (Jaffna Central)

There was a big uproar among Central's supporters when Johnian A. Vaheesan was awarded the Best Batsman's prize. It was felt that Central's skipper V. Sutharshan, who scored a cautious 54 in the first innings and an unbeaten 59 in the second, should have been awarded the Bestman's award.

Instead, Johnian A. Vaheesan, who punched an elegant 41 in the first and a hard hit unbeaten 35 in the second, was awarded the Best Batsman's Trophy.

The panel of judges comprised Mr. S. Jendran, Mr. R. Naguleswaran, Mr. Y. Maurice and the umpires.

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# The Plight of the Repatriates

(Continued from last issue)

The objective of the scheme, viz. make the repatriate an owner cultivator, is undoubtedly laudatory, but it has not been fulfilled. The land colonisation schemes are located in the districts of Ramanathapuram, Maduri, Coimbatore, Tirunelveli, Thiruchirapalli, Salem and Dharmapuri districts which are drought prone with a mean rainfall around 850 mm per annum. The sample survey conducted by the ITES indicates that "all the schemes were non-productive of the investment and all lacked economic viability". On an average, almost a quarter to one-third of the land could not be made fit for cultivation even after three to four years of intensive efforts. The crop produced in the land could sustain the family only for six months on an average and for the remaining period, they had to look for jobs elsewhere. Many repatriates have left the land to be looked after by the elder people and have migrated to Kodaikanal and Nilgiris in search of jobs. Tk quote the report of the ITES "the survey results had decisively placed the non-productivity of the schemes beyond doubt". Not only have the repatriates dissipated the cash they brought from Sri Lanka and mortgaged their jewellery, but were involved in debt".

## Employment in plantations

Of the various schemes for the rehabilitation of repatriates, the most successful is the category of employment in plantations. It is unfortunate that only 4.2 per cent of the repatriates could be absorbed into this category. The environment and working conditions are ideally suited for the repatriates who were engaged in the same vocation in Sri Lanka. The government owned Tamilnadu Tea Plantations in Nilgiris provide employment to 1,900 families; the rubber plantations in Kanyakumari district has absorbed 234 families; the rubber plantations in Sulliya in Karnataka state provide jobs for 500 families; the Kerala Government owned rubber plantations at Kuthupuzha and Ayra have employed 1,000 repatriates; the cinchona plantations in

Valparai in Coimbatore district employ 125 families and cardamom plantations started by the Kerala Forest Development Corporation employ 150 repatriate families. In addition to daily wages, the workers are also entitled for paid holidays, quarters, medical facilities and free education for their children. The annual income ranges from Rs. 3,500/- to Rs. 4,000/-. The major thrust of the government should be to absorb as many repatriates as possible in plantations in different parts of India. Priority should be given to Sri Lanka repatriates in existing plantations whenever they embark on expansion. P. Nedumaran, President of the Congress(K), who visited Sri Lanka for an on-the-spot study of the Tamil problem has suggested that the repatriates should be rehabilitated in the Andaman islands.

3.3 per cent of the repatriates are employed in spinning mills and 4.9 per cent in other industries financed by the Repatriate Co-operative Finance and Development Bank. The Bank finances institutions to the extent of Rs. 15,000/- for employment of one person from a repatriate family. The share capital of the Bank, as on December 31, 1980 was Rs. 189.18 lakhs, of which the Government of India contributed Rs. 141.00 lakhs; Government of Tamilnadu Rs. 10.00 lakhs; Government of Andhra Pradesh Rs. 15.00 lakhs; Government of Karnataka Rs. 10.00 lakhs; Government of Kerala Rs. 6.00 lakhs; Co-operative Societies, partnership firms, companies and statutory corporations Rs. 2.78 lakhs and individual repatriates Rs. 4.40 lakhs. The objective of the Bank is to secure jobs for the repatriates by offering incentives to employers. The total number of repatriates employed upto December 31, 1980 was 2,163 and total amount of loan given to employers was Rs. 275.85 lakhs. Of this amount, Public Sector undertakings received Rs. 174.13 lakhs, Private Sector Rs. 71.54 lakhs and Joint Sector Rs. 12.18 lakhs.

For the repatriate, the change over from plantation to industry is an arduous task. Moreover, only one member of the family gets employment in industry,

whereas in the plantation in Sri Lanka in many cases more than one member in the family used to work. In spinning mills and other industries, the repatriates are given training for a period ranging from six months to eighteen months. He gets a stipend during this period which is hardly sufficient to meet the requirements of the family. Once he is absorbed on a permanent basis, he gets the pay and allowances which other employers receive. The employers frequently complain that the repatriates are not upto the mark. Management has also to face stiff opposition from the trade union to the employment of repatriates. In case of retrenchment or lock-out, the repatriates are the first to be affected.

Large number of repatriates who could not eke out a living out of small business and land colonisation are flocking to Kodaikanal and Nilgiris in search of a vocation akin to what they had

destitute repatriates are employed by contractors to cut trees and cultivate potatoes. It is estimated that nearly 15,000-20,000 repatriates are working in Kumarikadu itself.

The working conditions in Kumarikadu are abysmal. Engaged in felling trees and cultivating potatoes in an area, far removed from civilized life, the repatriates are at the mercy of the contractors for all their needs. A male worker is paid Rs. 5/- per day and a female worker Rs. 3/- per day as wages. There are no schools in Kumarikadu. Medical facilities are non-existent. The repatriates are crowded into thatched huts 6' x 4' in size. Due to poverty and helplessness many girls fall victims to sexual exploitation by contractors. When felling operations are complete in one place, the contractor moves to another area. If the repatriate wants to retain his job, he must keep the contractor in good humour.

The forests in Kumarikadu are getting exhausted and the whole process of felling trees and cultivating potatoes would come to an end

by Prof. V. Suryanarayanan

in Sri Lanka. They have exhausted their savings and loans and grants given by the government. According to B. Sivaram, Secretary of the United Planters Association of South India, about 50,000 repatriates have awarmed the tea estates in Nilgiris alone and are posing a serious problem to organised labour and estate owners. Gradually they fall victims to unscrupulous contractors who are on the look out for cheap labour. Repatriates in Kumarikadu fall under this category.

Kumarikadu is situated 30 KM away from Kodaikanal on an elevation of 7500 feet. The government has started a forest development scheme in Kumarikadu. Under this scheme, forests are leased out to Tan India Ltd. and South India Viscos Ltd. who, in turn, sub-lease the land to contractors. Tan India collects barks from trees for extraction of wattle and South India Viscos is using the trees as raw material for the manufacture of rayon. That land is leased out for two years to contractors who fell the trees, cultivate potatoes and do afforestation. Many of the

soon. 15,000-20,000 repatriates would be left in the cold with no means to ensure a living.

The CRNIEO has calculated the annual income of various categories of repatriates as follows.

Occupation	Number of Persons working per family	Average Number of days worked in a year	Man-days per family in a year	Average Annual Earnings per family
Industrial worker	1	274	274	3,240
Plantations	2	270	550	4,012
State Farm Corporation		197	394	2,466
Land Colonisation	3	182	546	815
Other Occupations	1	182	182	1,194

With the help of these figures, it is possible to examine where the repatriates stand in relation to the poverty line. The economists have put forward two standard indicators for calculating the poverty line. The first is a nutritionally balanced diet which means an intake of 2,400 calories per day. The second is a minimum level of living which takes into account nutritionally adequate diet plus require-

ments of housing, clothing etc. Taking both the criteria into account, the Planning Commission has defined poverty line as represented by an income of Rs. 65 per capita per month at 1977-78 prices for rural areas and Rs. 75 for urban population. Based on these figures, the overwhelming majority of the repatriates are living below the poverty line.

The study clearly reveals that the policies of the government to absorb the repatriates have not fulfilled their goals. The Central Government and the Tamilnadu Government must immediately undertake an evaluation of various schemes to find out the causes for this sorry state of affairs and adopt new guidelines to ameliorate the sufferings of the repatriates. There are number of voluntary agencies who are providing relief to the repatriates and the government must work in unison with them. While every effort must be made to find employment for the repatriates in plantations in different parts of India, it is apparent that all repatriates cannot be absorbed in the plantation sector.

In order to make the transition to a new life easy, the Government must provide vocational training to every able-bodied repatriate in Carpentry, Masonry, tailoring, mechanical work etc, and absorb them immediately after training in governmental and semi-governmental Organisations. Only by this method can the repatriates fulfil their long cherished dream of starting a new life in India.

## MEDICAL COLLEGE

In our report headlined "Opportunity for youth" on page 12 of our last issue, it was stated that a group of concerned citizens of Jaffna proposed, among other things, to eventually establish "a private school". What is proposed to be established is a private medical college.



# Saturday Review

SRI LANKA

## THE SATURDAY REVIEW CASE

The fundamental rights application (No. 85 of 1983) filed by Mr. K. Visuvalingam and seven others challenging

the Competent Authority's order banning the SATURDAY REVIEW has been listed for hearing before the Supreme Court on 7th May.

# USaid tied to UN vote

By J N PARIMOO  
WASHINGTON

The United States proposes to use its immense money power to influence the vote in the United Nations. Member-countries of the U.N. feel that those who vote with the U.S. will be rewarded with more liberal aid and those voting against that country may be punished with the curtailment or even withdrawal of aid.

The Reagan administration has tabulated the U.N. voting record of every country. Ten key issues have been selected and on every one of these issues the vote of each member-country in the U.N. assembly has been recorded to form a chart to its "voting behaviour."

Each year such a chart will be prepared to warn aid-receiving nations that how they vote in the U.N. will determine how much aid they get from the U.S.

On all the ten "key issues" India has voted indepen-

tly and not tied the U.S. line. Its voting score is, therefore, shown in the chart as zero out of ten." The other nations with a similar score are Iraq, Libya, Afghanistan, Syria, Nicaragua, Mozambique, South Yemen, Ethiopia and Cuba — from the non-aligned world — and Hungary, Czechoslovakia, Poland, Ukraine and the U.S.S.R. — from the communist world.

China's score is three out of ten, Pakistan five, Saudi Arabia three, Egypt four, Kenya four, Yugoslavia three, Nepal four, and Bangladesh four. According to the American analysis of the voting record, "the outcomes of the vote are more often favourable to Soviet positions than to the views of the U.S. Overall, the nations of the non-aligned world and the Western bloc countries agreed on only 20 per cent of the issues while 80 per cent of the time the non-aligned nations agreed with the U.S.S.R."

The non-aligned countries did not vote in favour of one bloc or against another. They voted on the "merits" of each issue but the Americans see the vote as a move against them or in favour of them. It is not the voting behaviour of the non-aligned world that has changed but perhaps American perception.

It was in November last that the two houses of Congress passed a law that requires the President to submit to the Congress "a full and complete report which assesses, with respect to each foreign country, the degree of support by the government of each such country during the preceding 12 months, for the foreign policy of the U.S."

The law requires that "none of the funds, appropriated or otherwise made available to this sub-section shall be obligated or expen-

ded to finance directly any assistance to a country which, the President finds, is engaged in a consistent pattern of opposition to the policy of the U.S."

Will India's "zero score" therefore, mean any drop in the U.S. aid? In answer to this question, it is important to recall that the U.S. bilateral aid to India is already so small that it does not even match the yearly interest payments that India is making to the U.S. for its past debts.

Next year, it will be paying as much as 114 million dollars as interest alone while it is scheduled to receive only 87 million dollars as aid.

There is little scope for any cut in this amount. It is already perceived as too small in comparison to the Indian population and poverty.

(Courtesy "The Times of India")

The other petitioners are Mr. M. Kanagarajanayagam, Mr. J. X. Phillippillai, Mr. V. Kanapathipillai, Mr. G. mini Navaratne, Mr. N. Kandasamy, Mr. Oscar P.L. Pereira and Mr. T. U. Cooray.

A second application (No. 6 of 1984) on the same subject filed by Mr. V. Kanapathipillai, Fr. Tissa Balasuriya and Mr. Manel Fonseka, is also pending before the Court.

In both applications, it has been contended that the closure of the SATURDAY REVIEW on 1st July 1983, using Emergency powers was a violation of the fundamental rights of freedom of speech and expression, including publication, set out in Article 14(1) of the Constitution.

The Secretary of the Ministry of State, who is the Competent Authority, the Inspector-General of Police and the Attorney-General have been cited as the first, second and third respondents, respectively.

## 7-POINT PLEDGE

The Thanthai Chelva Memorial Trust invites The Tamils of Sri Lanka to take the following 7 point pledge on the 86th birth anniversary of Thanthai Chelva falling on 31st March.

1. We pledge to continue our struggle for our right to emancipation by our steadfast dedication to Truth and Ahimsa, conquering hate by love, violence by non-violence, cleansing ourselves of racial animosities, true to the authentic ideal of our ancestors that, "Every country is my country and every man is my kinsman".
2. We resolve to work the political and economic institutions in our areas as harbingers of a new political and economic order based on partici-

patory democracy so as to create a truly Gandhian Sarvodaya Society assuring to all Peace and Justice, Freedom and Human Dignity.

3. Our commitment to create a Sarvodaya Society imposes on us a definite obligation in our personal lives to reject the institution of caste and the concept of class and other inequalities, and suggests a code of self-discipline to everyone of us.
4. The Sarvodaya Society we are after imposes on us a further obligation to share with our fellow men a simple life style, with a ceiling on each family's income, the rejection of the dowry system, women wearing the minimum of jewelry, and the adoption, so far as is

possible of the vow of swadeshi.

5. We shall endeavour to re-organise our education, formal and non-formal, integrating in it a system of libraries extending to all villages; not the least part of our education and vocational preparation, the opportunities that disabled children and young persons have are equal to those of non-disabled children and young persons.
6. We call upon our youth to form Shramadana Service Corps and invite local communities to help such service by forming Common Funds.
7. We resolve to conduct both festivals and domestic occasions on a subdued note so long as our goal is unrealised.

We are convinced that the adoption of this 7 point pledge, and its substantial fulfilment, will help to build our moral power by strength from within, and take us far on the road to our future.

— K. Nesiah

## CARRY ON REGARDLESS!

We are encouraged by the many letters and telephone calls received from readers to our query in the last issue whether, in view of the rigid censorship rules — rules applicable only to us — there should be a self-imposed ban on the SATURDAY REVIEW.

All of them were aghast at the very thought that we would cease publication once again.

The message from them was loud and clear: CARRY ON REGARDLESS.

If we cannot write freely about events in Jaffna — events that could affect the destiny of all Sri Lanka as well — then we will write about bees and birds! And still we would be assured of circulation!

Thank you, dear Readers.

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