

COMMISSION OF INQUIRY INTO AUGUST/SEPTEMBER, 1977
INCIDENTS HOLDEN AT BOY SCOUTS HEADQUARTERS, KANDY
COMMENCING FROM 9.30 A.M. ON 25TH JUNE, 1979

256TH DAY

Same appearances as before.

A. S. SENEVIRATNE, recalled, affirmed:

MR. TENNAKOON, Senior S.C: Before my learned friend

Mr. Karunaratne resumes his cross-examination of this witness, I have a certain matter to be brought to the notice of Your Honour. Both Mr. Lal Wijepala, the G.A., Jaffna and Mr. Jayasinghe, the Secretary Defence spoke of a report sent by Mr. Lal Wijepala to the Ministry of Defence on the eve of the last General Elections regarding conditions in Jaffna.

Mr. Jayasinghe stated that he sent a copy of this report to the I.G.P. I have been now provided with a photostat copy of the copy sent to the I.G. by Mr. Jayasinghe which is dated 14.7.1977, which I mark as A.405.

There are two annexures to this letter - a letter sent by the Principal of the Sinhala Maha Vidyalaya, Jaffna which I mark as A.405(a) and a letter sent by the Buddhist Centre, Rasavin-
choten which I mark as A.405(b).



TO MR. TENNAKON, Senior S.C:

Q: You, in the course of your evidence-in-chief and also in the cross-examination, spoke of a letter sent by the G.A., to the Secretary, Defence ?

A: Yes.

Q: You also spoke of having seen a copy of a letter sent by the Principal, Sinhala Maha Vidyalaya to the G.A.?

A: Yes. He applied for a gun licence and in the course of that he forwarded a copy of that letter to me.

Q: (Shown documents A.405, A.405(a) and A.405(b)) These are copies of letters sent ?

A: Yes, Your Honour. (Witness reads letter marked A.405) This had been sent by Mr. Jayasinghe to the I.G.P. and the I.G.P. had made an endorsement and sent it to the D.I.G. Range II.

Q: Was there ample justification for the request made in this letter ?

A: Yes. In fact I mentioned to the G.A., that there was a certain amount of fear among the Sinhalese people in Jaffna and that some of them had left Jaffna.

COMMISSIONER: Q: Have you referred to an incident where there was a disturbance outside the Police station when Mr. Amirthalingam came and complained about the conduct of the police ?

A: Yes.

Q: And you said that Mr. Amirthalingam and two or three others came. You said that Mr. Yogeswaran was there.

Who were the others?

A: Mr. Sellathambu was there, Your Honour

and Mr. Dharmalingam was there.

Q: They had been turned back when they tried to enter Jaffna Fort ?

A: Yes.

Q: Why had they gone there ?

A: As far as I could recollect some youths or Mr. Anandasangari who were in jail were to be released. They went to garland those youths and take them away.

Q: Were they in remand or in Jail or were they detainees ?

A: I believe, that they were detainees. Prior to my going to Jaffna 42 youths had been taken into custody. As far as I could recollect those were the last few in that crowd.

Q: Do you know who they were ?

A: I will find out and let the Commission know.

Q: I like to know very much who they were, why they were in jail, how long they had been there and so on?

A: I shall verify and let the Commission know tomorrow morning.

(Mr. Tilagadas continues from 9.40 a.m.)

T.P.Fernando.

25.6.79

9.40 a.m.

Mr. Karunaratne: For the purpose of the record; I would like to know whether the proceedings in Kandy would be as Kandy No. 2.

Commissioner: There will be no difference. As far as the people are concerned, I think all are aware that we have come here for our sittings.

Mr. KARUNARATNE: I am appearing for the Sinhala Mahajana Perumuna.

A.S. GENEVIANTTE:

READ BY MR. PERCY KARUNARATNE, COUNSEL.

Q: This wireless message was a false message?

A: Yes.

Q: It would have adverse and serious repercussions all over the country if that type of message was transmitted all over the country?

A: Yes, if that message was transmitted all over the country, there would be repercussions, but the fact is that that message was not transmitted all over the country.

Q: During the period of the crisis, the Sinhalese people of the North had to come down to the south? A: Yes.

Q: And some of the Tamil people at least had to go to the North?

A: Yes, that happened.

Q: Out of all the political parties in this country, it is only the Tamil United Liberation Front who wants the Tamil people to go and settle down in the Northern and Eastern provinces?

A: Yes, to the best of my knowledge.

Q: In other words, if people in a critical situation migrate from one place to another, there is what is called a de facto separation, at least for a short time?

A: Yes.

Q: Are you aware that just prior to the disturbances, the Leader of the Opposition, Mr. Amirthalingam, at a meeting held at the Ramakrishna Hall, Wellawatte, had requested the Tamil people to pack up their bags and go to Jaffna to continue with the fight?

A: I cannot say whether he said it or not, but there was a news item in the Independent newspaper published by Mr. R. L. Michael to that effect. I cannot say anything further on that.

MR. TENDEKON: That was put to Mr. Amirthalingam, and he denied that, but he did not rule out the possibility of having been said by the others who addressed the proceedings at the Ramakrishna Hall.

Q: Are you aware whether the organisation called the Tamil Refugees Rehabilitation Organisation is interested in settling the Tamil speaking people in the northern and eastern provinces?

A: The TRRO is there, but I cannot say about their activities. I am not sure what their activities are.

Commissioner: That is all the work we have today because Mr. Underwood and Mr. Shanmugalingam are unable to attend the sittings today. This week, we will be sitting on Friday.

MR. RAVIENDRAN: Sir, when Mr. A. C. de Zoysa appeared before Your Honour in Colombo, we made an application that he should file a list of witnesses and also should indicate the persons on whose behalf he is appearing. So far we have not received any intimation from him.

ASST. SECRETARY: I telephoned Mr. A.C. de Zoysa, but I could not contact him, but I left a message to his Secretary, Mr. Ranjit Dep, who informed me that he would convey the message to Mr. de Zoysa.

MR. TENNEKOOH: I have not been given any indication by Mr. de Zoysa as to whom he intends to call.

MR. KARUNARATNE: We would also like to have a list of those witnesses the Senior State Counsel intends to call.

MR. TENNEKOOH: I have already filed my list of witnesses.

COMMISSIONER: Let them too know the order in which the witnesses will be called.

At this stage Commission
adjourns for the day till
9.30 a.m. on 26.6.79.

P. Philagadas.

26th June, 1979.

(257th Day)

Commission resumes.

A.S.SENEVIRATNE, Affirmed, Recalled.

LED. BY MR.SHANMUGALINGAM:

Q: You have been giving the evidence-in-chief for over two days?

A: I think so.

Q: And you have referred to gamuts of facts from 1972 up to date?

A: I referred to some earlier incidents, but mostly I referred to the incidents that took place during my period.

Q: You have also referred to some incidents that took place after the inauguration of the new Constitution of 1972?

A: I may have referred to certain incidents.

Q: In the course of your evidence, you have referred to some incidents that took place after the inauguration of the 1972 Constitution?

A: Yes, I learnt those things.

Q: So that, you have learnt of a number of those incidents?

A: Yes.

Q: You say that it was after 1972 all these incidents started between the police and the public of Jaffna?

A: Those incidents were there even earlier.

Q: Are you aware of the incidents in 1968 between the police and the public in St.James Church, Jaffna, where a number of police officers invaded the Church on Christmas day, when the mid-night mass was proceeding and assaulted the entire congregation including the priest? A: I have no recollection.

Q: It was flashed in the papers? A: I have no recollection.

Q: I will refresh your memory regarding that. I will refer to the 'Ceylon Observer' of 26th December, 1968. The heading reads as follows: "Police clash with worshippers: battle in Church during Mass Church closed for purification'?

A: I have no recollection of this incident.

Q: Do you know Inspector Carlal Dias?

A: There was an officer by that name.

Q: He must be an ASP now?

A: He is still an Inspector.

Q: You have no recollection of this incident? A: No.

Q: Do you know that Mr. Carlal Dias is himself a Catholic?

A: I don't know.

Q: He had gone with two other constables in the official jeep to that Church, and while he was reversing the jeep, there was an incident between some of the people who were coming to Church?

A: I don't know.

Q: Thereafter, he went back to the station, brought some police officers in 3 or 4 trucks, assaulted everybody on the road and thereafter, entered the Church and assaulted the worshippers?

A: I don't know.

Commissioner:

Who is this person?

Mr. Shanmugalingam: Inspector Carlal Dias.

Commissioner: Is he still in the police force?

Mr. Shanmugalingam: Yes.

Commissioner: What happened there. Was anybody charged?

Mr. Shanmugalingam: They were transferred out.

Q: At that time Mr. Aleric Abeygunawardene was the IGP?

A: Yes, he may have been.

Q: And Mr. Dedigama was the DIG of the Northern range?

A: Yes, I believe so.

Q: And Mr. Dudley Senanayake was the Prime Minister?

A: Yes.

Q: He sent Mr. Dedigama to investigate into this matter?

A: I don't know.

Q: And Mr. Dedigama submitted a report? A: I don't know.

Q: As a result of that, four police officers were interdicted and transferred? A: I don't know.

Q: Including ASP Mr. Thavarajah? A: I don't know.

Q: Do you know Mr. Thavarajah? A: Yes.

Q: ASP Thavarajah, Carlal Dias and two others were interdicted and transferred out? A: I don't know.

Q: Thereafter, they promised to appoint a Commission?

A: I don't know.

Q: The Catholic Church took up the matter and wanted the authorities to appoint a Commission? A: I don't know.

Commissioner: Was a Commission appointed or not?

Mr. Shanmugalingam: No, Sir.

Commissioner: No prosecution?

Mr. Shanmugalingam: Except that they were transferred out of Jaffna.

Witness: In 1968 I had only heard of Jaffna.

Mr. Shanmugalingam: I produce marked X465 the report in the Ceylon Observer of 26th December, 1968. I mark X466 the statement issued by the I.G.P. in respect of that matter.

Commissioner: What did he say?

Mr. Shanmugalingam: He says this, Sir. (reads)

Commissioner: He must have thought that there was no case?

Mr. Shannugalingam: Yes, Sir. He also refers to the fact that the police version is that they went to apprehend a suspect.

That is the usual thing. They went to the carnival also to apprehend a suspect. (reads the statement)

The I.G.P. says if they wanted, they should have cordoned off the Church and waited till the suspect came out.

Q: That is what the IGP says. But in spite of that, no action had been taken? A: I don't know.

Commissioner: I suppose, if you want to apprehend a suspect, you have got the whole day. Instead of that, they rush into the Church in the middle of the service.

Mr. Shannugalingam: The report of DIG, Dedigama was that he disbelieved the statement of Carlal Dias.

Mr. Tennekoon: Is my learned friend producing the report?

9.40 a.m.

P. Thilagadas.

A. S. SENEVIRATNE: (Contd.)

To Mr. Sharmugalingam:

(Counsel reads newspaper report. This officer had taken the official jeep.)

Commissioner: Newspaper headlines are also at times misleading.)

Mr. Sharmugalingam: This is a statement by the I.G.P. The relevant passage is marked X.467. The Editorial in the Daily Mirror of 28.12.68 is marked X.468)

Q: Have you served under Mr. Aleric Abeygunawardene ?

A: Yes.

Q: He was an honest and honourable police officer ?

A: Yes.

Q: Are you aware that Mr. Gamini Dissanayake, a Minister in the present Cabinet today, was charged with regard to certain utterances he had made against Justice Pathirana ?

A: I do not know about it.

Q: You have not heard of it ?

A: I am not aware.

Q: Are you aware that it was proved in that case that the police book referring to that case was a fabrication ?

A: I am not aware.

Q: As such Mr. Gamini Dissanayake was acquitted ?

A: I am not aware. I did not follow that case.

Q: As a senior police officer you did not follow these proceedings against the police ?

Mr. P. Tennekoon, Senior S.C.: Counsel must ask that question as to against whom the fabrication was done.

Mr. Sharmugalingam: It should not have been done against anyone.

Q: It was established it was a fabrication ?

A: I do not know.

Q: Would it be correct to say that well before 1972, long before the inauguration of the 1972 Constitution, police conduct in Jaffna had been such that the public had come to lose confidence in the police ?

A: I cannot say that.

Q: When did you join the police force ?

A: On 1.10.66.

Q: As a provisional A.S.P. ?

A: Yes.

Q: After that you were in charge of several stations ?

A: Yes.

Q: The first station as S.P. in charge of a Division, was Jaffna ?

A: Yes.

Q: With regard to your evidence, after you became the S.P. of Jaffna, your entire evidence, or the bulk of it, is based on information received ?

A: Yes.

Q: In fact, most of your evidence is not evidence with regard to incidents at which you were present ?

A: I was not present. I was S.P. in Charge of the Division. There were police officers in charge of these things.

Q: You were summarising what was in the I.BB ?

Mr. P. Tennekoon, Senior S.C.: Your Honour will see that when the earlier S.Ps gave evidence they spoke to incidents that came to their knowledge. This witness is doing the same thing. It might be said that this witness is giving hear-say evidence. If that is going to be so

may I call all the witnesses who were involved in all the incidents. No witness has given direct evidence before this Commission. It should not be said that this witness is giving hear-say evidence.

Commissioner: I take it that what he spoke to were reports that case to his knowledge.

(L. Silva)

(Contd. by Mr. T.P.Fernando from 9.50 a.m.)

26.6.1979

9.50 a.m.

A. S. SENEVIRATNE (CONTD.):

COMMISSIONER:

I take it that what he spoke to were the reports that came to his knowledge - reports of murder, attempted murder - and I think he is entitled to produce those reports.

MR. SHANMUGALINGAM:

We are accepting those facts.

COMMISSIONER:

He is not pretending to speak to who actually did those things. The fact that someone was murdered or a house was burnt and so on is reflected in police report. I think it is admissible.

TO MR. SHANMUGALINGAM:

Q: For example, on 16.8.1977 till 1 or 2 o'clock you did not go to the market ?

A: I came with the high-powered team.

Q: Until then you did not go to the market ? - Yes.

Q: Whatever evidence you gave regarding what happened there up to the time you went there, was based on reports?

A: Yes. On what I was told.

Q: Similarly, with regard to a number of other incidents you gave evidence on what you were told ?

A: Yes. On reports I have received.

Q: You have also given evidence directly on certain incidents to which you were a party ?

A: Yes.

Q: I am only trying to draw a distinction between those matters in relation to which you were a present and those matters in relation to which you were not present ?

A: Yes.

Q: Being a police officer from 1966 up to date, would you say that from 1966 up to date there had been a deterioration in police discipline?

A: I cannot comment on police discipline because that is too wider a matter for me to comment on.

COMMISSIONER: That is a matter for the I.G.P. and they have spoken to those things.

Q: So that, with regard to the police in your division you did not notice any deterioration in the discipline?

A: There were matters when I had to deal with the police officers. That does not mean that the general standard of discipline in the police force had gone down.

Q: What you say is that there is no general drop in the standard of police discipline?

A: Not as far as I am concerned.

Q: In Jaffna district you said that there were about 18 police stations?

A: There were 15 police stations when I went and two were closed during my time and it became 13.

Q: In your division roughly how many police officers would have been there ?

A: All ranks would have been around 750 or so.

MR. SHANMUGALINGAM: I was told that the distribution of the police force in Jaffna would be given.

MR. TENNAKOON, Senior S.C.: He has got the details with him.

Q: Have you got the exact figures?

A: (Witness refers to a file of papers) I can give those particulars.

Q: The bulk of those were Sinhala police officers?

A: About 60 % Sinhalese and about 40 % Tamil police officers during my time.

Q: How many Sinhalese O.I.C.C were there in Jaffna division?

A: S.I. Jayakumaran was there, Sergeant Nadarajah was O.I.C. Delft....

Q: With regard to those Sinhalese police officers who were there do you know whether the majority of them could converse with the people of the area?

A: There were quite a number of Sinhala officers who could converse in Tamil and understand Tamil.

Q: Could that be the bulk of them?

A: I cannot say whether the bulk of them could speak Tamil, but about 50% of those police officers were conversant in the Tamil language.

Q: How many of them could record statements in Tamil ?

A: I cannot say that.

Q: You will agree that for good public - police relations there must be cordiality between the police and the public?

A: Yes.

Q: One of the ways is the easiness of conversation?

A: That would have helped.

Q: If police officers find it difficult in having communication with the people of the area then there would be a drop in the police - public

relations?

A: I would not say that that would drop in the police - public relations. It may be a problem in the matter of conversation or understanding.

Q: Would you also agree that when a person makes a statement or a complaint in a particular language whether it is Sinhalese or Tamil, it would be desirable that that complaint would be recorded in that language?

A: In the Information Books of the Police Stations in Jaffna peninsula ~~most~~ of the complaints have been recorded in Tamil and had been translated for the benefit of the O.I.C.. Most of the reserve officers were conversant with Tamil.

Q: Are you aware that in a number of cases in High Courts and Magistrate's Courts the statements that have been produced were statements recorded in Sinhala?

A: It is possible.

(Mr. Tilagadas continues from 10.00 a.m.)

T.P.Fernando.

26.6.79

10 a.m.

A.S.SENEVIRATNE CONTD.

XND. BY MR.SHANMUGALINGAM CONTD.

Q: In fact the police report of speeches that were produced before this Commission were in Sinhalese because he says the OIC is a Sinhalese man and therefore, I recorded in Sinhalese?

A: Yes, but that does not mean that the PC could not understand Tamil.

Q: I am talking about the speeches made in the Tamil language?

A: The PC has recorded it in Sinhala for the information of the OIC.

Q: In the pocket note book itself he has recorded in Sinhalese?

A: That is the communication between the PC and the OIC.

Q: The speech was in Tamil and the recording of the speech was in Sinhalese? A: I have not seen that.

Q: So that you will generally agree that it is desirable that the Tamil police officers serving in Sinhalese areas should be conversant in Sinhalese so that they may be able to record statements in Sinhalese and the Sinhalese police officers serving in Tamil speaking areas should be conversant in the Tamil language so that they can record statements in Tamil?

A: It is desirable that every police officer should learn every language that has been used in this country, but unfortunately that has not been done.

Q: You also referred to the closing of police stations?

A: Yes, two police stations.

Q: You first referred to the Nelliady station? A: Yes.

Q: You also referred to the fact that in Nelliady, you took action against a constable and the OIC?

A: Against two constables in regard to Mr.Rasalingam's complaint.

Q: Mr. Rasalingam was the Chief Education Officer at that time?

A: Yes, I mentioned that.

Q: He was in custody of the question papers? A: Yes.

Q: One armed police officer was provided to escort him and to guard the question papers? A: Two armed police officers.

Q: And those police officers threatened Mr. Rasalingam and wanted to take the question papers at the point of the gun?

A: It was not the question of taking the question papers. It was over an argument between Mr. Rasalingam and the police officers.

Q: What was that argument?

A: I cannot remember that, but it had nothing to do with the question papers.

Q: I am suggesting to you that this PC at the point of the gun wanted to take the question papers from his custody? A: No.

Q: And that Mr. Rasalingam went up to the OIC Nelliady police and wanted to make a complaint?

A: I am unable to recall the details, but I am quite certain that those two PCC were interdicted.

Q: And the OIC refused to entertain his complaint?

A: I cannot recall.

Q: Was the complaint of Mr. Rasalingam recorded on that occasion?

A: Mr. Rasalingam made a complaint and we acted on that.

Q: He made a complaint to the S.P. Was any complaint made by him to the OIC Nelliady police? A: I cannot recollect.

Q: I am putting it to you that Mr. Rasalingam went up to the OIC and wanted to lodge a complaint, but the OIC refused to entertain?

A: I cannot recollect that, but on the complaint that he made to me, I have taken action.

Q: Was that a written complaint?

A: I cannot recollect. There were two PCC - PC Gunawardene and PC Subramaniam.

Commissioner: What happened to that inquiry?

A: At the time I left, that inquiry was pending.

Q: Anyway, when you left Jaffna in 1977, that inquiry was not over?

A: I have to go through the record and answer that.

Q: Did Mr. Rasalingam make any allegations against the OIC, Nelliady police?

A: Now I remember. Some allegation was made against the OIC as well. There was a sergeant by the name of Anthonipillai. I believe he was also involved in this incident.

Q: Who was the OIC at that time?

A: SI Ariyaratne.

Q: And the complaint against Mr. Ariyaratne was that he refused to entertain his complaint?

A: I cannot recollect that.

Q: Have you got those complaints? A: No.

Q: Thereafter, Mr. Rasalingam retired from Service and contested the seat? A: Yes, he won the seat.

Q: Mr. Rasalingam belonged to the so called depressed class?

A: Yes, because at the time of the nomination, there was a campaign that he should not be given the nomination for the Udupiddy seat because he was of a lower caste.

Q: But the TULF party did give him nomination although he was of a lower caste? A: He was given nomination.

Q: The Udupiddy electorate is a predominantly high caste electorate?

A: I cannot say.

Q: Anyway, the others who contested him as independents and under other party labels raised this as an issue for their election propaganda? A: It is possible.

Q: Mr. Rasalingam won with a large majority?

A: The TULF won in Jaffna with a large majority.

Q: In that seat, he won with a large majority? A: Possible.

Q: That seat was held by Mr. Jayakody before him? A: Yes.

Q: But his majority was a small majority? A: I don't know.

Q: But Mr. Rasalingam got a very large majority?

A: If you say so, I will accept that.

Q: Having got elected, the first speech he made in Parliament was in regard to this incident with the Nelliady police officers?

A: I don't know.

Q: And in the course of his speech, he referred to the question papers? A: I don't know.

Q: So that if I say that it was in relation to the question papers, you would neither deny it or accept it?

A: I am sure that it had nothing to do with the PC trying to remove the question papers. I am sure of that.

10.10 a.m.

P. Thilagadas.

A. S. SENEVIRATNE: (Contd.)

To Mr. Shanmugalingam:

Q: Are you sure that it was not a complaint about that ?

A: It was a complaint by Rasalingam.

Q: It was after this incident and after the police failed to take action and there was a public out-cry from the people of Nelliady ?

A: I took action and interdicted certain people.

Counsel said that that area was a high caste area and I cannot say how this kind of thing had happened.

Q: Any citizen is entitled to go and make a complaint to the police ?

A: Yes.

Q: Here was a Chief Education Officer wanting to make a complaint to the police, and the O.I.C. had refused to entertain that complaint, Is it not a fact that the public will get offended ?

A: I do not know what the complaint was.

Q: Is there any other reason why that police station should have been closed down ?

A: It was closed because the landlord wanted the building back.

Nallur and Nelliady police stations were also closed down.

At Achchuvely the M.P. for Kopay had got an application filed that the police should not occupy that building.

Q: With regard to the Nelliady police station was there a case filed ?

A: The owner wanted the building back.

(To Commissioner:

Q: What were the 3 police stations you said were closed down ?

A: Nelliady, Nallur and Achchuvely police stations)

Q: With regard to the Nelliady police station have you got the letters you received from the landlord ?

A: He wanted to give this house to some other institution or individual. We did not have any other building and we closed it down. The landlord wrote several letters about his wanting the building back.

Q: Did this incident at Nelliady have anything to do with the closing down ?

A: No.

Q: It was in this context, relating to the Education Officer that the M.P. wrote ?

A: I deny that.

Q: It was because the police did not take action on the complaint. He said, "You go away we will look after ourselves" ?

A: No. Thereafter too many respectable persons came and asked us to re-open the police station, but we could not get a suitable building. Even today, if there is a suitable building the police authorities would re-open the police station.

Q: The Nallur police station was in the outer courtyard of the Hindu temple ?

A: No.

Q: It was on the boundary of the temple ?

A: Within sight of the temple.

Q: That land belongs to the temple ?

A: Yes.

Q: They wanted a police station opened there for the safety of the temple and the people who come to it ?

A: I do not know what made the authorities open up a police station there.

Q: The police officers who were stationed there, brought beef and liquor there and consumed them ?

A: Consuming beef was prohibited in that police station and in the barracks. Eating beef and consuming liquor had nothing to do with the closing down of the police station.

Q: The police station is within the temple land ?

A: Yes.

Q: I suggest it to you that a temple will not give land of its own, to those who would eat beef and consume liquor there ?

A: I do not know whether they came to the police station and the police kitchen and saw those being done. That was not the reason for closing down. The police, they said, were deecrating the temple.

To Commissioner:

Q: How long had the police station been there in those premises ?

A: I do not know. It could have been there for a considerable time. It could have been there for a number of years.

The temple authorities knew the police were there.)

Mr. Shanmugalingam: The beef eating and liquor consuming were done there. They were done openly in the presence of the public.)

Q: With regard to the Achchuvally police station, you said that Mr. Kadiravelupillai filed a section 62 application and got it closed down ?

A: Yes.

Mr. P. Tennekoon, Senior S.C.: Under section 62 of the A.J.L. an order can be made so that a breach of the peace could be averted.

Witness:

This is what I heard. The police were to move into the M.P.C.S. building. The M.P. did not want the police to go into that building. The police had built the cells also there in that building. To prevent the police from going into occupation of that building the section 62 application was filed. When that application was filed the police said they would not commit a breach of the peace and closed down the station.

(L. Silva)

(Contd. by Mr. T.P. Fernando from 10.20 a.m.)

26.6.1979

10.20 a.m.

A.S.SENEVIRATNE:

TO MR. SHANMUGALINGAM:

Q: Who filed that Section 62 application?

A: I do not know the details. Mr. Ariyasinghe will be able to give details. The main fact is that we had to close Achchuveli police station. The owner of the building where the police station was wanted that building for him to come into residence after retirement. When arrangements had been made to shift the police station to M.P.C.S. building this Section 62 application was filed.

COMMISSIONER: Q: Why did you close the police station?

A: Before the police could go to that place this plaint was filed.

Q: Now I am coming to the fire on 26.8.1977. As regards that fire in your examination-in-chief you said that there was nobody sleeping there and that goods had been removed from those boutiques?

A: Other than things like show-cases and that sort of thing there was nothing else.

Q: On what information do you say so ?

A: I saw it. We actually pulled out some of those articles out.

Q: Did you see any goods being pulled out ?

A: I did not see. At the time we went there a part of the row of boutiques was on fire and we pulled out some of the goods in those boutiques.

COMMISSIONER: Q: What you say is that there were empty show-cases and other furniture ?

A: Yes, Your Honour.

Q: Your inference was that in a number of shops all the goods were removed ?

A: Yes.

Q: When you went there and pulled out the show-cases you saw nothing in them ?

A: A number of police officers pulled out them.

Q: A.S.P. Maheswaran was the person who was detailed to investigate into that ?

A: Yes.

Q: He recorded a number of statements ? - Yes.

Q: He made a report ? - Yes.

Q: Did he say in his report that the owners of the shops had estimated the damage at Rs.634,968 ?

A: Yes.

COMMISSIONER: Q: Did he say that anybody had alleged that the shops were empty?

A: In this report he does not say that.

This is a very small report.

Q: This is a report prepared after recording a number of statements from the owners and other people who saw the fire?

A: Yes.

COMMISSIONER: Q: Did you tell him that those shops were empty?

A: Mr. Maheswaran himself was there and he himself saw that.

Q: What he saw he did not put in the report ?

A: This is his report. I do not know.

Q: I am putting it to you that you are telling a deliberate falsehood when you say that those shops were empty?

A: I deny that.

COMMISSIONER: My personal feeling is that the inquiries made afterwards were not satisfactory.

Q: You said that nobody was sleeping there and that is one of the reasons you say that a Tamil set fire to those boutiques?

A: I do not know who set fire.

Q: In your examination-in-chief you referred to pyromania and said that the Tamils would have set fire to their own shops ?

A: Yes.

Q: This is what Mr. Maheswaran says: "According to them they were not in the shops..... and this happened during the curfew hours". There was a curfew from 6 p.m. to 6 a.m. ?

A: Yes.

Q: Did these boutiques have any sanitary facilities attached to them?

A: Sanitary facilities were almost adjoining those boutiques.

Q: The public lavatories were on the other side of the road ?

A: Yes.

Q: So that during curfew hours you cannot expect them to cross the road and go to public conveniences?

A: Yes.

Q: So that during curfew hours not a single was sleeping there?

A: They were not there.

Q: Do you draw the inference that the shop-keepers themselves set fire to the shops?

A: As I mentioned at the very outset when the refugees started coming the venom of the refugees was on the TULF. They were blaming the leadership of the TULF for causing these incidents. This had to be shifted somewhere else. When those shops were set on fire the entire blame went back on the police and the services. So that the police again got into the bad books of the public.

(Mr. Tilagadas continues from 10.30 a.m.)

T.P.Fernando.

26.6.79

10.30 a.m.

A.S.SENEVIRATNE:

INTD. BY MR.SHANMUGALINGAM CONTD.

Q: Therefore, you say the TULF set fire to the shops?

A: Yes, naturally because no one else could have done that.

Q: These boutiques were set on fire by whom?

A: By the elements who were the supporters of the TULF, and ultimately the blame was put on the police. The resulting position was Jaffna town got new shops instead of those old temporary sheds.

Q: And they were put out of the funds of the Municipal Council and not out of your funds? A: I don't know.

Q: Through the people who contributed the rates to the Municipality?

A: I don't know who contributed.

Q: There were 26 shop owners, and these shops were just by the side of the bus stand, and there was brisk trade? A: Yes.

Q: Because it was a busy place during day time?

A: Yes, and even during night, it was a busy place.

Q: Each of those shops had one or two employees? A: Yes.

Q: So all those employees were depending on those shops for their livelihood? A: Yes.

Q: The shop owners were also depending on those shops for their livelihood? A: They may be having other means also.

Q: Although they had other means, they had come and established these shops? A: I cannot say.

Q: So that, you say these shop keepers deprived themselves of their livelihood, deprived the livelihood of their employees, removed their goods so that the TULF elements could set fire to those shops?

A: The information I had was that they were informed that these shops would be set on fire.

Q: Who gave you that information?

A: I heard that very much later.

Q: Who gave you that information?

A: I am not prepared to divulge that source.

Q: I am putting it to you that the source of information is yourself?

A: I deny.

Q: And you say that is one of the acts of pyro-mania?

A: This pyro-mania was the thing that was in Jaffna even prior to that. They set fire to railway compartments, buses, transformers, burning of the national flag, and these things were there.

Q: So that this pyro-mania is something to do with the Jaffna people?

A: That was my impression.

Q: And it has its national characteristics? A: I don't know.

Q: They will set fire to the market, they will set fire to the row of shops and they would set fire to anything and then enjoy them?

A: Possible.

Q: And you say they set fire to their own buildings? A: Yes.

Q: I am putting it to you that this is a deliberate falsehood on your part? A: I deny.

Q: This market square was the scene of the incidents of the 16th?

A: Yes.

Q: And there had been even earlier incidents in that market square?

You remember there was an incident where some naval officers had some altercation in a bus and later they came and attacked the Subas Cafe?

A: Where some service personnel were involved.

Q: Some allegations were made that the police were also involved in that incident?

A: There was no allegation that the police was involved. Only the service personnel were involved.

Q: Even recently, there was an incident in Jaffna. On the 5th of December, 1978, the day of the Nallur Bank robbery, some police officers went berserk near the market square and started to attack the shops? A: I don't know.

Q: You have not read even in the papers? A: I have not.

Q: And how the G.A. came and prevented?

A: My only interest in the Jaffna peninsula was during the time I was S.P. Jaffna. I have no living interest in Jaffna.

Q: I am only asking about your interest in police activities in the Jaffna peninsula?

A: There was no inecessity for me to be interested in the Jaffna peninsula when I am in some other district.

Q: Up to date you have not heard about the police going berserk and the G.A. coming to the scene to prevent further troubles like the one we had on the 16th of August, 1977?

A: I have not heard.

Q: You are aware that at the Nallur Bank robbery, two police officers were shot? A: Yes, on the 5th of December.

Q: Including a Sinhalese police officer by the name of Kingsly Perera?

A: Yes.

Q: On the evening of the same day, police officers went and attacked the Jaffna down? A: I don't know.

Q: You did not see in the daily papers? A: No.

Q: On the 16th of August also you say that the supporters of the TULF set fire to the old market, the other shops and one of the shops in the new market?

A: That is what I gathered from the investigations and from the officers who were present.

Q: You said that you went to the air port to meet the DIG, the Secretary to the Defence and others?

A: I.C. Police, Secretary to the Defence, the Army Commander and Mr. Liyanage also came. Mr. Ana Seneviratne also came.

Q: You met Mr. Joseph there? A: Yes.

Q: Did he tell you that he tried to contact you on a number of occasions?

A: As he came in, I told him that I was trying to contact him.

Q: Did he tell you at any time that he tried to contact you?

A: Yes, he also told me. First I said that I tried to contact him, and he also told me that he tried to contact me.

Q: Did he tell you he tried to contact you in reply to that you said ' I was in the market looking after the incidents'?

A: No. I never went towards the market at any time.

Mr. Shanmugalingam: I refer to Mr. Joseph's evidence at page 486.

10.40 a.m.

P. Thilagadas.

26. 6. 79

- 13185 -

10.40 a.m.

A. S. SENEVIRATNE: (Contd.)

To Mr. Shanmugalingam:

Q: Mr. Sivagnanam said that he tried to contact you and he was told that you were in the market ?

A: No. it is not correct. That question did not arise at that time. The question at issue was the fire and how to get bowsers. Thereafter we discussed other matters till the Army Commander and others came.

Commissioner:

Q: Did anybody ring up for the Municipal Council bowsers ?

A: From the police station I tried to get the Municipal Commissioner. I could not get him and could not get the bowsers either.

Mr. Shanmugalingam: The Municipal Commissioner gave evidence and said that the employees of the Municipal Council were prevented from getting to the scene of the fire. That was why they did not take the bowsers.

Commissioner: The bowsers were somewhere else and did they try to get the bowsers.

Mr. Shanmugalingam: The evidence of the Municipal Commissioner is that they were not allowed to get near the fire.

Q: You said that your direct line at the bungalow was out of order ?

A: Yes.

Q: Did you have a direct line in office ?

A: Yes.

Q: As well as an extension from the station ?

A: Yes.

Q: How long was your direct line out of order ?

A: From the 14th.

Q: Did you report it to the Telecommunication Dept ?

A: When my telephone

A: When my telephone goes out of order I contact the station and ask them to get it repaired. In this instance too I did it.

Q: Did the officers come and try to repair it ?

A: I do not know.

Q: On the 16th was it out of order ?

A: Yes.

Q: For a long period was it out of order ?

A: Till I was in the house it was out of order.

Q: When was it put to right ?

A: I cannot say.

Q: I am asking you these questions because my instructions are that it never went out of order ?

A: If Mr. Amirthalingam could get at me I do not see how the others could not get at me.

Commissioner:

Q: Mr. Amirthalingam said that he tried to get at you through the telephone and he could not ?

A: He got me.

Q: When he told the man at the telephone that he wanted to speak to you in five minutes you had rung him up ?

A: No..

When my telephone rang I attended to it and spoke to Mr. Amirthalingam.

Q: There were others who were trying to contact you - the G.A. the Municipal Commissioner and others ?

A: The Jaffna police station telephone switch board is as old as Jaffna. The switch board is being repaired every day. When there is a situation in Jaffna my telephone goes out of order. I got a radio link fixed to Jaffna.

(To Commissioner:

Q: Who was sabotaging ?

A: It could be anybody's business.)

Q: You said the switch board was out of order - it goes out of order for some time and comes back to normal the same day ?

A: Yes.

I had two telephones. This is what has been written about the telephones (Reads from document which is marked A.406)

Q: This document is dated 4.6.76 ?

A: Yes.

Q: It is from the D.I.G. to S.P. Anuradhapura, S.P. Vavuniya and S.P. Jaffna ?

A: Yes.

Q: This is with regard to the communication from Colombo to these stations ?

A: No. The para I read refers to Jaffna.

Q: This is regarding Colombo and Jaffna ?

A: No. (Witness reads A.406).

(L. Silva)

(Contd. by Mr. T.P.Fernando from 10.50 a.m.)

26.6.1979

10.50 a.m.

A. S. SENEVIRATNE:(CONTD)

TO MR. SHANMUGALINGAM:

Q: Was any reply sent to this ?

A: This was not a matter where a reply was required.

Q: This says: "Please check up and let me know of all the weak points in your communication system"?

A: I have been communicating and the nett result was that finally we got an internal communication system.

Q: Have you sent a reply to that ?

A: I may have sent a reply.

Q: Did you send a reply giving the weak points in your communication system?

A: The D.I.G. himself had numerable difficulties with regard to communication when he was in Jaffna and he knew it.

COMMISSIONER: Q: Have they got direct dialling there?

A: No, Your Honour.

MR. TENNAKON, Senior S.C: The police has their own radio link.

Q: On the 16th, you were not a party to the decision to send police parties to Jaffna town?

A: I came after the first batch had already gone.

Q: So, it was a decision taken independent of you ? - Yes.

Q: The decision to bring P.C. Bandara from the hospital to the police station was also a decision taken without your knowledge ?

A: Yes. It was a decision by the H.Q.I.

Q: These decisions were taken without consulting you ?

A: There was no necessity to consult me. These are officers capable of taking independent decisions.

Q: Do you say that it was you who took the decision to send P.C. Bandara to Anuradhapura ?

A: Yes, Your Honour.

Q: You say that Bandara was brought from the hospital without any decision ?

A: I do not know what decision had been taken by that time. When I saw him and found that he was shouting in pain I took the decision to send him to Anuradhaputa.

Q: You know Inspector Gurusamy? - Yes.

Q: He was a reliable officer ? - Yes.

Q: You know that he had given evidence before this Commission?

A: Yes.

Q: He was the officer-in-charge of the administration at that time ?

A: Yes.

Q: He should be able to say if there was any disorder in telephone lines ? He said that all the telephone lines were working. I refer to page 1515 of the record where he has said that.

(Before witness could answer)

COMMISSIONER: How could he say if he has not tested. At 6.20 a.m. the H.Q.I. was at the station.

MR. SHANMUGALINGAM: Our case is that the police were getting ready go to to the market and they were not taking any calls in spite of

calls being given by the G.A., the Addl. G.A., Mr. Amirthalingam and Mr. Yogeswaran.

Witness (Contd)

At 3 o'clock in the morning Mr. Cadiravelupillai telephoned me. When it was convenient to them they telephoned even at 3 o'clock and when it was not convenient to them they say that they telephoned but we did not answer.

COMMISSIONER:

I think in other matters also Mr. Gurusamy's answers were not accurate.

MR. SHANMUGALINGAM:

Mr. Gurusamy also says that the H.Q.I sent him to the hospital to remove P.C. Bandara and bring him so as to send him to Anuradhapura hospital. He said so in his examination-in-chief.

COMMISSIONER:

I think it is common ground. The H.Q.I. admitted it.

MR. TENNAKOON, Senior S.C: What my learned friend says is that Mr. Gurusamy knew that Bandara was to be taken to Anuradhapura even at that time.

MR. SHANMUGALINGAM:

In evidence-in-chief he says: "I was told that Bandara was to be sent to Anuradhapura and asked me to go and bring him.

COMMISSIONER:

Sometimes you telescope later events into earlier ones. I think it is not clear. Bandara wanted to leave the

hospital and the police also were prepared to take him out and send him to Anuradhapura. I may find fault with them for not consulting the hospital authorities before they took him out of the hospital. This may sometime be a mistake in the record. Surely, the H.Q.I. would not ask Mr. Gurusamy to make arrangements to take P.C. babdara to Anuradhapura.

(Mr. Tilagadas continues from 11.00 a.m.)

T.P.Fernando.

26.6.79

11 a.m.

A.S. SENEVIRATNE:

END. BY MR. SHANMUGALINGAM CONTD.

Mr. Tennakoon: At the time Mr. Gurusamy gave evidence, he knew that Bandara would be ultimately taken to Anuradhapura. That was in the back of his mind.

Mr. Shanmugalingam: No HQI worthy of his name would take a patient who has gun shot injuries from hospital unless arrangements were being made or have been made to take ^{him} to another hospital.

Commissioner: I think no reasonable person would take a patient out of hospital with gun shot injuries unless the medical authorities were consulted. Even the male attendant was not consulted. The Surgeon was not consulted. He was taken out bodily.

Mr. Shanmugalingam: Even if one foolishly, without consulting the medical officers takes him out, one will never take him out unless he has made arrangements to admit him to another institution. That is the second point I am making.

Commissioner: (to witness)

Q: When was the arrangement made to take him?

A: That was late in the evening.

Q: Surely you will not take him in that condition out of hospital unless you had medical attention at hand?

A: The situation at that time was different. There was the possibility for the others to attack this PC at the hospital. They were afraid to stay there. Even in the Jaffna hospital, subsequently, another person was shot dead - that was due to mistaken identity. Innocent man was killed.

Mr. Shanmugalingam: The answer given by both Mr. Gurusamy and the HQI was not about their security. The reason was they were not being treated.

Commissioner: Who said that?

Mr. Shanmugalingam: Mr. Gurusamy said that.

Commissioner: Now Gurusamy again. He is a menace.

Mr. Shanmugalingam: This is what he says at page 742 - Q: Do you know why he was being sent to Anuradhapura hospital?
A: The PC was not happy to stay there in the hospital. He complained that he was not being treated'.
It is for that reason, Sir, we were compelled to call the doctors. Otherwise, we would not have bothered.

Commissioner: They all attended on him. This is like Trincomalee. Accusations were made by people who knew that they were false. If it was done with that knowledge, certainly it was done to make mischief.

Mr. Shanmugalingam: This was the general allegation made by the police, and it was made all over the country. Even the army doctor who came to Jaffna told the doctors in Jaffna 'it is said in Colombo that you people are not treating the patients in Jaffna'. That is the evidence of Dr. Ponnampalam.

Mr. Tennekoon: It had even misled the Minister of health.

Commissioner: It is one of the wicked rumours. That is not the only one. Rumours have been spread like sending human bodies in fish boxes.

Mr. Shanmugalingam: This was not merely a story of Mr. Gurusamy. This was even said by superior police officers, and that is why even the Minister of Health on the floor of the House has made the allegation that Tamil medical officers in Jaffna hospital were not prepared to treat Sinhalese police officers. Now the Medical Officers Association wrote a letter to the Minister denying that accusation. It had gone through the highest level. It was not something said by Mr. Gurusamy alone. That is the case put by the police as part of their case that the Tamil doctors in Jaffna were not treating the Sinhalese police officers, and similar allegations were made in Trincomalee.

Witness: We have not made any allegation against any medical officer attached to the Jaffna hospital. As far as PC Bandara was concerned or any other police officer attached to the Jaffna police was concerned, I have not made any allegation against any Tamil medical officer.

Commissioner: Is there any evidence of anyone who said that any police officer has said that?

Mr. Shanmugalingam: Mr. Liyanage repeated this in Anuradhapura, but he did not tell anyone in Jaffna. Evidence shows that he went to Anuradhapura and said that. He took that whole message to Anuradhapura and said that. That message went to Colombo, and from there it went to high levels like the Minister of Health.

Commissioner: When did Mr. Liyanage go to Anuradhapura?

Mr. Tennekoon: He went on the 17th evening with the University students

11.10 a.m.

P. Philagadas.

A. S. SENEVIRATNE: (Contd.)

To Mr. Shanmugalingam:

Q: With regard to the other two police officers Nandasiri and Alwis also, a message was sent to Colombo to send a plane ?

A: Yes.

Q: You wanted a doctor from Colombo to come and remove the patients to Colombo ?

A: (Witness goes through a book and reads X.54D)

Mr. Shanmugalingam: May I say this. There are allegations made against police officers and they are meeting them now. I only hope the two police officers seated by Learned State Counsel do not interfere with my cross-examination. They are making gestures, signs etc.

(Mr. P. Tennekoon, Senior S.C.: They are only speaking to me.)

Q: Was this the message you sent from Jaffna to Colombo ?

A: Yes.

Q: Did an aircraft come with a medical officer ?

A: Yes. There was a service medical officer in the plane.

Q: These two officers were sent in that plane ?

A: Yes.

Q: The plane could not land ?

A: The first plane came and it went back that day. It came the following day.

I do not know whether there was a medical officer in the first plane that returned to Colombo. There was a medical officer in the plane that took the two policemen.

Q: You said that on the morning of the 16th you communicated with Colombo? You communicated twice ?

A: Even three times.

Q: How did you do that ?

A: I spoke to the I.G. and the D.I.G. over the telephone.

Q: Are those calls entered in the telephone register ?

A: No.

Q: Did you book those calls through the exchange ?

A: Yes.

Q: Was it the police exchange ?

A: No. They were taken on my direct line. I booked the calls through the general exchange.

Q: You did not keep a record of that ?

A: No.

Q: I am asking you these questions because the I.G.I. has not referred to any telephone conversation you had with him. He said he came to Jaffna in response to the requests made by the G.A. and Mr. Amirthalingam ?

A: I think the I.G. said I spoke to him.

To Mr. P. Temmekoon, Senior S.C.: The I.G. said he got a call from this witness but by that time arrangements had already been made for the Jaffna trip.

Q: The I.G. has not made any reference to the telephone conversation you had with him ?

A: I recollect he said I telephoned him and he was at the Security Meeting at that time. I telephoned the Police Hd. Qrs. They got the I.G. and put me on to him.

Q: It would have been registered in the Colombo books ?

A: No.

Q: It would be in the records of Colombo Office - particulars regarding your call ?

A: There is no record of in-coming calls in Colombo.

A: I do not know whether out-going calls are recorded. I do not know whether a call from person to person is recorded.

Q: Is there a trunk call register ?

A: Yes.

Q: It must be at the Jaffna police station - the trunk call register ?

A: No. This was a call from my direct line. It could not have got to the Jaffna police station trunk call register.

Q: There must be some record of it ?

A: The Postal Dept. would have made a record of it.

(To Commissioner:

Q: Do you enter your trunk calls in a register ?

A: Normally I would enter. During this period there was no time to enter these.

(Commissioner: I do not think telephone calls are registered as they should be.)

Mr. Shanmugalingam: They should be recorded for accounting purposes.

Commissioner: The bill is sent and they pay the bill.

Q: If the bill comes to you and if you don't have a record, how could you check ?

A: I do not check the bills. I do not take hundreds of calls a month.

Q: Even if you take a direct trunk call, do you enter it in a register ?

A: No.

(L. Silva)

(Taken over by Mr. T.P.Fernando from 11.20 a.m.)

26.6.1979

11.20 a.m.

A. S. SENEVIRATNE (CONTD.)

TO MR. SHANMUGALINGAM:

Q: So that there is no record of a call taken by you on the 16th ?

A: On my direct line, no, Your Honour.

Q: Nor in the Police Headquarters ?

A: Police Headquarters will not keep records of person person calls.

Q: How many calls did you take on that day to Police Headquarters ?

A: First call I tried to get my D.I.G. Then his personal Assistant spoke to me and said that the D.I.G. in Anuradhapura. Then I got myself connected to I.G. and spoke to him. The next call was taken by Mr. Rajasingham.

Q: At what time was that ?

A: The first call was between 8.40 and 9.00 a.m. Immediately after that I put a call to Mr. Rajasingham because the I.G. wanted me to contact Mr. Rajasingham. The next call was again to I.G. because he wanted me keep him informed of the situation. Then the I.G. telephoned to me.

Q: At what time was that ?

A: At that time Mr. Amirthalingam was also present. You apprised him of the situation in Jaffna ?

Q: You thought that the situation was serious ?

Q: Until 2 o'clock you did not go to the town to make an assessment of the situation ?

A: There was no necessity for me to go to the town. The H.Q.I. who was in charge of the area was there. He was put in that situation because he was able to handle it. The next would have been the A.S.P. and if he could not control he would have asked me to come. As local head of the Police I had to contact the I.G. There should have been some one in and around the police station. I had to contact the other police stations in the division, and keep alert to a situation and there was no point in my going to the town.

Q: On the 16th after the incidents in the town do you whether a rifle was produced ?

A: I would have known.

Q: When did you first come to know of it?

A: It was mentioned to me when I was talking to the H.Q.I. He told me that a rifle was found at the scene near Fonseka's lathe.

Q: How long after the 16th did the H.Q.I. bring this to your notice ?

A: I think, on the following day.

Q: In fact, you are aware that this rifle was produced at the inquest ?

A: Yes.

Q: Was any investigation done as to the ownership of the rifle ?

A: I do not know that because that was a matter for the officers who made investigations. I know that a rifle was produced and that that rifle was found at the scene.



- Q: From the number of the rifle it is easy to trace whether there was a licence?
- A: Yes.
- Q: So that the police officers could have gone to the Kachcheri and searched whether a licence was issued to a .22 rifle?
- A: It is possible.
- Q: Did you suggest any such line of investigation?
- A: There was no occasion for me to do so.
- Q: At any time when you were at the hospital did any person come and request you for the return of that rifle in the presence of I.P. Gurusamy ?
- A: I did not go anywhere near the hospital on that occasion.
- Q: When did you leave Jaffna?
- A: On 30th September, 1977.
- Q: Up to 30th September, 1977 to your knowledge had any investigations directed by the police to trace the owner of that rifle ?
- A: I do not know.
- Q: I am putting it to you that no investigations were made by the police to trace the ownership because the police knew very well that it was Tilagar's rifle and that it was brought from his home?

(Before witness could answer)

COMMISSIONER:

What was the allegation made about this rifle.

MR. SHANMUGALINGAM:

That it was picket up at the scene of shooting thereby implying that some person in that crowd had it, to support the police story that the

crowd had come armed to attack the police.

COMMISSIONER:

And it was produced at the inquest. Surely, by now an order must have been made about this rifle. Where is this rifle now.

MR. SHANMUGALINGAM:

It is a production in the inquest proceedings. The owner claimed it.

Witness (Contd)

If Mr. Tilagar was the owner of the rifle at the inquest proceedings he could have come and claimed it. Police cannot return the rifle. The G.A. has to hold an inquiry and decide whether he is going to issue a licence.

Q: Did you take the matter to the G.A.?

A: There was no necessity for the police to take it to the G.A.

Q: I put it to you that this rifle was forcible seized by Gurusamy from Tilagar's house and taken it to the Police Station on 16.8.1977?

A: I deny that.

COMMISSIONER:

Who picked up this rifle from the scene

MR. TENNAKOON, Senior S.C: S.I. Mendis had recovered it from the scene.

Q: Do you agree that if any person has come with a rifle to attack the police it was a serious matter ?

A: Yes.

(Mr. Tilagadas continues from 11.30 a.m.)

T.P.Fernando.

26.6.79

11.30 a.m.

A.S.SENEVIRATNE

XID. BY MR.SHANMUGALINGAM CONTD.

Q: When this rifle was taken into custody and produced at the inquest proceedings, did the police make an attempt to trace the owner of the rifle?

A: I cannot say about that. Even if the rifle was produced in Court, the Magistrate could have directed the police to inquire into that.

Q: On the 17th when the HQI brought this to your notice, did you tell him 'trace the owner'?

A: I cannot recollect whether I mentioned that. I must have said 'produce it to the Court'. In matters like this, a small matter, I am not going to tell the officers to do this and that.

Q: The police did not investigate into this matter, to trace the owner of the rifle, because the police knew that Tilakar was the owner of the rifle, and the rifle was seized by IP Gurusamy by force from his house and produced at the scene?

A: I cannot subscribe to this view.

(At this stage Commission adjourns for tea and resumes at 12 noon.)

A.S.SENEVIRATNE: Affirmed, recalled.

XID. BY MR.SHANMUGALINGAM CONTD.

Sir, the evidence of Mr.Sivaganam on the question of bowzers is at pages 175 and 189. (Counsel reads)

Commissioner:

The Municipality also had no bowzers?

Witness: They had four bowzers. They came on the night of the 26th when the bus stand shops caught fire.

Q: You have got the figures of police officers in the Jaffna district?

A: Not for the Jaffna district, but I have got the figures of the Jaffna police station.

Q: Can you give those figures?

A: Yes. 16 Inspectors/SII.

1 Sergeant Major

28 Sergeants

236 PCC including Police drivers.

Out of them the following were Sinhalese officers -

11 Inspectors/SII

1 Sergeant Major

13 Sergeants

169 PCC including police drivers.

The following were the Tamil officers :

4 Inspectors/SII

12 Sergeants

52 PCC including drivers.

Ceylon Moors:

1 Inspector

3 Sergeants

15 PCC including drivers.

Q: Out of your police stations, how many OICC were Sinhalese and how many were Tamil officers?

A: I can give those figures tomorrow morning.

Q: Can you say roughly about how many police officers from outside came into Jaffna division on the 16th?

A: Of all ranks there must be around 150 by the 16th evening.

Some others came on the 17th morning also.

Q: By the 17th morning, about how many people?

A: About 200 officers or a little more than that.

Q: They were all fully armed?

A: They would have carried rifles.

Q: You also had given evidence alleging harassments of police officers by the people of Jaffna and by the TULF? A: Yes.

Q: I will take one by one. You referred to certain private complaints?

A: Yes.

Q: You referred to three specific private complaints? A: Yes.

Q: One is the Point Pedro case?

A: Yes, SI Lugoda's case.

Q: The other one was Fontkallan's case? A: Yes.

Q: The third one was the Chemanny shooting case? A: Yes.

Q: Now regarding the Point Pedro case, a private complaint was filed, proceedings were taken and SI Lugoda was found guilty? A: Yes.

Q: You don't know what happened in that case?

A: No. Mr. Nadesan appeared in that case.

Q: He is still in service even after conviction while the appeal is pending? A: Yes.

Q: Is it the practice in the police force ^{that} once a police officer is convicted, when the appeal is pending, he is allowed to continue in service? A: It all depends on the circumstances.

Q: Now take a bribery case. On the police officer being indicted, he is interdicted?

A: That is the standing order by the Department.

Q: Can you tell me any other case in which a police officer, after a conviction by a court, is permitted to continue in service, pending the appeal? A: I cannot give specific instances.

Commissioner: In this case, you say he continues in service?

A: Yes.

Q: What was the charge?

A: The charge was for causing simple hurt to a person called Nadarajalingam who was a linesman in the Point Pedro U.C.

Q: At the Point Pedro carnival? A: Yes.

Commissioner: What was the sentence?

A: I cannot recollect, Sir.

Q: A suspended sentence was passed on him? A: I cannot remember.

Q: He appealed? A: Yes.

Q: And he is in service? A: Yes.

Q: Do you say it was an act of harassment?

A: Yes, the fact that a private plaint was filed against the police.

Q: Was the police prepared to file a **plaint** against SI Lugoda in respect of that transaction?

A: Police did not file.

Q: A citizen who had been assaulted by the police, has he not the right to file a private plaint against the police officer if the police had not filed a plaint against him?

A: That right is there.

Q: You say that is one of the acts of harassments? A: Yes.

Q: Second one is Pontkallan's case against Bastiampillai? A: Yes.

Q: Pontkallan's relation was taken into custody along with others and kept in detention in the Jaffna remand? A: Yes.

Q: And Pontkallan alleged that when he took meals to this gentleman, he was assaulted by Inspector Bastiampillai?

A: There was some evidence to that effect.

Q: On that allegation, the police did not take action?

A: That was inquired into by the police and the police could not do anything on that.

Q: And he filed a private plaint? A: Yes.

Q: And it was filed in the Magistrate's Court of Jaffna? A: Yes.

Q: The A.C. ordered the transfer of the case to Colombo by a fiat?

A: I think so.

12.10 a.m.

P. Thilagadas.

A. S. SENEVIRATNE: (Contd.)

To Mr. Sharmugalingam:

(To Commissioner:

Q: Was the case transferred ?

A: Yes.)

Q: Thereafter Font Gallan made an application for a re-transfer to Jaffna ?

A: There was a series of applications.

Q: While the case was still pending, Inspector Bastian Pillai was murdered ?

A: No. That was not the case.

Q: Was the case pending when he died ?

A: The case was over.

Q: I suggest it to you that the case was still pending when he died ?

A: I refuse to accept that position. Witnesses did not turn up and the case was concluded.

Q: In what Court ?

A: I do not know.

Q: The case was pending at the time of the death of Bastian Pillai ?

A: No. The case was pending.

With regard to the Chemmony shooting incident an action was filed.

A private plaint was filed. Proceedings were taken.

Mr. P. Tennekoon, Senior S.C.: A civil action was filed.

To Mr. Sharmugalingam:

Q: A civil action was filed against the Attorney-General and the P.C. who shot ?

A: Yes.

Q: The civil action was filed by the parents of the person who was shot at ?

A: Yes. By his father.

Q: After trial at which Crown Counsel defended, damages were awarded in a sum of Rs.50,000/- ?

A: The damages suit was filed when I was there. It was concluded after I left. I was not there when it was concluded.

Q: The Crown appealed ?

A: Yes.

(To Commissioner:

The case against the p.c. is pending.)

Q: That was transferred to Anuradhapura ?

A: Yes.

Q: With regard to the Civil Action the officer is still in service ?

A: Yes.

Q: These are the three private actions filed, which you say amount to harassment of the police ?

A: These are the incidents that came to my knowledge.

Q: You also referred to a number of disciplinary actions you took against police officers ?

A: Yes.

Q: Some of them were for drunkenness ?

A: Yes.

Q: Against two you took disciplinary action for robbery of a gold chain from a lady on the highway ?

A: Yes.

Q: That was on the road to Nallur Temple ?

A: No. That was on some cross road by the railway station - Rasaviltottam.

Q: Those two police officers were apprehended by passers-by when they were walking away with the booty ?

A: Yes.

Q: Who brought them to the police station ?

A: They were arrested and brought to the station.

Q: They were caught in the act ?

A: Yes. That was why I immediately cancelled their enlistment.

They were out of the police force within hours. They went into the remand as civilians.

Q: Police filed a case and the accused were discharged ?

A: As far as I believe they were discharged in Court.

(To Commissioner:

Q: Were they acquitted ?

A: That did not amount to an acquittal.)

Q: Why were they discharged ?

A: On a point of law.

Q: What were the details ?

A: This case was concluded after I left Jaffna, but the fact was that I initiated action. They were remanded.

Q: Another incident on which you took action was for arson at Anakottai ?

A: Yes. Mr. Noordeen went for inquiry into that case.

Q: A police officer who was taken into custody was the accused ?

A: Yes. He was p.c. Kingsley Perera who was shot in connection with the bank robbery. He was remanded.

I do not know what happened after the case was concluded.

Q: You interdicted him ?

A: Yes.

Q: How did he get back into service ?

A: After going through the case.

Q: What was the information with regard to his participation in the offence of arson ?

A: I cannot remember the details.

Q: He was not a pyromaniac ?

A: I do not know.

Mr. P. Tennekoon, Senior S.C.: I am informed that an inquiry was to be held with regard to that arson incident in Colombo. Before that, the police officer had pleaded guilty for having left the station without permission.

To Commissioner:

Q: What happened to the Court case ?

A: He was acquitted after trial.

He later got into the force and then

(L. Silv

(Contd. by Mr. T.P.Fernando from 12.20 p.m.)

6.1979

12.20 p.m.

A. SENEVIRATNE (CONTD.)

TO MR. SHANMUGALINGAM:

Q: You also closed the Gurunagar police station ?

A: I did not close the Gurunagar police station. Certain police officials were moved out.

Q: Because of these incidents ?

A: Yes. There was a P.C. by the name Ganeshapillai who was found after liquor.

Q: Besides being under the influence of liquor were there any other matters ?

A: There was P.C. Balasunderam who was missing from the reserve once and he was also dealt with departmentally. Then there were some P.C.C who had removed a vehicle from the Police station and had gone to an outside area. They were from Chankanai Police Station. They were interdicted and the inquiry is still pending.

Q: Do you know that on the day Lugoda was found guilty the police officers lined up right in front of the police station and hooted the Magistrate at Pt. Pedro?

A: It did not happen.

Q: If anybody says so do you deny that ? - Yes.

Q: Were you in Jaffna when he was convicted ?

A: Yes, Your Honour.

Q: When was that ?

A: I cannot remember the exact date. That was somewhere in 1976.

Q: Lugoda was transferred to Mullaitivu during the August disturbances ?

A: I do not know. If Counsel says that he was in Mullaitivu

during the August disturbances I have no reason to doubt it.

Q: These are departmental disciplinary inquiries in respect of which you acted ?

A: Yes.

Q: Did you at any stage of your examination-in-chief say that the monies that were taken in bank robberies were used for TULF funds?

A: I said that the monies that were taken in bank robberies had possibly gone for TULF funds.

Q: Did you say possibly gone or did you say that the monies had gone ?

A: I cannot recollect.

Q: What is your information with regard to that ?

A: I am not prepared to divulge that because if I pass that information the informants will not be in the land of the living. I want them to live and die a natural death.

Q: It is a serious matter if monies robbed from banks go to funds of a political party like the TULF?

A: Yes.

Q: It is a serious matter which this Commission is entitled to investigate?

A: Yes.

Q: You are not prepared to place before this Commission any evidence with regard to that except your statement ?

A: Yes. My statement may be accepted or rejected.

- Q: At one stage you said that it may be possible that that money goes to TULF funds?
- A: It goes to TULF funds, Your Honour.
- Q: Why do you say that it goes to TULF funds ?
- A: Anyway, my knowledge is that it goes to TULF funds.
- Q: And you are certain about it ?
- A: Yes, Your Honour.
- Q: When a police officer leaves the police station and goes out on duty he has to make necessary entries in the R.I.B. ?
- A: Under normal circumstances he has to make.
- Q: Are there any other books where he can make such entries?
- A: He can make entries in the Pocket notebook or in the Off Duty I.B.
- Q: But normally they make entries in the R.I.B.
- A: If P.CC living in barracks are going out for less than two hours they make entries in the Off Duty I.B. If they are going out for more than 2 hours they make entries in the R.I.B. The other officers make entries in the R.I.B.
- Q: The Inspectors and Sub Inspectors, when they go out irrespective of the time they will be out they have to make entries in the R.I.B.?
- A: Yes, Your Honour.
- Q: If, for example, an officer is going out to detect any smuggling he should normally make entries in the R.I.B.?
- A: No, Your Honour. R.I.B. is a book which is used by all and sundry. Therefore, such information is certainly not recorded in the R.I.B.

Q: The Minor Traffic Offences Book is a book maintained in the Police Station?

A: There is no minor traffic information book.

Q: There is a minor offences information book ? - Yes.

Q: That is a book in which any police officer can make entries?

A: Any officer can make entries in any book in the station but they must be made in the proper book. The men in the branch will be the persons who will be looking at those. There is a minor offences investigation branch. Those officers are the people who look at those books.

(Mr. Tilagadas continues from 12.30 p.m.)

T.P.Fernando.

26.6.79

12.30 p.m.

A.S.SENEVIRATNE:

ED. BY MR. SHANMUGALINGAM CONTD.

Q: People in the crime branch look at the crime book. Whether the police officers make an entry in the RIB or the MOIB, both are open books which can be seen by others?

A: Any information books in the police station can be seen by others except confidential documents.

Q: So that making an entry in any other book other than the RIB is not going to be a secret?

A: RIB, Routine Information Book, shows all that happens in the police station.

Q: When an officer goes out for some detection work like the smuggling activity, in what book will he make the entry?

A: He will make an entry in the book of his own branch.

The RIB is kept in the charge room. MOIB is kept in the MOIB branch.

Q: A large number of officers are attached to that branch?

A: Yes, anyone could see.

Q: So that any officer can go and make the entry in the book of the branch in which he works?

A: Yes.

Q: He can make the 'IN' and 'OUT' entry in any book?

A: He will make the IN entry in the book in which he has made the OUT entry, unless, of course, there is any other reason.

Q: Do you know in what book Mr. Walter Perera made his entry before he left on the 15th night?

A: It is in the traffic MOIB.

Q: There is an ordinary traffic information book and also there is the traffic minor information book?

A: There is also the accident information book.

Q: And this is the minor traffic information book? A: Yes.

Q: That was marked A370? A: Yes.

Q: That is he left at what time?

A: On 15.8.77 at 9.50 p.m.

Q: And when did he come back?

A: At 832 hrs on the 16th.

Q: Who is the person who has made the next entry?

A: IP Senathirajah. That is entry No.793.

Q: Did he take a jeep with him?

A: Yes, he has gone in jeep No. 4 Sri 9013. He has returned by the same jeep.

Q: You don't know what he did after leaving the station?

A: He has made an entry.

Q: What has he entered there?

A: (witness reads)

12.40 p.m.

P.Thilagadas.

A. S. SENEVIRATNE: (Contd.)

To Mr. Shanmugalingam:

Q: They had been lying in ambush right through the night, but without success ?

A: Yes. When officers go on detections like this they have to wait for days and days. Prior to this too he had gone on this type of duty.

(The entry made by Mr. Walter Perera on 16.3.77 at 8.32 a.m. is marked A.407)

Q: According to A.370 he left at 9.40 ?

A: Yes.

Q: He left the station ?

A: He had made the out-entry.

Q: He went no sooner he made the out-entry ?

A: Possible.

Q: One does not make an out-entry and wait for 5 or 6 hours ?

A: At times they wait for the informants. Sometimes they go immediately. Sometimes they have no time to make the entry and rush to the scene.

Q: Can you tell this Commission where he made an entry and cancelled it stating that the informant had come ?

A: That is a rare incident.

Q: I suggest it to you that the police officers make the out-entries at or about the time they leave ?

A: That cannot happen always.

Q: How long does it take to make this entry. Does it take hours ?

A: It does not take hours. In a matter of minutes things can be quite different. A matter of two minutes can make all the difference.

Q: Kurikattuwan

Q: Kurikattuwan is about 24 miles away ?

A: Possible. If they wait for long they would not achieve their aim.

Q: Are you suggesting that s.i. Walter Perera and other police officers are the people who are referred to by p.c. Gerrard ?

A: I am not suggesting that.

Mr. Shanmugalingam: I say that that is the purpose for saying that the entry was made and the people were waiting.

Commissioner: He states that they were in the Single men's barracks.

Mr. Shanmugalingam: When the time came they were to be put up.

Witness:

Q: If minutes mattered, all police officers must assemble and be ready to move out within seconds ?

A: These are ad hoc situations - the one on which I am being questioned.

Q: Is it possible that you make the entry and be ready to go, but the other police officers go and sleep and they have to be put up ?

A: It is not like that.

Mr. P. Tennekoon, Senior S.C.: There is a frequent movement of police officers in the station.

Mr. Shanmugalingam: Police officers do not tie turbans and go about. At about 12 or so Walter Perera went and put up these people.

Q: Are you aware that evidence has been led about Walter Perera by two bus drivers that they were asked to drive their buses over bicycles heaped on the road ?

A: I am not aware.

Q: With regard to the burning of Pathmanathan's car, you referred to A.384 ?

A: Yes.

(Refers to pages 257 and 260 of the proceedings -
Evidence re Walter Perera)

Q: Do you know who set fire to Pathmanathan's car ?

A: In this respect I visited the scene. Pathmanathan's car had
been burnt. I made my observations on the incident.

, (Reads from document)

Q: You produce that document marked A.408 ?

A: Yes.

(L. Silva)

(Contd. by Mr. T.P.Fernando from 12.50 p.m.)

26.7.1979

12.50 p.m.

A. S. SENEVIRATNE (CONTD)

TO MR. SHANMUGALINGAM:

Q: Were investigations carried out thereafter with regard to the cause of this fire ?

A: Yes, Your Honour.

Q: Sometimes, thereafter, were four police officers transferred to KKS police station ?

A: Not to my recollection. If Counsel can give the names of the officers I can say.

Q: Can you verify that and tell us tomorrow ?

A: I do not think.

Q: Before Mr. Padmanathan who was the O.I.C. there ?

A: Inspector Gunatillake was the H.Q.I.

Q: During his time there were a number of allegations that the people attending meetings of the TULF were harassed and assaulted by the police ?

A: There was an allegation of a damage to a TULF meeting, Your Honour. Inspector Gunatillake was not there during the period of elections.

Q: Did Mr. Amirthalingam bring that to the notice of Mr. Sumith Silva the A.S.P.?

A: I cannot say whether he brought it to the notice of Mr. Sumith Silva.

Q: Are you aware that the police officers in jeeps were going on roads by keeping two poles on either sides of the jeeps and the cyclists who were coming on the road struck against those poles and fell on to either side ?

A: If there was such an incident Mr. Sumith Silva would have brought it to my notice.

Q: My instructions are that a complaint had been made to Mr. Sumith Silva ?

A: If such a thing happened he would have immediately brought it to my notice.

Q: After Mr. Padmanathan came there he took severe action against police officers who tried to assault the people going for the meetings ?

A: I am not aware.

Q: I put it to you that it was as a result of those actions he took his car was set on fire ?

A: I deny that. It was well known that Inspector Padmanathan was the officer who inquired into the I.A.T.R. matter and the politically motivated bank robberies and due to that there was lot of animosity towards Mr. Padmanathan and after he inquired into the incidents on the 16th that animosity became worse?

Q: (Shown notes of inquiry) Take paragraph 178. It is a statement recorded from a police officer by the name Badurdeen ?

A: Yes, Your Honour.

Q: He was questioned whether he knew anything about the setting of fire to his car?

A: (Witness reads the statement of P.C. Badurdeen).

Q: Anyway, A.384 refers to a number of statements in this book?

A: Yes.

Q: So that a number of statements happened to be recorded in respect of Padmanathan's complaint ?

A: Paragraph 173 says "I am leaving for inquiries" and 174 is about his return to station.

MR. SHANMUGALINGAM: May I be permitted to go through this Information book with regard to connected entries?

MR. TENNAKOON, Senior S.C: Yes. Witness himself will help my learned friend.

Q: Anyway, you do not know whether it was done by a police officer or by members of the public?

A: I cannot say, but the information was that some youths set fire to the car consequent to Inspector Padmanathan's inquiry into those incidents. This was what Inspector Padmanathan told me.

COMMISSIONER: Q: There is no evidence about that ?

A: There is no evidence forthcoming in any of these cases.

Q: Do you know whether four police officers were transferred sometime after the burning of Inspector Padmanathan's car ?

A: It is possible or may not be possible.

Q: Can you check that tonight and tell us ?

A: I do not think that type of record would be available.

COMMISSIONER: Q: Police officers are transferred, I suppose, from higher up?

A: If they were transferred out of the division the order would have come from Colombo. If they were transferred within the division I would have made the order.

Q: Can you remember making an order ?

A: No, Your Honour.

Q: Were any police officers sometime after this incident transferred to Anuradhapura ?

A: I would not have made a transfer order from Jaffna to Anuradhapura.

(Mr. Tilagadas continues from 1.00 p.m.)

26.6.79

1 p.m.

A.S. SENEVI GUNNE:

QAD. BY MR. SHANMUGALINGAM CONTD.

Q: Anyway, the orders of the DIG would have come to you? A: Yes.

(Commissioner: One does not know why transfers are ordered.)

Police officers are transferred through out the year for various reasons.

Q: I am only asking about the four police officers who were transferred soon after this incident in a group?

A: I cannot recall that.

Q: You said Mr. Walter Liyanage came by the noon of the 16th along with the DIG, IGP and others? A: Yes.

Q: And he continued to be there till the 17th?

A: On the 17th afternoon he went back.

Q: Can you tell us what he did there?

A: On the 16th he did absolutely nothing other than telephoning the DMO to get down a medical officer.

Q: That is all he did on the 16th? A: Yes.

Q: You and other officers of your rank knew fully well that medical officers in Government Service are not entitled at that time to go outside the hospital to treat a patient?

A: Then it was a different situation. We were not demanding that they should come. We said the PC did not want to come to the hospital.

I am not saying anything against the medical officers.

Q: On the 17th what did he do?

A: On the 17th he went with the DIG to the Tinnavelli campus and was assisting in the evacuation of the students, and he went away.

Q: Did he give you any fatherly advice?

A: I said if I wanted fatherly advice, he would have given me, but there was no occasion for me to ask.

Q: So that the only thing he did ~~was~~ when he was in Jaffna was to ring up the hospital and help in the evacuation of the students from the campus? A: Yes.

Q: So, he must have found the time hanging on him on the 16th?

A: I think you must ask him that question.

Q: He was brought as a special officer from Anuradhapura?

A: I don't know whether he was brought as a special officer.

He came suddenly. When he came he did not bring any clothes.

I have to give him a sarong. He brought only his pipe, and I had to pay for his tobacco also.

Q: Mr. Liyanage had gone to see Mr. Ana Seneviratne off at the air port?

A: I don't know.

Q: That is why he came only with his uniform and the pipe.

If he had prior knowledge, he would have come with his clothing?

A: Yes. IG himself was the one who brought him to Jaffna. Mr. Senanayake himself said that in his evidence.

Commissioner: I suppose he came to the air port to see the DIG off?

Mr. Sennekoon: He knew that the IG was coming, and he would have gone to see him.

Commissioner: Did the SP Anuradhapura know that the IG was coming?

Witness: Yes, and the practice is to go and see him.

Q: Now regarding the incident of the 21st of August, the date on which Mr. Amirthalingam was involved in an incident in front of the police station, on that day a number of people were released from the Prison?

A: Certain persons were released.

Q: Four youths were released on that day and they were convicted for distributing the hand bills about the Vaddukoddai convention?

A: Your Honour asked me about it, and I had sent an officer to check on that. I have not got the information yet.

Q: Four youths were charged and taken into custody for the distribution of the hand bills of the Vaddukoddai Convention?

A: It could not have been at Jaffna.

Q: At Kilinochchi. They were distributing along with the H.P. for Kilinochchi? A: Yes.

Commissioner: Have they been charged?

A: They were charged and convicted including the H.P. for Kilinochchi.

Q: They were given prison sentences? A: Yes.

Q: Two weeks? A: I don't know because Kilinochchi falls outside my area.

Q: So those youths were sent to prison for that reason?

A: Yes.

Q: On that occasion a number of police officers assembled and attacked Mr. Amirthalingam's car and him?

A: No policemen assembled there. The police barracks were near by.

Q: They came out of the barracks?

A: No, the allegation is they abused and somebody threw a club or something at his car, and that they were having some cross talks with the officer who was on guard duty because the duty officer did not allow them to enter.

Q: That was all the information Mr. Amirthalingam gave you?

A: Yes, that is what I recorded.

On that day there were three incidents. The first one was when Mr. Amirthalingam tried to enter the Fort area without authority. That was the time the PC refused him to enter the Fort area. On that occasion he said the constables assembled near the barracks and somebody threw a club at the car. Then he made a complaint at the police station. After he parked his car, the allegation was some policemen had got on top of his car.

Q: When he was making the complaint, he made the allegation that some police officers got on top of his car?

A: Yes.

1.40 p.m.

P. Thilagadas.

26. 6. 79

- 13226 -

1.10 p.m.

A. S. SENEVIRATNE: (Contd.)

To Mr. Shanmugalingam:

Thereafter Mr. Amirthalingam came into the police station and said that some p.c. dealt him a blow from behind and that Mr. Dharmalingam was with him at that time. Mr. Amirthalingam said Mr. Dharmalingam did not come for the identification parade because he could not identify that p.c. Amirthalingam identified that p.c.

Q: Mr. Amirthalingam identified p.c. Ranasinghe as that p.c. ?

A: Yes.

(To Commissioner:

Q: P.C. Ranasinghe was dismissed from Service ?

A: Yes.)

Q: When was he interdicted ?

A: On the same day.

Q: When was the order of dismissal ?

A: It was produced. The order for dismissal was made in January.

Q: When is the Order dated ?

A: 3.3.78.

When the Order from the I.G. is received by the O.I.C. or any other officer concerned, it is conveyed to the officer. That Order goes to the Strength Department. By the time the General Order is made, there is no doubt that the man is out of the Service.

(To Commissioner:

The order was not back-dated.)

Mr. P. Tennekoon, Senior S.C.: He was dismissed on 27th January.

Thereafter, the General Order was made giving the particulars of all the officers dismissed.

Q: Can you produce the message dated January 1978 by which he was dismissed ?

A: I cannot.

Q: Was it by telephone message ?

A: Normally when the order for dismissal is made, it is conveyed to the officer concerned. If it is not done the officer responsible would be surcharged all the monies paid to such dismissed officer after the order was made.

Q: A.392 is a document dated 3.3.78 and it is the General Order ?

A: Yes.

Q: The Order for dismissal is dated 27.1.78 ?

A: Yes.

Q: That document states that the officers mentioned therein are dismissed with effect from the dates mentioned therein ?

(Reads from document)

This document goes to all stations in the Island. The 3rd item in that document relates to p.c. Ranasinghe.

Q: It could have been communicated in January itself ?

A: Yes. Otherwise the officer who did not inform the officer concerned could be surcharged.

Q: Jaffna could have been informed in January 1978 ?

A: Yes.

Q: This was the first information of his dismissal ?

A: I cannot say.

Q: The matter regarding p.c. Ranasinghe was taken up after this Commission began its sittings ?

A: I do not know.

I served the Charge sheet on him within two months. I interdicted him with immediate effect. The inquiry with regard to this matter could have been a 'Panel Inquiry'. Panel Inquiries

take time. They take a long time. There was no delay on our part because all communications were done by messenger. My message to Head Quarters was that he was dismissed with immediate effect.

Q: The inquiry did not take place and the dismissal also did not take place until this Commission began its sittings ?

A: No. This dismissal was in January 1978. During the time in between the inquiry would have gone on.

Mr. Shanmugalingam: When this matter was taken up in Jaffna, nobody took up the position that he had been already dismissed. We submitted that no action was taken.

Mr. P. Tennekoon, Senior S.C.: I informed that he was dismissed but I was not sure of the date.

Commissioner: This Order is dated 3.3.78 - informing the date of dismissal. This is the January Order. It was not with retrospective effect. He was dismissed in January 1978.

Mr. Shanmugalingam:

Q: Is the communication made to Jaffna on 27.1.78 available ?

A: I must check it up.

Commissioner: The Order made to Jaffna would be in the Jaffna file. You can produce a certified copy of that Order.

(L. Silva)

(Contd. by Mr. T.P.Fernando from 1.20 p.m.)

26.6.1979

1.20 p.m.

A. S. SENEVIRATNE (CONTD):

TO MR. SHANMUGALINGAM:

COMMISSIONER: (Contd) If it was actually made in January it should be there.

Q: You know Mr. Thamotherampillai ? - Yes.

Q: You have marked the document A.399 where you had recommended a special promotion to him ?

A: Yes.

Q: That was dated 27.4.1977 ? - Yes.

Q: That was before the disturbances ?

A: Yes, Your Honour.

Q: After the disturbances did you make a note in his personal file that he was a communal minded officer ?

A: I have no recollection.

Q: Did you send him a copy for his information ?

A: I did not send.

Q: When an adverse comment is made it is communicated to the officer?

A: Yes.

Q: I put it to you that made this comment and you sent him a copy ?

A: There was no question of sending a copy.

Q: He sent an appeal against that to the D.I.G.?

A: I do not know.

Q: If there is such an appeal it would be reflected in the files of the D.I.G. of the Northern Range ?

A: I believe, so

MR. SHANMUGALINGAM: May I request that the personal file of Thamodarampillai and the appeal made by him to the D.I.G. be made available to us.

Witness - contd:

As a matter of fact just before these troubles Mr. Thamodarampillai wanted a pistol for his safety. He was so scared of the youths of Jaffna. I got him issued with a modern revolver.

Commissioner: As regards the personal file of Thamodarampillai you take out summons.

Q: Did he at any stage complain that his son had been assaulted by other police officers ?

A: He informed me that his son was assaulted. He told me that his son was assaulted at Sinnakade.

Q: In fact he had made complaints to you with regard to certain police officers being on duty without numerals ?

A: When he informed me that his son was assaulted even the H.C.I. was present with me. I asked Thamodarampillai to make a written complaint and he said it was a disgrace to make such a complaint.

Q: Anyway he made a complaint of his son being assaulted.?

A: Not that he made a complaint as such. He told me so.

Q: Did he not bring to your notice that a number of police officers were on guard duty without numerals ?

A: No. If he had told me so I would have got Thamodarampillai himself to inquire into that matter.

Q: Was he on station duty on the 16th ?

A: I cannot remember.

Q: How many points of guard duty are there at the police station ?

A: Perimeter guards are posted depending on the situation. At times there are no such guards at all.

Q: Did he at any stage bring to your notice his anticipation that the Tamil police officers would be dealt by the Sinhalese police officers at the Jaffna police station ?

A: No.

(At this stage Commission adjourns for the day.
Further hearing on 27.6.79 at 9.30 a.m.)
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258th DAYINQUIRY RESUMED

Same appearances as on last date

Mr. P. Tennekoon, Senior S.C.: Before my Learned Friend resumes the cross-examination of the overnight witness, I wish to bring one matter to your Honour's notice. Your Honour will recall that a good deal of questioning was done on the question as to the ability of the Jaffna Municipal Commissioner to have helped in extinguishing the fire at the Old Market. The question arose whether the Municipal Council was in possession of water bowsers and pumps which they could have made available. Regarding this I wish to draw the attention of the Commission to the evidence at page 224 of the proceedings. This particular question appears at page 225 (bottom) where he had been asked: (Reads from page 225 (bottom)). This shows that the Municipal Council had water bowsers and pumps in their possession.

Commissioner: Were they not used.

Counsel: We were told they had water bowsers.

This witness rang up the Municipality and asked them to supply the bowsers and the pumps.

Commissioner: Is there any more evidence about water bowsers and pumps.

Counsel: No, Sir.

Commissioner: There must have been good reason for what was done.

A. S. SENEVIRATNE: (Contd.)

A. S. SENEVIRATNE: (Contd.)

To Mr. Shanmugalingam:

Q: You were asked whether Mr. A.C.de Zoysa is representing you at this inquiry?

A: Yes. He does not appear for me. I came before this Commission to state what actually happened.

Mr. Shanmugalingam: We have not yet heard as for whom Mr. de Zoysa is appearing.

Asst. Secretary: I wrote to Mr. de Zoysa yesterday under registered cover asking for the particulars Counsel need.

Q: You said that on the 13th you went to Colombo?

A: I left on the 11th.

Q: On the day you left, was your telephone in order - your bungalow telephone?

A: I believe so.

(To Commissioner:

That is a direct line.)

Q: You had two direct lines - one in office and one at your bungalow?

A: Yes.

Q: When did you return from Colombo.

A: On the evening of the 14th.

Q: After you returned, from the 14th was your telephone in order - bungalow telephone?

A: From the time I came it was out of order.

Q: When was it repaired?

A: I cannot remember.

Q: Was it repaired on the 17th, 18th or 19th?

A: I cannot remember when it was put to right.

Q: Was it out of order for a long time ?

A: It is possible. I had the extension line in order.

I cannot remember when my bungalow telephone was repaired. It would have been repaired in a few days time.

Q: In regard to Pathmanathan's car being burnt, who carried out the investigations ?

A: I cannot recollect without referring to the I.B. (Witness refers to the I.B. and states) A.S.P. KKS would have directed somebody. There is the connected file on this matter. (Witness goes through the file).

Mr. P. Tennekoon, Senior S.C.: While this witness goes through the files might I bring to your Honour's notice that the date of dismissal of p.c. Ranasinghe was on 27.1.78. The order was made on the same day - 27.1.78. I move to produce that Order marked A.409. This has been communicated to the Jaffna police on 1.2.78 according to the telephone register maintained at the Police Headquarters. The particular entry in the R.T... of the Police Headquarters is marked A.510.

Mr. Shanmugalingam: It seems to be a sheet of paper pasted in that book. If there is an entry stating this was conveyed on 1.2.78, there would be a corresponding entry in the Jaffna books. X.53 and X.54 are here.

Mr. P. Tennekoon, Senior S.C.: Not only this order, but there are many papers pasted in this book. X.53 and X.54 are the telephone registers.

Mr. Shanmugalingam: The telephone register of the Jaffna Police relating to 1978 may be produced.

(L. Silva)

(Contd. by Mr. T.P.Fernando from 9.45 a.m.)

27.6.1979

9.45 a.m.

A.S.SENEVIRATNE (CONTD):

TO MR. SHANMUGALINGAM:

This is regarding damage to Inspector Padmanathan's car. S.I. Ariyaratne was the O.I.C. crimes in KKS at that time. He has made investigations.

Q: After the entire investigation was over was there a report ?

A: There would have been a crime file into this matter. That would have gone to the A.S.P.

COMMISSIONER:

Q: At the end of the inquiries was any report made as to the fact that the accused were unknown or could not be found ?

A: Yes, Your Honour. May I read the report. (Witness reads from the file relating to the investigations regarding the burning of Inspector Padmanathan's car). I produce this report marked A.411.

Q: With regard to this there was no evidence whatsoever as to who caused it?

A: Yes, Your Honour.

COMMISSIONER:

Q: This report says that they had recovered a large sum out of the money robbed from the Bank ?

A: Yes, Your Honour. Inspector Padmanathan had made inquiries into this matter. The suspects had been in Colombo. The loot had been recovered and a girl also had been arrested. They were at Maharagama.

COMMISSIONER: But no prosecutions had been filed.

MR. TENNAKOON, Senior S.C: No prosecution had been filed for the same reasons. S.P. Ariyasinghe will give that evidence.

Q: Did the investigations reveal as to who caused the fire?

A: There was no evidence to that effect.

COMMISSIONER: When was Inspector Padmanathan killed.

MR. TENNAKOON, Senior S.C: Sometime in 1978.

Witness (Contd.)

Inspector Padmanathan was killed on 6.5.1978.

Q: This letter was really an appeal for compensation in respect of his car ?

A: It gives the details.

COMMISSIONER: Q: This is a report filed by him?

A: Yes, Your Honour.

ASST. SECRETARY: It is addressed to the I.G. through A.S.P. S.P. and D.I.G.

Q: In that report he asks for compensation for his car ?

A: Yes.

There was another report submitted by Inspector Padmanathan with regard to the investigations conducted into Puloly Bank robbery. That was on 2.6.1977. (Witness reads the report). In this report the names of some of the Police officers are mentioned. Some of them are dead. I do not want to mention the names of the officers who are among the living for reasons obvious. I produce this document marked A.412.

(Mr. Tilagadas continues from 9.55 a.m.)

T.P.Fernando.

27.6.79
9.55 a.m.

A.S. SENEVIRATNE:

ED. BY MR. SHANMUGALINGAM CONED.

Commissioner: Was a case filed?

A: Yes, and the papers were sent to the DPP.

I don't know what happened thereafter.

Mr. Shanmugalingam: If the property had been recovered, that is the best evidence?

Mr. Tennekoon: That would be in respect of stolen property.

Commissioner: There must be some flaw in the legislation.

It must be put right. We cannot go on like this for ever.

Mr. Tennekoon: This is not the only case, Sir. There are a large number of cases where no action is possible in view of the difficulty created by the law.

Witness: In regard to the Atchuvelli bank robbery case, weapons were recovered, articles were recovered, suspects were arrested and the papers were sent to the D.P.P. and still nothing happened so far.

Commissioner: When was that?

Witness: In 1977, Sir. The suspects in that case were arrested within a matter of hours.

Mr. Tennekoon: That is all the police can do. After investigations, the police can only forward the papers to the D.P.P.

Commissioner: I was partly responsible for drafting this legislation. I am glad now that they have gone back to the non-summary proceedings. We all know that nothing happens and everything is forgotten.

Witness: I have marked this document as A-12. May those names be blacked out?

Commissioner: Yes.

Q: You have in your evidence stated that when the refugees from the other parts of the country started to pour into the Jaffna district, the people started blaming the TULF? A: Yes.

Q: In fact, more the refugees started coming in, the more unpopular the TULF became?

A: Yes, that was the immediate reaction.

Q: And in consequence, they had to divert their attention to something else? A: Yes, of course.

Q: And therefore, the fire on the 26th took place?

A: That is my position.

Q: Is that the thinking of the Government as well?

A: I don't know. I cannot say about the thinking of the Government.

Q: Would you agree with me that it was the beating up of the Tamils in 1956, 1958, 1962 and 1977 which has strengthened the hands of the TULF?

A: I cannot give an answer to that question. Some of them are not within my knowledge.

Q: Did the disturbances of 1958 strengthen the hands of the Federal Party at that time? A: I cannot answer.

Q: Did the disturbances of 1956 strengthen the hands of the Federal Party at that time? A: I don't know.

Q: Did the suppression of the satiyagraha movement in 1962 strengthen the hands of the Federal Party?

A: I don't know because I was not in the police department then.

Q: Did the overall effect of the disturbances of 1977 strengthen the hands of the TULF? A: I don't know.

Q: Did the overall effect of the disturbances of 1977 strengthen the hands of the TULF and weaken the hands of the moderates?

A: Yes, the position of the TULF was strengthened.

10.05 a.m.

P. Thilagadas.

A. S. SENEVIRATNE: (Contd.)

To Mr. Shanmugalingam:

Q: So that, it is wrong to say that the Tamils in down South were beaten up and sent to Jaffna and that was the cause of these incidents ?

A: It is not correct to say that. Because the T.U.L.F. started this campaign the Sinhalese in Jaffna had to go back to their homes in the South. Affected Sinhalese had to leave Jaffna. They were talking in the same tone. They said the T.U.L.F. was the cause of all these incidents.

Q: Were they not angry with the people who caused these incidents ?

A: They may have been. They knew that the T.U.L.F. was responsible for the situation in the country in other parts.

Q: The T.U.L.F. was responsible for these acts on the 16th because they were blamed by the refugees ?

A: Yes. It is my view.

Q: There is no evidence to that effect ?

A: There is no evidence.

Q: On the 17th and 18th August, did you go round in Jaffna Town - did you go on the 17th ?

A: On the 17th I went to the Air Port in the morning. Thereafter we went to Kondavil to the C.T.B. depot with the D.I.G. and Mr. Liyanage. Then we came for the conference. After the conference was over on the 17th I went back to Palaly because the P.C.C were to be air lifted.

When the Deputy Minister and others came I also came with them.

Q: Did you see any incidents of police assaulting any members of the public on the 17th ?

A: No.

Q: Did you see a number of police officers on the roads that day ?

A: The police patrols were there.

Q: They were with their numerals on ?

A: Yes.

Q: Where there any policemen without numerals ?

A: If there were any, I would have taken them to task.

Q: Dr. Dassanayake states he took up the question of police officers on duty without numerals and you say it is false ?

A: It is not correct. If that were so he could have brought that up at the conference. He did not take up that matter at the conference. He mentioned only about the dead bodies being guarded.

Q: He did not mention officers without numerals in the hospital premises ?

A: He did not.

Q: If he states that, it is false ?

A: I do not know that. I did not mention that at the conference.

Q: So that, when he states before this Commission that he raised that question before the Conference, you say it is false ?

A: I say it is incorrect.

Q: When he states that the D.I.G. gave him the assurance that he would see to it, you say it is false ?

A: He did not say so.

Q: Nothing like that took place at that conference ?

A: If such a thing happened, the D.I.G. would have told me so. .

Q: That question never arose ?

A: It did not.

Q: What Dr.Dassanayake stated in his letter to the S.P. is wrong ?

A: He states this in his letter (Reads from A.59).

He does not state that he mentioned it at the conference that the police were without their numerals.

Q: There is no reason to believe that Dr. Dassanayake has anything against the police ?

A: I do not know that. When he said about removing police officers from the hospital premises, he mentioned about his being threatened by his minor staff.

(Commissioner: He may have had the question of his minor employees. He may have had the police question also.)

Q: He came on his own and gave evidence before this Commission ?

A: It was mentioned so.

Q: What you say is that nothing like that happened at that conference ?

A: Nothing about the question of numerals.

Q: Nothing about the numerals took place at the conference ?

A: In that case, if it was mentioned, the others would have heard it.

Q: On the 18th did you go round the Jaffna Town ?

A: On the 18th I went to Town at about 1.30. I was busy with the Sinhalese refugees at the Naga Vihara.

Q:

Q: On that day even, did you see any policemen attacking the public ?

A: No.

Q: Was any information brought to your notice of any police assaults on the public ?

A: No.

(L. Silva)

(Contd. by Mr. T.P.Fernando from 10.15 a.m.)

27.6.1979

10.15 a.m.

A. S. SENEVIRATNE (CONTD.):

TO MR. SHANMUGALINGAM:

- Q: Are you aware of statements recorded at the Police post at the Kachcheri on numerous complaints of police assault on members of the public on the 17th itself?
- A: There was no police post at the Kachcheri on the 17th.
- Q: The statements were recorded later, but with regard to the incidents of 17th and 18th?
- A: Statements were recorded by Co-ordinating Officer's staff. The post post there was started by Mr. Ana Seneviratne from the 18th. Various complaints would have been made there, but those complaints had not been brought to my notice immediately because they were not working under me.
- Q: They never brought them to your notice ?
- A: About a week after I left Jaffna those files were brought and handed over to the Police in Jaffna.
- Q: Do you know that after the conference in the King's House and when the M.PP were coming out they were hooted by the police officers ?
- A: They were hooted, but not by police officers. We heard the hoot coming from the direction of Duraiappah Statium. There were refugees, the bus crews and other people and they were people who were affected - the Sinhalese refugees.
- Q: If the M.PP say that police officers hooted them and it came from the direction of the barracks would you accept that ?
- A: I cannot accept or deny that.

Q: The G.A. himself said that he was hooted by the police officers ?

A: The G.A. himself said that there were bus crews and others.

Q: Even A.S.P. Jayasuriya the special investigator was hooted by the police ?

A: Yes. That was his allegation.

Q: He has written about that ? - Yes.

Q: There was correspondence going on about that ?

A: There was correspondence at that time.

Q: Have you got those letters ? - No.

Q: To whom did he write ?

A: He had written to the Co-ordinating officer.

Q: Had the Co-ordinating Officer referred that complaint to you ?

A: Papers came.

Q: Did you investigate into that ?

A: I conducted inquiries. There was no evidence as to who hooted.

Q: He was the officer delegated by the Co-ordinating officer to investigate into the complaints against the police officers ?

A: He was brought in by Mr. Ana Seneviratne before the Co-ordinating Officer came.

Q: He was in charge of recording complaints against the police?

A: He was recording all types of complaints against service personnel, police and public.

Q: He was investigating into complaints including the complaints against police officers ?

A: Yes.

Q: And after that conference at the King's House, he alleged that he was hooted by the police officers ?

A: It was not on the same day. It was on a subsequent occasion.

Q: What was the occasion?

A: I cannot give the date or the time.

COMMISSIONER: Q: It was somewhere round about this time ?

A: It was during the time when the Co-ordinating officer was functioning.

Q: After investigations what was the reply you sent to him? There was nothing to say as to who hooted.

Q: In your reply say that the police officers never hooted ?

A: When I went on transfer the investigations were incomplete.

COMMISSIONER: Q: When did you leave Jaffna ?

A: I left on 30th September, 1977.

Q: At the time the Co-ordinating Officer came to Jaffna and the time you left the D.I.G. had not come except on the 16th and 17th ?

A: The D.I.G. was there till the 19th. Thereafter, until I left Jaffna he did not come.

Q: He came to Jaffna the day after the day the Co-ordinating Officer had left ?

A: I do not know.

Q: Do you say that there are police officers who have connections with the TULF ?

A: I do not say that there are police officers connected with the TULF. There may be sympathisers.

Q: You say that there may be people who are sympathising ?

A: That is what I said.

(Mr. Tilagadas continues from 10.25 a.m.)

T.P.Fernando.

27.6.79

10.25 a.m.

A.S.SENEVIRATNE

XKD. BY MR.SHANMUGALINGAM CONTD.

Q: Did you pass on the information that there were police officers who were sympathetic or had any relationship with the TULF?

A: No, there was no necessity for me to pass that information.

Q: Now we come back to the incident where Mr.Amirthalingam was involved in front of the police barracks. You said that he had come on that occasion to receive certain youths who were taken into custody for politically motivated crimes?

A: I did not say. I said they may have been taken in connection with an incident that took place at Kilinochchi court house along with Mr.Amudasingam or something connected with politically motivated crimes.

Q: I now refer to the evidence given by you at page 13019. To a leading question put by Mr.Tennekoon 'were they youths taken into custody for politically motivated crimes', your answer was 'yes'?

A: They were the youths who created disturbances in the Court house at Kilinochchi.

Q: Did you say they were youths taken into custody for politically motivated crimes? A: I cannot recollect that.

Q: When the learned Senior State Counsel put that question to you, your answer was yes?

A: If the record says so, I will accept.

Q: There, you wanted to point out that Mr.Amirthalingam was going to meet those who were criminals, who have taken part in certain criminal activities?

A: I have the reports with me. Receptions were held for some of these released youths. Mr. Amirthalingam has participated in those receptions.

Q: I am speaking about this incident. With regard to this incident, he came there to meet five persons who were being released after serving a term of one week for distributing hand bills containing the Vaddukoddai resolution?

A: I don't know why they were arrested and jailed.

Q: Would it be correct for you as a responsible police officer to say 'yes' when you were asked whether they were taken into custody for politically motivated crimes?

Commissioner: I suppose it is a politically motivated crime. They were charged for distributing political pamphlets.

Q: This regulation was under the emergency regulations? A: Yes.

Q: It was ~~enacted~~ on the mid-night of the day prior to the ^{day of the} distribution of the pamphlets?

A: No, that was a separate incident. On that occasion, Mr. Amirthalingam and others were arrested and where the Trial-at-Bar took place.

Q: The incident in respect of which the youths had been sent to jail was in respect of the distribution of the handbills containing the Vaddukoddai convention?

A: No, they were taken into custody because they created some disturbance in the Vellore courts. I don't know why they were arrested.

Q: You say this is a politically motivated crime? A: Yes.

Q: So you did not know at that time whether it was for the distribution of the pamphlets?

A: They were arrested because they disturbed the proceedings in the Court.

Q: For distributing the hand bills in the Court?

A: I don't know, but they disturbed the proceedings of the Court.

That is why the Magistrate convicted them.

Q: So Mr. Amirthalingam came there to meet those five youths?

A: Not only he. A large number of persons came there. There was no reason for them to go and receive them in jail. Other persons were released from jail. They did not go to the jail to receive them. This was the first occasion they had gone to the jail.

Q: What you say is Mr. Amirthalingam tried to force his way?

A: Yes, he had gone there without authority. He had no right to go there without authority.

Q: Did he come with the crowd and try to force his way?

A: Yes. He created an issue there by saying he wanted to go into the jail. He had an argument with the officer who refused his entry.

Commissioner: I suppose, the only thing he should have done was to leave the place.

Mr. Shanmugalingam: That is what he did. He turned back. He did not go in. When he was prevented, he turned back. When he turned back, they started to hoot.

Witness: He tried to go in. They prevented him from going in. He ultimately at one point said 'I am not going to reverse my car. I would go inside and reverse my car'. If he had gone in, there would be another situation.

Mr. Shanmugalingam: He was not worried about the hooting. He was worried that high police officers encouraged indiscipline in the police force.

Witness: I deny that because I have taken action in this connection to the best of my ability, and even in that incident, he cited Mr. Dharmalingam as his witness. and Mr. could not identify anybody at the parade. The same Mr. Dharmalingam was present at the market square incident also and thereto, he did not see the person who is supposed to have assaulted Mr. Amirthalingam. Mr. Yogeswaran also did not see the assault on Mr. Amirthalingam.

10.35 a.m.

P. Thilagad

A. S. SENEVIRATNE: (Contd.)

To Mr. Shanmugalingam:

Q: If the complaints of the members of the public with regard to police attacks on them on the 17th and 18th are true, would it be correct to say that no police officers would have embarked in those spate of widespread incidents without the concurrence of their superiors ?

A: I deny there was any such incidents.

(Commissioner: Mr. Joseph in his evidence said that it was to him that the senior officers could not control the men. I don't think there was complicity. They did against the wish of their superiors.

Mr. Shanmugalingam: Complicity is there when no action is taken in regard to the hundreds of complaints where no action was taken.

Commissioner: That was the complaint made by the public where I sat. There may have been a flood of complaints and they did not know where to start and so they did not start taking action.

Witness:

Most of the inquiries were incomplete when I left Jaffna. When I left Jaffna there was turmoil in Jaffna. An officer took over from me. He was an officer who was highly commended even by Mr. Amirthalingam.

(To Commissioner

How many complaints were filed ?

Q: Is it your position that if just because a band of criminal elements indulge in crime, the police should take vengeance on the innocent public of Jaffna ?

A: The police have not done that at any time.

Q: On the 17th, were not the police attacking everyone on the roads ?

A: No.

Q: Particularly near Naga Vihara ?

A: I deny that.

Q: Did Mr. Thamotharam bring to your notice of assaults by the police on the public ?

A: No.

(Commissioner: Mr. Thamotharam made that allegation.)

Q: A number of messages were sent by your office to Colombo ?

A: I do not know the text of those messages. I have seen them.

Mr. Shanmugalingam: I marked a number of messages

Colombo about the complaints about attacks by the police on the public and still this witness does not seem to remember those.

Q: Do you look into the Telephone Register ?

A: That book does not come to me.

Q: If the messages are sent from Jaffna to Colombo, they go under your name ?

A: Not all. Messages go under the Name of the D.I.G., S.P. and other officers.

Q: A number of messages went to Colombo about complaints of the public of assaults by the police ?

A: If there are such messages I would accept them.

Q:

Q: Colombo Headquarters was aware of the conduct of the Jaffna police from the 17th onwards ?

A: I do not know whether such messages have been sent.

Q: Situation reports were also sent from Jaffna to Colombo ?

A: Yes. They were sent.

(L. Silva)

(Contd. by Mr. T.P.Fernando from 10.45 a.m.)

27.6.1979

11 45 a.m.

A. S. SENEVIRATNE (CONTD.):

TO MR. SHANMUGALINGAM:

Q: Anyway, with regard to those two false messages that were sent; one was stating that five C.T.B. buses had been burnt and that a crowd was collecting at the railway station to attack the passengers ?

A: Four CTB buses and not five.

Q: The 2nd message was that the Naga Viharaya had been attacked ?

COMMISSIONER: One message dealt with three subjects MR. TENNAKÖON, Senior S.C.; There were three items in one message.

Q: (Shown X.458) This is one of the messages sent under the date 20.8.1977?

A: (Witness goes through X.458) Yes, Your Honour.

This would have gone consequent to complaints recorded. These messages go as from S.P. as the Administrative Head of the division.

Q: The H.C.I. and the A.S.P. would have been aware of these messages ?

A: The Co-ordinating Officer's staff would have sent these messages.

Q: The Co-ordinating Officer had nothing to do with Jaffna police in the matter of investigations conducted and prosecutions ?

A: Filing of prosecutions is a subsequent matter.

Q: With regard to those messages in X.458 there is a reference to Mr. Thambidurai's incident ?

A: Yes.

Q: You say that the Jaffna police were not aware of those complaints ?

A: Jaffna police could not have been aware of the complaints that had been made to the Co-ordinating Officer.

Q: You say that as the S.P. of the area you never came across those complaints?

A: It was not brought to my notice. I do not know whether those complaints had been made at the police station or to the Co-ordinating Officer.

Q: With regard to the assault on police officer Nadarajah: he was assaulted in front of the Naga Viharaya where he was going in civils?

A: It was not brought to my notice. That matter was discussed before this Commission. There is no necessity to inform me of everything that happened in a police station.

COMMISSIONER: Who did he say assaulted him.

MR. SHANMUGALINGAM: Police officers without numerals.

MR. TENNAKOON, Senior S.C: There is evidence that those police officers were not from Jaffna.

MR. SHANMUGALINGAM: I refer to evidence at pages 454, 452.

Q: Nor were you aware of the incident where P.C. Nadesan made a complaint ?

A: It was not brought to my notice.

- Q: So that, none of those incidents with regard to police conduct from the 16th onwards was brought to your notice?
- A: There was nothing that came to me.
- Q: Did you have any conference with the Co-ordinating Officer ?
- A: There were a number of conferences.
- Q: Did he bring any of those matters to your notice at those conferences ?
- A: Never.
- Q: Even the sending of the false message was not brought to your notice until the Co-ordinating officer requested a report on that ?
- A: That is so, Your Honour. The moment the paper from the Co-ordinating officer came I initiated inquiry.
- Q: Until then the A.S.P., the H.Q.I. or Mr. Gurusamy, neither of them brought it to your notice ?
- A: Yes.
- Q: When did the Co-ordinating Officer instruct Mr. Noordeen to hold an inquiry ?
- A: The Co-ordinating Officer never instructed Mr. Noordeen. He sent a paper to me to inquire and report. I instructed Mr. Noordeen to hold an inquiry.
- Q: What was the message he sent ?
- A: He sent a note.
- Q: Did he say that he received a complaint with regard to that message ?
- A: He did not say that he received a complaint.

Q: Did he say how he came to know about it ?

A: It had come to him from Police Headquarters.

Q: Until then neither you nor any of your subordinate officers initiated any inquiry into that ?

A: I was not aware of it.

(Mr. Tilagadas continues from 10.55 a.m.)

T.P.Fernando.

27.6.79

10.55 a.m.

A.S.S. INQUIRY

LED. BY MR. SHANMUGALINGAM: CONTD.

Q: On the 17th morning you said there was a conference at the Kachcheri, and before attending that conference, you were at your office? A: No.

Q: That is, the whole of that morning, you were not in your office?

A: The DIG was to come to Palali. So I with Mr. Walter Liyanage left office at 8 a.m. to go to the Palali air port. I met the D.I.G. From there, we went to meet the TAFPI Commander. We had tea and after that we left Palali by about 9.30 a.m. Then we came to the Kondavil CTB depot. At the CTB depot, the DIG was trying to get some buses to transport the university students.

Commissioner: The CTB was on strike?

A: Yes, the CTB was on strike from the 15th over Jesudasan's incident.

Q: You knew at that time that Jesudasan was assaulted by the police?

A: There was no complaint against any police officers, but the CTB employees took up that stand and they went on strike.

Commissioner: They also complained that they were asked to run their buses over the push bicycles?

A: That was subsequently.

Q: On the 17th did you ever hear that the CTB drivers were complaining that the police were ordering them to run their buses over the push bicycles?

A: That was discussed at the conference on the 17th. Mr. Weerapitiya was there and we discussed that.

Q: On the 17th, you knew that the CTB was blaming the police for ordering them to run their buses over push bicycles?

A: That complaint was made to Mr. Weerapitiya.

Q: That was on the 17th afternoon?

A: On the 17th evening.

Q: And they said this was done by the police on the 17th morning?

A: Yes, in the course of the day. That was stated by Mr. Thiyagarajah. It was just mentioned by him.

Commissioner: As one of the grievances of the bus drivers? A: Yes.

Q: Are you aware whether Jesudasan had made a complaint that he was assaulted by the police?

A: His statement was recorded. He did not say that the police had assaulted him, but the CTB employees had taken upon themselves that the police assaulted him.

Q: Do you know the person by the name of Saverimuttu? A: Yes.

Q: His evidence is that he met you on the 15th, and you say his evidence is utterly false? A: Yes.

Q: You had returned on the 14th? A: Yes.

Q: You have referred to a number of incidents where policemen have been either killed or wounded? A: Yes.

Q: The first Sinhalese police officer who was injured was PC Bandara?

A: Yes, on the 14th.

Q: In the Jaffna district? A: Yes.

Q: Before that, no Sinhalese police officer had been either killed or shot? A: Sinhalese police officers may have been injured.

Q: Can you tell us a single incident where a Sinhalese police officer was wounded? A: Not during my period.

Q: The first Sinhalese policeman to be injured was PC Bandara?

A: Yes.

Q: Before that, nobody else? A: Not during my period.

Q: Even prior to that, to your knowledge? A: I cannot recollect.

Q: Did the Sinhalese police officers become restive as a result of that incident? A: No.

Q: Did anyone come and meet you after this incident?

A: No, there was no necessity for anyone to meet me after this incident.

Q: In fact are you aware that the G.A. has given evidence that he telephoned Mr. Noordeen on the 16th morning to speak to him about the market incident, and Mr. Noordeen immediately referred to the Puttur shooting incident? A: I don't know.

Q: You were here when the G.A. gave evidence? A: Yes.

Q: You heard the G.A. say that when he telephoned Mr. Noordeen, Mr. Noordeen immediately referred to the Puttur incident?

A: I cannot recollect. He may have said that.

Q: So that, if he had said it, for Mr. Noordeen the Puttur shooting was a very important matter?

A: I don't know what Mr. Noordeen thought.

Commissioner: I think Mr. Wijapala said 'I am talking of today's incident, and you are talking about Sunday'.

Mr. Shanmugalingam: Yes, Sir. All the incidents of the 15th, 16th and 17th started immediately after PC Bandara, a Sinhalese police officer, got injured, and a similar pattern took place on the 5th of December, 1978. When the Nallur Bank robbery took place, a Sinhalese police officer was killed, and they went on a rampage. Two officers were killed in the Nallur Bank robbery incident. If not for the intervention of the G.A., the same incidents that took place on the 16th of August, 1977 would have occurred in Jaffna. Because of the acts of certain criminals, do not go and attack the shop keepers and the general public.

Mr. Shanmugalingam, contd.

They have nothing to do with it. Due to your frustration, do not go and attack the shop-keepers.

Commissioner: I understand your point; at the same time, the police cannot do anything, if they don't get the public support. Here they come against a blank wall.

Mr. Shanmugalingam: Will the police ever get the public support, if they behave in this fashion.

Commissioner: How many years are they going to wait before they get the public co-operation to investigate these crimes.

Mr. Shanmugalingam: Even if there is no public support, there is no justification at all for assaults on innocent passers-by and shop-keepers who are carrying out their legitimate businesses in town.

11.05 a.m.

P. Thilagadas.

27. 6. 79

11.05 a.m.

A. S. SENEVIRATNE: (Contd.)

To Mr. Shanmugalingam:

Witness:

There was no rampage by the Jaffna police in Jaffna at any time.

Mr. P. Tennekoon, Senior S.C.: One would have expected a spate of private complaints if such a thing happened.

Mr. Shanmugalingam: I move for summons on Mr. Lionel Fernando the former G.A. Jaffna to speak to the incidents of December 1978 in Jaffna.

Commissioner: Do you say that he was a witness to those incidents.

Mr. Shanmugalingam: He went and stopped those incidents.

Commissioner: If such a thing happened in his presence he could have initiated action himself.

Mr. Shanmugalingam: He has submitted a report to his superiors and the result was that he was transferred.

Commissioner: What should he have done if he saw these incidents taking place. He should have reported the matter to Court.

Mr. Shanmugalingam: He submitted his report. Thereafter he was transferred.

Commissioner: He could come and give evidence.

Mr. Shanmugalingam: I would like to call that officer.

Commissioner: I think he is a witness who would be able to help us a lot in a case like this.

Witness:

Q: Witness Savarimuttu said something false when he said about the interview he had with you ?

A: Yes.

Q: Do you know him ?

A: Yes.

Q: You have been questioned in examination in chief with regard to the Kannathetti Road jewellery shops ?

A: Yes.

(X.463, A.397 and A.398 are handed over to Counsel)

Q: (Shown A.397 and A.398) These are the statements of the Bus Driver and Conductor which were recorded at the Kachcheri ?

A: Yes.

Q: They were recorded in the presence of Mr. Ana Seneviratne and others ?

A: Mr. Ana Seneviratne recorded those. Mr. Navaratnam had been present at that time.

Q: In that statement A.397 he refers to his bus being stopped by armed police officers in front of the Naga Vihara ?

A: It states, "There was a large number of police officers and all of them were armed".

Q: He had been asked to drive his bus to Kannathetti Road ?

A: Yes.

Q: He also refers to police officers going out, leaving two police officers behind ?

A: Yes.

(To Commissioner:

Q: How many police officers did he mention ?

A: Fifteen.)

Q: He refers to the fact that they broke the planks of the jewellery shop ?

A: It states, "By breaking the door".

Q: It refers to the fact that they brought something from the shop and burnt it ?

A: It states, "They brought furniture and broke them on the road". It also states, "The place where the rubbish was burning, was about 15 feet from the shop".

Q: He refers to the fan and the bag being taken and being brought to the bus ?

A: Yes.

Q: They brought the fan from the first shop ?

A: Yes.

Q: And from the 2nd shop they brought the suitcase ?

A: If it is so stated I accept it.

Q: Thereafter they boarded the bus and came away ?

A: Yes.

Q: He also states that the police officers were not wearing their numerals ?

A: Yes.

Q: Although they were in uniform, they were not wearing their numerals ?

A: If it is stated so I accept it.

Q: There is nothing to show that two persons were brought to them and were asked to identify them

(Commissioner): The statement speaks of only police officers going in the bus.)

Witness:

The bus driver and conductor state that they were seated in the front and could not see who were behind.

Commissioner: They counted fifteen policemen. Fifteen persons cannot be put in the front. There is no mention of civilians.

Witness:

He does not state about the rear entrance of the bus.

Q: He states there were no persons in civils in that bus ?

A: Yes.

Commissioner: Does he state so.

Counsel: Yes

Commissioner: Whether they got in from the front or back, they state there were no persons in civils in the bus.)

(L. Silva)

Contd. by Mr. T.P.Fernando from 11.25 a.m.

27.6.1979

11.15 a.m.

A. S. SENEVIRATNE (CONTD):

MR. SHANMUGALINGAM: I am only on this point. The two Sinhalese witnesses called by the Peramunas said that they were taken before Mr. Ana Seneviratne and this driver and the conductor after identifying them admitted that those two persons came in the bus. That is the evidence of those two witnesses. But in these statements there is nothing to show that Mr. Ana Seneviratne had pointed out those two witnesses to the driver and the conductor and asked them whether they had gone in the bus.

Witness (Contd)

There is no such record.

Q: (Shown A.397) There is no indication that the two persons were shown to this witness and asked to identify them?

A: There is no such indication.

Q: Similarly in A.398 there is nothing to show that the two witnesses were shown to the conductor and asked to identify?

A: Your Honour, if this bag and the fan were not produced by those two witnesses....

COMMISSIONER:

Q: The bag and the fan, according to the statements, were brought by the constables ?

A: I went to Naga Viharaya on the previous

evening and this bag and the fan
were produced before me.

Q: What they say in these two statements is that it was
the police officers who brought the bag and the fan
and took them to Naga Viharaya ?

A: Yes.

COMMISSIONER: They have made these statements to the
D.I.G. on the 18th morning at the Kach-
cheri and this incident had taken place
on the 17th evening.

MR.TENNAKOON, Senior S.C: Yes, Sir.

Q: Are you aware that this driver and the conductor
after their release from the Naga Viharaya
made complaints promptly?

A: Yes.

Q: But, even this was not brought to your notice ?

A: I knew this. I went to the Kachcheri at about this
time and I saw the D.I.G. recording these statements.

Q: These two - the driver and the conductor - were there?

A: He was recording the statements and Mr. Navaratnam
was also there.

Q: Was it ever brought to your notice that there was an
unidentified body found close to the scene of
this incident ?

A: There was an unidentified body on Kannathetty road,
but I do not know whether it was near this parti-
cular scene.

COMMISSIONER:

A certain witness said that a man was shot by the police.

MR. SHANMUGALINGAM:

One Kandasamy gave evidence with regard to that and the Diamond House man also gave evidence with regard to that. I have marked as X.463 the Inquest proceedings with regard to that dead body.

Q: (Shown X.463) There is an undated information given by the H.Q.I. to the Magistrate?

A: There is a date here after the signature.

Q: Can you decipher that date?

A: There is something written at the end of the name Gunasekera, H.Q.I., Jaffna.

(Mr. Tilagadas continues from 11.25 a.m.)

T.P.Fernando.

27.6.79

11.25 a.m.

A.S.SERIVELANNE:

EXP. BY MR. SHANTHUGALINGAM COMED.

Commissioner: Perhaps, the HQI can tell us.

Mr. Gunasekera: It is the 18th, Sir.

Q: On the 19th the Magistrate has made an entry here that he will be visiting the hospital at 8.30 a.m.? A: Yes.

Q: On 19/8 the Magistrate orders to hold the postmortem? A: Yes.

Q: Thereafter, on the 24th the Magistrate in his order says 'HQI informs me that no witnesses are available. Await postmortem report. I give an open verdict and direct the police to make further investigations'? A: Yes.

Q: So that, this shows that the H.Q.I. was present on that occasion? A: Yes.

Q: That was on 24.8.77? A: Yes.

Q: Then on 30/9, one month later, the learned Magistrate refers to certain affidavits? A: Yes.

Q: Up to that time, had the HQI conducted any investigations?

A: I don't know.

Q: Has he reported to the Magistrate whether any investigations have been going on or not?

A: There is nothing in the record to indicate that.

Q: Then on 4/10 the learned Magistrate makes this order - "Certain witnesses have filed affidavits that they are eye witnesses to the shooting. I inform the Jaffna police...." A: Yes.

Q: So that, although the learned Magistrate has directed the police to make investigations and report, for more than one month, it has not been done so?

A: I don't know whether it is necessary to submit such a report.

Q: If there are no witnesses, is it incorrect to say that there are no witnesses? A: That is not normally done.

Q: Mr. Thamotherampillai withdrew saying that he has nothing to do with the inquiry and that Mr. Walter Perera was the person who was dealing with it?

A: H.C. Perera was the person who was conducting the investigations. It is not Walter Perera.

Q: You are certain that it was H.C. Perera who was holding the investigations? A: Yes, that was mentioned before Your Honour's Commission.

Q: Mr. Thamotherampillai was present at that time? A: Yes.

Q: Did Mr. Thamotherampillai bring to the notice of his superior officer that evidence has been led before the Magistrate by the witnesses and it was alleged that the police were responsible for the shooting?

A: If it was alleged, it was his duty to bring it to my notice.

Q: So that, nobody was aware of that? A: Yes, to my knowledge.

Q: The journal entry of 30.9.77 says - this is addressed to the HQI - 'I have received two affidavits from two persons.... (reads)

A: Yes.

Q: So that the HQI was informed that affidavits have been filed by two persons who claimed to be eye witnesses?

A: Yes, and when you say HQI, Jaffna, it goes to the Crimes Branch, and that is why Mr. Thamotherampillai went there.

Q: So, it was brought to the notice of the police?

A: It may have gone.

Q: So that the police were aware that affidavits have been filed by two persons who claimed to be eye witnesses?

A: I cannot say whether the police were aware.

(RESUMED AFTER RECESS)

A. S. SENEVIRATNE: (Contd.)

Mr. Shanmugalingam: As regards the question raised by Your Honour, might I say this:

As far as the T.R.R.O. and I are concerned, we do not stand for violence by the police or by the public against the police. Senseless killings and senseless maiming have been done either by the police or against the police. If I may strike a personal note I may be permitted to say that I am still aware of the first thing my uncle did when he returned from Malaysia where he had been for 45 years. He was returning to the Island as a deck passenger. My father, mother, my sisters and I went to meet him. The first thing that he did no sooner he disembarked was to kiss the ground. He there showed what love he had for this country from which he had been away for 45 long years. This incident I can never forget. I wonder today whether a Jaffna man who had been out of this Island would do such a thing as to kiss the ground no sooner he sets foot on this land. My uncle did that because he felt Ceylon was his land. We should ask the question why today a section of the people of this Country feel that they are strangers in their own land. I have a cousin brother of mine who was at school with me. He was an Engineer when he was in Ceylon. He used to tell me that everyday when he left home for work he was not sure whether he would return home safe. He could not help it. He was living in constant fear, day in and day out. He resigned from

his post and has gone abroad. Not that he loves to go abroad, but circumstances forced him to go away. In that context, if this is the political situation prevailing in the country I am sure many more would go out of this country. I, for myself, was brought up in the atmosphere described by Handy Perimpanayagam who opposed the cry for fifty-fifty. I have a book written by him. He was against Communalism. We were brought up in that fashion. I for myself say this is my own country and though I would go abroad I would yet feel this is my country. Anyone and everyone in this country should be free to live in this Country in the way he likes. Nobody should be treated as a 2nd Class Citizen and should not be made to feel that he is a stranger in his own land. In this regard we should find out why a certain section of the people in this Country are made to feel that they are second class citizens in their own Country. These persons who are made to feel they are Second Class citizens are threatened. They are insulted wherever they go. They are called names. They are made to feel this is not their Country. I am sure Your Honour will direct Your Honour's mind to this aspect of the matter. Everybody should condemn violence - violent killings, maiming etc., either by the police against the public or by the public against the police. If the police do not get the necessary co-operation from the Public they should find out why such co-operation is not forthcoming. Nobody should go about killing and hurting people all over the Country. I have been working at various refugee camps in 1958 and 1977 and I am aware of the suffering and loss they had undergone before they came to the refugee camps. Everybody is fully aware of the suffering and loss they had undergone.

One has to find out what the causes were for them to have undergone such suffering and loss. One must find out why they are being treated as they are not of this Country - why they are regarded as not wanted in their own land.

Commissioner: I think you are putting it too high. I think there is no feeling like that at all - that the Tamils are not wanted in this Country. I cannot believe that. Look at the people in Colombo who want to remain there. You also live in Colombo. You have not been ill-treated by anybody.

Mr. Shanmugalingam: I have been.

Commissioner: It might have been by accident. You cannot charge a whole race because of one or two persons.

Mr. Shanmugalingam: Some of my best friends are Sinhalese. I am not saying anything against the whole race. When hooligans and ruffians are permitted to do this kind of thing with the connivance of politicians, what can the whole race do.

(L. Silva)

(Contd. by Mr. T.P.Fernando from 12.10 p.m.)

COMMISSIONER:

I have mentioned so often during the hearing of this Commission that that incident outside the Veerasingham Hall where seven people had come by their deaths not by firing at them, but by electrocution, which caused the Jaffna People to adopt the attitude they adopted and the failure to have a Commission appointed.

MR. SHANMUGALINGAM:

This attack had been on the large crowd that had been there and they were stampeded by the crowd and some people had to run even without their clothes.

COMMISSIONER:

Speaking for myself I think the whole thing was unnecessary. But then you cannot allow a thing like that to remain permanently in their minds. For 17 or 18 months we have been hearing this evidence. I deeply regret that there is this cause of tension and this cry of a Tamil Eelam. You cannot get over the fact that there is strong opposition to it. I saw in the papers that a meeting had been held in Kandy. Having heard the evidence I feel that this cry will not lead anywhere. It will not be successful. That is my personal opinion. They say that they are non-violent and that they are prepared to shed their blood. Together with that cry you have

to remember that there is the cry of those youths who would at any cost advocate and practice violence. One cannot close his eyes to the fact that that is also one result of this cry for Eelam because, I take it, their motive is also to create an Eelam. Otherwise they would not shoot policemen merely for the fun of it. They must be having an object and the object, I understand, is a separate state. They go on with their terrorist campaign disregarding the rule of law and going on as if there is no such thing as law. How can people put up with these things ? I have now indicated my mind. Whatever I may say in my report may not influence any one. The other day I heard Mr. Wimalachandra's address submitting the memorandum of the Mahanayake Thero. You see how strong the feeling is against this cry for Eelam. The forces against it are much stronger. Are we going to sit quiet and allow this kind of thing to go on. There is no peace in this country if these things are allowed to be carried on. I do not think that

a stage has been reached where a Jaffna Tamil should feel that he is a stranger in this Country. I know that they have suffered greatly during the August/September disturbances. I do not think that anybody expected it to happen. A false spate of evil rumours by mischief makers was spread all over the country. That spread so quickly - 16th Jaffna, 17th Anuradhapura. I do not know whether any law abiding citizen would sympathise with this spreading of rumours. I am still trying to find out how this came about, because from Jaffna it spread so fast. Of course, one thing which allowed it to spread was the inaction of the forces appointed to maintain law and order.

(Contd. by Mr. Thilagadas from 12.20 p.m.)

T.P.Fernando

27.6.79

12.20 p.m.

COMMISSIONER, CONTD

They should have taken much stronger steps at the Anuradhapura railway station itself. I think the most disgraceful incidents occurred at the Anuradhapura railway station, when innocent people who were travelling in that train were looted. Not a single shot was fired, not a single looter was arrested. That is the most disgraceful story I have heard all through these proceedings, that nobody was there to put a stop to the sort of things that were going on there. Even the policemen who were travelling in that train and who were armed never took any action. To my mind, the most disgraceful part of it was, as Mr. Senaratne in his evidence described, the conduct of two men, who to my mind may well have been policemen. One of them had his belt in his hand, and the other was standing by him and assisting him, and this man with the belt in his hand was attacking everybody and was acting in a most cruel fashion. We never will forget it, and we feel bitter about it, but this sort of thing happens to all of us, and I don't think that should inflict a deep scar on the minds of the people in the north. You cannot say that this sort of conduct had the sympathy of the Sinhalese people. I am sure it did not. It was just a few criminal minded people who did not know how to behave, who tried to make the most of the situation, who did not care whether a person is a man, woman or child, who tried to grab jewellery and other goods from those innocent travellers. Those were the sort of people who attacked the trains, and continued to attack the passengers until it reached Colombo. They went to each and every compartment, and

the policemen sitting there with rifles did nothing. It is disgraceful. I don't know whether the police force would be proud about the way the policemen reacted to the misconduct of the thugs who were on that train, and on the platform at the Anuradhapura railway station. We must really try to overlook whatever has happened and try to continue to live in peace as we have done for so many years. After all, when did this trouble first arise. I suppose in 1956 and then in 1962 and 1977. I feel strongly that if there is any kind of outbreak like this on the part of criminal minded people, if the police take action immediately it could be stopped in 24 hours. It need not last longer than that, I am quite sure. I think an average thug is not a hero. He is not a brave man. He is generally a coward. He is using the opportunity to attack harmless people who are unarmed, and to do anything he can and get away with the loot. I have said my piece and you have said your piece, and I don't know how it is going to influence anybody. I strongly feel that there is no need for this separation of the country.

MR. SHANMUGALINGAM:

If the 1977 incident was an isolated incident, one could say that it was something which suddenly erupted due to rumours that were already spread all over the country, but the only thing is the people have suffered in 1956, in 1958, in 1962 and 1977. It was not something they can forget easily.

COMMISSIONER:

Don't you agree with me that if strong and early action had been taken by the police and the armed forces, this sort of thing could be put down in a day or two?

MR. SHANMUGALINGAM:

The apprehension is that if incidents of similar nature break out, there will be no police action in the future.

COMMISSIONER:

I will not take up that attitude. It is an utter surrender to the forces of lawlessness. We cannot live in this land if we accept that position.

MR. SHANMUGALINGAM:

That is our serious apprehension because that was the attitude of certain police officers which was shown during this time. For example in 1958 the conduct of the police and the armed forces in quelling the disturbances was much different from the conduct in 1977. There is the gradual deterioration of the conduct of the police in bringing this situation under control, and our serious apprehension is if similar incidents occur in the future, it will be worse.

COMMISSIONER:

I think the situation that arose in 1977 was that there had been a deterioration of discipline in the police force as Mr. Stanley Senanayake said, and I think Mr. Jayasinghe had admitted that there had been a sudden intake of policemen during the 1971 insurgency and they had not been properly trained as they should have been trained in the police training school earlier when you had people like Mr. Sydney de Zoysa and so on. As a result of putting people into uniform who don't deserve to wear it, and who are not qualified to wear it, or don't know what to do with their rifles, steps were not taken to enforce the law. That is the reason. I don't think the police as a whole are sympathetic to a situation like this, but the people who were taken in did not know what they should do.

I think it was common knowledge in Kandy that the police were standing with their rifles and smiling when looting was going on. You cannot say that they had the training, that they were disciplined in any way.

MR. SHANMUGALINGAM:

Mr. Seneviratne does not accept that there is deterioration in the police standards.

COMMISSIONER:

That is the evidence before me, that no steps were taken by the police.

MR. SHANMUGALINGAM:

That was the pattern of evidence we had - senior police officer gave the order to take action, and his subordinates turned against the same officer. That shows that they were not a disciplined force. Indiscipline was rampant. I think probably the Government was aware of that, and I hope they will take action to raise the standard of discipline. If you put a man in uniform and give him a rifle, I suppose he will be more dangerous unless he is disciplined.

12.30 p.m.

P. Thilagadas

Mr. Shanmugalingam: In fact there was evidence led of looting by the police. themselves.

Commissioner: Would you not agree that if they agreed with the looters, they would also take part. If such a situation existed in Kandy, why cannot the same exist anywhere else. Who is to blame? the authorities appointed to maintain law and order, and not only the people in the North.

Mr. Shanmugalingam: In addition to that, discipline in the police force had come down. After this incident, not a single person - politicians or others, has cared to say that the conduct of the police was condemnable.

Commissioner: Mr. J. R. Jayawardene, Mr. Werapitiya and others did complain that the police force had been reduced to a state where they were not able to maintain law and order. You must have read their speeches. At the opening of the sittings of this Commission, Mr. Kadirgamar read those speeches to me. At the earliest, Mr. J.R. Jayawardene said that if the police do not know how to act, something must be done about it. Steps have now to be taken to raise the standard of police discipline.

Mr. Shanmugalingam: Mr. E.L. Senanayake said that the police were responsible for the incidents. May I only ask what confidence we can have in such speeches when the person in charge of that Range which was most affected is made the I.G.P. when this Commission is inquiring into his conduct and the conduct of his men in his Range. People tend to believe that police officers could do anything and get away with it.

Commissioner:

Commissioner: It cannot be allowed in a disciplined Force. That is why I am hearing further evidence. In case any officer against whom evidence has been led, feels he should come and explain himself, he can do so now. We can hear their story also. I see Mr. Liyanage here, against whom so much of evidence has been led. I shall hear his version also. The number of persons who gave evidence against him was great. I thought I should not end the Commission without hearing him also.

Mr. P. Tennekoon, Senior S.C.: Mr. Liyanage informed me that he has been here for the last few days.

Commissioner: I shall hear him after this witness.

Mr. Shanmugalingam: As to the cry for "Eelam" neither the T.R.R.O. nor I have anything to do with that. The only thing we want this Commission to assure is that the Ceylon Tamils living in Sri Lanka should be able to go to any part of this Country with their heads erect and without any fear.

Mr. Wijetunga: The Sinhalese also should be able to go to any part also with their heads up and without any fear. Our Tamil friends in Colombo are given everything. It is not the same with the Sinhalese in the North and other parts of this Country.

Commissioner: Why not ? Everyone should be able to do that.

Mr. Wijetunga: There was a time when there were 55,000 Sinhalese in Jaffna. They all have been driven out. I only wish that the Sinhalese also should have the right to go to any part of this Country with their heads up and without any fear.

Commissioner: They should be able to do that.

Mr. Wijetunga: We invite the Tamils to come and live in any part of this Country.

Commissioner: I asked Mr. Amirthalingam whether he would be agreeable to go to a round table conference. That is the place where these things can be straightened out. If the cry for Eelam is maintained, that cannot be done. They say they want to be independent of the others, and again say they want a round table conference with regard to other matters. What are the other matters they want if this is one Country ?

Mr. Wijetunga: The Sinhalese also have several problems, but we do not want to live in two different water-tight compartments.

Commissioner: There are no two Countries. This is one Country.

Mr. Shanmugalingam: When that question was put I said it would serve some purpose if all communities attended a round table conference. This is my personal view. As for the others I could not say what their views would be.

Commissioner: If the cry for Eelam is sustained, there cannot be a round table conference. A round table conference would mean that they would all sit on equal terms as people of one Country and discuss their problems, if any. It cannot be done if this Country is treated as two different countries.

Mr. Wijetunga: There should be open condemnation by the T.U.L.F. of the violence that is going on in the Country.

Commissioner: This violence should be stopped at any rate. There is violence resorted to in other parts of the world.

Mr. Shanmugalingam: When the U.N.P. undertook to have a round table conference to solve the Tamil problem, it recognised that the Tamils had problems. The party in power is fully aware that the T.U.L.F. or the T.U.F., as far back as 1962 raised the cry for a Separate State.

(L. Silva)

(Contd. by Mr. T.P.Fernando from 12.40 p.m.)

MR. SHANMUGALINGAM:

In spite of that the Government had promised in its election manifesto to have a round table conference of all parties and discuss the problems of the Tamils.

COMMISSIONER:

Mind you, the government never conceded this cry for Eelam, and it will never have its sympathy.

MR. SHANMUGALINGAM:

But the Government was aware from 1972 onwards that the TULF stood for Eelam but in spite of that the present Government in its election manifesto promised a round table conference of all parties after the election.

MR. WIJETUNGA:

No, Your Honour. The TULF was invited for the Constituent Assembly, but they kept away. It was a grand opportunity for them to voice their feelings and now they are asking for a round table conference.

MR. SHANMUGALINGAM:

I may only say that if the Government as promised holds a round table conference, I think the problems can be solved.

COMMISSIONER:

I personally feel that this cry for Eelam and this use of violence are two things that must be given up; and then, on equal terms, all of you being citizens of one country, if you have problems, discuss them peacefully.

MR. SHANMUGALINGAM:

As far as the TULF is concerned, their leaders have come and given evidence before this Commission and they have said that they would not support violence.

COMMISSIONER:

They must condemn violence throughout the length and breadth of this country on every possible occasion. They must make it plain to everybody that if there is violence used by any youth in any part of the country they condemn it, and that they have nothing to do with it. This is the attitude that I would like them to adopt.

MR. SHANMUGALINGAM:

I have asked for certain copies of Hansards containing speeches made by the members of the TULF where they condemned violence. I will mark them in evidence.

COMMISSIONER:

It must be done from the platform of every meeting of the TULF. I would only like to hear them say that they have nothing to do with those who use violence and that they are totally opposed to their methods.

MR. SHANMUGALINGAM:

Mr. Amirthalingam has said so in no uncertain terms before this Commission and also in Parliament. He said that he has said so at a seminar. He has said so even at the inauguration of the statue of Siva Kumaran.

COMMISSIONER:

If any one reports the death of a policeman in the exercise of his duties

I would like the TULF to sympathise with him and announce that they do not in any way sympathise with those who use violence. It is a tragedy that the youths resort to this kind of violence. I do not know who they are. I do not think I have seen them.

MR. SHANMUGALINGAM: Mr. Yogeswaran said in his evidence that on two occasions on the 16th a number of police officers rushed into his house and scolded him in filth.

COMMISSIONER:

He said that. I agree. That is why I say that there is indiscipline. Mr. Stanley Senanayake himself said that. Action must be taken to see that such things would not occur. There are good police officers and bad police officers. Bad ones must be weeded out if they cannot be improved.

MR. SHANMUGALINGAM: Just because certain police officers had been killed or shot at and injured, nobody should countenance the police force going berserk and attacking all and sundry.

COMMISSIONER:

I quite agree, and the Police I think would be the first to agree that if there is such a thing it must be stamped out.

MR. SHANMUGALINGAM: Or for the police to go and burn the markets and other places.

MR. TENNEKOON, Senior S.C.: That is a contraversial matter.

MR. SHANMUGALINGAM: We have led evidence on that.

COMMISSIONER: I have not decided on that. Nobody would appreciate the police burning any market anywhere.

MR. WIJETUNGA: I have one more matter. Even jurors are not safe. It has come to that.

COMMISSIONER: Whoever is responsible for that trial having to be abandoned at that stage is an enemy of the people because you are attacking the jury system. If jurors cannot perform their functions without being intimidated, where are we heading for ?

MR. SHANMUGALINGAM: My information regarding that is that the defence was confident of an acquittal in that case and somebody who was against it had created this situation.

COMMISSIONER: How do they know that ?

MR. SHANMUGALINGAM: On the evidence that was led in the case. Therefore, it was not in their interest to see that the case was abandoned at that stage.

(Mr. Thilagadas continues from 12.50 p.m.)

T. P. Fernando.

27.6.79

12.50 p.m.

MR. SHANMUGALINGAM:

May be certain parties who were interested in the case and who did not like the case to proceed further, might have done that.

COMMISSIONER:

It is a very rare thing for Jurors to complain of intimidation. When I heard jury trials, it never happened. I never had a complaint of that sort. It is a pity that now it is spreading into the law courts, and I hope it will not happen again.

You cannot listen to the evidence for 17 months without forming an opinion in your mind. So, I have just expressed my views.

Commissioner: What happened after that?

Mr. Shanmugalingam: Evidence was led. Four witnesses gave evidence and they said the police had shot, and the Magistrate recorded a verdict of homicide.

Mr. Tennekoon: These witnesses who gave evidence at the inquest had not made any statements to the police or to any inquiring officer.

Commissioner: Did these people give evidence before the Commission in Jaffna?

Mr. Shanmugalingam: Yes, and they said the police refused to record their statements.

At this stage Commission adjourns
for a few minutes.

P. Chilagadas.

27.6.79

12.50 p.m.

(COMMISSION RESUMES AFTER RECESS)

A.S. SENEVIRATNE, affirmed, recalled.

QED. BY MR. SHANMUGALINGAM CONDED.

Q: In regard to these bank robberies, I suppose, the police would have recorded statements from the bank officials?

A: Yes.

Q: Have bank officials failed to make statements?

A: In the Thinnaveli MPCS bank robbery, within a matter of hours, some of the people who committed the robbery were arrested, and the bank manager refused to come to the identification parade. He said he would resign his post rather than attend the parade.

Q: Did he refuse to give a statement?

A: He made a statement.

Q: Do you have any other cases where the bank officials have either refused to make statements or assist the police in their investigations? A: They have made statements.

Q: So that is the only case where the bank manager refused to come to the identification parade? A: Yes.

Q: Did you record the statements from the people who were there in the bank at the time these offences were committed?

A: Yes, I think so. In most cases the people who came to the bank to transact business vanished immediately after the incident, and the police could not trace them to record their statements.

Q: Have those people who were present at the time of the robbery made statements to the police?

A: I cannot say off hand.

Q: You cannot say whether statements have been recorded from persons who were present at the time the offences were committed?

A: I cannot say.

Q: I am suggesting to you that in a number of cases, the very persons who were present at the time of the robbery were the first informants?

A: They have made statements subsequently. Members of the public themselves saw the bank robbers going away, and not one man was willing to come and testify. People don't just care to say one word. They were really tied mouthed.

Commissioner:

The fact is a bank robbery takes place. The robbers get away with the loot. People are there, but they will not make statements or identify the suspects. It is not that this incident took place at night. It happened in broad day light. If that sort of thing happens in the other parts of the country, you would expect eye witnesses to come forward and give evidence and help the police in their investigations, but in the North, the police do not get the support of the public.

Q: Nobody was prepared to come and say that they were there?

Witness: Yes, Sir.

Q: People would have been present at that time? A: Yes.

Q: If this had taken place during banking hours, people would have been present and they would have made statements?

A: The Puloli bank robbery took place when the bank was about to close.

At that time I don't know whether people were present.

Q: I am speaking about banking hours, and have those eye witnesses made statements?

A: In the Whinnaveli robbery case, I think one employee of the bank chased after the accused. We arrested the suspects subsequently by cordoning and searching, but that person came to the parade and did not identify the suspects.

(Commissioner: Even though he chased the man?

A: Yes, Sir.

Q: Can you tell^{of} a single case of a person who was either a bank employee or a customer who refused to make a statement?

A: I cannot say off hand.

Q: With regard to the Duraiappah murder case, there was an indictment?

A: Yes.

Q: There were about 100 witnesses on the back of the indictment?

A: I don't know the details of the case.

Q: More than 30 witnesses were called by the prosecution?

A: I don't know.

Mr. Tennekoon: They went back on their statements.

Q: If hundred witnesses were on the back of the indictment, statements would have been recorded from those hundred witnesses?

A: Yes, possible.

Mr. Tennekoon: In that murder case, Inspector Bastiampillai who was responsible for that case was bumped off.

Commissioner: A witness makes a statement and the case fails because he goes back on that statement.

Q: Were you in charge of the investigations in that case?

A: No, I was not in Jaffna. Investigations were not done under my directions.

Q: You don't know how many statements were recorded?

A: I don't know.

Commissioner: Who was in charge of the Duriappah
murder case?

Mr. Tennekoon: Mr. Ariyasinghe was in charge of the
investigations.

Commissioner: I like to know why nobody can be
brought to trial when policemen are murdered, banks
are robbed and buses are set on fire. There are no
laws or if there are laws, it cannot be enforced.
It is a dreadful situation.

1 p.m.

P. Thilagadas.

A. S. SENEVIRATNE: (Contd.)

To Mr. Shanmugalingam:

Commissioner: I would like to know who were brought to trial when buses were burnt and such things happened.

Witness:

One of the phases of their intention was to demoralise the police and instill fear in the public who would be scared to come forward and give evidence.

Commissioner: It is a tragic situation. That is all I can say about it.

Q: With regard to the bank robberies you cannot give the Commission the names of the Sinhalese witnesses ?

A: I cannot speak about the investigations. Some of those who investigated into those are no more among the living. Pathmanathan was killed in his own house in the presence of his wife and children. It was a gruesome murder.

Q: On 16.8.77 the Old Market was burnt and a row of shops on its side was also burnt ?

A: Yes.

Q: Also in the New Market, a Forage Stores was burnt ?

A: Yes.

Q: You say that between the Old Market and the row of shops that was burnt, there was a gap of about 30 yards ?

A: Yes.

Q: At what time had the fires taken place ?

A: Mr. Sivagnanam said he saw it at 7.45 a.m. Mr. Yogeswaran had left the town at 8 a.m. The shop keepers had said that Mr. Yogeswaran had asked them to close their shops. Had there been police officers on the streets at that time they would have been attacked. Mr. Noordeen was attacked.

(Shown X.469 a map from the Survey General's Dept.)

Q: The Old Market is shown in this map ?

A: Yes.

Q: The row of shops is shown ?

A: This shows the Grand Bazaar.

Q: Are the shops shown in this map ?

A: I think the shops cannot be shown in this map.

Commissioner: The burning tyres had a lot to do with the
burning of the shops.

Mr. P. Tennekoon, Senior S.C.: The markings on this map are
not by the Surveyor-General.

Witness:

Maps are made from time to time. I do not think all
these can be shown in this map.

Mr. Shanmugalingam: It has been revised in 1967/68.

Mr. P. Tennekoon, Senior S.C.: Those row of boutiques were a
temporary structure.

Mr. Shanmugalingam: With regard to the shops, they are indicated
as "TY" which means "temporary".

Witness:

In 1967 the present Grand Bazaar would not have been
in existence.

Commissioner: It shows the Grand Bazaar Road. These shops
were on Grand Bazaar Road.?

A: No. They were on Power House Road.

Mr. Shanmugalingam: There were no Muslim shops on Power House
Road.

To Mr. Shanmugalingam:

Q: I put it to you that there were no boutiques along Power
House Road ?

A: There were boutiques along Power House Road which were burnt. There is no doubt about it.

Mr. Sharmugalingam: (Refers to A.339 which refers to the shops along Grand Bazaar Road.)

Commissioner: Has Power House Road been mentioned in A.339.

Q: Where were the shops - were they on Grand Bazaar Road ?

A: No. They were in the Grand Bazaar.

(L. Silva)

(Contd. by Mr. T.P.Fernando from 1.10 p.m.)

27.6.1979

1.10 p.m.

A. S. SENEVIRATNE (CONTD.)

TO MR. SHANMUGALINGAM:

Your Honour, this row of boutiques is a continuation. (Shown Map X.469) What I am now pointing out to is a continuation of the Power House Road and this name Grand Bazaar road was never used in Jaffna.

COMMISSIONER: There is the Grand Bazaar marked in that map and there is the Grand Bazaar road adjoining it.

Q: I put it to you that the suggestion made by you and the other two police officers, Mr. Noordeen and Mr. Gunasekera the H.Q.I. that this row of boutiques was far away from the old market and that it was burnt down as an act of vandalism by Tamils towards the Muslims is false ?

A: I deny that. There was a gap. I am quite certain about it.

Q: I also put it to you that this row of shops had not only Muslim shops, but also Tamil shops?

A: These shops can be taken by one person from the Municipality and let to another person. This row of boutiques was in existence and it was at that place S.I. Khan had opened fire.

Q: I am putting it to you that the statements recorded were made by the people who were running businesses in those boutiques at that time?

A: I do not know what statements they have made.

Q: I put it to you that it is a deliberate falsehood and something which was politically motivated for you and the other two police officers to come out with this theory that this was an act of the Tamils against the Muslims?

A: On the 16th when we went to the Kachcheri and when Mr. Ana Seneviratne and Mr. Navaratnam came down to check on some information on that occasion the Muslim people came and told Mr. Navaratnam.

Q: They have made complaints thereafter and in none of the statements they have said that the Tamils had set fire to those boutiques?

A: Why not.

Q: You undertook yesterday to give us particulars of the officers-in-charge of various police stations in Jaffna district. Can you give those particulars now?

A: Inspector Gunasekera was in charge of Jaffna, S.I. Hewa was in charge of Gurunagar, S.I. Jayakumara was in charge of Kayts, Sergeant Nadarajah was in charge of Delft, S.I. Pathirana was in charge of Anakootte, S.I. Rasiah was in charge of Chankanai, S.I. Jayawardena was in charge of Pallai, I.P. Senanayake was in charge of Pt. Pedro, I.P. Cader was in charge of Chunnakam, S.I. Gunasekera was in charge of Velvettithurai, S.I. Sarap was in charge of Kopay, I.P. Alwis was in charge of Chavakachcheri, and I.P. Padmanathan was in charge of Kankesanthurai.

Q: Have you brought a list of various categories of police officers and their strength in Jaffna division ?

A: I have not yet been able to get that.

Q: Have you checked whether four police officers had been transferred from KKS police station after the burning of Inspector Padmanathan's car ?

A: I could not check it still.

Q: Can you get that information by tomorrow? - Yes.

At this stage Commission adjourns for the day.

Further hearing on 28.6.1979 (tomorrow) at 9.30 a.m.)

T.P.Fernando.

259TH DAY

28th June, 1979

9.30 a.m.

Same appearances as before.

MR. TENNAKOON, Senior S.C. Before my learned friend resumes his cross-examination of this witness I have to bring to Your Honour's notice that Mr. Walter Liyanage had been waiting here for quite some time to give evidence. There is no possibility of his evidence being taken immediately because there are other witnesses to follow this witness. Therefore, may it please Your Honour to release Mr. Liyanage. He is employed under a private employer in Colombo and he can be got down at any moment.

COMMISSIONER: Mr. Liyanage may leave.

MR. SHANMUGALINGAM: I thought Your Honour had already made a ruling that after this witness Mr. Liyanage should be called and thereafter Mr. T.N.de Silva

MR. TENNAKOON, Senior S.C. Your Honour expressed that desire in view of the earlier ruling by Your Honour that the proceedings would terminate by the 15th of June.

COMMISSIONER: At that stage I did not know that Mr. Liyanage was coming to give evidence.

MR. SHANMUGALINGAM: We all had been arranging our other work on the basis that these proceedings would terminate by the 15th June.

MR. TENNAKON, Senior S.C: After this witness Mr. Ariya-singhe will be called by me and then Mr. Chandrasekera and also Mr. Neville Nanayakkara to give evidence relating to matters including the IATR Conference. In the list of witnesses I have already submitted Mr. Neville Nanayakkara's name is not mentioned. I now move that his name be added to the list of witnesses furnished by me so that my learned friends will have notice now.

COMMISSIONER: I understand that the incidents at this conference were one of the causes for the incidents that followed.

MR. SHANMUGALINGAM: I will be happy if the S.P. and A.S.P. who were in Jaffna in 1958 are called to speak to the incident at St. Jame's Church.

COMMISSIONER: I do not want too much of a load of work when I come back after holidays.

A. S. SENEVIRATNE, recalled, affirmed:

MR. SHANMUGALINGAM: We called for the personal file of Mr. Thamotherampillai.

(The Senior State Counsel hands over the said file to Counsel)

MR. SHANMUGALINGAM: I will mark this file, but I say that this is not the personal file.

Q: For eg., your letter by which you recommended him for promotion is not in this file ?

A: Yes, Your Honour.

Q: Is this the personal file ?

A: This is a file of confidential reports of the officer.

The special recommendations go to a separate section and that is dealt with under a special subject in respect of all officers who have been specially recommended for promotion. This is the personal file of the officers as far as S.II and I.PP are concerned.

Q: If this is the personal file there must be the letter of appointment and then various recommendations for promotions and so on ?

A: There is nothing like that maintained. Those things are dealt with as and when they occur and they are disposed of.

Q: If you had sent an adverse report about him in which file it should be ?

A: It should be here.

Q: You have already spoken to a complaint made against Mr. Thamotherampillai and said that you have referred it to Head Office?

A: Yes.

Q: Where is that report ?

A: Those things do not go into the personal file unless an adverse report is made.

Q: From the letter of appointment of an officer all subsequent correspondence regarding him go to the personal file. I do not find any such things in this file?

A: In respect of officers of the rank of Inspectors and Sub Inspectors

COMMISSIONER: I know every year there is a thing called the Confidential Report and I think that goes to the personal file.

Witness(Contd.):

This is the confidential file in respect of Inspectors and Sub Inspectors.

COMMISSIONER: This is not what you wanted ?

MR.SHANMUGALINGAM: Yes, Your Honour.

(Mr. Tilagadas continues from 9.40 a.m.)

T.P.Fernando.

23.6.79

9.40 a.m.

A.S.SRIEVALINGAM

LED. BY MR. SHANMUGALINGAM CONTD.

Q: If you had sent an adverse report saying that he is a communal minded person to the DIG, where will that be?

A: If I have made that report, that will be in the confidential file, and that will be in this file.

Commissioner: What is that you are looking for?

Mr. Shanmugalingam: Mr. Thamotherampillai has given evidence saying that this witness has informed him; this witness has sent a letter to the DIG and a copy was given to him saying that he is a communal minded person.

Commissioner: Is that so?

Witness: No, Sir.

Mr. Shanmugalingam: Mr. Thamotherampillai says that he was informed by this witness and copy of that was given to him. Then he sent an appeal to the D.I.G.

LED. Contd.

Q: Normally when an adverse report is made against an officer, is he informed?

A: If it is in his confidential report, that will go to him.

Q: Even outside the confidential report, if you are making an adverse report against an officer to your superior, you will inform him?

A: There will be no adverse reports unless it is connected with a Departmental inquiry, and in which case, it will be in the connected Departmental file. As far as this officer was concerned, there was no adverse report.

Q: In this file, there are reports about Mr. Thamotherampillai from 1972 to 1978? A: Yes.

Q: Half yearly reports? A: Yes.

Commissioner: Made by you?

A: By various officers including myself.

Q: Look at these reports and say whether there are any adverse reports against him?

A: There is nothing.

Q: In fact, Mr. Ariyasinghe, your predecessor has made very good reports?

A: In June, 1973 he has said 'A keen and hardworking officer with promising qualities of leadership and a wealth of experience. Fit for promotion to superior rank. Is in charge of a 'C' station and to remain in 'C' station'. In December, 1973 he has said 'An energetic officer with a good grip of the area and his staff. Fit to run a 'C' station'. In June, 1974 he has said 'Agree with the rating of the OIC district. An officer with a splendid reputation for honesty and integrity; hard working and conscientious and efficient to run a 'B' station'. DIG has said 'Good officer, reliable and hard work; good reputation'.

Q: Next one in 1975?

A: This was also by Mr. Ariyasinghe. 'Keen and hardworking officer with outstanding capabilities and experience in crime investigations and Court work. Maintains a good reputation for honesty and loyalty to the service. Fit for promotion to Inspector.... (reads)'. DIG has commented 'Experienced and hardworking officer. Very capable investigator. Reputation good. Conduct very good'. In 1976 I have said 'Work and conduct good. An experienced officer'. In 1977 I have said 'Capable investigator. Good reputation'. In 1978 I have said 'Capable officer. Conduct good'.

Q: This file does not contain any correspondence with regard to any complaints against him?

A: Complaints against him or any inquiries held against him will not go into this. Those are in the inquiry file.

Q: What is the file in which it will go?

A: They are dealtwith in that level and are disposed of. They will go into the service register of the officer.

Q: About his promotion?

A: For the Inspector grade, there is a register called the service register. For the constables, there is the constable register maintained in the police head quarters. Service register contains records of good work done and bad entries earned. Service register will indicate all those things.

9.50 a.m.

P.Thilagadas.

M. S. SENEVIRATNE: (Contd.)

To Mr. Shanmugalingam:

Q: You have the "Police Manual" or what you call the "Departmental Orders" ?

A: The Police Departmental Orders are there.

Q: Departmental Order No. A5 (Pt. 3 Sec1) deals with the promotion from S.I. to I.P. - refers to work and conduct files ?

A: Those are maintained in respect of officers whose work and conduct had deteriorated. Such a file was maintained in the case of Coomarasamy.

Q: Are they maintained in respect of each officer ?

A: No. If an officer's work and conduct deteriorates, such a file is maintained for six months. If his work and conduct improves that file is closed.

Q: If after some time his work and conduct deteriorates another file is opened and if his work and conduct improves, it is closed ?

A: Yes.

Q: There is no file from which one can ascertain about the work and conduct of an officer from the time he joins the Police Force ?

A: The Service Record would give those particulars.

Complaints against that officer may not go into that file.

If an inquiry is held and a punishment is imposed such particulars would be entered in that file. If there are adverse reports, such particulars would go into the file that is before the Commission now. They would go into the Service Register.

Mr. Shanmugalingam: I move that the Service Register be produced.

Commissioner: Allowed.

Mr. Shanmugalingam:

Mr. Shanmugalingam: I want this file to find out whether there was a report against that officer by this witness and to see whether that officer went before the D.I.G. on that.

Witness:

I cannot remember having made an adverse report against this officer. There would be no adverse reports in any other file. They should be in this file which is now before the Commission or in the Service Register.

Q: There was a complaint made by an Attorney-at-Law against him. Where would that be ?

A: There was no punishment imposed on that complaint and that would have been the end of that complaint.

Commissioner: What do you want to find out.

Mr. Shanmugalingam: I want to find out whether a report had been sent, stating that this officer was communal minded.

Q: Did you make an adverse report against this officer in the Officers' Visiting Book - would you do so ?

A: The O.V.B. can be gone through by anyone in the station. It is in the custody of the Reserve.

Commissioner: The observations against Gurusamy were not made in any particular book.

Witness: These are corrective measures we take in the interest of the officers concerned.

Commissioner: What is the stress you are placing on Thamotharampillai.

Mr. Shanmugalingam: He stated that this witness made an adverse report against him and he appealed. This witness denies having made such a report.

Witness: I have no recollection of having made an adverse report against him.

Thamotharampillai was an S.I. at that time. Only the files that should be opened relating to S.II. would have been opened regarding Thamotharampillai. During the time in question the documents relating to the conduct and the work and promotion of this officer would be into a progress file.

Commissioner:

Q: Is there such a file ?

A: No. That file would have been destroyed.)

Mr. Shanmugalingam: I invite your Honour to read Departmental Order A.5 Pt.3. Sec.1.

Confidential Reports are maintained under 315.

(L. Silva)

(Contd. by Mr. T.R.Fernando from 10 a.m.)

28.6.1979

10.00 a.m.

A. S. SENEVIRATNE (CONTD.):

COMMISSIONER: Now he is an Inspector.

MR. TENNAKCON, Senior S.C: Yes.

COMMISSIONER: Q: When was he made an Inspector ?

A: I do not know, Your Honour. It was after I left.

COMMISSIONER: So, that is the file where there may be an entry or not.

Witness (Contd.):

If it is a case of special promotion there will be no file whatsoever.

COMMISSIONER: There must be a 315 file. I do not know whether these files are destroyed or preserved.

MR. Wijetunga: I wonder what these confidential files and promotions have to do with the matters in issue.

COMMISSIONER: It is far too insignificant.

MR. SHANMUGALINGAM: I am only trying to find out whether the witness' denial is correct.

COMMISSIONER: I am not concerned with Mr. Thamo-therampillai to this extent.

Witness (Contd.)

He has got his promotion on due date.

Q: You referred to the reports that were sent on the 16th and 17th of August ?

A: I referred to one message.

Q: You said that it is not the language of Mr. Gunasekera ?

A: Yes. I still maintain it.

Q: How do you say that it is not his language?

A: Mr. Gunasekera's language in the normal course, I understand, is of a different type. He would not make that type of blundering language in a message. Without know the facts he would not have made a report. I cannot think of Mr. Gunasekera sending such a message under any circumstances. He was aspiring for promotions. As the superior officer who has seen his reports I can say that it does not appear to be the language which he uses.

Q: Throughout the 16th and 17th you were not aware what messages were sent?

A: I myself had sent messages. I was not aware of this message.

Q: In fact Colombo had asked for a special Operation Room to be opened and one channel to be kept free for messages from Jaffna?

A: These operation rooms are not opened only on instructions from Colombo. Operation rooms can be opened within the division if the officers consider it necessary.

Q: Anyway, on the 16th orders had come from Colombo ?

A: I believe, that there was a message to that effect.

Q: Up-to-date has any action been taken against any officer in respect of that false message?

A: As I said earlier, just before I left Jaffna I reported to the Co-ordinating Officer on one set of papers and the other set I sent to Colombo Headquarters so that action may be taken.

Q: What I want to find out is whether any action had been taken any officer in respect of that false message?

A: I do not know.

Q: Are you aware that Inspector Gurusamy when he gave evidence said that you were present at the Police station when this false message was given ?

A: I could not have been present there because I was at the Kachcheri at that time.

Q: At pages 765 and 766 in answer to His Honour the Commissioner Mr. Gurusamy had said that you were present at the police station premises when that message was sent ?

A: Your Honour, I could not have been omnipresent.

Q: You have given evidence with regard to the time you went to the Air-port and the exact time you went to various other spotw and without coming to the station you went straight to the conference?

A: Yes. I went to the Kachcheri.

Q: Have you documents to support that position?

A: That was not the time to make documents and I do not make documents of that nature.

MR. SHANMUGALINGAM: This witness says that at 9.55 he was at Kondavil C.T.B. Depot.

Witness (Contd.)

I have said that I was there around that time.

COMMISSIONER: Q: From there you did not go to the station?

A: No, Your Honour. We went to the Kachcheri.

Q: On the way to the Kachcheri you found that the order given by you over the radio had been implemented?

A: Yes.

Q: That is your order to put special guard at Naga Viharaya had been implemented?

A: Yes.

Q: You gave that order after you left Kandavil?

A: Yes. On our way towards Jaffna.

Q: You gave it over the car radio? - Yes.

(Mr. Tilagadas continues from 10.10 a.m.)

T.P.Fernando.

28.6.79

10.10 a.m.

A.S. SUNTHERALINGAM

ED. BY MR. SUNTHERALINGAM CONTD.

Q: The distance from Kondavil to Naga Vihare is about 3 miles?

A: Yes, about 3 to 4 miles.

Q: I would have taken about ten minutes to go there?

A: I cannot say whether we took ten minutes or more than ten minutes, or whether we went to some other place, but I am certain that we came to Naga Vihare around 10.30 a.m. and from there we went to the Kachcheri because we had to arrange for the buses. I have no absolute recollection of every thing that happened in that situation because the normal situation was not prevailing at that time.

Q: On your way to the Kachcheri, you passed the Naga Vihare, and there you noticed that your order had already been implemented?

A: I saw police officers there.

Q: Are you aware that Mr. E.L. Senanayake, Minister, in his speech in Parliament had stated that the police were responsible for the outbreak of violence in Jaffna? A: No.

COMMISSIONER: Mr. Senanayake has not given evidence before me. I am not going to decide anything on what he has said in Parliament.

Mr. Wijetunge: Mr. Senanayake in his statement said that the SLMP was responsible for the riots in Kandy.

Witness: In this context I might state that various allegations have been levelled against the police that they went to the carnival and created trouble. There were press reports to that effect. Asia Week has mentioned that the police went and opened fire in the carnival. Actually it was the mob which went to town and looted and burnt all those shops. Police had nothing to do with that. I also might mention that any other officer in the position of S.P. Jaffna in that situation would have been in the same plight. It could have been even Mr. Suntheralingam.

Q: Are you aware that the President, and the then Prime Minister, has said in his speech that he has no objection to the TULF pursuing its demand for Belam, but that they should be careful about their language, that they should guard their language?

Commissioner: Yes, you cannot object. I only said whether it is only advisable or not.

Mr. Shanmugalingam: At column 244 of the Hansard marked K437 he says 'I am not asking you to give up the ... (reads.)

So he is not asking them to give up the demand for Belam.

Q: Will you admit that the normal crime rate in Jaffna is much lower than the other areas?

A: I don't think there is any difference.

Q: In fact when the assizes were sitting in Jaffna, the sessions normally conclude its sittings in one or two months whereas, in places like Gampaha, Matara and Galle, they used to go on right through out the year because the calendar was always full?

A: The number of cases in the calendar is not indicative of the amount of crime in that area.

Commissioner: That depends on how soon the indictments are served.

Q: Assuming that the police in Jaffna are efficient as the police in the other areas, the assize calendar is an indication of the rate of crime?

A: That is not correct. It depends on the type of offences.

Q: The type of offences that come in the assizes are serious offences? A: Yes.

Q: So the assize calendar is an indication of the amount of serious crimes in that area?

A: The assize calendar may spill over ^{to} the next sessions as well.

In Jaffna they may have disposed the cases in a quicker way.

Q: The assize calendar in Jaffna for a number of years has been such that it did not require its sittings for more than two months?

A: I cannot comment on that.

Q: In fact there is a High Court in Jaffna and the High Court Judge did not have much work, and he had to cover up to Vavuniya and Batticaloa?

Mr. Fennekoon: It has been the case of many High Courts like Negalle, Chillaw, Gampaha, and many High Court Judges do not have work and the Judges were doing civil work.

10.20 a.m.

P. Thilagadas.

A. S. SENEVIRATNE: (Contd.)

To Mr. Shanmugalingam:

Q: You know that at Matara there was more than one High Court set up because of the large number of cases ?

A: I do not know. I have not worked there.

Q: With regard to the 42 youths taken into custody, they were detained for over four years ?

A: Yes.

Q: Are you aware of the incidents that took place in 1971 ?

A: Yes.

Q: Immediately thereafter, Emergency was declared and Emergency Regulations were passed ?

A: Yes.

Q: It was under these Regulations those 42 youths were taken into custody ?

A: Yes.

Q: Were any charges framed against these 42 youths ?

A: I think Mr. Ariyasinghe would be the best person to speak to that. They were detained during his time. They were given rousing welcomes when they were released from remand. I can submit reports on that.

Q: Were any charges framed against these youths ?

A: I have no recollection.

Q: If young men are detained for over four years and no charges are framed against them, they would have a grievance ?

A: In the Doraiappa murder case charges were framed against some of these 42 youths and the trial went through.

Q: The seven persons charged in the Doraiappah case were not all from these 42 persons. There were others also?

A: Some suspects in the Doraiappah murder case and the Pulloly Bank Robbery Case were among the 42 youths who were detained.

Q: Do you know whether any charges were filed against those 42 youths ?

A: I am not aware.

Q: Are you aware of the treatment meted out to them while they were in detention - did they complain of torture ?

A: If there was such a thing, at least one person should have been hospitalised. I do not know of such persons being hospitalised.

Q: Do you know of any person from among those 42 youths whose kidney was damaged while he was in detention, as a result of torture ?

A: I am not aware.

Q: Are you aware whether there were incidents of police misconduct in other cases ?

A: I am not aware.

Q: Are you aware of the torture meted out to those 42 youths ?

A: I am not aware.

In connection with the Pulloly Bank Robbery case two girls were arrested and one girl had been keeping the loot in her house.

When the loot was to be recovered they complained of rape by the police, but it could not be proved.

Q: In that case Pushparani surrendered to Court ?

A: Yes.

Q: Before she was surrendered, two persons from her family were taken as hostages ? A: I am not aware.

Q: Her brother and sister were taken into custody ?

A: Not to my knowledge.

Q: Are you aware that Pushparani was stripped naked in the presence of her parents ?

A: The police never indulge in such barbaric acts. Such things are never done by the police. It is utterly false to say so.

Commissioner: I cannot go back and inquire into all matters connected with all those who were taken into custody.

Mr. Shanmugalingam: I want to lead general evidence with regard to torture.

Mr. Wijetunga: There were about 40,000 Sinhalese youths who were taken into custody at one time and they were treated the same way. Here, my learned friend is trying to make a big case whereas these 42 Tamil youths are concerned.

Commissioner: Whatever may have been said and done, the use of violence as an act of revenge, cannot be tolerated. There are other ways of gaining redress. It is not by violence, rape, arson and the such like.

Mr. Shanmugalingam: This witness has given evidence about the acts of the youth against the police.

Commissioner: He has referred to instances where police officers were killed, their cars burnt and other things. He has not accused anybody. There have been a large number of grave offences committed between 1972 and 1977. This is a fact we have to face. We have to find out the causes for those, who were behind them and who encouraged such acts.

(Contd. by Mr. T.P.Fernando from 10.30 a.m.)

(L. Silva)

28.6.1979

10.30 a.m.

COMMISSIONER(Contd.)

We must also try to find out the cause for these murders.

MR.SHANMUGALINGAM:

For example, in 1971 there was a revolution of the youths throughout the Ceylon. Therefore, I only urge that one has to investigate into the causes that led to these incidents.

COMMISSIONER:

These acts of violence continue over the years. Insurgency came and it ended. I have a great regard for police officers who stood up against those youths and subdued it. But this kind of things where there are murders committed, where even witnesses are not prepared to come and give evidence, acts of violence committed in broad daylight, I do not think any one can sympathise with or condone.

MR.SHANMUGALINGAM:

I am not trying to justify it.

COMMISSIONER:

There should be an end to it.

MR.SHANMUGALINGAM:

I only say that this sudden eruption started in 1972 and we must find out the causes for this.

COMMISSIONER:

I take it that one of the reasons was the Constitution of 1972. The Constitution was burnt and the National flag was burnt.

MR. SHANMUGALINGAM: I am not trying to justify them. I only urge that Your Honour go deeper into these matters and find out the causes. It is on that matter I wish to lead some evidence.

MR. TENNAKOON, Senior S.C: My learned friend can lead any evidence, but not any fresh charges against the police.

COMMISSIONER: I cannot re-open these proceedings now.

MR. SHANMUGALINGAM: We have already filed affidavits regarding torture.

COMMISSIONER: If there are affidavits containing allegations I cannot accept those affidavits. If you are going to prove the causes then, I think, you should call the people who did those things and say "This is our motive and that is why we did these things". I am just taking a general view of the matter.

TO MR. TENNAKOON, Senior S.C:

Q: Mr. Seneviratne, you spoke of instances where leaders of the TULF had given rousing receptions to those who had been released from jail?

A: Yes.

Q: Can you kindly give those instances?

A: I have two reports of such instances, Your Honour. May I read. (Witness reads)

MR. TENNAKON, Senior S.C: I will be placing evidence before this Commission as to why there have been no charges and the difficulty in framing charges unless the law is amended.

Witness (contd.)

This is a report submitted by the Intelligence Division of the Police Force. I produce this report marked A.413.

Q: Read the other report also?

A: This is regarding a reception given to released youths at the Jaffna Railway Station on 16.2.1977.

(Witness reads the report). I produce this report marked A.414.

(Mr. Tilagadas continues from 10.40 a.m.)

28.6.79

10.40 a.m.

A.S. SENEVIYAKE:

RE-XD. by Mr. Hennekoon, contd.

Q: Will you produce that marked A414? A: Yes.

Q: In A414 the Government is described as 'muthevi' meaning the goddess of misery, of misfortune? A: Yes.

Q: In both these documents, the leaders who received these youths and gave them rousing receptions were the present leaders of the TULF?

A: Yes.

Q: And the gentleman referred to as Vannai Anandan is the same person who Mr. Hoordeen said accompanied Mr. Yogeswaran and went to the Jaffna bazaar on that morning? A: Yes.

Q: Do you know that he has been identified by one Muslim person called Careem? A: Yes, he has made a statement.

There is also the report of the arrival of Mr. Amirthalingam when he was discharged from the Trial-at-Bar case.

Q: Please read that? A: Yes. (read)

Q: You produce that marked A415? A: Yes.

10.50 a.m.

P. Thilagadas.

28. 6. 79

- 13304 -

10.50 a.m.

A. S. SENEVIRATNE: (Contd.)

To Mr. F. Tennekoon, Senior S.C.:

Q: The youths referred to in these documents are assured that in the cases they are charged, they would have the full assistance and help of the Lawyers of the T.U.L.F., headed by Mr. Sivasithambaram ?

A: Yes.

(Refers to A.415)

Q: These reports refer to likely trouble in the future ?

A: Yes.

Q: Who were the politicians who had been, from 1972, expousing the cause of the youth who were taken into custody ?

A: The leaders of the T.U.L.F.

Q: These youth have been assured of help and assistance by the lawyers of the T.U.L.F. ?

A: Yes.

Q: You will recall that during the tenure of your office there were several murders of police officers and attempted murder of pro Govt. men ?

A: Yes.

Q: Did the Leadership of the T.U.L.F. on any of those occasions express their sympathy to the survivors of those police officers ?

A: No. Not on a single occasion.

Q: Did they attend the funerals of the murdered police officers ?

A: No. Not a single. When these persons died we had difficulty. Tamil officers were not willing to attend the Service Funeral we had organised to give them. When p.c. Karunanithi was killed only a few attended his funeral. Not even his relations attended his funeral. I was one of those who carried the coffin from the funeral house.

Q: Do you know the location of Inspector Pathmanathan's house in regard to the Nallur temple ?

A: It is a few yards away.

Q: Where was the police station in relation to the Temple ?

A: It was also a few yards away.

Q: The police station was asked to be removed because the police officers were eating beef and consuming liquor in the police station and in the barracks ?

A: If the police station had not been closed down, Mr. Pathmanathan would not have died in the manner related by me earlier.

Q: Have you got the particulars of the O.I.CC of Jaffna sub-stations ?

A: Yes. In Jaffna Mr. Senathiraja was in charge of Traffic, Mr. Pathmanathan was in charge of the Divisional Crimes Bureau. Insp. T.V. Pillai was in charge of the S.C.I.B. Minor Offences Branch was headed at one time by S.I. Peramuna and subsequently by S.I. Wijetilleke. Gurusamy was in charge of Administration. Inspector Kumar was my personal assistant. He was killed because he did good work. Sgt. Gabriel Pillai was the Court Sgt.

Q: Was the Tamil language observed as the working language for administration in Jaffna ?

A: When the relevant Bill came into effect, within one week I arranged to see that all the complaints went to Court in Tamil.

A Tamil Officer was kept in reserve to record complaints and statements in Tamil. The cases were conducted in Court in Tamil. The Magistrates will bear testimony to these facts.

Q: The prosecuting officers in Courts were all Tamils ?

A: If the O.I.C. could not conduct the case in Tamil there was a Tamil Officer to conduct the cases.

Q: Is it true to say that the Jaffna Peninsula is flooded with Sinhalese police officers of the Imperial Govt. ?

A: It is not correct. The percentage would have been 60 p.c. Sinhalese and 40 p.c. Tamil.

Q: The Fire in the Old Market in Jaffna had taken place at about 8 a.m. ?

A: At about 7.45 a.m. Mr. Sivagnanam had been in town.

Mr. Sharmugalingam: Mr. Sivagnanam states he came to the Power House at 7.15 a.m. and went back and at about 9 or 9.15 a.m. he got a telephone call about the fire. The only witness who spoke about the fire at 8 a.m. is Mr. Noor-deen and no others.)

1
(L. Silva)

(Contd. by Mr. T.P. Fernando from 11 a.m.)

28.6.1979

11.00 a.m.

A. S. SENEVIRATNE (CONTD.)

TO MR. TENNAKOON, Senior S.C:

Q: In any case, that fire had continued till about 1 or 1.30 when the army bowsers came and doused it?

A: If the police had not kept it under control up to the time the bowsers came the whole town would have been completely gutted.

By the time the Army bowsers came the people who were there were in the act of dousing the fire.

Q: Did you on 15.8.1977 night have any instruction class at your bungalow for any police constables?

A: I do not entertain any P.CC in my bungalow. I never held instruction classes there. It is an absolute twist that had been given to bring discredit to me.

MR.TENNAKOON, Senior S.C: P.C. Sattanadapillai had given that evidence.

COMMISSIONER: What is the object.

MR.TENNAKOON, Senior S.C: I will come to the object later.

Q: There is evidence before this Commission that on 17.8.1977 morning some bicycles were run over and damaged by buses on the orders of the police. You said that that matter was discussed at the conference you had on the 17th itself at the Kachcheri. Were any bicycles produced?

A: No bicycles were produced. No complainants came. Even Mr. Thangarajah was asked, at the time he mentioned this, to mention the names of the complainants, but there are no complaints up to date.

Q: In regard to the incidents which took place on 21.8.1976 you said that Mr. Amirthalingam had tried to force himself into Jaffna Fort?

A: Not only on that occasion, even earlier he had tried it.

Q: Are there any incidents reported where he had done such things on earlier occasions?

A: There are reports.

MR.SHANMUGALINGAM: A number of reports are being produced, but not a single question was put to Mr. Amirthalingam although police officers were present when he gave evidence.

MR.TENNAKON, Senior S.C: Mr. Amirthalingam has generally admitted his confrontations with the police.

Q: (Shown X.469) There is a row of boutiques which had been burnt down on the 16th morning ?

A: Yes.

Q: You and several other police officers spoke to there being a road by the name Power House road. Is it depicted in this map?

A: It is a continuation of the Power House Road up to KKS junction. In common parlance this is referred to as Power House Road.

Q: You were questioned about a row of shops that burnt down on the 16th morning ?

A: Yes.

Q: Was that row of shops adjoining the old marked?

A: No. There was a gap between the row of shops and

the old market. It was a very large gap. Actually lorries used to go through that to unload goods at the old market. If the fire from the old market went through the other row of boutiques should have been affected.

(Counsel explain to the Commission what is given in the map X.469 as regards the Grand Bazaar, the Power House road, the old market etc).

(Mr. Tilagadas continues from 11.10 a.m.)

T.P.Fernando.

28.6.79.

11.10 a.m.

- 13,310 -

A.S.Seneviratne:

Re-Id by Mr. Tennekoon contd.

Q: Do you say that the entire area including the old market is referred to popularly as the grand bazaar?

A: Yes, even the road up to where the bazaar stands, a part of Kasturiya road, the place where the leyden garments shop is, all that is called grand bazaar.

Q: You said that the CTB personnel went on strike during the period of the riots? A: Yes.

Q: When did that happen?

A: That was on the 17th morning I came to know that the CTB was on strike.

Q: Did they go on strike earlier than that?

A: I came to know about their strike on the 17th.

Q: But you don't know when it commenced?

A: I don't know. I came to know about it on the 17th morning.

When we went to the CTB depot, they said they were on strike because of Jesudasan's incident, but there have been incidents of buses being burnt in Jaffna, explosives were placed in buses, then CTB conductors were robbed of their collections, CTB drivers and conductors were intimidated and collections taken, one CTB driver was shot at - for these acts, the CTB authorities never thought of striking. They drew a red herring on a pure assumption in order to support the contention of the TULF.

Mr. Tennekoon: A little while ago I referred to the evidence of Satanathapillai PC where he said that an instruction class was held in the house of the S.P. on the 15th. That evidence is at page 419 of the proceedings.

Q: You were questioned extensively under cross-examination as to the state of affairs which the police had to face in the investigations of such offences as bank robberies? A: Yes.

Q: Subsequently you were asked whether either the bank employees or the members of the public came and made statements? A: Yes.

A: Now are you aware of any cases where they refused to make statements?

A: No one refused to make statements. In fact every one of the bank employees made statements, but in a case like that, the vital point is to establish the identity of the people who came to rob the bank. Now in the case of the Atchuvelli robbery, the robbers came to commit the robbery. They ran away when someone shouted 'police, police'. Again they came back and got the safe opened and looted the bank. They were there for nearly 20 minutes on two occasions, but no one was able to identify any one of them.

Q: Were any statements made by anyone of them which would be helpful to the police in their investigations?

A: No.

Commissioner: They did not identify?

A: No. They were not ordinary average type of witnesses; they were fairly educated men.

Q: Yesterday you were asked whether any police officer had been injured prior to PC Bandara was shot and injured? A: Yes.

Q: Have you been able to find that information?

A: There was a case where PC 346 Fernando was out.

Q: During whose time was that? A: During my time.

Q: When was that? A: I have the document, but I am unable to trace it.

Q: Are you aware of any other cases where Sinhalese police officers had been attacked or injured before PC Bandara?

A: There was a case of obstruction at Vasavalan.

Q: Are you in any case aware of any instances where particularly the Sinhalese police constables in Jaffna have behaved in a very antagonistic way towards the people of Jaffna just because some harassments have been caused to ~~the~~ Sinhalese police constables?

A: No, there were no such incidents.

11.20 a.m.

P.Thilagadas.

A. S. SENEVIRATNE: (Contd.)

To Mr. P. Tennekoon, Senior S.C.:

Q: Did the police on any occasion or at any time behave as an army of occupation in Jaffna ?

A: There was no such incident. There was nothing like that. They did not behave in that fashion.

Q: (Shown A.397) It is the statement made by G. James ?

A: Yes.

Q: In that statement he states, "There was no civilian in the bus" ?

A: Yes.

Q: You have the statement marked A.398 ?

A: Yes.

Q: In that statement it is stated, "I do not know whether people in civils got into the bus" ?

A: Yes.

Q: You know the bus crew ?

A: There is the driver and the conductor.

Q: The conductor keeps the crowd under observation ?

A: Yes.

In this instance one has to think whether the police would go to do such a thing like this with the C.T.B. personnel present.

Mr. Shanmugalingam: Let the witness speak to facts and not to inferences.

Q: In both A.397 and A.398 the witnesses do not state the police used force on them ?

A: No. If the bus was taken for an urgent matter I do not know whether there was anything wrong in it. There could not have been any offence committed by the police in commandeering this bus.

Q: You also spoke of harassment caused to Police officers by certain members of the public in Jaffna ?

A: Yes.

Q: You referred to private cases being filed ?

A: They were not the only things. There were other matters. They were bent on demoralising the police, closing of police stations, killing police officers and other forms of harassment.

To Other Counsel: Nil.

(Witness is permitted to leave the Commission Hall.)

(AT THIS STAGE COMMISSION ADJOURNS FOR A FEW MINUTES)

(RESUMED AFTER RECESS)

JASENTHULIYANA DEVA MITHRA ARIYASINGHE: Affirmed: 41 years:

Supdt. of Police: Police Higher Training: Colombo.

To Mr. P. Tennekoon, Senior S.C:

Q: You are now attached to the Police Headquarters, Colombo ?

A: Yes.

Q: You are attached to the Police Higher Training ?

A: Yes. I have an office of my own.

Q: That is a post given to a senior Supdt. of Police ?

A: Yes.

Q: Police Higher Training includes training of High Police Officers ?

A: Yes. Officers above the rank of Inspector.

Q: When did you join the Police Force ?

A: On 10.5.61.

Q: At the time you joined the Police Force as an A.S.P., you were a Graduate of the University of Peradeniya ?

A: Yes.

Q: In what subjects did you obtain your B.A. ?

A: In Geography, History (Indian and Ceylon) and Buddhist Civilisation.

Q: That is a part of the Indo Ariyan studies ?

A: Yes.

Q: Have you any experience of having served in outstations as an A.S.P. or an S.P. in charge of a division ?

A: Yes.

Q: Where did you serve ?

A: In Kandy, Matara, Nugegoda, Colombo North, Galle, Ratnapura, Kandy again, Chilaw, Kuliyapitiya as S.P. in 1972, and in January 1973, on the 1st, I went to Jaffna.

Q: After you assumed duties in Jaffna on 1.1.73 did you have occasion to deal with any crimes which had been committed previous to your assuming duties there ?

A: Yes.

(I. Silva)

(Contd. by Mr. T.P. Fernando from 12.05 p.m.)

28.6.1979

12.05 p.m.

J. D. M. ARIYASINGHE (Contd.):

TO MR. TENNAKON, Senior S.C:

Particularly, what received my attention was that there was a series of cases which affected the security of the state prior to my arrival. Quite a number of those cases have not been solved and further investigations into some of those cases had to be made. Some of the politically motivated cases which affected the security in Jaffna peninsula which remained unsolved where further inquiries had to be made also received my attention.

Q: And further inquiries were conducted under your supervision as S.P. Jaffna ?

A: Yes.

Q: Assuming duties in a new station is it for the successor to be briefed by the predecessor?

A: Yes.

Q: Was that practice followed when you assumed duties?

A: My predecessor was Mr. R.Sunderalingam and he briefed me.

Q: Quite apart from the briefing given by your predecessor did you for yourself observe and study the situation in regard to law and order in the Jaffna peninsula?

A: Yes. I studied what was affecting the law and order situation in Jaffna peninsula.

Q: In your studies were you able to discover any problems and threats to law and order in the Jaffna peninsula?

A: I observed that the main threat to the maintenance of law and order in the Jaffna peninsula came from a set of militant youths who were then bent on committing violence for political motives. Besides this, of course, there was occasional caste clashes.

Q: I will be questioning you not on problems on caste clashes, but on problems affecting law and order in Jaffna peninsula which you stated came from a set of militant youths who were bent on violence for political motives?

A: Yes.

Q: Would you elaborate that statement of yours by giving examples?

A: This, particularly, came to my notice and became firm in my mind after an incident that happened within two weeks of my assuming duties there. On 15.1.1973 Mr. C.Kumarasooriar the then Minister of Post and Telecommunications was due to arrive in Jaffna in connection with certain official functions. In the course of this he had to visit a function connected with a school at Velanai. If I remember right it was something to do with the opening of a sub post office.

Q: In which part of Jaffna was that ?

A: It is on Kayts electorate. One has to go across from Jaffna, go past Pannai and get to Punguduthive.

Q: Did you, as the local police chief, have to perform any function in regard to the visit of this Minister?

A: Yes. Information was brought to me by the District

Intelligence Bureau that there was an organised attempt led by the TUF at that time to boycott those functions and to show forms of protests mainly by showing black flags to disrupt this visit. In fact the officers of the D.I.B. brought to my notice that when the Minister Mr. Kumarasooriar visited a meeting at Gurunagar after assuming duties as nominated M.P. somewhere in February, 1972.....

MR. SHANMUGALINGAM: That is the information the witness had.

Witness(Contd)

They showed me some reports also.

COMMISSIONER: Q: When did this thing happened at Gurunagar.?

A: In February, 1972.

Q: That was about a year earlier?

A: Yes.

Witness (Contd.):

About it the D.I.B. had reports and they showed them to me. That particular report is not with me.

Q: What was the information you got from the D.I.B.

COMMISSIONER: Q: Now you are speaking about a report that you got in 1972 or 1973?

A: This particular report was a report made in 1972 which was brought to my notice.

Q: What was the information you had in this report ?

A: On that occasion in order to disrupt this meeting certain youths had prepared bombs at the kitchen

of the Kondalali Vairava Temple and on information received by the police, they had raided the spot and had arrested certain suspects.

(Mr. Tilagadas continues from 12.15 p.m.)

T.P.Fernando.

28.6.79

12.15 P.M.

J.D.H. ARIYASINGHE:

ED. BY MR. TENNEKOON CONRAD.

Following the investigations into that, some of the other suspects who were involved in that were also arrested. Statements were made by those suspects admitting...

Mr. Shanmugalingam: I object to that evidence, Sir.

Mr. Tennekoon: I will be producing that statement. I am not going to leave anything incomplete.

Witness: Some statements of a confessional nature were made by those persons.

Mr. Tennekoon: I will be producing the confessions made to the CID investigators.

Mr. Shanmugalingam: These are statements purported to have been made by certain individuals, and if those statements have been produced, I should have the opportunity to rebut that evidence. Let them call the persons who have made the statements.

Commissioner: What does the Evidence Ordinance say about confessions?

Mr. Tennekoon: Confessions made to police officers are not admissible in a criminal Court.

Commissioner: These confessions are to be produced in order to prove that^a certain course of action has been taken. I think we must be very careful not to use the evidence ordinance in order to shut out evidence.

Mr. Shanmugalingam: Either they must call the persons who have made the statements or at least I must be permitted to call those persons to rebut that evidence.

Commissioner: Yes, you are entitled to call them.

Mr. Tennekoon: The purpose in my producing these statements is to meet the charge that the Government has and is still, for no rhyme or reason, taken these innocent youths into custody and kept them in detention, and this has been characterised to the masses as an act of deliberate discrimination against the Tamils.

Commissioner: I think the statements were obtained and on that certain actions have been followed. It is, no doubt, a one sided process, but anyway, they have taken them into custody for that reason.

Mr. Shanmugalingam: If that is so, the mere fact that they have made statements can be led through this witness.

Commissioner: The statements will be shown to you. I don't think these statements will be used against these accused in these proceedings. This is not a criminal trial. The statements are going to be relied on merely as evidence to show why the Ministry of Defence made orders of detention. It is only for that reason.

Mr. Shanmugalingam: The statements were recorded after they were taken into custody.

Commissioner: I suppose if those statements were not made, they would have been released.

Mr. Tennekoon: The statements are being used to justify the detention.

Mr. Shanmugalingam: If that is so, if only the fact that they made statements and thereafter detention orders were made, then the fact that they made statements can be deposed to by the witness, but if the statement itself is marked, then my learned friend is relying on the contents of the document. In that event, I think they must call the maker or they must permit me to call the maker.

Commissioner: You can only sustain your objection on the Evidence Ordinance, and what does the evidence ordinance say. Does it say you must prohibit the production of that document in any other proceedings?

Mr. Tennekoon: They are produced in cases under the Customs Ordinance; they are produced in civil cases.

Mr. Shanmugalingam: Evidence Ordinance applies to all proceedings other than arbitrations.

Mr. Tennekoon: Section 7(d) of the Commissions of Inquiry Act says (reads)

Mr. Shanmugalingam: I am not objecting to the marking of that provided I have the opportunity to call the makers, if necessary.

Mr. Tennekoon: I myself will be happy to call them.

Mr. Shanmugalingam: I don't know whether they are available now.

ED. Contd.

Q: We were speaking to incidents that took place in February, 1972 at Gurunagar? A: Yes.

Commissioner: Statements were made by certain suspects?

A: Yes, Sir.

Q: You said those statements were of a confessional nature?

A: Yes.

Q: So what followed from that?

A: In view of this information, I myself realised that there was the danger of violence during the Minister's visit, and I took all precautions to make elaborate security arrangements.

Q: Did you ultimately make elaborate security arrangements regarding the minister's visit scheduled for 15th of January, 1973? A: Yes.

Q: I take it, you yourself was in the field regarding this matter?

A: Yes.

12.25 p.m.

P. Thilagadas.

J. D. M. ARIYASINGHE: (Contd.)

To Mr. P. Tennekoon, Senior S.C.:

Q: Were you yourself present at the place where the Minister opened the Sub Post Office ?

A: Yes.

Q: What happened on that occasion ?

A: On that day when I reached Velanai at about 4 p.m., the officers I had detailed for duty in mufti, brought to my notice that the T.U.F. Leaders and supporters had come to the vicinity of Velanai. I was informed that Mr. & Mrs. Amirthalingam, Mr. Sivasithambaram, Mr. Kadiravelupillai and K.P. Rutnam had come. I was informed that they were making preparations to come in a crowd and storm the meeting. On receiving this information I arranged for surveillance of the place where they were, so that I could contain them coming. There were about 300 approaching the meeting place.

(To Commissioner:

They were in a separate crowd. They had assembled at the house of Mr. Rutnam.)

On receiving this information I advised my men as to how they should conduct themselves. On seeing the crowd coming about 400 yards away, I went up to the crowd. Mr. & Mrs. Amirthalingam, Mr. Rutnam and others were coming in that crowd. I spoke to them. I told them that I had information that they were coming to disrupt the meeting and that I could not allow it and had to keep them away. They said they wanted to demonstrate their protest when the Minister was passing. I said that that

would lead to a breach of the peace as there were supporters of the Minister. I said I could not allow them to proceed. After discussion they said they were moving away and got on to a private land. I showed them a mark and asked them not to come beyond that mark. I told them that they should not do anything that would irritate the other side and commit a breach of the peace. Shortly after, the Minister was coming. I knew it and I lined up the police vehicles and men and the Minister went by. At that time I heard the shouts of, "Drohi Tirumbu Po" which means "Traitor go back". The persons in the crowd pulled out black handkerchiefs and waved them.

In fact I have a report on this matter - a copy of it. I sent a report of what happened, to the Police Headquarters the following day. That report contains the names of the other officers who were with me. As those officers require extreme security I could black off their names and read the report.

Mr. Shanmugalingam: With regard to the incidents of shooting, they are established facts.

Mr. P. Tennekoon, Senior S.C.: I want to show why they were killed. I hope my Learned Friend will agree as to why they were killed. They agree with regard to the killing but they do not seem to agree with the causes for killing.

Q: Apart from avoiding the breach of the peace what else did you do ?

A: This shouting was around 6.45 p.m. I left a party to see that the crowd did not come and disrupt the meeting. This crowd, I learnt, was in Mr. Rutnam's house. At about 8 p.m - shortly after 8 p.m. when I was at the meeting I received

information. I requested the organisers of the meeting to finish it before it was too late, but they dragged on. They continued to make speeches. Information was received that two police officers at Mankunban had arrested two suspects who were in possession of 25 sticks of dynamite.

(To Commissioner:

Q: How far was that from the place of the meeting ?

A: About four miles)

They had to pass that spot to go back. The Minister too had to go pass that spot when returning. Those two suspects have had in their possession a wooden plank to which were attached ten batteries and two wires - positive and negative, to which were fixed two detonators. The wire was a long wire. I have a report on that incident too. The suspects had admitted that they were there to, whilst the Minister was passing, place these under the culvert between Vellalai and Jaffna and electrically ignite it and blow up the culvert and the Minister's car. There was another suspect who had escaped after struggling with the police, but his loaded revolver was taken charge of by the police.

(L. Silva)

(Contd. by Mr. T.F.Fernando from 12.35 p.m.)

28.6.1979

12.35 p.m.

J. D. M. ARIYA INGHE (CONTD.)

TO MR. TENNAKOON, Senior S.C.:

I have the names of the suspects. The persons who were arrested were Gnanasekeran alias Ranjan of Paranthan and A.Thasan of Carmel Road, Gurunagar and the other suspect who was arrested later was Tissa Veerasingham.

Q: Was this person Tissa Veerasingham identified later by the P.CC at an identification parade ?

A: Yes. He was identified at an Identification Parade held in Courts as a suspect.

Your Honour, when further investigations were conducted it came to light that this Gnanasekeran was at one time a driver working in the household of one of the Federal Party Local Government councillor. His name is Mr. Nadesalingam, a Federal Party member of the Town Council, Paranthan. The other party Thasan was also a Federal Party supporter. Then Tissa Veerasingham was one who had worked for the M.P. for Chavakachcheri Mr. Navaratnam who had been spending a lot of time in Navaratnam's household. Tissa Veerasingham was at Paranthan. Thasan also had a sister at Paranthan.

Q: Did the investigations made in this case reveal that this attempt to blow up the Minister's car carrying the Minister himself was the work of a youth group supporting the TUF ?

A: Yes, Your Honour. I may also mention that in the course of the investigations the police were able to recover certain parts of the wire that had been

cut in preparing this from the house of Thasan. Police also traced a boy, one Jayabalan 12 years old, who made a statement about going and buying certain items. Actually it was the house of Rita Emmanuel the sister of Tissa Veerasingham. Gnanasekeran had sent his cousin E. Jayapalan to buy five torch batteries. Tissa Veerasingham had earlier bought five batteries and a 1/4 lb. of 1 1/2" nail from a dealer in Jaffna. These batteries were fixed to a cut piece of plank with the aid of nails, wire and twine. The role of wire which was detected was about 254 2/3 ft. long.

Q: With your experience as a police officer would you say that these objects had been collected for the purpose of designing a sophisticated device with a tremendous explosive charge?

A: Yes, Your Honour. The suspects themselves said that they could send it off in seconds.

Q: It was a very sophisticated device?

A: Yes.

Q: Were these suspects who was arrested having any kind of criminal record?

A: Investigations did not reveal.

Q: Could they be regarded as ordinary criminals?

A: No, Your Honour. They were educated youths.

Q: What happened subsequently?

A: In this case we could not arrest the other suspect Tissa Veerasingham for some time. Files were kept in Jaffna for some time and subsequently handed over to the C.I.D.

(Mr. Tilagadas continues from 12.45 p.m.)

28.6.79

12.45 p.m.

J.D.N. ARAYASINGHE.

ED. BY MR. SHANMUGALINGAM.

The files in this connection were prepared by the CID with the assistance of the Kays police and sent to the A.G. Department.

Q: Did anything come out?

A: Up to the time I left, nothing happened. I left Jaffna in October, 1975.

Q: Up to date has any action been filed?

A: I am not sure, but I knew that some officers were urging that there is sufficient evidence to file action.

Q: No decision has still been taken as to whether action should be taken or not to your knowledge? A: I am not sure.

Q: Apart from the confessions made by these suspects, was there any independent evidence available in this case to bring home the charge on the suspects?

A: Yes, there was the evidence of the 12 year old boy, Jayapalan, who said he was sent to buy batteries.

Mr. Shanmugalingam: Two police officers caught them with the goods.

Witness: We consulted the A.G. because it was a conspiracy to murder a Minister of State, and it was not a matter where we could have filed action straightaway in the Magistrate's Court of Jaffna. So, we consulted the A.G. We did not receive any instructions from the A.G. I remember sometime in 1974 October, in connection with a whole series of cases which we had put up to the A.G.'s Department, about thirty separate cases, instructions came that in these cases, most of the evidence was of a confessional nature, and it may not be worthwhile to go to Courts, and that a decision was to be taken by the Government whether to introduce any new legislation or to amend the existing legislation to bring forth the charges against the suspects.

Q: Shortly thereafter, did you arrest in some other connection a gentleman by the name of Sathiyaseelan?

A: Yes, the investigations done by the special unit revealed that actually the man behind giving instructions was the suspect by the name of Ponnuthurai Sathiyaseelan of Urumpurai. Thereafter, police made concerted attempts to arrest this P. Sathiyaseelan, and finally he was arrested at Eravur on 23.2.73 by Sgt. Perampalam of the CID, and subsequently Perampalam was killed along with Inspector Bastiampillai in Murungan.

Q: Have you collected any information in relation to this gentleman, as to his whereabouts, as to who he was?

Commissioner: Where is he now?

Mr. Tennekoon: He has escaped into Canada.

Sathiyaseelan is a Science Graduate. He was unemployed. His father was dead. He comes from a poor family. He was at one time the leader of the Manavar Peravai. He came into some sort of politics when he formed the association for the unemployed Tamil students of Jaffna. This Manavar Peravai had some connection with the TUP. At this particular time, he was one of the leading members of the students front.

Q: In consequence of the statement made by Sathiyaseelan, were you able to get any light on any other acts committed prior to your assuming duties in the Jaffna peninsula?

A: When Sathiyaseelan was arrested, he was questioned by the CID and a whole lot of information came out in regard to the activities that had taken place in Jaffna in 1972 concerning cases of politically motivated crimes. In fact they were found to be so important, and I was myself informed, and I went up to the CID and questioned the suspect with the assistance of Sgt. Perampalam and Mr. P. V. V. de Silva.

Q: Were you able to arrest further suspects in consequence of the statement made by Sathiyaseelan?

A: Yes, this suspect Sathiyaseelan mentioned a number of incidents, as to who had taken part in doing these acts, and in fact he gave a list of names, names of 30 other suspects who were associated with him, in committing those acts. He said he was responsible for some of those acts. He said, as a militant group, their determination was to win freedom for the Tamils or to get self rule. He referred to the Kondaladi Vairavar temple case. He said that the money to buy ingredients to make the bombs was given by him and he got the money from a person by the name of Navai Senathirajah. Navai Senathirajah at that time was the leader of the youth front of the TULF.

12.55 p.m.

P.Thilagadas.

T. D. M. RIYASINGHE: (Contd.)

To Mr. P. Tennekoon, Senior S.C.:

He had given the money. Then he referred to several other cases - throwing of bombs at the house of Sivasothy Master, where also the money had been given to him by M. Senathiraja to bring the ingredients. The discussions about throwing the bombs had taken place at the cycle shop of one Amarasingham of Neevandy where these youths used to meet in the evenings and conspire to throw bombs at the persons supporting the Govt - either S.L.F.P. or L.S.S.P.. There was also throwing of hand bombs at the L.S.S.P. Leader Mr. Visvanathan, Attorney-at-Law on two occasions. The discussions had taken place at the cycle shop and Sathyaseelan had been there. He also referred to a number of other incidents and other suspects who were involved in these matters. I have made a note of them. The names had been given by him - Sathya-seelan. That statement is with the C.I.D. and it was recorded by Mr. P.V.de Silva. Such statements were admissible under the Emergency Regulations.

(To Commissioner:

Q: Emergency Regulations had continued during that time ?

A: They were in force and action could have been taken.)

The decision to release the youths in detention was a political decision.

Mr. P. Tennekoon, Senior S.C.: That matter is being taken up before the Presidential Commission. It was stated that Mr. Felix Dias Bandaranaike decided to release them in order that they would form the hardcore of the S.L.F.P.

Mr. Wijetunga: They were released before the elections in the hope that they would support the S.L.F.P.

Mr. Shanmugalingam:

Mr. Shanmugalingam: That was the allegation made by the Prosecution, but it has not been supported. Lots of statements that have been made at the opening address have not been supported by evidence. We should not go by the opening address which was made for public consumption.

Mr. P. Tennekoon, Senior S.C.:

This statement was made by Mr. P.V.W.de Silva who gave evidence before that Commission.

Witness: Till I left Jaffna I was hoping that they would be taken to Court.

Commissioner:

Q: Because the evidence was admissible?

A: Yes.

Witness:

It was my opinion and of the others too that there were at least 8 cases where there was evidence where the police had detected items like revolvers, explosives etc. and we could have established those cases in Court.

Commissioner: But the cases were not filed for some reason or another.

Mr. Shanmugalingam: The demand by the public was that, either bring the youth to trial or release them. Even the hunger strike by the detainees was settled by Mr. Chelvanayagam. The demand when the youth went on hunger strike was that either they be tried or released.

Mr. Wijetunga: Elections were being postponed during that time.

Mr. P. Tennekoon, Senior S.C.:

Mr. P. Tennekoon, Senior S.C.: Most of these youths were kept under remand for security reasons. -- They could not be released and neither could they be brought before Court.

Mr. Shammugalingam: Once the emergency lapsed, there was no ground on which they could be tried by Court.

Commissioner: If you waited till the Emergency Lapsed it would have been too late.

Mr. P. Tennekoon, Senior S.C.: In the case of the Alfred Dorai-appah murder case, the original indictment was under the Emergency Regulations. It had to be changed when the Emergency lapsed.

Witness:

The investigations were conducted with the hope that they would be brought to Court under the Emergency Regulations. These detections were made in July 1975 - matters relating to Sathyaseelan also were in March 1973.

(L. Silva)

(Contd. by Mr. T.P.Fernando from 1.05 p.m.)

28.6.1979

1.05 p.m.

J. D. M. ARIYASINGHE (CONTD.)

MR. SHANMUGALINGAM: From February, 1973 till 1977 they were kept under detention.

Witness (Contd.):

Your Honour, at one stage a good part of the suspects were released and they were re-arrested when there was a fresh wave of violence in 1975.

COMMISSIONER:

I am wondering why the suspects were not brought to trial after those emergency regulations were passed.

MR. SHANMUGALINGAM:

Certainly, nobody is saying that Mr. Felix Dias Bandaranaike delayed action or that he said that action should not be taken. If the Police or the Attorney-General say that Mr. Felix Dias Bandaranaike said not to prosecute it is a different thing.

COMMISSIONER:

I am not here to find out as to who is responsible for not taking action.

I am only wondering why they were not brought to trial.

MR. WIJETUNGA:

The Criminal Justice Commission law was passed precisely to tackle this type of offences where confessions were admissible. But for some strange reason they have not been brought to trial.

COMMISSIONER:

A Commission can sit and hear evidence of this sort, but it has no power to do anything.

MR. TENNAKOON, Senior S.C.: In regard to the statement

Mr. Shanmugalingam made with regard to my department, the position into which my department is relegated is being unfolded in the other Commission.

COMMISSIONER:

I am only wondering why the law was not used.

TO MR. TENNAKOON, Senior S.C.:

Q: You stated that there were about 30 suspects who were arrested in consequent to the statement made by Sathyaseelan after he was arrested on 23.3.1973?

A: Yes.

Q: Were there among those persons nine persons arrested at dawn on 23.3.1973?

A: Yes, Your Honour.

Q: Did they confess in their statements to the police about murder by shooting Mr. Kumarakulasingham of Nallur?

A: Yes.

Q: In connection with the same incident there was a taxi driver who had taken these accused to this place of offence who could have been a very useful witness for the prosecution?

A: Yes.

Q: What happened to that taxi driver ?

A: They had shot him at a lonely spot at Kallady and put his body under a culvert.

Q: Did those nine persons also confess to the murder of that taxi driver ?

A: Yes.

Q: On the statements made by those suspects more suspects were arrested ?

A: Yes.

Q: And 40 persons were arrested on the statement made by Sathyaseelan and the circle became wider and wider?

A: Yes, Your Honour.

COMMISSIONER:

Q: What happened eventually to them?

A: They were under detention orders. Most of the suspects were originally produced before the Magistrate and they were remanded under Emergency regulations. Few of the suspects against whom there was no evidence of actual involvement, but there were reports that they were security risk were detained as security risk.

Q: Did those nine persons who were arrested on 9.3.1973 also confess to the robbery of cash from the Kopay Petrol shed?

A: Yes.

Q: And also about the robbery of a car from Nallur in December, 1972?

A: Yes.

In fact the day before the day I took over the division

the car belonging to Dr. Wickremaratne which was parked in his house at Nallur had been robbed and it was later found burnt.

(Mr. Tilagadas continues from 1.15 p.m.)

T.P.Fernando.

28.6.79
1.15 p.m.

- 13,338 -

J.D.M. ARIVASINGHE:

ED. BY MR. TENNEKOOON CONTD.

Even in the taxi driver murder case, Kumarasingam, the driver was shot and the taxi was found burning in Kaithady. Then the car belonging to Mr. Wickramaratni was robbed. He was married to a Tamil lady.

Commissioner: That is where?

A: At Nallur.

Mr. Tennekoon: With reference to the incidents in the hill country in August, 1977, it was remarked by Counsel appearing before this Commission that certain Sinhalese persons were penalised for having been married to Tamils, and the same thing has taken place in the Jaffna peninsula.

Mr. Shanmugalingam: They robbed only the car.

Mr. Ravindran: This particular doctor is a good friend of mine. Both of them are in London.

ED. Contd.

Q: These persons were arrested, interrogated and statements recorded by a special team of CID investigators led by Mr. P.V.W. de Silva, an Inspector attached to the CID, assisted by Mr. Bastianpillai, Sgt. Perampalam who subsequently became a Sub-Inspector, and there was also one Sergeant called Balasingam? A: Yes.

Q: Among them, except the leader of the team Mr. P.V.W. de Silva, the others are no more in the land of the living?

A: Yes, they have been killed.

Q: The first batch of 42 persons which figured so prominently in these proceedings, was ~~been~~ taken into custody in consequent to an investigation made by this team? A: Yes.

Q: And that was in connection with incidents which have taken place from May, 1972? A: Yes.

Q: And including the Mallur Kondaladi Vairavar case ? A: Yes.

Q: Regarding the Mallur case, no one knew who was responsible for that incident?

A: Regarding the Mallur Kondaladi Vairavar case, the suspects have already confessed. There was also a case where the cycle shop owner Amarasingham was involved. Amarasingham was arrested in possession of handbombs, and in that case also some suspects were arrested. Actually the whole thing came up only after the arrest of Sathiyaseelan.

Q: That means all the 42?

A: I think a few were arrested during the time of Mr. Suntheralingam.

Q: Most of them were arrested after Mr. Sathiyaseelan made his statement?

A: Yes.

Q: Were those 42 persons merely arrested because they were distributing pamphlets against the Government or some petty offences?

A: No. When I was SP Jaffna, when the TUP leaders and supporters were distributing pamphlets quite openly. The TUP leaders backed by their supporters were at various places distributing pamphlets in contravention of the emergency regulations, but my instructions to my officers were not to arrest them because I felt it was useless to spend our energy on such trivial matters when we had more important work to do. In fact, on one occasion Mr. Amirthalingam whilst issuing some pamphlets was arrested by a joint army and police patrol and brought to the police station whilst I was there, and I immediately released him. A number of other suspects were arrested by the various police stations whilst they were in the act of showing black flags. When the Minister of Finance came to KKS, they were caught in the act of showing black flags by some police officers, but they were released immediately.

Commissioner: Showing a black flag was also an offence?

A: Yes, Sir. There is also the possibility of breaking the breach of the peace because their actions might irritate the other party.

When the Deputy Minister of Posts Mr. Karunaratne visited Panditharupu, they showed black flags, and some even threw stones. Police arrested them and those suspects were also released after warning. Police did not detain them. There was also one incident where Mr. Amirthalingam's son, Kandipan, was involved on the 15th of March, 1973. On that day, he was arrested along with two other youths when they were preventing some school children from attending school. That was the day the TUP has called for one day boycott of schools in the Jaffna peninsula.

Commissioner: What was the reason for that? Was that a special day?

A: I will read from the report itself which is dated 16th March. (reads) On the 9th of March, 1973 a number of arrests were made. We arrested about 15 youths in connection with violent incident. Over that also this boycott was done. On that occasion this boy Kandipan was arrested along with Vignarajah and Bhamparam. They were brought to the police station, they were warned and sent away.

At this stage Commission adjourns
for the day till 9.30 a.m. on 29.6.79

P. Thilagadas.

29th June, 1979

- 13341 -

9.30 a.m.

(INQUIRY CONTINUED)

Same appearances as on the last date

260th DAY

Mr. Shammugalingam: Before my Learned Friend resumed the examination in Chief of the overnight witness, might I say this. I read in today's papers that Mr. Manjusiri was injured by some attackers in Jaffna. We do not know who did it and why it was done. In any event it is a senseless attack and I personally condemn it. I appear for the T.R.R.O. and that organisation as a body also condemns it. At one stage I was wondering whether it was worth the while to appear at this inquiry, for the reason that if there is no co-operation from the youth of the North who should give up this type of violence, no meaningful purpose would be served by my appearing before Your Honour. As things are, I do not know whether it is proper for me to appear for the Tamils in general. On second thought it came to my mind that I was not appearing only for the youths who are bent on continuing their acts of violence. Nor am I appearing for the T.U.L.F. I am duty bound to look after the interests of those innocent who live in the South. The only consolation that I gain by appearing before this Commission, considering the present trend of events, is that I appear for those harmless Tamils who are in the South.

With regard to the suggestion made by Your Honour, I shall put it to the Leaders. I shall convey to them Your Honour's message that they should publicly condemn the acts of violence that are being caused by the Tamils in the North and elsewhere. I have been given a number of

Hansards wherein they have categorically stated that they do not condone any acts of violence. I shall endeavour to induce them to condemn those acts publicly - at public meetings and through the mass media.

With regard to the condition that the Leaders of the T.U.L.F. should drop their demand for Eelam before they go for a roundtable conference I shall convey to them the views expressed by Your Honour.

His Excellency, the then President of the U.N.P. and Leader of the Opposition, through the Manifesto of the U.N.P. unequivocally stated that the U.N.P. would hold a round table conference to discuss the problems of the Tamils. By doing so he undoubtedly accepted the position that the Tamils had a grievance. Such a roundtable conference should be of all the Leaders of the political parties. I say that it should comprise of all the Leaders of all political parties because if it is otherwise, it would^{be} impossible or very difficult to arrive at a workable solution. If at such a conference a workable solution is arrived at the T.U.L.F. should give the assurance that they would withdraw their demand for Eelam.

Your Honour would remember that there were Pacts entered into in the past. Those Pacts could not be acted upon because they were agreed to between individuals. On the contrary, a solution acceptable to all political parties must necessarily be a workable solution.

Commissioner:

If the party position has changed, the Party in power with such a position of strength, should have the right to tell the T.U.L.F. what they want to do. The balance of power was different earlier.

Mr. Shanmugalingam: This is an issue which is emotional.

Without the active support of the bulk of the Country it cannot be solved in a manner satisfactory to all. All Parties should get together. There should not be any room left for any Party to disagree. If all the Parties get together and arrive at an acceptable solution I trust the T.U.L.F. would drop its demand for Eelam.

Commissioner: These matters cannot be decided in public. A roundtable conference cannot be held in public. This type of conference should be had in private. When shots are fired in all directions, nothing can be solved. It should not be done in public because there is the tendency of the journalists to publish every word uttered, being unmindful of the idea the speaker wishes to convey. It is for the Party Leaders to see what they can do in this matter.

(L. Silva)

(Contd. by Mr. T.F.Fernando from 9.40 a.m.)

29.6.1979

9.40 a.m.

MR. SHANMUGALINGAM:

In fact, before the last general elections about 40 persons of various political parties got together and put forward a certain tentative suggestion. It was a 20 points suggestion. We had discussions with the then cabinet for two days. We met Mr. J.R. Jayawardena and had discussion with him and also we had discussions with leaders of Trade Unions with the intention of solving this problem once and for all so that the Tamils may participate in the main national activities of this country. Therefore, I would welcome a round table conference if some workable solution could be achieved. At such a discussion all the grievances can be aired and a solution may be arrived at.

COMMISSIONER:

I see that this will be the main problem. All the other things are subsidiary. We, of course, know the incidents that happened during that unfortunate period. I can give my views on those matters. Ultimately the question of colonization and various other matters which had been mentioned in the UNP. manifesto are not so important as

this big question. If some decision could be arrived there, then there would be no other problem.

MR. SHANMUGALINGAM:

Your Honour will be pleased to see that the Daily news quotes as Your Honour had said that there is some sinister motive behind this demand.

COMMISSIONER:

I think, perhaps, they are referring to the fact that I was referring to the use of violence. I do not know whether I have used the word sinister. I said that there is this question of violence and as long as violence goes on nothing can be settled. Once violence ceases people can negotiate.

MR. SHANMUGALINGAM:

All that I saw is that some correction be published.

COMMISSIONER:

In fact I cannot remember whether I used that word.

MR. WIJETUNGA:

I am thankful to my learned friend for having raised the matter of the attack on Mr. Manjusri. There is a further reference in that news item. He said that he had been travelling in Jaffna peninsula for four days, but not seen a single Sinhala person there. That is why we say that the whole campaign

was to drive away the Sinhala people from there and now the TULF has succeeded in that. Sinhala people of the police and armed services are only there. They are able to live there because they carry guns in their hands. The contrast is very vast between the treatment meted out to Sinhala people in Jaffna and the treatment meted out to Tamil people in Colombo. It is very serious when Sinhalese people cannot go to Jaffna even to worship at a place like N-aga Deepa. I know that the TRRO has nothing to day with violence, but the TULF had been there even prior to 1977 incidents.

(Mr. Tilagadas continues from 9.50 a.m.)

T.P.Fernando.

29.6.79

9.50 a.m.

MR. WIJETUNCE: Even now it is not too late for the TULF to condemn this type of violence, to say that this type of thing has happened by the hands of Jaffna Tamils. It is a very serious thing. Manjusri is respected by the Sinhalese people of this country. He is respected internationally.

MR. SHANMUGALINGAM: I cannot get sufficient words to condemn this act. My learned friend says Manjusri is respected by the Sinhalese and internationally. I say he is respected by the Tamils also.

COMMISSIONER: It is really a blot to the reputation of the country. There were two foreigners with him. In other countries, one person asks for your wallet, and if you refuse to give him, you are bumped off. That is what happens in other countries. We don't want that to happen here. When they bully the people and rob them, I think the word they use is mugging. I hope they will not do it here.

MR. SHANMUGALINGAM: This is what Mr. Gamini Dissanayake says in column 189 of the Hansard of 21st May, 1979. 'You will be shot by the wall Reads. I also read the reply given by Mr. Amirthalingam... (reads)

MR. WIJETUNCE: At every by-election after 1956, it has been repeatedly confirmed that Sinhala is the official language. At that time the Federal Party fought against it. In 1965 the Federal Party accepted that position because they accepted a Ministry in the Government. Mr. Thiruchelvan was the Minister, but unfortunately, they did not go and tell the Tamil people that they have some sort of understanding with the Government. You cannot have negotiations with the Government without the knowledge of the people. Sinhala is the official language of the country.

After all, it is the people who are suffering and not the Government. If the Government's position is wrong, that Government can be toppled. It is high time for the TULF to tell the Tamil youths that Sinhala has been declared the official language by the people, by the sovereign people of the Island. Nobody can do anything. The Constitution is there. The laws are there. The Government is ruling by the authority given by the people. The Federal Party had an agreement with the Prime Minister. They had secret agreements. They had secret agreements regarding colonisation. Up to the general elections of 1977, it has been accepted that Sinhala is the official language of the country. Now they say they want Eelam, a separate territory. They want to carve out a separate territory. So the people of Sri Lanka are completely against it. At this stage, the Sinhalese people are unable to go to the northern part of our country. Now almost virtually, Eelam has been established. We have been leading evidence before Your Honour on this question of division of the country. We were not interested over the damages sustained by the people. We said after Eelam is established, people will have to show passports. We must have two passports, one to Trincomalee and the other to Jaffna. Eelam is not a thing in our Constitution. They have to apologise for this type of violence. They have to invite the Sinhalese people and ask them to work in Jaffna. Unless this is done, it will lead to more serious consequences. From 1956 onwards, it was the Tamils who started all these clashes. The Tamils first had the Satiyagraha. In 1957 the Tamils attacked the Sinhalese in Amparai. In 1958 there was retaliation by the Sinhalese. In 1977 they started this attack in Jaffna. On the 16th of August, there was the strike by the CTB. There was the general strike by the public servants. Even now I will appeal to the TULF to apologise for this incident.

COMMISSIONER: I think there should be right out condemnation
of the use of violence.

MR. SHANMUGELINGAM: That is what I have undertaken to communicate
to them.

COMMISSIONER: If they don't do it, people will think they are
conniving with them.

10 a.m.

P. Thilagadas.

J. D. M. ARIYASINGHE: (Contd.)

To Mr. P. Tennekoon, Senior S.C.:

Q: Yesterday you were questioned on the investigations that commenced in the early part of 1973 when you assumed duties in Jaffna ?

A: Yes.

Q: You spoke of activities that had taken place in 1973 - where bombs were prepared in a Temple etc. ?

A: Yes.

Q: The investigations into that triggered off further investigations into many other acts committed in Jaffna ?

A: Yes.

Q: Did anybody from the Kovil where the bombs were manufactured say that as a result of such manufacture, the temple was desecrated ?

A: I am not aware of that because I was not there. I heard of no such complaints.

Q: There was some talk that the police officers had eaten beef and consumed liquor in the police station and in the police barracks and it amounted to a desecration of the Kovil ?

A: Till I heard of it here I had not heard of it before.

Q: The investigations that commenced in 1973 under your direction revealed the involvements of no less than 42 youths in criminal incidents - up to that time ?

A: I cannot say that the number was exactly 42. The number of youths was about 42.

Q: You spoke of a special team of C.I.D. officers who came to Jaffna, headed by Mr. P.V.W.de Silva and assisted by Perambalam, Balasinghe, A.S.P. Mahath ?

A: Yes.

Q: Mr. Mahath was A.S.P., KKS ?

A: Yes.

Q: Yesterday you produced a certain file ?

A: Yes.

Q: Have you got a list of the persons arrested by March 1977 ?

A: Yes.

Q: Could you give those names ?

A: Yes. 9th March:

Mahawe Senathiraja
K. Sivaraja of Nallur
T.M.Kumarasamy of Nallur
Thanabalasingham alias Chetty of Nallur
Chelliah Padmanathan alias Kannadi who ran a
Radio Shop at Pt. Pedro. He was from
Kodikamam.
Chandra Kumar of Nallur
R. Ratnakumar of Nallur
M.Balaratnam of Paranthan.

They were the persons arrested on 9th March.

Q: Subsequently, in pursuance to those statements made by them
you arrested further persons ?

A: These were arrested in pursuance of the statement of Sathya-
seelan who said 33 persons were involved in these acts -
out of which two persons were from India.

Q: Does that list include a person named Janadaran ?

A: Yes.

Mr. P. Tennekoon, Senior S.C.: He figured very prominently in
the I.T.A.R. conference. The context in which his name
figured was that the police were looking for P.Sathyasee-
lan after a bomb was placed in the car of Mr.A.Doraiappah.
He had gone for a function and was due to come back and in
the meantime a bomb had been placed in his car. Before
he could come the bomb had exploded. The police arrested
Ariyaratnam

Ariyaratnam and P. Sivakumaran. The name of Sathyaneselan had transpired. He had gone by boat to South India.

(L. Silva)

(Contd. by Mr. T.P.Fernando from 10.30 a.m.)

29.6.1979

10.10 a.m.

J.D.M.ARIYASINGHE (CONTD.):

TO MR TENNAKOON, Senior S.C:

And Sathyaseelan's claim was that he was given a letter by Mavai Senathirajah addressed to Janadaran in Madras. He went and met him and given that letter of introduction and he assisted him to find accommodation in Madras.

Q: He has on this occasion been afforded hostel facilities at the M.L.A. hostel in Madras to which Janadaran was intimately connected ?

A: Yes.

Q: This letter of introduction was given to a person by the name of Manavaithamby of Medaveethy, West Mambalam?

A: Yes. He was a very close associate of Janadaran.

Q: And he was also the Secretary of the Ceylon Branch of the D.M.K. movement in South India ?

A: Yes.

Q: What are the other facts that were un-earthed as a result of investigations in regard to Janadaran ?

A: Janadaran was at that time the President of the World Tamil Youth Federation. He was functioning from India. I am not aware of its actual position in the world. It was Manavarwhamby who took Sathyaseelan to Janadaran and introduced to him.

Q: There was at the same hostel another gentleman by the name of Mr. Rajaratnam ?

A: Yes. He was the Executive Secretary of the Tamil United Front at one stage.

Q: According to Sathyaseelan he met this person Janadaran at the M.L.A. hostel in Madras when he visited there ?

A: Yes.

Q: Did your investigations also reveal that Mr. Rajaratnam accompanied Janadaran and Manavarthamby to meet C.S.Jayaraman who is a brother-in-law of Mr. Karunanidhi the then Chief Minister of Tamil Nadu ?

A: Yes. Mr. Rajaratnam when he left he has taken the anthem of the TULF to Madras.

Q: He is the person who crossed the Palk strait to Velvettithurai?

A: Yes.

Q: Did the smugglers of Velvettithurai also contribute their share to these transactions ?

A: Some of the smugglers assisted by riding boats.

Q: To whom were these records handed over ultimately.

Were they handed over to Senathirajah ?

A: Yes.

Q: Where was the emblem of the TULF fashioned out??

A: If I remember correct, it was fashioned out at Madras.

MR. SHANMUGALINGAM: All these are contents of statements.

MR. TENNAKOON, Senior S.C: I will produce these statements through the persons who recorded them.

Witness (Contd.)

I had the occasion to question Sathyaseelan myself along with the investigators.

Q: This emblem and the records were handed over to Senathirajah with a request that the emblem be included in the TULF flag which was to be hoisted on 2.10.1972?

A: Yes.

COMMISSIONER:

What was the flag prior to that ?

MR. TENNAKON, Senior S.C: The Federal Party had a tri-coloured flag.

MR. SHANMUGALINGAM: The Federal Party had its own flag.

MR. TENNAKON, Senior S.C: I will show to what extent this movement had been assisted from across the Palk strait.

Q: Do you know that this newly fashioned out flag was hoisted in front of the Ceylon Deputy High Commissioner's office in Madras on 2.10.1972?

A: Yes.

Q: On this day the TUF observed a hartal in the North ?

A: Yes.

(Mr. Tilagadas continues from 10.20 a.m.)

T.P.Fernando.

29.6.79

10.20 a.m.

J.D.M.ARIYASINGHE:

ED. BY MR. LINDAKOON COMED.

Q: Did Sathiyaseelan in his statement also refer to a conference held in the Assembly Hall of Madras?

A: Yes, spoke of a conference organised by the members of the Madras National State Assembly. Later at a tea party, leaflets had been issued about the problems of the Tamils in Sri Lanka and the necessity to release those who were under detention.

Q: And the leaflet was published by Janatharan and Manothamby?

A: Yes, Sathiyaseelan himself was present on that occasion.

Q: Do you know the significance of the 2nd of October?

A: It was the birth day of Mahathma Gandhi.

Q: A demand was made at this conference that the Constitution of Sri Lanka be amended and the youths who were in custody should be released?

A: This point did not actually register in my mind. If it is there, I will agree.

Commissioner;

A: Who recorded the statement?

A: Mr.P.V.W.de Silva recorded the statement assisted by Sgt.Perampalam.

Q: Are you aware that about this time or shortly before that, after you assumed duties, the members of the TUE action committee went in procession to the Jaffna Kachcheri and handed a memorandum to the Government Agent demanding that the K.K.S. by-election should be expedited? A: Yes. In fact a large number of TUE supporters led by the leaders and quite a number of youths marched on that occasion from the KKS road to Jaffna town, and the police were on duty, but the police had no problems.

Q: The first statement made by Sathiyaselan runs into 44 pages wherein he gives all the particulars?

A: Yes.

Commissioner: I think this person also spoke at election meetings?

Mr. Tennakoon: Yes, Sir.

Q: You gave the names of nine persons who were arrested on 9th March, 1973? A: Yes.

Q: In consequent to their statements, further persons have been arrested? A: Yes.

Q: Have you got those names? A: Yes.

Q: Please read them?

A: They are S. Satharatnam alias Dada, A. Poopathy alias Polavadiyakaran and T. Rajalingam. These persons along with the nine persons who were arrested on the 9th were produced before the Magistrate's Court in Colombo on 24.3.73.

Q: In consequence of their statements, were any productions recovered? A: Yes.

Q: From the date of arrest till they were produced before the Magistrate, those persons were under detention orders issued by the I.C.P. which he could do under the emergency regulations for a maximum period of 15 days?

A: Yes.

10.30 a.m.

P. Thilagadas.

J. D. M. ARIVASINGHE: (Contd.)

To Mr. P. Tennekoon, Senior S.C.:

In consequence of a statement made by Pathmanathan alias Kannadi, two revolvers, one locally made gun, 14 rounds of .22 ammunition were recovered from his residence at Kodikanam and they were produced on the same day to be forwarded to the Govt. Analyst.

On a statement made by Balaratnam two rounds of 303 ammunition, one Twelve bore empty cartridge, and 23 rounds of ammunition of different calibre were recovered from the place where they held shooting practices at Visvamadu where there were forests. They had been having shooting practices - the target being a 'Kumbuk' tree and another tree.

Q: These practices were considered necessary because they had failed in an attack on the life of Mr. Thiagaraja in Colombo ?

A: Yes.

Q: The affected parts of these trees were photographed and the trees were cut down. The places where the bullets were embedded were cut out and were produced in Court.

I made a mistake, they were not produced on that day. The Govt. Analyst was due to visit the scene on the 25th. I did not visit the area on that day. I visited it subsequently. It is jungle land. There were settlements there. They were occupied exclusively by Tamils. They had used a Kumbuk tree as their target. It is a tree which has a thick bark. Those trees grow near streams. The bark of those trees is of a brownish colour. I am not sure whether that tree or its leaves are used in the N.C.P. to prepare chunam. On the statement of Pathmanathan alias Kannadi, a further recovery

was made

was made of a 12 volt battery at Point Pedro. At first Kannadi Fathmanathan said it was left at a certain place. It was not found at that place. From there the investigators were led to a pond where the battery was found. On opening the battery, as we were told that some arms and ammunition were hidden in it, there were five revolvers and 118 rounds of ammunition of different calibre in it. It really astounded the police to see such a large number of ammunition hidden in that battery.

(To Commissioner:

The plates of the battery had been removed.)

These were sent to the Govt. Analyst direct.

Q: What were the other discoveries made in March 1973 ?

A: On a statement made by Tissaweerasingham who was arrested on 15.3.73, the investigations led to one Ganesha-ratnam to whom Tissaweerasingham said he had given the ammunition he had with him on the occasion he went to attempt the assassination of Mr. Kumara-suriyar on 15.3.73.

(L. Silva)

(Contd. by Mr. T.P.Fernando from 10.40 a.m.)

29.6.1979

10.40 a.m.

J. D. M. ARIYASINGHE (CONTD.):

TO MR. TENNAKOON, Senior S.C:

On a statement from Ganesharatnam who was at Kili-nochchi, police recovered having dug up his garden 25 rounds of ammunition buried there inside a poletene bag and those 25 rounds ammunition were produced in courts on 19.4.1973. Police also recovered and sent to the Government Analyst on 21.8.1972 one revolver and on 24.8.1972 another five chamber revolver.

Q: From whom were they recovered ?

A: Your Honour, they were produced in M.C. Chavakachcheri case No.28923.

Q: By August when these recoveries were made about how many youths were in custody under detention orders?

A: Your Honour, by August we had 41 youths in custody.

MR.SHANMUGALINGAM:

He said that some were under detention orders and others were on remand. It is better to get a break up of the figures because he said that against whom there was ample evidence were produced before the Magistrate and remanded and the others against whom there was slight evidence were detained due to security risks.

Q: Coming back to the sequence of events in Jaffna peninsula the last incident of a political nature that you mentioned today was the handing over of a demand to the Government Agent, Jaffna by the members of the TUF action Committee on 13.1.1973?

A: Yes.

Q: Did Mr. Kumarasooriar visit Jaffna on 3.1.1973 when some black flags were waved at the Minister ?

A: That was on 15.1.1973.

Q: Was a similar attempt made to wave black flags at Mr. Peter Keuneman who was a Minister when he visited Jaffna on 3.3.1973?

A: During the months of February and March and even subsequent to that in 1973 practically on all occasions when a Minister or a Deputy Minister visited there were attempts to show black flags and on a number of occasions they were successful in that. On some other occasions the police had to intervene and stop such action.

Q: On all the occasions when attempts were made to hoist black flags or attempts were made to distribute leaflets the police had necessarily to intervene?

A: Under normal circumstances yes. In fact when the Minister of Fisheries Mr. George Rajapakse visited at the Air-port itself the TULF leaders Mr. Amirthalingam and Mr. Sivasithamparam waved black flags. In fact, police them to occupy a section of the Terminal building which was not in use. We did not try to throw them off.

COMMISSIONER: Q: You showed them latitude?

A: Yes, Your Honour.

This is a thing I learnt when I was attached to the British Police on a study assignment.

Q: Are you aware that there was a 2nd hartal organised on 10
10.3.1973 against the visit of the Finance Minister
Dr. N.M.Perera ?

A: Yes.

Q: and there was a hunger strike organised by the
TUF?

A: Yes.

(Mr. Tilagadas continues from 10.50 a.m.)

T.P.Fernando.

29.3.73

10.50 a.m.

J.D.N. AMIRTHALINGAM:

ED. BY MR. ANNELKON COMAD.

In fact on the day the Minister of Finance, Dr.N.M. Perera visited Jaffna - he was there on the 9th and 10th of March, and on both those days, the TUF conducted a hartal, and a good number of shops, I would say about 70 % percent of the shops, were closed on the day in Jaffna and suburbs. The schools were boycotted. There were few incidents, mainly intimidation of the students.

Q: Where was this hunger strike held?

A: On the 15th of March, 1973, the hunger strike was held in the premises of the District Court of Jaffna. The prominent persons who participated as leaders in this hunger strike were Messrs Thurairatnam, V.N.Navaratnam, V.Tharmalingam, V.Anandasangari and other Tamil members of the National Assembly of Sri Lanka.

Q: Was Mr. Amirthalingam also there?

A: Both Mr and Mrs. Amirthalingam were there.

Q: And did youths accompany them on that occasion?

A: Yes, quite a large number.

COMMISSIONER: How long did this hunger strike last?

A: It started at 7 a.m. and it was over at 6 p.m.

Q: This hunger strike, you said, was held in the premises of the district Court of Jaffna? A: Yes.

COMMISSIONER: Was that a working day? A: Yes.

Q: And they had in the compound? A: Yes.

Q: And there were a large number of school children who had been persuaded to boycott schools and who did not actually attend schools on that day?

A : About 75% of the children did not attend schools. I am aware that the TUF had distributed pamphlets urging them to boycott all schools.

Q: Now you have spoken lastly to the recovery of certain weapons and ammunition made in consequence of a certain statement made by Chelliah Pathmanathan? A: Yes.

Q: To your knowledge did the Navy on the 31st of March, 1973 detect a large number of detonators which had been smuggled from South India to Valvettithurai?

A: Yes, on the 31st of March, 1973, a Navy patrol detected close to Point Pedro 20,000 detonators, and these detonators were brought to the Kayts Customs Office.

COMMISSIONER: Where were they found?

A: They were found in the boat and they were seized in mid sea between India and Ceylon.

Nine suspects were caught. They were actually carriers.

Q: Did the investigation reveal that two persons from Sri Lanka and two persons from South India were involved in this smuggling of detonators?

A: Yes, once this detection was made, we appreciated the seriousness of this issue, and we got a team of investigators to go into this; ASP Mr. Perera and Inspector Bastiampillai went across to India, and with the assistance of the Madras and Bangalor police, they conducted investigations into this at the Indian end, and they found that two of the persons who had been getting the stuff ready and sailing to Sri Lanka were Yogachandran alias Kutimani and Ganakumalan. Yogachandran alias Kutumani was a youth who was engaged in smuggling activities. He was a resident of Jaffna who goes to India and trades in cloths. Ganakumalan was a student in Madras. He was found closely connected with the TUF activities. Kutimani was a suspect in the Kondaladi Vairavar temple case, and according to the confessions, he is more or less the prime mover in the making of the bombs.

Q: Is this Kutimani still being looked for certain offences by the police?

A: I am not aware.

11.00 a.m.

P. Thilagadas.

J. D. M. ARIYASINGHE: (Contd.)

To Mr. P. Tennakoon, Senior S.C.:

Q: Were those two arrested ?

A: They were arrested subsequently. Investigations were carried out and a report was prepared by Mr. M.K.D.Perera assisted by Mr. F.V.W.de Silva and others and the report was put up to the superiors.

Originally, these were detained under the Detention Orders. On completion of the inquiries the suspects who were carriers, were released by Court on police representations. Kuttimony and the other were kept in remand under the Emergency Regulations and released after the lapse of those regulations. The police sent all the files to the Attorney General. The carriers were dealt with by the Customs. On the very day of the detection they were dealt with.

Q: Are you aware that Kuttimony was arrested in India and was brought to Sri Lanka by Mr. F.V.W.de Silva and was kept under arrest ?

A: I heard he was arrested in India, but I do not know what happened later.

Q: When the emergency lapsed, they were released ?

A: Yes.

Q: What were the political affiliations of the youth who were responsible for the 20,000 detonators ?

A: These two youths were T.U.F. supporters.

Q: Are you aware that on 7.9.73 there was a convention held by the Federal Party at Mallakam ?

A: Yes.

Q: One of the persons who addressed that convention was Mr. Amirthalingam.?

A: Yes. In fact

A: Yes. In fact, at that Convention Mr. Amirthalingam was elected General Secretary of the Federal Party. It was attended by the other members of the T.U.F. including the C.I.C. at that time.

Q: Are you aware that between the period 7.9.73 and 5.10.73 there were several meetings held in connection with what they called "50 Day Hunger Strike" during that period ?

A: Yes.

Q: What were the main features of these meetings ?

A: The Hunger Strike was conducted alleging that they were protesting against the detention of the youth. At these meetings the members of the T.U.F. including Mr. & Mrs. Amirthalingam, actively participated. At the end of the Hunger Strike it was customary for the Leaders of the Party and the Youth Leaders to address the crowds and Mr. & Mrs. Amirthalingam, on a few occasions when I was there, addressed the gathering - those who were on Hunger Strike, the supporters and others present.

Mr. Shanmugalingam: Was Mr. Chelvanayagam there ?

Mr. P. Tennekoon, Senior S.C.: Yes. Although he was very feeble he was there.

Q: What was the main theme of the speeches ?

A: Mr. Chelvanayagam made token appearances at these meetings. He was very feeble. Sometimes, when he spoke, someone else - Mr. Kadiravelupillai repeated his words loud.

Q: What were the main features of these speeches that were made ?

A: They

A: They were condemning the police for taking the youths into custody. They alleged that the youth were kept in custody for demonstrating against the Govt. Nothing was mentioned about the violence committed by them. At no stage did I hear of anyone making denouncements of the violence committed.

Q: Were there threats made on the lives of Alfred Doraiappah, Thiagaraja, Kumarasuriyar and Inspector Bastiam Pillai ?

A: Yes. I remember a meeting at Kariyanagar. At that meeting both Mr. Sivasithamparam and Mr. Amirthalingam made reference to Mr. Thiagaraja and Alfred Doraiappah as traitors.

In fact, if I remember correct, at that meeting one of the speakers referred to Insp. Bastiampillai and said he was a traitor of the Tamils in taking the youth into custody and said that he would have to come one day to that area and then he would know what would happen to him.

(To Commissioner:

Q: Was this said by the youth or T.U.F. leaders ?

A: It was said by one of the youths.)

There was one occasion at Gurunagar when Mr. Sivasithamparam referred to Insp. Bastiampillai and spoke in the same tone.

(L. Silva)

(Contd. by Mr. T.P.Fernando from 11.10 a.m.)

29.6.1979

11.10 2.11.

J. D. M. ARIYASINGHE (Contd.):

TO MR. TENNAKOON, Senior S.C:

Q: We come to a very significant land mark in the history of this campaign, namely, the IATR Conference which was held on 10.1.1974 at Weerasingham Hall, Jaffna?

A: Yes.

Q: Were you present at this Conference at any stage of the proceedings ?

A: No, Your Honour. I was the S.P. at that time. I was with an attack of bronchitis and I was almost sick for 10 days. On the 10th morning I did come to office although I was advised not to work.

Q: You are personally not aware of anything that happened at the Conference?

A: Yes. Except what I learnt from the reports submitted to me.

Q: Mr. Chandrasekera and Mr. Neville Nanayakkara were at the spot?

A: Yes.

But, Your Honour, when this tragic incident occurred I immediately went to the station, initiated inquiry and directed inquiry.

Q: What did your inquiries reveal? There was an inquiry held into the deaths of those persons ?

A: Yes. I was personally present at the inquest except for a short time on one day when my DIG came.

Q: Who was the D.I.G. of the Northern Range at that time?

A: Mr. Ivor VanTwist.

Q: Was this inquest attended to by any politicians of the TUF?

A: Yes. Practically all the TUF lawyers and leading members were present including Messrs. Amirthalingam, Kadiravelupillai, Yogeswaran, Viswanathan, and Thambidorai the retired D.J. and they were presenting witnesses.

Q: Who was conducting inquiries on behalf of the Police ?

A: I placed A.S.P. Perera. Leading part was played by O.I.C., D.I.B. Inspector Padmanathan. He was assisted by several others.

Q: While you were present at this inquest did anything significant transpire in regard to Inspector Padmanathan?

A: Yes. Whilst Inspector Padmanathan was leading evidence Mr. Amirthalingam got up and said something to the effect: "You are also a Tamil. You are a traitor" This, he said in a rather offensive tone and the Magistrate was offended by it and he ordered Mr. Amirthalingam out, but almost immediately Mr. Amirthalingam apologized to Court and he was allowed to remain.

Q: Are you aware that just before it took place on 10.1. 1974 on the previous day there were two deaths by electrocution?

A: Your Honour, on the previous day there was a Cultural Pageant that was taken on the streets of Jaffna and a number of floats were taken. Some of them were rather high and in order to take them they had

to lift electric wires with poles and at one place a telephone wire had broken and got entangled with electrical wires and I believe there was rain on that day and two persons got electrocuted.

Q: There was no question of police coming and interfering on that occasion?

A: No, Your Honour. Even at the IATR Conference they paid a compliment to the police for the assistance they rendered at the Cultural Pageant.

Q: The number of persons who died on the 10th had been given as 9, 10 and 11. Actually how many died on that occasion?

A: Actually seven persons died due to electrocution.

MR. SHANMUGALINGAM: We have given the number of deaths by electrocution and due to stampeding and also the death at the bus stand. Investigations revealed that the man who died there had been knocked down by a bus. Police assaulted the bus driver and the driver when taking the bus had run over that man.

Witness (Contd.)

The other person Mr. Shanmugalingam is referring to is Mr. Singaratnam who died of a heart attack.

Q: The other persons who died during the conference had been added on to this number ?

A: Yes.

Q: Did you receive any complaints of assault by the police on people in streets?

A: No, Your Honour.

(Mr. Tilagadas continues from 11.20 a.m.)

T.P.Fernando.

29.6.79

11.20 a.m.

J.D.M.ARIYASINGHE

ED. BY MR. SETHUKOON CONTD.

COMMISSIONER:

Q: Did anyone complain that he was assaulted by the police?

A: There was one Pathinathan. He had made a complaint. His complaint was that he was hit with tear gas.

Mr. Shanmugalingam: The boy who was knocked down by the bus was the son of the proprietor of the Singapore Dispensary.

Q: Were there complaints on that day that the police were running berserk and that they were attacking the people in the buses and other places?

A: Only Mr. Kathiravetpillai lodged a complaint that the police were assaulting the people.

Q: Did Mr. Kathiravetpillai mention any specific instances of police assaults on the members of the public? A: No.

Q: Were there, on the other hand, any police officers injured?

A: Yes. Four persons were injured.

Q: In what way?

A: When two police officers, a sergeant and a constable who were on mobile patrol, ^{were} coming from the post office ^{direction,} and when they approached the Weerasingham Hall, some members from the crowd first abused them and then said 'adai'. After that, slippers and some stones were hurled at them. So they turned back and came to the police station. One PC Upali who was on duty at the police station side, had received some injuries by stones. It was thereafter Mr. Chandrasekera went there. In the course of their trying to get into the hall, two other police officers got injured.

Q: Was there an officer who was seriously injured and who was in hospital for more than a month?

A: Yes, his uniform was torn and he was soaked in blood; he was badly beaten up.

Q: Did the police use fire arms on this occasion to bring the situation under control?

A: No, the party that Chandrasekera had taken consisted of only four officers armed with rifles. Before they left the station, the rifle numbers and the rounds of ammunition that were issued to them had been entered in the register. I inspected the rifles and the quantity of ammunition they had taken, and according to the entries, I found that the rifles had not been fired and the ammunition intact.

Q: Did they use tear-gas?

A: Yes, four of the members who were taken in that party carried tear-gas. Two persons were armed with tear-gas guns. They carried tear-gas cartridges, and the other two carried what we call tear-gas grenades. On throwing the tear-gas grenades, they explode. In the case of the tear-gas cartridges, they explode when you fire with the gun.

Q: Do they eject the shells from the guns? A: Yes.

They cannot fire direct at any object. Officers are all trained and the instructions are that they must fire by holding the gun at 45 degrees into the air. The way that these guns are made, they are made for the minimum force. Even if you fire, it will not go in a direct hit. It will go in a trajectory. In fact I had a special training on riot equipments when I was in U.K. I went to a world famous place called Schuirmanny in Hampshire. You find experts there to train us on riot equipments. I went there after this incident in Jaffna, and I had occasion to ask them whether it was possible to strike

with this weapon and dislodge a wire. They said they cannot believe it to happen because they are made in such a manner, because the object was to use minimum force. The trajectory is not direct, but curved.

11.30 a.m.

P.Thilagadas.

29. 6. 79

- 13375. -

12 noon

J. D. M. VIYASINGHE: (CONTD.)

To Mr. P. Tennekoon, Senior S.C.:

Q: I was questioning you before the adjournment, on incidents that took place on 10.1.74 at the I.A.T.R. Conference?

A: Yes.

Q: Consequent to what happened at the I.A.T.R. Conference, were there a spate of incidents in Jaffna?

A: Almost after the stampede at Weerasingham Hall, there were some police officers on duty at the bus stand. They were attacked. One p.c. was seriously injured and hospitalised. Close to the Bus Stand at Kasturia Road, a bus was burnt. It was on the same night. That bus was pushed into the pond close by. On that incident too, the police used tear gas. Then on the same night the crowd that was dispersed had attacked the S.L.F.P. Office and smashed up everything in it and had set fire to it. They had strewn some fuel and had set fire.

A: This Pyromania had been there for some time in Jaffna?

A: During my time there was arson. I do not subscribe to Pyromania.

Q: You were present at the Magisterial inquiry into the deaths at the place of the Conference?

A: Yes.

Q: The Magistrate had remarked that there should be another Commission appointed?

A: I remember he wanted what is terms as "Safeguards against security risks".

Q: That Commission was to be appointed with regard to Security Risks involved?

A: What I understood was that the Magistrate had mentioned that the term "Security Risks" needed elaboration and that he did not have the benefit of going into that matter.

(To Commissioner:

Q: Was he not definite whether the action of the police was justified by the presence of Security Risks. I gathered that the police took this action because Janadaran was there ?

A: That was one of the questions that the police looked into.)

Q: The Magistrate was wondering whether that was justifiable for police to take that action ?

A: What actually made the police to charge the crowd, on the investigations which I directed , was that the police were attacked when they were going towards the Hall. First the H.Q.I. and a party were going to consult the organisers when they were going towards the hall and they were attacked. Then he had felt that it was unsafe to go in without sufficient reinforcements. He took the riot squad and went back.

(To Commissioner:

Q: Janadaran did not come into the scene ?

A: The H.Q.I. went to consult the organisers as to why Janadaran was there. He apprehended he would speak, which speech would inflame the crowd. And further, they were holding the meeting at the Weerasingham Hall without the permission of the police.

Commissioner: The police had condoned it.)

Witness:

There were only nine officers at the spot. The H.I. had gone in mufti to serve a notice on Janadaran and he had noticed the shifting of the venue and he had come and informed the A.S.P. He had contacted the A.S.P. and had informed him. The police were going to contact the organisers and they were attacked.

(To Commissioner:

Q: Were they going to ask them to stop the meeting ?

A: They wanted to come to a compromise - to get an assurance that Janadaran did not speak.

Commissioner: All these could have been gone into by somebody else. When they discovered that Janadaran was there and as he was not expected to attend the meeting, but yet he was there, did the police object ?

A: The police had gone to serve a notice. The C.I.D. had informed that Janadaran had entered the Country without a Visa. He had come on a Visa which bore ~~in~~ a different name. The name in the passport and Visa was Ramasamy and he had come into the Country on those documents.

(L. Silva)

(Contd. by Mr. T.P.F rando from 12.10 p.m.)

29.6.1979

- 13378 -

12.10 p.m.

J. D. M. ARIYASINGHE (CONTD.)

TO MR. TENNAKOON, Senior S.C:

Your Honour, the message was instructing us to issue a notice on Mr. Janadaran asking him to call over at the office of the Assistant Superintendent of Police in charge of immigration and emigration.

COMMISSIONER:

Then his presence there had nothing to do with this commotion.

Witness(Contd):

Your Honour, according to the reports made to me by the Police officers who were on duty there, the entries that had been made at the Police Station revealed that when he came he was lifted and put on the stage and garlanded. There was a bit of commotion among the organisers for some other section taking a leading part at that time. Thereafter the organisers tried to make him to sit down. According to the report made by Mr. Chandrasekera he had received some information that Janadaran was going to speak. He anticipated that he would speak. On the previous day Janadaran had come and taken the microphone to speak when the police were checking.

Mr. Chandrasekera had taken the microphone from him.

MR. SHANMUGALINGAM:

When Professor Naina Mohamed spoke he mistook him to be Janadaran.

Witness (Contd.)

Your Honour, his apprehension was that he would speak. Mr. Chandrasekera was not going there to attack the crowd. He was going there to speak to the organisers and see that some settlement would be arrived at.

COMMISSIONER: Q: He was attacked and not the attacker?

A: Yes, Your Honour.

Q: Immediately after the verdict on these seven deaths was announced was there a threat on the Magistrate?

A: On 18.2.1974 the Magistrate gave this order in open Court and thereafter he telephoned to me that he had received some threats and requested some security and we sent some guards.

Q: Were there slogans thereafter written against Mr. Chandrasekera on walls ?

A: Yes.

On 7.2.1974 Mr. Chandrasekera went to KKS from Jaffna in his jeep driven by himself. Mr. Anura Bandaranaike had come on that day to attend to some party matters and was staying at the Cement Corporation Guest House. There were certain matters to be discussed. Mr. Chandrasekera knew Mr. Bandaranaike well. So I requested him to go to KKS and advise MR. Bandaranaike not to take part in the procession they had planned. Seven or eight days prior to Mr. Anura Bandaranaike's visit to KKS they declared another hartha. I felt that it was risky for the SLFP supporters to go in a procession. So I instructed Mr. Chandrasekera to try and use his good offices and ask Mr. Anura Bandaranaike not to go in the procession.

(Mr. Tilagadas continues from 12.20 p.m.)

T.P.Fernando.

29.6.79

12.20 p.m.

J.D.N. ARIVASINGHEE

AD. BY MR. LINTHICKOON CONTD.

So he went in that connection and he was returning from K.K.S.

At Tellipillai, there was a culvert near Murugan industries, and there some objects fell on the jeep and exploded. He came and made a complaint at the Chunnakam police. I was informed on the telephone. I myself went to the Chunnakam police and inspected the jeep. The jeep was damaged. I went to the scene. Under the culvert some more things and shrapnels were found.

Q: Were there any other attempts on his life?

A: Mr. Chandrasekera says that he had no enemies from whom he could have expected any harm and that this could only be politically motivated, following the threat uttered at a TUP meeting.

Commissioner: Which meeting was that?

A: In one of the meetings that was held near the
Muniappar Kovil after the IATR conference.

Q: Who were the speakers at that meeting?

A: Mr & Mrs Amirthalingam and others.

Q: Were there any other attempts made on Mr. Chandrasekera's life?

A: Yes, on 20th of March, 1974 Mr. Chandrasekera was coming to office at the usual time in the usual manner driving his jeep. As he was travelling from Nallur where he was living, near the Kailasa Pilliar temple junction, he had to stop it because there was a cross road. At that time some youths confronted him, threw bombs and one of the youths pulled the trigger of a pistol / which did not fire and he identified the person as Sivakumaran. A number of bombs fell on the jeep. Fortunately, they fell on the canvas and the bombs did not explode. About six bombs were found.

Q: There is still a High Court case pending in respect of this incident?

A: Yes. Indictment had been filed sometime back. Investigations were held immediately, and the other suspects were arrested. An identification parade was held. I may also bring to Your Honour's notice that this Sivakumaran was arrested earlier by the police in September, 1973 during the time when the Nallur Kandasamy Kovil festival was held. On that occasion, two police officers were on duty, and one of whom a reserve PC who alleged that Sivakumaran and another youth who was with him were harassing some of the people who had come to the temple to worship. When that PC tried to intervene, Sivakumaran had assaulted him, and subsequently the other PC had come to the scene and Sivakumaran was arrested and taken to the police post. I was also there within the vicinity of the temple during that time. I also went to the police post. I spoke to Sivakumaran. I instructed Mr. Chandrasekera to inquire into that incident, and he also inquired into Sivakumaran's allegation also. Sivakumaran said that he was assaulted by the police. During the course of this investigation into the complaint of Sivakumaran, Chandrasekera had summoned him to his office, and for a long period had questioned him and recorded his statement. So that, Chandrasekera knew Sivakumaran well at the time when this subsequent incident took place. Case was filed against him and an open warrant was out because Sivakumaran did not appear.

COMMISSIONER: And then he committed suicide?

A: Yes, on 5th June, 1974.

Q: That was in connection with the Nallur Kandasamy festival incident?

A: Yes.

Q: Was he arrested there?

A: He was arrested on that occasion for assaulting a police officer and harassing the people.

Q: When was he arrested next?

A: That was on the 5th of June, 1974. At about 1 p.m. on that day, the Kopay police was informed by an informant that some bank robbers had come armed to the Rural Bank, Kopay and were trying to rob the bank. At that time the OIC of the station had just come to the station from Courts. The Officer-in-charge immediately rushed with his officers in the jeep to the bank. On the way, they received information that the suspects were running towards Heerveli. He followed them in the jeep and he noticed the suspects getting into some plantation and dispersing in various directions. SI Wijesundera followed one particular person, and the others followed the other suspects. That was Sivakumaran. Sivakumaran opened fire at SI Wijesundera. Two shots were fired. Wijesundera laid down. SI Wijesundera had a sub-machine gun with him and he opened fire. Then Sivakumaran fired two shots. Thereafter, Wijesundera realised that the suspect did not have ammunition. He then approached him. As he approached him, Sivakumaran wrestled with him to get his sub-machine gun. Then SI Wijesundera blew his whistle because he was in ~~xx~~ difficulty, and it was at that time Sivakumaran took something and poured into his mouth. He poured poison into his mouth. He was taken to hospital. Later in the evening he died. Within a short time of his admission to the Jaffna hospital, a large crowd collected. One of the first to go there was Selvadurai, one of the Municipal Council members representing the TUF. After his death, postmortem was held around noon the following day. Around that time, almost all the leaders of the TUF were there including Mr. Amirthalingam.

12.30 a.m.

P. Philagadas.

J. D. M. ARIYASINGHE: (Contd.)

To Mr. P. Tennekoon, Senior S.C.:

Mr. V. N. Navaratnam was also there. From that time the youths went about and urged the shop keepers to close their shops. Flags were flown. All thops in the Jaffna Peninsula were closed. On the 6th and 7th the body was lying in the house. From the time of his death most of the T.U.F. members were round about organising and making arrangements for the funeral. Phamphlets were distributed stating that they should observe that day as a day of mourning. On the 7th they held the funeral procession. Just before the corpse was taken away, seven youths cut their fingers and placed blood Pottus on the face of the corpse. This was followed by hundred other youths. The funeral procession was taken along a long route. The funeral arrangements were supervised and directed by T.U.F. leaders. The procession was conducted under the direction of Senator Nadaraja to whom I pay a tribute. He kept the large crowd that was in the procession under control. I did not have to put any police personnel to control the procession. About 15,000 persons attended the funeral.

Q: Who were the Leaders who took a prominent part in the funeral and procession ?

A: Mr. Amirthalingam, Mr. V.N.Navaratnam and Mr. Kathiravelupillai. They made funeral orations.

I had some officers in mufti in the field and officers from the Intelligence Bureau were also there. They submitted a report on the funeral.

Mr. P. Tennekoon, Senior S.C.: Sivakumaran's mother made speeches at the last elections and wanted the youth to follow the footsteps of her son.

After the death of Sivakumaran, his mother was given a prominent place in the Women's Front of the T.U.L.F. I have the report on the funeral of Sivakumaran. (Witness reads report). I had occasion to speak to Sivakumaran when he was alive and I was of the opinion that he was not committing these offences for his personal gain, but for a cause.

(Referring to the report) In June 1974 the Office was on 2nd Cross Road and thereafter it was shifted to Kandy Road.

(L. Silva)

(Contd. by Mr. T.P.Fernando from 12.40 p.m.)

29.6.1979

12.40 p.m.

J. D. M. ARIYASINGHE (CONTD.):

TO MR. TENNAKOON, Senior S.C:

(Witness continues to read)

Mr. Channugan was the Administrative Officer at the TULF office. He was the person who used to come to the Police Station to take permits for loudspeakers. Mr. A. Viswanathan is a L.S.S.Per. There was a communal feeling aroused in the peninsula due to Sivakumaran's death.

COMMISSIONER: Q: A popular man?

A: We knew his popularity only after this.

(Witness continues to read). The deceased Sivakumaran is a Roman Catholic.

MR. SHANMUGALINGAM: The name does not indicate that he is a Roman Catholic.

Witness(Contd):

He has been by birth a Roman Catholic.

(Witness continues to read the document)

(Mr. Tilagadas continues from 12.50 p.m.)

T.P.Fernando.

29.6.79

12.50 p.m

J.D.M.ARIYASINGHE:

XP. BY MR. TENNEKOOH CONTD.

Q: Will you produce the report marked A416?

A: Yes. It is dated 8th June, 1974.

On the 31st day of the funeral also, the day was observed as a day of mourning. The shops were closed on that day. Thereafter, every year on the 5th of June, they commemorated his death anniversary.

A statue was erected in the memory of Sivakumaran. On the 5th of June, 1975 they celebrated his death anniversary. The TUP leaders were there. On that occasion Mr. Amirthalingam was present.

Q: You had been narrating about certain attempts made on Chandrasekera's life after the ITAR conference? A: Yes.

Q: Are you aware that there was a parcel containing a bomb made for Chandrasekera?

A: Yes, one C. Mahendran was arrested in connection with an attempt to rob a bank, and in consequence of a statement made by him, a parcel bomb was recovered at a house in Inuvil, and according to the suspect, that bomb was prepared to be sent to Chandrasekera as a parcel. When that parcel is opened, there is a charge and it will explode.

Q: In fact, the parcel bomb was intercepted before it was posted?

A: Yes.

Q: And this last attempt on the life of Chandrasekera was resorted when the two earlier attempts failed?

A: Yes.

1 p.m.

P. Chilagadas.

J. D. M. ARIYASINGHE: (Contd.)

To Mr. P. Tennekoon, Senior S.C.:

Q: You had to provide special body guards for Mr. Chandrasekera when he was in Jaffna ?

A: I posted special guards at his house. He had received several threats.

Q: Mr. Chandrasekera received a promotion while in Jaffna ?

A: Yes.

Q: Was it in appreciation of the work done by him at the Conference.?

A: If that were so I would have known it.

One day I found a message come and I found that it was a promotion. This was followed by the relevant papers. He was due for promotion in 1973 Sept, but it had been held up for some reason. It had gone through the normal course of being renewed because it had to go from the Police Dept. to the Ministry. Mr. Chandrasekera was in the Security Division of the Prime Minister and from there he was sent to Jaffna. He should have got this promotion when he was in the Security Staff of the Prime Minister. He should have got it in 1973. It was a bit of an embarrassment to me also. When this news came everybody was speaking about it saying that he got it for the work done at the Conference.

Q: Do you know that this promotion was discussed at meetings and was stated that he got this promotion for his work at the Conference - for killing 9 or 10 Tamils at that Conference ?

A: Yes. The newspapers also flashed it.

Q: You spoke of a Convention at Mallakam by the T.U.F. ?

A: Yes. Between the 7th and 9th Sept. 1973.

Q:

Q: Were any leaflets distributed at that Convention?

A: I was present there. There were cyclostyled and printed pamphlets distributed. I came across one of those which was printed in English. I produce that marked A.417.

(Witness reads A.417).

The last para of that is addressed to the youth. (Reads last para)

Mr. Sharmugalingam: There is a para which refers to the means by which these objectives could be achieved.

Mr. P. Tennekoon, Senior S.C.: That has no consistency with what they are doing today.

Witness:

At most of the meetings they brought to the notice of the gathering the war in Bangladesh, Vietnam, Israel and other countries.

Mr. P. Tennekoon, Senior S.C.: We know how Bangladesh gained liberation.

Commissioner: We will finish the Examination in chief of Mr. Ariyasinghe and as Counsel are unable to make themselves available the next day, we shall put off the cross-examination.

Witness: In the light of the evidence that has transpired and in the light of what is happening in the Country even today, I feel that the witnesses in this case are not too secure - specially in the light of what has happened to Mr. Manjusri.

Mr. Sharmugalingam: What was said at the beginning may be left out of the Press.

Witness: At this particular moment of time it would be best to leave it out.

Mr. Shanmugalingam: I condemned and still condemn what had happened to Mr. Janjusri in Jaffna.

Mr. Wijetunga : When we cross-examine witnesses we do so on what they have stated in examination-in-chief.

At this stage Commission adjourns for the day. Further hearing on 2.7.79 at 9 a.m.

(L. Silva)

2nd July, 1979.

(261st Day)

COMMISSION RESUMES.

MR. DEVASAGAYAN: With Your Honour's permission I would like to make a short address regarding Manjusri's incident, because my learned senior on the last date did mention about it.

COMMISSIONER: Yes, I see in the 'SUN' paper.

MR. DEVASAGAYAN: This was first reported in the Ceylon Daily News of last Friday. Relying on this, my senior Counsel, Mr. Shanmugalingam, condemned this kind of assault on a respected person like Manjusri. On the same day Mr. Amirthalingam had made a statement denouncing, if this report was true, this type of activity. That report is published in today's Daily News. Mr. Amirthalingam's first statement denouncing this act appeared in the 'Daily Mirror' of Saturday. 'Ceylon Daily news' did not publish that statement on Saturday. Thereafter, on Sunday, the Tamil paper 'Veerakesari' carried a news item stating that consequent to an investigation made by the police, it was revealed that this incident had occurred as a result of a cycle accident on the 14th of June, 1979. It was reported in the 'Ceylon Daily News' on the 29th of June very prominently in the front page that this incident was caused as a result of violence on him. The Tamil daily 'Veerakesari' reported that this incident, according to police investigations, had happened as a result of a cycle accident. Even thereafter, the 'Ceylon Daily News' did not carry anything about that report.

MR. DEVASAGAYAN CONTD.

Today's Daily News carries the statement made by Mr. Anirthalingam which was made soon after the report of last Friday. Up to now the police report about Manjusri sustaining an injury as a result of a cycle accident had not appeared in the 'Ceylon Daily News', but we have in today's 'Sun' paper a wireless message from S.E. Jaffna Mr. Leo Perera, to the police headquarters stating that this incident occurred on the 14th and that Manjusri was taken to the Jaffna hospital as a result of a cycle accident, that he had informed the police post that this was as a result of an accident, and two days thereafter he left the hospital.

COMMISSIONER:

MR. DEVASAGAYAN: The 'Veerakesari' correspondent did contact Manjusri to find out the details, and he had told him that he never told the police that he was attacked, and on being asked to make a statement to the police, he had made it on the 27th. He said it was not his intention to make a statement to the police, but his friends had prevailed upon him to make a statement. This has not been given prominence in the 'Ceylon Daily News'.

COMMISSIONER: There was supposed to be two foreigners also with him. Nothing would have been mentioned here, if Mr. Shanmugalingam had not referred to it. That is not a thing I take notice of. Mr. Shanmugalingam mentioned this and said they all hold Mr. Manjusri in high regard and so on.

MR. DEVASAGAYAM: Up to now I would say that mischievous reporting has been carried out by the Ceylon Daily News.

COMMISSIONER: If you know the facts, I suggest that you or somebody else communicate those facts to the newspapers. This is not one of the matters I should investigate into it. I think we have to drop it as far as I am concerned.

MR. TENNEKOON: There is another forum set up by statute to which my learned friends can take these complaints, and not to this Commission, that is the Press Council.

COMMISSIONER: Who gave you all these facts which you have mentioned?

MR. DEVASAGAYAM: The 'Sun' newspaper carried it today, and the 'Veerakesari' carried it yesterday and it carries it today also.

MR. KARUNARATNE: I don't know about Mr. Manjusri, but I am informed that a person who gave evidence before Your Honour, I.P. Gurusami, was shot dead last night.

MR. TENNEKOON: This witness will mention that.

COMMISSIONER: That is a much more serious affair considering that he was a witness who appeared before this Commission, and I don't know really why anyone want to shoot him.

MR. DEVASAGAYAM: If that is so, we condemn this type of violence; no purpose will be served by this sort of violence.

MR. TENNEKOON: I got it from very reliable source, from the police radio net work, and it was conveyed to me this morning.

9.10 a.m.

P. Thilagadas.

J. D. M. ARIYASINGHE: (Recalled) Affirmed:

To Mr. P. Tennekoon, Senior S.C.:

Q: The other day I was questioning you in regard to certain incidents which took place in 1973 ?

A: Yes.

Q: You were giving evidence before this Commission regarding the Mallakam Convention ?

A: Yes.

Q: In fact, at the commencement of your evidence you went the origin of the campaign of terrorism unleashed in the North ?

A: Yes.

Q: The latest victim of such incidents was Mr. Gurusamy who had been shot dead yesterday ?

A: Yes. We had a message to that effect.

Q: Is it correct to say that during your stay in Jaffna incidents have taken place specially on days of National significance ?

A: Yes.

The first occasion I remember was in 1973 on the 22nd of May - the Republican Day. When this day was approaching I received intelligence reports to the effect that the T.U.F. was making arrangements to observe this day and the day before and after, as days of mourning. They were also making arrangements to observe a hartal calling upon the school children to boycott school, shops to be closed and to put up black flags. Apart from putting up black flags they were arranging to bring down the National Flag from Public Buildings and put up the Rising Sun Flag at those places. The police adopted very heavy security measures. I had to study the happenings of 22.5.72 and the

and the period round about that date. I found that during that period 49 buses had been attacked and damaged. About half a dozen buses had been burnt, including three at Thondamannar. A number of railway carriages had been damaged at Inuvil. The Lion Flag had been brought down at several places and burnt. A large number of incidents of violence had been reported. I had marked these on a map, but I could not lay my hands on it. That map showed where these incidents took place. We took precautions to prevent these kinds of incidents. There were pockets where youth were strong. The places where these incidents took place such as Mavithapuram, Kokuvil, Chayakachcheri etc. were youth areas. I got a large number of police officers from outside and deployed about 500 policemen to prevent violence. With the assistance of the G.A. I sought the assistance of the other services to do patrolling of the areas where incidents were likely to take place. Nevertheless, incidents took place. A bus was burnt at Kokuvil. The fire was put out before that bus got completely burnt.

(To Commissioner:

The police were able to get to the place and put out that fire.

Q: Are the police not entitled to use force?

A: Yes. Before the police get to the scene the crowd decamps. The people are always mum - silent, except for those who are responsible for the bus - the driver and the conductor. The others would not speak. Even the driver and conductor were reluctant to speak. They speak to the incident but not to how and who caused it.)

Mr. P. Tennakoon, Senior S.C.: I have gone through many statements and one conspicuous feature is that the incident is described, but no person is mentioned as having committed it.

Attempts were made to derail trains. Palmyrah logs had been placed on the rail tracks. Between Chavakachcheri and Jaffna logs had been placed across the railway line. In 1972 there ——— had been similar incidents and before the National Day of 1973 the G... summoned the Railway authorities and security arrangements were discussed. Security measures and the rail track was patrolled, but in spite of that incidents took place.

Q: On such occasions does the police get men from outside ?

A: Yes. We got down over 300 police personnel last time.

(L. Silva)

(Contd. by Mr. T.P.Fernando from 9.20 a.m.)

2.7.1979

9.20 a.m.

J. D. M. ARIYASINGHE (CONTD.):

TO MR. TENNAKOON, Senior S.C:

Q: On all days of national significance it was a known feature that the police in Jaffna had to get down reinforcements?

A: Yes. Besides the normal Intelligence Service and the D.I.B. that was functioning wherever possible I detailed officers in mufti to gather information and we had information.

Q: Was there anything sinister when the police got down additional forces from other parts of the country?

A: No, Your Honour. There were many occasions when spontaneous campaigns were organised by the TULF we had no chances to get down forces from outside. For instance, there was a satyagraha march in March, 1973. Then there was a hunger strike in the Court house.

COMMISSIONER:

Q: Where did they sit down?

A: They sat down outside the courthouse building and started a hunger strike. This was, besides other matters, to protest against the arrest of the youths. I earlier mentioned that on 9.3.1973 some arrests were made on the basis of the statement made by Sathyaseelan and thereafter there were some more arrests on the 15th of March.

Q: Were these youths arrested for waving black flags?

A: No, Your Honour. Lot of propaganda was carried out that the police arrested these suspects not for any violence, but for demonstrating black flags.

Q: That was the propaganda carried on by the TULF?

A: Yes.

COMMISSIONER: Q: Because those youths were arrested they were on hunger strike ?

A: Yes.

Q: The main object was to protest against the arrest of the youths ?

A: Yes.

COMMISSIONER: Q: You mentioned the fact that Siva Kumaran committed suicide when he was about to be arrested. What was his previous history?

A: Your Honour, as I mentioned earlier Mr. Chandrasekera identified Siva Kumaran shooting at him on 20.3.1974. That was when he was coming out of his bungalow to go to office. The bank robbery was on 5.6.1974.

Q: Any other incidents ?

A: Mr. Chandrasekera knew this suspect well because he was previously arrested when he obstructed a police

officer in September, 1973 at Nallur Kandesamy Kovil festival. He had also been charged for placing a bomb in the car of Mr. Alfred Duraiappah.

Q: What was the evidence against him there ?

A: He had also confessed that to the police.

COMMISSIONER: This is a man with a notorious past.

MR. TENNAKON, Senior S.C: Mr. Amirthalingam's answer to this was that he agreed with the objectives, but not with the method.

Witness(contd):

I had heard from Mr. Chandrasekera that Sivakumaran had taken a vow that he would eliminate Mr. Chandrasekera. This is only an information we had.

COMMISSIONER: Anyway, he tried to carry out his vow.

MR. TENNAKON, Senior S.C: But Gods did not come to his rescue.

COMMISSIONER: Q: Had he ever been convicted of any offence?

A: No, Your Honour. An open warrant was outstanding against him. for obstruction to police. He was arrested shortly after the IATR Conference when a bus was hijacked at Urumparai and taken to Kurumbasiddy. An Army patrol that was passing by had noticed that the youths were trying to set fire to

the bus. Having seen the army the youths had run away. Their information was that Siva Kumaran led this party. However, the driver and the conductor could not identify the suspects.

Q: What are the good things he did to earn all these respect from the

A: He had certain ways of chivalry about him. I had occasion to speak to him. I also feel that he is not the type who would commit offences like bank robberies for his private personal gain.

MR. TENNAKON, Senior S.C: His motive was the cause of the Eelam.

COMMISSIONER: I do not think a motive like that would justify a bank robbery. A bank robbery is a bank robbery.

(Mr. Tilagadas continues from 9.30 a.m.)

T.P.Fernando.

2.7.79

9.30 a.m.

J.D.M. ARINJINGIE:

ED. BY MR. TENNEKOOON CONTD.

COMMISSIONER: Actually, he wanted to show how clever
he is as a robber.

Q: What are the other matters regarding which Sivakumaran has come into the picture? You spoke of the hijacking of the bus, the attempt on Chandrasekera, planting of bombs on Duriappa's car?

A: When he was making good his escape, he shot at Inspector Wijesundera. Two shots were fired by him, and the other two misfired. We examined his revolver and noticed that two shots were fired, and the two shots were misfired.

Q: On national occasions in 1973, were there any instances when the national flag was brought down and the Belam flag was hoisted in its place?

A: Yes. There was also an incident at Moolai hospital, which is a private hospital, where the national flag was pulled down, and there was a case pending in the Mallakam Courts.

COMMISSIONER: Is there any penal provision in regard to these offences like pulling down the national flag and trying to burn it?

MR. TENNEKOOON: It was an offence under the Emergency regulations. When these matters were referred to my Department, we decided not ^{to} file action because there will be no end to it, and we don't want to make them as heroes.

COMMISSIONER: That is the trouble. If you overlook offences of this type, they will try to multiply and people become heroes.

MR. TENNEKOOON: In any event, they become heroes. If they go to Courts, they become more heroes.

Witness: These incidents were always investigated and special attention was paid by the Kopay police, but in these type of offences, the co-operation of those who were around were found wanting.

Commissioner: Even as regards the burning, do you get witnesses?

A: They were not investigated.

Q: Normally in incidents like burning and other things, the police are informed after the incidents? A: Yes.

Q: At the time the police rush to the scene, the assailants have escaped?

A: Yes. The police come across a wall of **silence** so far as the public was concerned. Even, for instance, when an offence is committed during day time, we get plenty of information by way of telephone calls.

Commissioner: During the time the incident has happened?

A: After the incident, telephone calls, anonymous or pseudo-anonymous letters are received. We also have informants who inform to their trusted officers, but they make a plea that they should not be called upon to give evidence because they feared retaliation.

Q: Even in the case of the murder of police officers, is it correct to say that most of these murders had been committed in broad day light in the sight of many a man and woman?

A: Yes, that is what I learnt.

Q: In market places, at road junctions and other important places?

A: Yes. PC Karunanithi was murdered just before dusk. Shanmuganathan was killed in the fore-noon. Inspector Kumar was also killed during in the market square during day time. Inspector Pathmanathan was killed during day time. These killings took place in the presence of other people. With regard to Bastiampillai and others, of course, it had taken place in the jungle.

Commissioner:

Q: So these are the notorious facts in Jaffna where people are murdered by youths and no evidence is forthcoming because the witnesses fear the consequences?

A: Yes. There were in fact two persons who dared to give information without fear of the consequences. One was Nadarajah who was running a petrol shed at Irumprai. If he had information, boldly he used to come to the police station and give us. In fact, I remember mentioning to him on one occasion that he should be careful. He knew Sinhala. In Sinhalese he said 'We are not afraid of these youngsters. It is a disgrace to the Tamil people when these things happen'.

Q: What happened to Nadarajah?

A: During my period, there were two attempts on Nadarajah's life. One was when he was cycling, two youths got hold of him and stabbed him. It was a grievous injury. The stab has penetrated close to the heart. He had a narrow shave. This matter was investigated, and two youths were arrested. One Vinoba and Satkunam, a brother of Sathiyaseelan, were arrested. These boys were also educated young boys. They were charged. They were charged, but we had the problem of eye witnesses because the stabbing took place ^{from} behind. Nadarajah could not identify the boys, but the boys confessed. That was a fair time after the incident had taken place. This came under the Chunnakam police. It was subsequently investigated by the CID. After that, I remember, on the 7th of September, 1974, there was a meeting at Gurunagar by the TULF. It was a Tamil youth league meeting at Gurunagar. I myself attended that meeting. As I came to the station from

the meeting, I was informed that bombs were thrown at the Izumprai petrol shed. Nadarajah had just a narrow shave. I immediately visited the scene. Usually Nadarajah had a habit of sitting outside the petrol shed in a chair in the evening at this particular time. Fortunately on this day, he had been sitting in the cashier's table and not at the chair outside. About four or five bombs were thrown; they exploded and the shed was damaged.

9.40 a.m.

P. Thilagadas.

J. D. M. ARIYASINGHE: (Contd.)

To Mr. P. Tennekoon, Senior S.C.:

Then this was investigated. We could not get sufficient evidence to file a case, though we heard that this was done by youth.

Urumpurai is the hot bed of activity and it is the home of Sathyaseelan and Sivakumaran. Again, I heard that bombs had been thrown at the petrol shed and Nadaraja had been killed.

Mr. P. Tennekoon, Senior S.C.: Immediately the police went to

that petrol shed and found Nadaraja's flesh still twitching. A person by the name of Kadi Thangaraja, the Bodyguard of Mr. Arulampalam had been shot. He had been shot before I went there, arising from a statement made by Sathyaseelan. He had been shot while worshipping in a temple. He had escaped from that shot. Subsequently he informed us that the youths were at him. When I was there, there were no incidents with regard to him. After I left Jaffna I was informed that he had been shot dead.

Q: The usual pattern was for youths to come on bicycles and bump off people and get away. ?

A: That is what I learnt.

(To Commissioner: They leave the scene on the same bicycles.)

Mr. P. Tennekoon, Senior S.C.: They have nothing to fear. They know there will be no witnesses.

A number of informants have informed us that they had received letters and threats and we have not called them to make statements.

Q: Have the police received threats over the telephone and threatening letters ?

A: Mr. Chandrasekera had received such letters and telephone calls. Mr. Doraiappah had informed me of such threats.

During my time these were not taken seriously. Except in the case of Mr. Chandrasekera's incident, there were no actual killings. These things happened between 1973 and 1975.

Mr. P. Tennekoon, Senior S.C.: I am not surprised at those. I have received and continue to receive such threats.

Mr. Karunaratne: I saw a paper news item that this place (Boy Scouts' Hd. Qrs. Kandy) is to be bombed.

Mr. P. Tennekoon, Senior S.C.: Police have investigated the matter and recorded the statements of those who had heard these threats. The individuals responsible cannot be traced or identified.

Commissioner: If the police had this problem of gang robbery, I am not surprised they lose their cool. There is a limit to restraint. It has been going on for years.

Mr. P. Tennekoon, Senior S.C.: These started in 1972 with the speeches of Casi Anandan and others.

Commissioner: The shooting of Gurusamy is another cap for the youths. I think they are proud of that.

Q: In spite of all these, what was the Political Party that was intimate with the youths ?

A: The T.U.F. All the suspects we arrested have said that they were all supporters of the T.U.F. They have made statements and in those they admitted that.

Q: Are you aware that up to date that no condemnation has been forthcoming from the T.U.F or T.U.L.F. leaders except for what has been said in Parliament ?

A: To my knowledge there is no unequivocal condemnation.

When Doraiappah was murdered there was an inquiry by the Govt. supporters, calling upon the T.U.L.F. to condemn these incidents. I was on the look-out whether they would condemn it, but they did not.

Q: Did any Leaders of the T.U.F. attend Mr. Alfred Doraiappah's funeral ?

A: They did not.

(L. Silva)

(Contd. by Mr. T.P.Fernando from 9.50 a.m.)

2.7.1979

9.50 a.m.

J. D. M. ARIYASINGHE (CONTD.):

TO MR. TENNAKON, Senior S.C:

Q: Now I am moving towards the end of 1973. I think you have spoken sufficiently of the incidents that have taken place from the early part of 1973?

A: Yes.

Q: On 5.12.1973 did the police have occasion to arrest one D.Selvarajah on suspicion of robbery of a car from Achchuveli and robbery of gold jewellery from a jewellery shop?

A: Yes.

Q: Did he confess to the police that he and his associate Thangadorai wanted these things to be done to take Rs.10,000/- worth of gold across Palk Strait, sell them and bring arms?

A: Yes. In this case certain youths from Velvettithurai had robbed a car from Achchuveli at the point of revolvers and gone to Jaffna and committed robbery of jewellery. Police received information and rushed there and they arrested two suspects and investigations were continued. In the course of investigations another suspect named Selvarajah Thevasadan was arrested. If I remember correct the incident was on the 26th or 27th of November, 1973. He confessed that Thangadorai was the leader of the group and he wanted this done to get money to be taken across Palk Strait to India to purchase arms for the Tamil liberation movement.

COMMISSIONER: Q: Where is he now ?

A: He is a person from Velvettithurai who goes to India.

Q: He had not been arrested ?

A: Yes.

Q: Is it very common that the police would get information whenever such acts are committed that the suspects have escaped to India ?

A: Yes. In Velvettithurai boats have high powered engines and they can get to Mandapam and other places in a matter of 2 or 3 hours.

Q: In fact investigations had been carried out by the officers from the C.I.D. in India also ?

A: Yes.

Q: There is evidence that establishes a connection in South India of a movement with the Tamil liberation movement here ?

A: Yes, Certain groups have such connections, but I am certainly aware that there is no official blessing from any of the parties in South India.

Q: On 23.12.1973 was there an incident at Velvettithurai junction when some youths stopped two CTB buses and pulled down the destination boards and replaced them with Tamil words ?

A: Yes. In fairness I may mention that in those boards the Tamil letters were very small and the CTB was also to be blamed for that. I myself sent a report to the CTB and the matter was subsequently rectified.

Q: On 22.12.1973 was there a police carol where the public also participated?

A: Yes, Your Honour. When I was there, there were numerous occasions where we got the help of the public. On two occasions I held sports meets where large crowds gathered. When we held Christmas Carols we had the public support. I may go to the extent of saying that I received the support from the public than in any other area.

Q: The next incident of importance is the incident connected with the IATR Conference regarding which you had already given evidence ?

A: Yes.

Q: Immediately after the incident of 10.1.1974 was there a hartal organised against the alleged excesses of police on 13th January?

A: Yes.

There too a number of buses were attacked and damaged. There were telephone wires cut on Achchuveli road. When there is a campaign promoted by the TUF telephone wires particularly around Achchuveli area are cut. This is generally the route the youths from Velvettithurai take after meetings. Although the telephone wires are cut the wires are not removed as in other parts.

MR. TENNAKCON, Senior S.C: If I remember correct I have marked as A.301 a statement where Mr. Amirthalingam had expressed that more and more heros would be corth-coming from Velvettithurai.

That speech was made at a meeting held on 13.7.1977 to celebrate the victory of the TULF.

COMMISSIONER: Who recorded that speech.

MR. TENNAKOON, Senior S.C: Several officers from the Intelligence Division of the Police recorded them. Those statements were marked A.298, 299, 300 and 301.

Q: In connection with this hartal which was organised for 13.1.1974 was there throwing of stones at buses ?

A: Yes.

Q: Another incident was hijacking a bus and attempting to set it on fire ?

A: Yes.

Mr. Arulampalam has received a threat and police investigations also revealed information about a threat to assassinate him.

(Mr. Tilagadas continues from 10.00 a.m.)

T.P.Fernando.

2.7.79

10 a.m.

J.D.M. AMIRYASINGHE:

ED. BY MR. SUNDARAKOON CONTD.

At first he was a member of the Tamil Congress. They had a split in the Tamil Congress. He voted with the Constitution, and subsequently he crossed over to the SEMP. Thereafter, he was also the political authority of Jaffna. Attempts have been made on his life even prior to this incident. He is still alive. Once he received some injury. On that day, two PCC were on guard duty. A bomb was thrown and one PC got injured. It was not a serious injury. Investigations were made and subsequently it revealed that Sivakumaran had been behind this.

Q: Then on the 2nd of February, 1974, there was the famous Commission of Inquiry appointed by the Citizens Committee of Jaffna which commenced sittings on the 2nd of February, 1974? A: Yes.

Q: And on the 7th of February, 1974, there was the incident where a hand bomb was thrown at the jeep in which ASP Chandrasekera was travelling, which you have already described to this Commission? A: Yes. That happened near the Murugan Industries, near Tellipallai.

Q: Did the inquiry reveal that this too was politically motivated arising out of the incident of 10th January, 1974? A: Yes.

Q: On 8th February, 1974 was there a bomb explosion close to the place where Mr. Anura Bandaranayake was addressing a meeting at Tellipillai?

A: There was a bomb explosion in a bus.

Q: Then on 9th February, 1974 was there a hartal and fast organised by the TUP and its youth movement opposite Muniappar Kovil?

A: Yes.

Q: Where Mrs. Amirthalingam addressed the meeting? A: Yes.

Q: What was the substance of her speech?

A: Reference was made to Mr. Chandrasekera as the person responsible for the deaths at the IATR conference and also about Duriappah being behind it. Duriappah was referred to as a traitor.

Q: And was revenge held out to these people in her speech?

A: Yes, what was said ~~was~~ more or less amounted to a veiled threat to these persons. That was the report I had.

Q: Do you have that report with you? A: Yes.

Q: Is it correct to say that even in this hartal organised on the 8th and 9th of February, 1974, there were the usual features such as the closure of shops, the boycott of schools, stone throwing, and other acts directed against public property? A: Yes.

Commissioner: What does a hartal stand for?

Mr. Tennekoon: It is a peaceful non-violent means of registering protest.

Commissioner: It is a day of mourning? A: Yes.

Witness: In Jaffna on that day, they close the shops and the children boycott schools.

Commissioner: You said they also do other things?

Witness: Yes.

Commissioner: How do they celebrate the hartal?

Witness: Buses are attacked. Railway lines are removed. compartments are set on fire.

Commissioner: I think Mahathma Gandhi fasts for several days. Nobody went in Jaffna for too long?

Witness: It is from day to dusk fasting.

Q: And cool drinks are served?

A: Yes.

Q: On the 18th September, 1974, the learned Magistrate delivered the verdict in the case of the seven deaths in connection with the IATR conference? A: Yes.

Q: And you have already stated that the Magistrate received threats on his life both by anonymous letters and by way of anonymous telephone calls and you have to provide special security arrangements for the safety of the learned Magistrate? A: Yes.

Q: Did the Judicial Medical Officer himself have any problem?

A: Yes.

Q: His findings were the people came by their deaths by electrocution and not by shooting? A: Yes.

Q: On the 6th of March, 1974 did you receive any information from a person from the Jaffna prison about a conspiracy by Tamil youths in the prison to murder IP Bastiampillai?

A: This information was eventually received by the CID and by me and in fact this particular prisoner had been a police officer serving a sentence in jail.

Q: Then on the 20th of March, 1974 was the other attempt made on the life of Mr. Chandrasekera when he was travelling again by jeep?

A: Yes, a pistol or a revolver was pointed at him by Sivapalan and a gang of youths, and five bombs were found in the vicinity of the jeep, and the jeep had been slightly damaged.

Q: Some of the bombs had not exploded? A: Yes.

Q: On the 4th of April, 1974, were there any slogans on the walls of the office of the ASP, KKS? A: Yes.

Q: There, did it say that a reward of Rs.50/- would be paid on the head of Mr. Chandrasekera? A: Yes.

10.10 a.m.

P. Thilagadas.

2. 7. 79

- 13414 -

10.10 a.m.

J. D. M. RIYASINGHE: (Contd.)

To Mr. P. Tennekoon, Senior S.C.:

Q: Nobody did anything to earn that reward ?

A: Nobody did anything.

(Commissioner:

Q: Who awarded the reward ?

A: It was not known.)

Subsequently, when the C.I.D. was investigating, they found out the person who wrote those slogans.

Q: On 6.5.74 was there an explosion of bombs at Mawatthipuram ?

A: Yes. The fact of the explosion was there, but we could not get at the culprits.

On 24.5.74 there was another Hartal which was sponsored by the T.U.F. during which schools were boycotted and shops were closed. This Hartal was a joint one and it was Islandwide. There were a few incidents of violence on that occasion. It was a joint Hartal by the then opposition political parties. The Govt. declared a full day curfew on that day.

Q: In Jaffna the Hartal was observed in the usual way - by closing shops and boycotting schools ?

A: Yes.

Q: Do you know that in no other part of the country were schools boycotted ?

A: I do not know. I do not know whether this was a school day or not.

Q: On 21.5.74 Thanabalasingham alias Chitty whom you have already mentioned, and another Ratnakumar were involved in the murder of a taxi driver, and they escaped from prison ?

A: The four suspects who were arrested on Sathyaseelan's statement, namely, Kannady, K.Sivaraja, S.Ratnakumar and Thanabala-singham escaped from the Anuradhapura prison and I was informed about it.

Q: This was celebrated on 22.5.74 by hoisting the Rising Sun flag ?

Q: Yes. Anyway they would have done it.

Q: On 5.6.74 was the attempted robbery of the Rural Bank robbery at Kopay where Sivakumaran was arrested by S.I. Wijesundara ?

A: Yes. A few days before and after Republican Day there was violence as was in 1973. The police had planned its arrangements and were able to bring down violence, but in spite of that there were stoning of buses and such-like.

Q: Normally, these incidents start a few days before an event and continue for a few days after ?

A: Yes.

There was stone throwing on the 16th and 25th of May 1974 at Gurunagar at C.T.B. buses. There were slogans written on the walls at Gurunagar and also at Pungudutivu urging students not to go to school. On this occasion too we had a large body of police personnel to be deployed for duty.

Q: You were able to scale down incidents during that period ?

A: Yes.

Q: On 7.6.74 was the celebrated funeral of Sivakumaran which you referred to earlier ?

A: Yes.

Q: You have already produced the gist of the speeches made by the T.U.L.F. leaders on the funeral day when they compared Sivakumaran to Bagawathsingh and others of India ?

A: Yes.

(L. Silva)

(Contd. by Mr. T.P.Fernando from 10.20 a.m.)

2.7.1979

10.20 a.m.

J.D.M. ARIYASINGHA (CONTD.):

TO MR. TENNAKOON, Senior S.C.:

I cannot exactly remember what they were. Bagawat-singh and other were persons who have been treated as heroes in Tamil poetry.

Q: On 21.6.1974 you said that on information received a parcel bomb was recovered which had been intended for A.S.P. Chandrasekera ?

A: Yes.

Q: This was recovered in consequent to a statement made by one of those who were arrested in the course of investigations into the robbery of Rural Bank, Kopay?

A: Yes.

Q: Do you know that throughout the month of June, 1974, S.I. Wijesundera O.I.C., Kopay who arrested Sivakumar received anonymous letters ?

A: Yes. In fact slogans also appeared on the walls of the police station of Kopay threatening him.

Q: On 7.8.1974 was there a meeting of the TUF Youth League at Gurunagar?

A: Yes.

Q: What were the incidents that triggered off from this meeting ?

A: It was on 7.8.1974. I have already spoken to that.

Q: Coming to the incidents of July, 1974 there was a case of shooting on 5.7.1974 at Mr. Thiagaraj, M.P. and O.I.C. of Chankanai ?

A: Yes. When Mr. Thiagarajah and the O.I.C. of Chankanai

had visited a village where there were caste troubles they were shot at. ^{The} Moment I received this information I went there when a person who was indicating our path was shot just a short distance away from us. In this case we have found that the youths had nothing to do. Shot guns had been used in this instance.

Q: What were the incidents on the 31st day after the death of Siva Kumaran which was held on 31.5.1974?

A: Siva Kumaran was treated as a hero. There were boycott of schools. There were meetings held.

COMMISSIONER: Children were asked to go and listen to speeches about this robber.

Q: Were there leaders of the TULF addressing those meetings?

A: Yes. Mr. Amirthalingam, Mrs. Amirthalingam and Mr. Navaratnam addressed those meetings.

COMMISSIONER: I am sorry that this matter was not investigated when Mr. Amirthalingam and Mr. Yogeswaran were giving evidence.

MR. TENNAKOON, Senior S.C: They admitted that they respected him for the ideal which he cherished. The ideal is the creation of a separate independent sovereign state for the Tamils.

COMMISSIONER: By whatever method.

MR. TENNAKOON, Senior S.C: Mr. Amirthalingam said that he agrees with the ideal, but he did not agree with the method.

COMMISSIONER:

Have they ever condemned the use of violence.

MR. TENNAKON, Senior S.C.:

He merely said that he does not agree with the method. Your Honour be pleased to recall that Mr. Amirthalingam's answers have been typical of the above answer which he gave whenever he was questioned on the statements regarding violence.

MR. DEVASAGAYAM:

My learned friend is belabouring the point now. Mr. Amirthalingam was giving evidence for about 7 days. My learned friend had all these points, but he never put them to him.

COMMISSIONER:

The point is this. I do not know that Siva Kumaran had all this background. Had the fact of Siva Kumaran been bent on violence and robbery put to Mr. Amirthalingam I would have been interested in knowing his answers. I wonder whether a man with this history is worthy of praise, applause and commendations as were extended to Siva Kumaran.

(Mr. Tilagadas continues from 10.30 a.m.)

T.P.Fernando.

2.7.79

10.30 a.m.

J.D.M.ARIYASINGHE:

COMMISSIONER: Whether a man of this background, with this history, was worthy of all this praise and commendation which have been lavished on him since his death?

MR.DEVASAGAYAN: My learned friend up to now has led only the evidence of Mr.Ariyasinghe as to what happened. Now we are in the examination-in-chief stage. Is this Commission going to presume at this stage that what is said about Sivakumaran is the truth. We have not cross-examined this witness.

COMMISSIONER: There is the evidence given by this witness as to the circumstances under which he was arrested. Are you contesting this witness?

MR.DEVASAGAYAN: We would be to some extent.

COMMISSIONER: You are contesting the fact that he attempted to rob a bank?

MR.DEVASAGAYAN: Sir, we have not had the opportunity of cross-examining this witness.

COMMISSIONER: I think your position is Sivakumaran is a man who is entirely worthy of his honour. Why was he treated as a hero. What had he done in his life time to be treated as a hero.

MR.DEVASAGAYAN: My learned friend said that he was treated as a hero.

COMMISSIONER: All the funeral arrangements had been made as a hero. What has he done to be honoured in this fashion?

MR.DEVASAGAYAM: As to why Sivakumaran has been driven to that state is a matter we must consider at the outset. We are not for one moment condoning acts of violence. Human conduct is, every action has a reaction. As to why Sivakumaran should have been driven to this state of absolute desperation, to become even as a desperado, is a thing we must examine.

COMMISSIONER: I think I will wait for the cross-examination.

MR.DEVASAGAYAM: When Mr.Amirthalingam was cross-examined by my learned friend, he had all the evidence of Sivakumaran. He should have put them to Mr.Amirthalingam then.

MR.TENNEKOON: I have put the whole series of incidents to Mr.Amirthalingam. He admitted them. He said 'Have you convicted him. Were they found guilty? How can you call them criminals?'. He has turned back and found fault with the Government for not bringing those criminals to trial.

COMMISSIONER: Lot of evidence I heard for the last 2 or 3 days has been evidence which has not come out before - evidence of confessions. That evidence has painted a different picture of the background of the events. It is obvious that if there were only confessions available, they could not be prosecuted in Court.

MR.DEVASAGAYAM: Law in its wisdom has shut out confessions as being inadmissible.

COMMISSIONER: That is in a criminal case where the accused has made a confession. This is not a criminal trial. There is no accused before me. I am hearing evidence of certain matters which I think are entirely relevant to explain the incidents that have taken place in the Jaffna peninsula during these years. That is the position.

MR.DEVASAGAYAM: My learned friend is relying on the confessions. Every youth who has been taken into custody has made confessions. The question is how those confessions were made.

COMMISSIONER: Will you be proving as to who obtained those confessions?

MR.TENNEKON: Yes, Sir.

MR.DEVASAGAYAM: How much reliance could we place on the confessions obtained from the youths by the police?

COMMISSIONER: I will not act on those confessions unless I am satisfied that they are voluntary. If you wish to attack those confessions, you have to bring the man who is alleged to have made the confession.. That is the usual way in which you attack the confessions.

MR.DEVASAGAYAM: Confessions could be obtained in numerous ways. Before we come to call those witnesses who have made those alleged confessions, we must be first satisfied that those confessions were obtained in the proper way. As regards the various incidents, Mr.Ariyasinghe has given evidence. As to whether so and so was found guilty, whether that suspect has stated this - on those matters, we have not cross-examined those persons.

MR.KARUNARATNE: I hope my learned friend will not make the same allégation against me. I have put all those matters to both Mr.Amirthalingam and Mr.Yogeswaran. I have tried to draw the picture of Sivakumaran as a culprit. I have tried to draw the picture of Mr.Amirthalingam's son, Kandipan as an offender. I have proved that Mr.Amirthalingam has taken a pledge before the status of Sivakumaran that all would follow the path of Sivakumaran.

MR. TENNENKOOH: I have put all those questions to Mr. Amirthalingam. His answer was 'were they found guilty. Did you prosecute them. Were they prosecuted. Were they found guilty'. He tried to suggest that I was trying to throw mud at those innocent youths.

MR. DEVASAGAYAN: He must have put those confessions to Mr. Amirthalingam.

COMMISSIONER: How does Mr. Amirthalingam know that those confessions were there. He would say, I don't know. Are you suggesting that the State Counsel must have put to Mr. Amirthalingam that such and such ^a person has made this confession?

MR. DEVASAGAYAN: If those confessions were available, learned State Counsel must have put those confessions to Mr. Amirthalingam.

10.40 a.m.

P. Thilagadas.

2. 7. 79

10.40 a.m.

J. D. M. ARIYASINGHA: (Contd.)

To Mr. P. Tennekoon, Senior S.C.:

Commissioner: Mr. Amirthalingam would say, "I do not know" unless he was there. How can he say whether a confession was made. There were numerous occasions when he said, "I do not know." I do not blame him for that. I am saying only this. If it is proved that Sivakumaran was a man of this character, the only answer why they are honouring him is that they do not know he was a man of bad character. I am not going to accept that. Mr. Amirthalingam knew Sivakumaran very well and he knew what he had done during his lifetime. If these facts are true or proved against Sivakumaran, is it open to Mr. Amirthalingam to say, "I do not know". If he said, "I knew", what is his explanation. I hope Counsel will draw my attention to the relevant evidence. A lot was said against Sivakumaran. Is anyone suggesting that Mr. Amirthalingam was not asked whether Sivakumaran did this or that.

Mr. P. Tennekoon, Senior S.C.: I put all these things to Mr. Amirthalingam.

Commissioner: Give me the relevant passages before long. I think you had asked Mr. Amirthalingam all these. Let me have the references - both S/S.C. and Mr. Karunaratne. The case for the Crown was that the youth movement was responsible for the violence. I think the T.U.L.F. Leaders said they had nothing to do with that part of it. Now the question is what is the connection between the T.U.L.F. and the Youth Movement.

Mr. Devasagayam:

Mr. Devasagayam: According to Mr. Amirthalingam they disassociate themselves with any type of violence.

Commissioner: One can disassociate with violence and say violence will not be practised. If violence was practised by a Youth Movement, did they have anything to do with that Youth Movement.

Commissioner: Are you attacking all the evidence where violence was committed. Do you say there was no violence. Who do you say was responsible for the violence.

Mr. Devasagayam: It would be interesting to know whether there was any connection between the T.U.L.F. and the Youth Movement.

Commissioner: That is what has to be found out. This is now the question. Was there any connection between the two. Were the Leaders of the T.U.L.F. aware of the violence by the Youth and were the Youths in close association with the T.U.L.F.

Mr. Devasagayam: That should have been got from Mr. Amirthalingam.

Mr. P. Tennekoon, Senior S.C.: Just before I started leading the evidence on election speeches I set out the lines on which I would lead the future evidence. I referred to the history from 1952. There was a political movement in the North, namely the F.P. which asked for a Federal form of Govt. This movement confined to the legal framework of this Country. But since 1972 this movement was re-christened as the T.U.F. and then took a militant turn.

Commissioner: Now that you have mentioned about the evidence on election speeches a lot has been said of the nature of the speeches by the T.U.L.F. I have already been referred to the manner in which the speeches were made and recorded. They were

They were contrary to the regulations. I was asked whether I could act on the speeches recorded. Some speeches were recorded on pieces of paper when they should have been made or recorded in notebooks - in Crime Note Books. They were recorded on pieces of paper and later written in clear handwriting in the books without any mistake as having been made at meetings. I am in doubt as to whether I could act on them considering the manner they were recorded. Irregular methods are not that I approve of. There are some speeches I am prepared to act on and some of them advocate violence. There is that aspect of the matter. That is the question of election meeting speeches made by the T.U.L.F. There were young people who made violent speeches. What have you got to say to that.

Mr. Devasagayam: It was on two occasions it was stated that violence was advocated. That evidence was led to show as to whether there was any connection between the T.U.L.F. and the Youths at the time the utterances were made.

Commissioner: If there was that aspect of the matter why were these speeches advocating violence permitted during T.U.L.F. election meetings.

(L. Silva)

(Contd. by Mr. T.P.Fernando from 10.50 a.m.)

2.7.1979

10.50 a.m.

J. D. M. ARIYASINGHE (CONTD.)

TO MR. TENNAKOON, Senior S.C:

Q: There was a meeting of the TUF again on 7.7.1974 which was addressed by Mr. Amirthalingam?

A: Yes.

Q: And also by Mr. Sivasithamparam? - Yes.

Q: In fact you allowed this meeting, but did not allow a meeting which was organised by the SLFP. for the same occasion?

A: Yes.

In fact, Your Honour, there were two other occasions where I allowed meetings of the TUF in spite of the protests by the Government party.

Q: There was a visit paid by the then Prime Minister to Jaffna on 8.9.1974?

A: No. It was on 5.10.1974.

Q: There was a meeting held by the TUF on 8.9.1974 in connection with the intended visit of the Prime Minister?

A: Yes.

Q: That was held at the esplanade in Jaffna? - Yes.

Q: Did Mr. Amirthalingam appeal to the crowd who had gathered there to boycott the Prime Minister's visit in the name of Siva Kumaran, those who died at Weerasingham's hall and those people who were in custody?

A: Yes, Your Honour. I was present there.

Q: On 11.9.1974 a police post had to be opened at Urumparai?

A: Yes.

Q: What was the necessity to open a police post there ?

A: We had information and we anticipated violence in Urumparai. This place was about 6 miles from Jaffna police station. I felt that it was necessary to have a police post there.

Q: On 11.9.1974 two Tamil youths were arrested by the O.I.C. Chunnakam who revealed a plan to rob a rich lady at Urani to get funds to murder Mr. Duraiappah?

A: Yes.

Q: Can you remember the names of those two youths ? - Yes.

Q: Please disclose those names to this Commission?

A: One was Selva Kumar and the other is Balachandran of Navali.

Q: Who investigated into that matter ?

A: I.P. Sivaratnam, OIC, Chunnakam.

COMMISSIONER: Q: Is he alive ?

A: Yes, Your Honour.

MR. TENNAKON, Senior S.C: I should have taken precaution not to disclose his name. Wherever possible I shall try to afford protection to these officers by not disclosing their names.

(Press is instructed not to publish the name of the Inspector).

Q: On 24.9.1974 bombs were thrown at the premises where preparation had been made to open the Jaffna Campus in Tinnaveli?

A: Yes.

Q: What was the finding of the investigations into that?

A: We could not get sufficient evidence. We had the information that the TUF and the Youth movement were opposed to the opening of the Jaffna Campus by the Prime Minister.

Q: On 29.9.1974 certain Tamil youths who were supporters of the TUF were arrested on information and two unlicensed guns, 20 feet safety guses, 5 SLR ammunition, 5 LER ammunition, 8 cartridges and a machine for filling cartridges were recovered ?

A: Yes, at Gurunagar.

(Mr. Tilagadas continues from 11.00 a.m.)

- 13428 -

Q: What was the finding of the investigations into that?

T.P.Fernando.

A: We could not get sufficient evidence. We had the information that the TUF and the Youth movement were opposed to the opening of the Jaffna Campus by the Prime Minister.

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(Mr. Tilagadas continues from 11.00 a.m.)

- 13428 -

Q: What was the finding of the investigations into that?

T.P.Fernando.

A: We could not get sufficient evidence. We had the information that the TUF and the Youth movement were opposed to the opening of the Jaffna Campus by the Prime Minister.

2.7.79

11 a.m.

J.D.H.ARIYASINGHE:

ED. BY MR.TENNEKOOH CONTD.

Q: Were they questioned by the police?

A: Yes. Of course, the suspects did not make any confessions.

In this case, investigations were conducted by the OIC of the local police.

COMMISSIONER:

Q: They were recovered from the suspects? A: Yes.

Q: Were they charged? A: Yes.

Q: What happened? A: I cannot remember the details.

Q: Was this sent to the DDP? A: Yes, but I am not sure what happened.

Q: This kind of ammunition like the S.L.R. and L.D.R. is not the sort of ammunition which peaceful people in society possess or rather entitled to possess? A: Yes.

COMMISSIONER:

Q: This is the only case in which confessions have not been made? A: Yes.

Q: During the period of 8.9.74 to 2.10.74, there was a series of meetings held by the TULF where they distributed pamphlets and carried on other propaganda urging the people to boycott the Prime Minister's visit to Jaffna? A: Yes.

Q: Was there any violence during this period? A: Yes.

Just prior to the Prime Minister's visit, there were a number of incidents. One was a case where bombs were thrown at a heavy truck of KKS police. Damage was caused to the truck. No one was injured.

COMMISSIONER:

Q: This visit of the Prime Minister was being opposed by the TULF? A: Yes.

Q: That is a political party? A: Yes.

Q: Now you find violence being used against the Government and public officials? A: Yes.

Q: You said a bomb was thrown at a heavy truck of the IKS police? A: Yes.

Another incident was where bombs were thrown at a jeep which they suspected that the police were using. It was a Kachcheri jeep. Police during this period was using vehicles borrowed from the Kachcheri. Then Mr.V.Ponnampalam, the Communist Party leader of the Jaffna peninsula at that time was a supporter of the Government. In his house, a dynamite was placed and there was an explosion. Mr.Duriappah and Mr.Ponnampalam were during my period ~~were~~ influential people, and they were supporting the Government openly. The TUF showed opposition against both of them. In fact, it was Mr.V.Ponnampalam who interpreted the Prime Minister's speech in Tamil at the public meeting held during the visit of the Prime Minister. The other experiences we have had with bombs were on the occasion of the caste clashes, but in those instances, we were able to get evidence, and we were able to prosecute the offenders.

COMMISSIONER:

Q: Witnesses came forward and said who threw them? A: Yes.

Q: And I take it, unless they were individuals who were criminally minded and who rather got pleasure in throwing bombs on people, your position is, I suppose, they belonged to some movement? A: Yes.

Q: That has been the pattern from 1972? A: Yes.

Commissioner: And now, we are trying to find out how did this pattern emerge and who were the people who were behind it.

Those are the things I am interested in finding out.

Mr. Tenneskoon: From the 25th of May, 1972 when certain leading members of the TUP including the leaders of the TUP made certain speeches, Kasianandan said 'traitors among the Tamils will not die from natural causes'. Your Honour will be pleased to recall from the evidence of this witness that Mr. Amirthalingam called IP Pathmanathan a traitor to the Tamils in the Court house, and later he apologised to Court.

Commissioner: (to witness)

Q: You were there at that time? A: Yes.

Q: That was when?

A: When IP Pathmanathan was leading the evidence,

Mr. Amirthalingam passed a remark to say 'you call yourself a Tamil'. That was in connection with the inquest proceedings held into the deaths on the occasion of the IATR conference.

Q: Then on the 2nd of October, 1974 was there an incident where a lighted dynamite had been thrown at the Chankathani railway station and a part of the roof gone off? A: Yes. At the Jaffna grand bazaar bus stand also a bomb exploded.

Q: There was also a hartal organised by the TUP on the same day where school children boycotted schools? That was on 5th Oct. 1974?

A: Yes, the day before the Prime Minister's visit, and on the day the Prime Minister was in Jaffna, there was a hartal.

Commissioner:

Q: Was that a peaceful day? A: Yes. We got about 400 police officers from outside, and we also got the services to stand by. Besides that, the youths had a silent march to the Mallur Kandasamy Kovil the day before the Prime Minister's visit, and they observed a hunger fast there.

11.10 a.m.

P. Thilagadas.

2. 7. 79

- 13432 -

11.10 a.m.

J. D. M. ARIYASINGHE: (Contd.)

To Mr. P. Tennekoon, Senior S.C.:

Q: And pamphlets were printed at the T.U.F. office and they were asked to boycott the Prime Minister's visit ?

A: Yes.

Q: You were referred to the silent march of 4.10.74 ?

A: Yes.

Q: That was the day on which bombs exploded at the Bus Stand ?

A: Yes. It was on 4.10.74. On that day over 1500 youths

marched with their mouths muffled with black pieces of cloth. The T.U.F. Leaders also joined in the march of these youths. This march was at Nallur and the bombs exploded at the Jaffna Bus Stand.

The impression I got was that this explosion was a threat to the people coming by buses for the mass rally organised by Mr. Alfred Doraiappah regarding the P.M's visit on the 5th.

Q: Were there any other incidents that took place round about the time of the P.M's visit ?

A: Stones were pelted at buses. Bus No.23 Sri 2223 was damaged at Kattuwan. That was on 3.10.74.

The damage to Jeep No. 4 Sri 9473 was caused by bombs being thrown at it at Mavithapuram. On 3.10.74 bus No.22 Sri 2223 was damaged at Vasaville. Truck No.33 Sri 8902 was attacked on 4.10.74. Stones were thrown at bus No.23 Sri 4304 on 5.10.74.

The Prime Minister came on the 5th of October and the March was on 4.10.74. There was a violent march in one part of the town and a silent march at another place. On 5.10.74 when the Prime Minister visited, there was the organised Hartal when the shops were closed and the schools were boycotted. The Prime Minister

came to open the Jaffna Campus.

Q: Two significant incidents occurred beyond the Palk Straits on 27.10.74 - four armed youths attacked the Sri Lanka Deputy High Commissioner's Office in Madras ?

A: Yes.

Q: On 21.10.74 four youths attacked the Maha Bodhi Society with Bombs ?

A: Yes.

'Interpol' investigated this matter.

Mr. Karunaratne: This is the incident regarding which Kandeepan the son of Mr. Amirthalingam was arrested and charged and convicted.

(L. Silva)

(Contd. by Mr. T.P.Fernando from after the recess)

2.7.1979

11.35 a.m.

RESUMED AFTER RECESS

J. D. M. ARIYASINGHE, recalled, affirmed:

MR. KARUNARATNE: With your Honour's permission, I wish to state that my learned friend brought to the notice of the Commission the case of Mr. Manjusri. There is another news item in the same paper that two persons who were suspected of giving information to the police had been shot dead.

MR. DEVASAGAYAM: We have not yet reached the stage of not believing the news items reported in papers.

MR. TENNAKON, Senior S.C: My learned friend relied on the news item in the same paper and now he says not to believe the other news item.

MR. DEVASAGAYAM: I relied on the message given by Mr. Perera the S.P. Jaffna to police Headquarters.

TO MR. TENNAKON, Senior S.C:

Q: We were on this report sent by the Interpol in connection with two incidents of bomb throwing in Madras on 27.10.1974 by two Sri Lankan youths. You have a photostat copy of that report with you ?

A: Yes. This is the report of the Director of International Police, Indian Branch. I produce it marked A.418.
(Witness reads the report)

(Mr. Tilagadas continues from 11.45 a.m.)

T.P.Fernando.

2.7.79

11.45 a.m.

J.D.N. ARIVASINGHE:

ED. BY MR. TENNEKUN COMED.

There is also a further report.

Q: The further report, does it bear a different date?

A: Yes. It is from the Superintendent of Police, Crime Branch, Madras dated 20.3.75 which I produce marked A419.

Q: Those are the two reports, one sent by the Interpol and the other sent by the SP, CID, Madras? A: Yes.

On further correspondence, the suspects were identified as Sadeesh son of Subramaniam. He is ~~xxxxxx~~ referred to as Kanagasabai Mudali Sivarajah of 43, Raja Veedi, Mallur, Jaffna. He was the one who escaped from the Anuradhapura Prisons prior to this date on the 21st of May, 1974. The second accused is Amirthalingam Anandakumar of Alaveddi, Chunnakam. He is referred to as Anandan son of Arunachalam.

The third accused is the one whose name is given as Albert son of Sivalingam. He is Kirubainathan of 17, Illandikulam Road, Arali.

This Kirubinathan is one of the accused in the Duraiappah murder case.

The other one is Kandipan son of Amirthalingam.

Q: He has given a false name?

A: He has given as Raju alias Kandipan son of Asirwathan alias

Amirthalingam. These suspects in their confessions said when they are in India, they are known by different names.

Q: All these four accused mentioned in A418 and A419 have figured in a number of politically motivated crimes in this country?

A: Yes.

Commissioner:

Q: Including Kandipan?

A: Yes, he was a suspect in the Duriappah murder case.

Mr. Tennekoon: According to the material available to the police, he was the chief conspirator.

Commissioner: But he has not made any confessions to the police?

Mr. Tennekoon: No.

Commissioner: But you say he was involved?

Mr. Tennekoon: Yes, that is on the statements made by the other suspects and witnesses.

Q: On the 17th of November, 1974, the laboratory of Uruupray Hindu College had been broken into and dangerous chemicals such as Pottassium cynide and Potassium Chlorate have been stolen?

A: Yes. After investigations, four suspects were arrested. They were students between the ages of 14 to 17, and on a statement made by one of the suspects, all the items were recovered buried in his back garden.

Q: Why have they committed this burglary?

A: The information we had was that they have committed this as these items were used for the various connected crimes.

Q: Pottassium Cynide is a deadly poison?

A: Pottassium Cynide was the one Sivakumaran used to commit suicide. The information is a number of these youths carried a phil cynide with them.

11.55 a.m.

P. Thilagadas.

J. D. M. ARIYASINGHE: (Contd.)

To Mr. P. Tennekoon, Senior S.C.:

In this case there were many other valuable chemicals in the Urum-burai Laboratory. They had not taken those. Only these had been taken.

(To Commissioner:

Q: None of them was charged ?

A: Chunnakam Police charged them.)

Commissioner: The result of a case is more important than the initial steps.

Mr. Devasagayam: Half truths uttered before this Commission are more damaging than anything else.

This recovery was made a month prior to my leaving Jaffna - four years ago.

Q: On 30.12.74 there was this highway robbery of Rs.91,000/- belonging to the M.P.C.S. Thellipalai by armed youths who came in a hijacked car ?

A: Yes.

Q: This money was for the liberation fund ?

A: Yes.

Q: The police officer who detected it ~~it~~ was shot at ?

A: Yes. He was Mr. Yatigammana. He was going on traffic patrol and he gave chase to the offenders and he was shot at.

To Mr. P. Tennekoon, Senior S.C.: If the police were armed and if they fired, that would have been the cause for another uproar.

Mr. Devasagayam: Both parties are playing cops and robbers.

Witness: Unless the police have specific information they are not allowed to go with arms. During the time I was S.P. Jaffna, it was only when we anticipated trouble that I asked the men to take their arms with them.

Commissioner: I am not suggesting any new method of arming the Police. What strikes is that every policeman should have a revolver at his waist.

Witness: Sgts. and P.C.C do not carry revolvers.

Commissioner: In other countries every police officer has a revolver at his waist. It might come to that here also.

Witness: He was an officer who was returning from Mallakam Courts. He got the information and followed the car and he was shot through the windscreen.

Commissioner: The police are handicapped in that they are not armed.

Q: On 3.1.75 you will recall that a group of Tamil youths headed by Casi Anandan who had been kept on detention, had been released and had arrived in Jaffna ?

A: Yes.

(Commissioner:

Q: How long had they been on remand ?

A: I believe from 1972.)

Q: What happened when they arrived ?

A: There was a large crowd gathered to welcome them.

Mr. Chelvanayagam and Mr. Amirthalingam were there to receive them. They were garlanded on the platform of the Jaffna railway station and were carried shoulder high.

Commissioner: They celebrated the triumphant return.

Witness:

They were taken to the T.U.L.F. Party Office.

Q: Have you got any further information about this incident in your reports ?

A: I do not have the report now.

(To Commissioner:

Q: Were speeches made on that occasion?

A: Yes.

I do not have that report now. I shall produce it later.

I myself was there. I kept a little distance away. I did not want myself to be observed. There were slogans such as "Long live Casi Anandan. Long live the Tamils" were being shouted.

Q: Why had they been detained?

A: I do not know the original reason.)

Mr. P. Tennekoon, Senior S.C.:

This was in connection with a speech made by Casi Anandan on 25.5.72 no sooner the Constitution of 1972 was inaugurated. He had said that traitors to the Tamils should not die a natural death. This was put to Mr. Amirthalingam and he said that those persons will meet with Divine punishment.

(L. Silva)

(Contd. by Mr. T.P. Fernando from 12.05 p.m.)

2.7.1979

12.05 p.m.

J. D. M. ARIYASINGHE (CONTD.):

TO MR. TENNAKOON, Senior S.C:

Your Honour, even Sathyaseelan mentions certain connections of Casianandan with certain incidents of violence.

Q: According to Sathyaseelan's confession Casianandan had committed certain offences of violence ?

A: Yes.

MR. TENNAKOON, Senior S.C: He is again in custody in connection with an attempt to blow up a bus in Batticaloa.

MR. DEVASAGAYAM: Casianandan was taken into custody for distributing pamphlets.

Q: There were two significant occasions when there was absolutely no violence because the TUF co-operated with the police?

A: Yes.

Q: Nomination for the by-election to KKS constituency on 7.1.1975 was one of the occasions?

A: Yes.

Q: There was an eminent clash between the TUF and the Communist Party supporters?

A: Yes.

Q: TUF leaders fully co-operated with the police and there were no incidents?

A: Yes.

Q: During the by-election campaign from 7.1.1975 to 9.2.1975 there was no violence. There was full co-operation from the TUF to police to maintain law and order ?

A: Yes. I found that it was one of the very peaceful by-elections.

Q: Then again there was a hartal to commemorate the IATR tragedy held on 10.1.1975 ?

A: Yes, Your Honour.

Q: Who were the people who participated in this ?

A: On this occasion a commemoration ceremony was held regarding the deaths at the IATR conference. To start with the TUF leaders and the youths visited Sivakumaran's cremation site at Urumparai and laid wreaths there. Vartharajah, Casianandan, Mr. Amirthalingam and Mrs. Amirthalingam were there. The youths wanted to go in procession on that occasion. I myself was there. As they came from the cemetery to the road I went up and met them. Mr and Mrs. Amirthalingam came and I explained to them that if the march is allowed it would lead to a breach of the peace and that I do not want them to go in procession. Mr. and Mrs. Amirthalingam co-operated with me and helped me to put the youths into vehicles and send them away.

Q: Is it correct to say that on such occasions as were considered explosive police behaved in a way calculated to maintain their good name and at the same time maintained law and order?

A: Yes, Your Honour. In fact, Mr. and Mrs. Amirthalingam came and commended me for the way we handled that situation.

Q: On 15.2.1975 was there an incident where some Sinhala students at Wadukoddai Campus had been assaulted by local residents and there was unrest at the Campus?

A: Yes.

Q: Was it inquired by the police ? - Yes.

Q: What was the outcome?

A: I cannot remember the details. I believe that the police investigations at that time did not reveal any connection with the TUF.

Q: On 8.3.1975 there was the famous annual festival at Kachchativu ?

A: Yes.

Q: Who were the people who visited this festival?

A: Mr. Amirthalingam and Varadarajah visited together.

I myself saw the two of them. I learnt later from the Intelligence reports received from the officers who had been placed there that Janadarani and Manawarthamby of Tamilnadu met them there and had some discussions.

(Mr. Tilagadas continues from 12.15 p.m.)

T.P.Fernando.

2.7.79

12.15 p.m.

J.D.N. ANTONETTI:

ED. BY MR. TENNEKON CONED.

Q: Mr. Amirthalingam is a Hindu?

A: I believe so. He participates in kovil festivals.

Commissioner:

Q: I think this is a Catholic festival? A: Yes.

People go there for various reasons. Some people go to exchange goods with the Indian counterparts.

Mr. Tennekoon: This Church is dedicated to St. Anthony who protects all fishermen.

Mr. Amirthalingam met Janatharan and Manavithamby of the DMK according to the reports sent to me from my intelligence division.

Q: On the 9th of May, 1975 did you have occasion to stop a procession organised by the supporters of Mr. Kumarasuriyar? A: Yes.

Q: They had planned to go to Nallur Kandasamy kovil? A: Yes.

When Mr. Maithripala Senanayake visited Jaffna in connection with a function, Mr. Kumarasuriyar tried to go to the Nallur Kandasamy temple in a procession, and I stopped that procession. In fact some heated words were uttered to me on that occasion, but I stopped that procession.

Q: By May, 1975, to your knowledge, was there any difference of opinion between the youth movement and the TUF leadership?

A: Yes, I may bring to Your Honour's notice that after Sivakumaran's death, for a period the violence was of a very much lesser scale, and there was a sort of lull in the violence in the north. That was up to May, 1975. By about the 10th of May, 1975, we had intelligence reports that the youths were finding fault with the TUF leadership that they were not vigorous enough in their actions. In fact, they were accusing the leaders as treating their campaign to win freedom for the Tamils as a sort of leisure time activities.

They said even action committee was fixed at various places to suit the convenience of the leaders in their Court days, and that they were not vigorous enough. There was lot of pressure on the TUP leaders to make the campaign more vigorous. From the 9th of May up to the 20th of May, the TUP started a vigorous campaign with meetings every day practically. I had also reports from my intelligence officers about a meeting held on the 9th of May, 1975 at the house of Mr. S.J.V. Chelvanayagam, where the Ex-Senator Nadarajah had to face a sort of barrage from the youths about the non vigorous action, and there they had pledged to recruit 500 'Thondar-padai' or volunteers to make the TUP campaign much more vigorous. There was also another incident during this period when certain youths mainly Thanbithurai Muthukumarasamy, Varatharajah and another youth called S. Pusparajah for a Tamil Liberation Front. This was the first occasion we heard that they were starting this as a liberation front. This was also around the 20th of May, 1975. During this period, we again had a resurgence of violence, and practically, everyday something happened. There was this incident on the 9th of May, 1975 where there was a blast at Naga Vihare. Investigations had revealed that a dynamite had been either thrown or kept on the wall of Naga Vihare.

Q: Was the accused traced in that case?

A: Not to my knowledge.

Q: Was there a series of propaganda meetings held by the TUP during this period? A: Yes.

Then there was an incident at H.D. Gurusena & Co., where again a dynamine was lit and left by two youths. They had gone in search of some books, and then the care-taker had noticed them placing something and lighting it. Quickly the care-taker poured water and managed to extinguish before it blasted. He informed the police and the police went to the scene. They found the unexploded ~~the~~ dynamine. They also found a note with words to the effect 'Sinhalese get out'.

Q: When was that?

A: On the 21st of July, 1975.

Q: Was there a meeting of the TUF held at Karainagar on 10.5.75 where speeches were made by TUF leaders?

A: Yes.

Q: Who were the speakers who addressed the meeting?

A: There were a large number of speakers including Kasimannadan and Mr and Mrs. Amirthalingam.

Q: Were there any threats uttered against Inspector Bastiampillai who was investigating into politically motivated crimes at this meeting?

A: Yes.

Q: Who uttered those threats and tell us what happened?

12.25,

P.Thilagadas.

J. D. M. ARIYASINGHE: (Contd.)

To Mrs. P. Tennekoon, Senior S.C.:

Mrs. Amirthalingam had said at that meeting that Inspector Bastiampillai had been torturing the Tamil youths and that he will have to come to Jaffna one day and live there and then he will know how he will be treated.

Q: Did she say, "If Tamil Nadu is achieved, I do not know what would happen to the traitor - referring to Mr. Bastiampillai?"

A: Yes.

Q: Similar threats were uttered against him at other places?

A: Yes.

Q: During this time are you aware that slogans were written on the walls of the A.S.P.'s house at KKS, threatening Mr. Bastiampillai with death?

A: Yes.

Q: He was inquiring into politically motivated crimes?

A: Yes.

There was a large number of Tamil youths who were released and who came to Jaffna. Their leader was Mavai Senathiraja, Rajakulasooriyar Sabaratnam and two other youths arrived and Mr. Chelvanayagam and the T.U.F. leaders were present to welcome them. Garlands were put on them and they were lifted shoulder high and taken to a place where speeches were made and after that they were taken to the T.U.F. Office. Mavai Senathiraja made a speech and he said he had learnt certain revolutionary ideas from the detainees from the South and that he would carry on the struggle. They were released on the undertaking that they would not participate in violence and active politics. He said he was prepared to enter jail. He said he could reorganise the youth activities.

It is significant that it was on 11.5.75. From that time upto July 1975 there were a series of events ending with the assassination of Mr. Doraiappah. They acted in violation of the condition on which they were released. On 18.5.75 there was a case of robbery of a car at VVT by four youths at the point of revolvers. This matter was investigated.

Q: Who were involved in that incident ?

A: The details of this incident would be given by Mr. P.V.W. de Silva, A.S.P., The suspects made certain confessions and we came to know who committed the crime.

Q: What was the motive for this robbery ?

A: They admitted that this was done to find money to bring arms for the liberation fund.

Q: On 19.5.75 there was an attempted robbery of a bank at Tinnevelly by youths who had come in a hijacked car ?

A: Yes. Round about noon - at about 1 p.m. Tinnevelly M.P.C.S. Rural Bank was to be robbed. Some youths had come with revolvers to the bank and had held the Bank Manager to ransom. One key was given to them but the other key had been locked up. The youth had to abandon and go away. This too had been done for political reasons.

Q: On 20.5.75 was there a mass meeting held by the T.U.F. ?

A: Yes.

Q: Do you not have the report regarding this meeting ?

A: I do not have. I shall produce it later.

I myself forwarded that report to the Intelligence Division. That particular meeting was tape-recorded on 20.5.75. This meeting and other meetings were tape recorded and transcriptions were obtained and the report was prepared the same night and it was despatched to the D.I.G. because they were planning to have

a mass meeting on 22.5.75. Over that the Government was interested.

(L. Silva)

(Contd. by Mr. T.P.Fernando from 12.35 p.m.)

2.7.1979

12.35 p.m.

J. D. M. ARIYASINGHE (CONTD.):

TO MR. TENNAKOON, Senior S.C:

Q: What was the significance of the speeches made on that occasion which you yourself had heard if you were present there ?

A: Your Honour, on that occasion there were references made by both Mr. Amirthalingam and Mr. Sivasithamparam to the freedom struggles of Vietnam. There was also a reference to the Hon. Prime Minister making some reference in Jamaica as to what is wrong in the black people rising up when they are oppressed, and said that if the P.M. could make that to the people of Jamaica the Jaffna people have a greater right in their struggle to take up arms.

COMMISSIONER: Q: Who made this reference to violence?

A: Both by Mr. Amirthalingam and Mr. Sivasithamparam. They uttered that among other things.

Q: You can remember that during this period the youths who had been released from detention formed what they called the Tamil Liberation Front which was formed by T.Muthukumarasamy, A.Varatharajah and others?

A: Yes.

Q: Who is this gentleman Thambidorai Muthukumaraswamy?

A: He is a son of the retired D.J. Mr. Thambidorai.

COMMISSIONER: Q: What was he ?

A: He was in the Youth League which was bent on violence. T.Muthukumaraswamy did not speak anything in public.

Q: Was there a hartal coupled with civil disobedience organised by the TUF for the Republic Day on 22.5.75?

A: Yes.

Q: What happened to that ?

A: There we had intelligence reports and we were prepared in anticipation. I sent out a circular to the O.I.CC based on intelligence reports. (Witness reads the report). On a number of occasions when there were hartals some of the youths used to put cycle chains to electric wires so that there would be a short circuit and thereby electricity failures. I produce the circular I sent marked A.420.

Q: English and Tamil letters remained while the Sinhala letters were defaced in name boards?

A: Yes.

On that occasion we had a heavy deployment of police. We had to bring down 7 senior Inspectors, 15 S.II, 59 sergeants and police drivers to tackle this situation. The general comments I have made at the conclusion of my orders to the police give an indication of the attitude of the police. I had the full blessings of Mr. Ana Seneviratne the D.I.G. at that time for these orders.

(Mr. Tilagadas continues from 12.45 p.m.)

T.P.Fernando.

2.7.79

J.D.H. ARTHASINGHE:

ED. BY MR. JENNICKOON CONTD.

It reads 'Police officers on duty must remember that the objectives of those calling up a hartal on the 21st and the 22nd are to have a confrontation with the police and invite police violence in order to make it an issue to focus public opinion here and abroad to arouse the public against the police and the State... (reads) This was always the line that we tried to apply on the previous occasions.

Q: These guidelines which have been set by you with the full concurrence of your DIG have been followed right throughout in Jaffna even after you? A: Yes, during my stay there, there had been a large number of demonstrations, and a large number of marches and processions.

Q: All against the law?

A: Yes, protests of various kinds, including demonstrations against the youths being held in custody.

Q: On all those occasions, a large number of people were present?

A: Yes. A large number of police officers were deployed, but there were hardly any incidents of clashes between the police and the public. There were no incidents of clash during my time except for the IATR conference. There were one or two very minor incidents where some individual police officers were involved, and on those occasions, I acted promptly. Immediately I made inquiries, and I either interdicted them or transferred them.

Q: Nevertheless, were there sufficient acts and by words which would have provoked any ordinary reasonable man?

A: In fact on the 22nd of May, 1975 we had information at about 2.30 p.m. that the TUP was taking a procession from the TUP office and marching disregarding the police banning the meeting. During this period, in view of the emergency, all processions were banned.

The TUF decided to carry out the procession as a civil-disobedient act. We had information, and we were ready for that. They started the march. They took a few steps from their office. The police who were stationed at static points moved in and blocked the march. Then the people who went in the procession squatted on the road. This was the main Kandy-Jaffna road, the road opposite the TUF office. Then they started to make speeches while the others were squatting on the road. Police made arrangements for the vehicles to use the other parallel road. We allowed the meeting. We thought if we tried to intervene, it would have caused a greater breach of peace and caused unnecessary violence. In the course of that meeting, they referred to the police as dogs.

Commissioner:

Q: Were you there?

A: Yes. The DIG Mr. Seneviratne was there.

In fact, in my presence, I saw some youths throwing slippers and pebbles at some police officers, but the police patiently waited without any retaliation. Insults were hurled at them, but they kept quiet.

Q: Was it common on those occasions for the TUF leaders and others to characterise the police as an army of occupation sent by the Sinhala Government?

A: Yes.

During my stay there, law abiding citizens did come to the police station to make complaints - We had a large number of complaints recorded in our registers on various matters like family disputes and so forth. About 3,000 to 5,000 complaints had been recorded by the Jaffna police, and even in the other stations, about 2,000 to 3,000 had been recorded, and the police looked into those complaints, however trivial they may be, and meted out justice.

Q: There was nothing to prevent a person from coming to the police station and making a complaint, and ultimately to receive justice?

A: No.

My office was situated just by the side of the road, and it was open to anybody to walk in and make a complaint. In fact, people regularly called over and made complaints. I had some problem with two lunatics who regularly started to come there. They also made complaints.

Q: Was it open similarly to anyone to go to the police station and make complaints? A: Yes.

Commissioner:

Q: Your office was in the same building? A: Yes.

Subsequently a new office was opened and my office was shifted.

Q: Where was your office?

A: Right in front of the police station. That was the old building. Now I think it is used as barracks.

Q: During that period, were there any complaints made against police officers of harassment and preventing the people from making their complaints at the police station and of torture?

A: No, except for a very trivial incidents where we have dealt with.

Commissioner:

Who said about torture?

Mr. Tennekoon: Their complaint is that the police had tortured Tamil people.

Commissioner: I think they said people who had been detained had been tortured.

Mr. Devasagayam: This is the only witness who has said that there was cordiality between the police and the public during that time.

12.55 p.m.

P. Thilagadas.

J. D. M. ARIYASINGHE: (Contd.)

To Mr. P. Tennekoon, Senior S.C.:

Commissioner: Are you saying there was torture even
in Jaffna ?

Mr. Devasagayam: Yes.

Witness:

The Special Unit of the C.I.D. that was working, also worked partly under me. When they came to Jaffna they were under me and I provided them the facilities. For considerable periods of time they worked in Jaffna. They were provided with facilities in Kings House, Jaffna and the house adjoining my office was given to them to keep the detenues. In the Jaffna police station the cells were limited and I did not want over-crowding. I made arrangements for S.II and I.PP quarters to be made available to detain the suspects. They were in the premises right opposite my house. I visited the prisoners on many an occasion in 1973 and 1975. No complaints were made to me. I was S.P. Jaffna. No complaints were made by the suspects, their relations or anyone else of torture. The one complaint was by P. Font Galan who complained that when he came to give some meals to the detenues who were in the Fort. He had had an argument with Insp. Bastiampillai who was in charge of the detenues. His complaint was that Insp. Bastiampillai slapped him. On that complaint I asked A.S.P. Mr. Quintus Jayasinghe to hold an inquiry. Whilst the inquiry was going on Font Galan filed a private plaint and the police inquiry was laid by. That was the only complaint made to me and that was in regard to a detinue. If there was evidence before me that warranted the interdiction of any officer I would have done it. I might mention that two other

incidents had come to my notice some other way. I learnt from the Director, C.I.D. and I saw it in the papers, about some utterances in Parliament that Mavai Senathiraja was slapped by Insp. Bastiampillai when he wrote something on the desk. The Director C.I.D. had directed inquiry and an A.S.P. was detailed to carry out the investigations. The allegation was not substantiated. I had no personal knowledge of that. With regard to the private case filed by Font Galan against Mr. Bastiampillai, he was acquitted. Several references have been made to police atrocities, but these are the only incidents that came to my notice. One Poopathi was alleged to have been assaulted at the 4th Floor Colombo. It is significant that none of them was injured and was hospitalised.

Mr. Devasagayam: Is the witness taking up the position that because the person was not injured he was not tortured. During the Insurgency time there were complaints of police atrocities against the insurgents.

Witness:

I remember of an instance in Kayts where a Sgt - a very efficient Sgt, Sgt. Subramaniam, who was implicated over the death of a suspect in a burglary case. I personally directed inquiry and investigations were made and the Sgt. was interdicted and a Court case was filed against him. It was ruled that police were not responsible or to be blamed for that death. Police inquiries went on and the Sgt. was reinstated. That suspect was 40 years old. Kankasanturai Police arrested one Yogaraja who came by his death while in police custody. I received information of that and I directed investigations and a Sgt. and a P.C. were interdicted and they were prosecuted in Court. There too the post mortem revealed that it was not a case of direct murder.

There was evidence of causing hurt and I am not quite sure whether they were convicted. I left Jaffna before that case was concluded.

Mr. Devasagayam: I must thank the witness for coming out with at least some of the actions of the police.

Witness:

I am frank about what has happened. This is common in Jaffna. If detainees were tortured and complaints were made to me, I would have investigated and even if the offender was my best investigator, I would not have hesitated to interdict him and take action against him.

(L. Silva)

(Contd. by Mr. T.P.Fernando from 1.05 p.m.)

2.7.1979

1.05 p.m.

J. D. M. ARIYASINGHE (CONTD.):

TO MR. TENNAKOON, Senior S.C:

Q: During your period there were no cases of torture on the detainees taken under Emergency regulations?

A: Yes, Your Honour.

Q: Then we come to the first anniversary of Sivakumaran's death that was on 5.6.1975. Do you remember what happened on that occasion?

A: Another commemoration meeting was held as usually attended by TUF leaders and the statue which was erected in memory of Sivakumaran was declared open.

COMMISSIONER: Where was it erected.

MR. TENNAKOON, Senior S.C: At Urumparai.

Witness (Contd.)

Wreathes were placed there and speeches were made.

There was a boycott of schools by school children.

COMMISSIONER: They were brought there.

MR. TENNAKOON: Yes.

Q: You have already spoken to the explosion of the dynamites in Naga Viharaya premises?

A: Yes.

Q: On 16.6.1975 there was the hijacking of a car at revolver point at Velvettithurai and a highway robbery of Rs.35,000/- belonging to Alaveddy M.P.C.S?

A: Yes.

Q: Have they in their confessions stated that they did that to collect money for the liberation of Tamils?

A: Yes.

Q: Is it correct to say that two suspects were arrested?

A: Yes.

The two suspects were Thanabalasingham alias Chetty and S.Ratnakumar who have escaped from Anuradhapura Prison on 21.5.1974. We had information of these activities before the Duraiappah murder. I had the occasion to prepare a report based on Intelligence reports we had, on 20.6.75 which I produce marked A.421. This is the report prepared by me based on data obtained from Intelligence sources.

Q: To whom is this report addressed?

A: To D.I.G. Northern Range with a copy to Director, CID, Secretary, Defence and Foreign Affairs.

(Witness reads report marked A.421). I tried to get the letter mentioned here which I handed over to Inspector Bastianpillai at that time, but I could not get at it.

(Mr. Tilagadas continues from 1.15 p.m.)

T.P.Fernando.

2.7.79

1.15 p.m.

J.D.M. ARITYASINGHE:

KD. BY MR. PENEKUN CONTD.

There is a reference to some of the measures which we propose to take to counter this - I like to black-out that part.

Commissioner: Yes.

This report was sent to Mr. S.A. Disanayake, Addl. Secretary to the Defence, and in fact he has acknowledged this.

Q: On 18.6.75 was there a case of a lighted dynamite being thrown at the Chankanai police station?

A: Yes. There was a fairly big damage to the wall, the roof and some items in the barracks.

Q: Was that matter investigated?

A: Yes, but we could not get any evidence as to the suspects.

In fact I will not accept that it was the youths who had done it because there was no information.

Q: On 6.7.75 was there a case against some suspect for escaping from the Anuradhapura prison?

A: No, on 6.7.75 two suspects^{who} escaped from the Anuradhapura prison were re-arrested. On information, police arrested them. When they were arrested, Thanabalasingam, one of the suspects, was in possession of a revolver which was loaded. When the police officer arrested him, he tried to shot him with the revolver, but one of the police officers hit the revolver with the buttend of the gun, and the revolver fell on the ground. Even this suspect, though he was arrested by the police, there was no injury on him. He was never in hospital.

On 21.7.75 there was a robbery of a car by three armed youths at Senthankulam. They had hired a car at Seanthankulam in the Chavakachcheri police area. At Seanthankulam they had over-powered the driver; they had administered some drug on him and put him down between the two seats and proceeded to Point Pedro, and on the way there had been a puncture of the tyre, and they abandoned the car and their attempt. Subsequent investigations led to the arrest of two of the suspects. Confessions were made by them, and they admitted that this robbery was done in order to rob the IPCS at Point Pedro, and the funds were to be used to buy arms to kill Mr. Duriappah. The four persons who had committed this robbery, according to the two suspects, were the same suspects who went to shoot Alfred Duriappah.

Commissioner:

Q: Were they charged?

A: I don't know. This happened shortly after I left Jaffna.

Q: On the 27th of July, 1975 there was the theft of three guns at Paladi? A: Yes, to my knowledge, the suspects were not apprehended.

Q: The next incident was the shooting of Mr. Alfred Duriappah, the Mayor and the SLFP organiser of Jaffna, by four youths on the 27th of July, 1975? A: Yes.

1.25 p.m.

P. Thilagadas.

2. 7. 79

- 13461 -

1.25 p.m.

J. D. M. ARIYASINGHE: (Contd.)

To Mr. P. Tennekoon, Senior S.C.:

Q: Who were those four suspects who were arrested in this case ?

A: Two suspects out of the persons who went for the shooting were arrested - Kalapathy and Kirupakaran. Two other suspects are evading arrest still.

Q: Who are they who are evading arrest ?

A: Velupulle Prabakaran and Subramaniam Sathkulan.

Velupulle is known as Mallie and is the son of a Land Development Officer. At that time he was serving as the Land Development Officer in the Vavuniya Kachcheri. There were two others who stood trial for conspiracy. They are Siridaran, Ibbakumar and Anandan.

(L. Silva)

At this stage Commission adjourns for the day. Further hearing on 3. 7. 79 at 9 a.m.

262nd DAYINQUIRY RESUMED

Same appearances as on last date

J. D. M. ARIYASINGHE: (Recalled) Affirmed:

To Mr. P. Tennekoon, Senior S.C.:

Q: Yesterday I had come to the topic of Mr. Alfred Doraiappah's murder which was committed when you were in Jaffna as S.P. ?

A: Yes.

Q: You mentioned in evidence the names of the persons who had been arrested in connection with the murder of Mr. Alfred Doraiappah ?

A: Yes.

Q: Did you have reason to suspect Kandeepan as one of those involved in the murder of Mr. Doraiappah ?

A: His name transpired in the inquiries into Mr. Doraiappah's murder. The information given by one of the suspects was that just prior to Mr. Doraiappah's murder, certain suspects, including one of those who went for the shooting of Mr. Doraiappah, namely Kirupakaran, Siridaran, Mathimukaraja and some others had a discussion. This discussion was held at the R.C. Church at Moolali. They conspired to murder Mr. Doraiappah. During this discussion the question arose as to where Mr. Doraiappah should be killed. Kirupakaran was of the opinion that he should be killed in the Ponnalai Kovil where the actual murder took place.

Q: Mr. Doraiappah was in the habit of worshipping at that Kovil ?

A: Yes. As he was going into the Kovil he had been shot at.

He comes every Sunday at noon, before the Poojas and participate at those Poojas. The assassins had been watching this. Kiriupakaran said that on two occasions he watched Doraiappah coming there. At that Discussion Kiriupakaran had said the murder should be done there. Kandeepan had said it should not be done there he would be suspected as it is the Kovil which he goes to and it was close to his house. He had said that the murder should be at St. Anthony's Church, Manipay, where Mr. Doraiappah used to go and worship on Tuesdays. Some of the suspects had even gone to that church and watched his movements. Over this there was an argument and Kandeepan and Kirupakaran had come to blows and this had been witnessed by Mathimukaraja and he had fainted. This is the evidence we have had. We have nothing about the actual murder at the Kovil. The conspiracy and murder had been done in this manner.

Q: Even prior to the murder of Mr. Doraiannah was Kandeepan wanted by the police for questioning regard a revolver ?

A: There was information received by one of the officers which information was pursued and a revolver was recovered at Grandpass from one Dharmalingam, a boutique keeper who was under obligation to and close to Mr. Amirthalingam, Dharmalingam had purchased this revolver from one Tudor of Grandpass. This was revealed at the investigations by the C.I.D. The moment the revolver was recovered, search was made for Kandeepan and he was missing. This happened in about June 1973. Police inquiries revealed that he had gone out of the Island on a passport obtained from Sri Lanka to India, valid from 1973 to 1974.

Q: Are you aware that his passport was not extended by Sri Lanka ?

A: When inquiries were made it was revealed he had not renewed it. There was information from the suspects that Kandeepan had come to Sri Lanka round about June 1975 and he had not come through one of the authorised Ports in the authorised manner. In fact Mr. Amirthalingam admitted that Kandeepan was in the Island during the time his mother died.

Q: In June 1975 Mr. Amirthalingam admitted that long after the expiry of his passport, Kandeepan was in the Island ?

A: Yes.

Q: Was the fact that Kandeepan was wanted by the police, known to Mr. Amirthalingam ?

A: Mr. Bastiampillai told me that he went to Mr. Amirthalingam's house to search for Kandeepan.

Q: Mr. Amirthalingam, at no stage as a Law abiding citizen, choose to surrender his son to the police when he knew he was wanted by them ?

A: Yes.

Q: Did you at any time have occasion to question Sellva Kumar as one of the youths in the movement - about the T.U.L.F. ?

A: Yes.

Q: In what connection did you question him ?

A: I questioned him with regard to two incidents - one was about the preparations to rob an old lady at Urally. The information the police had was that they were planning to rob this lady to find money to buy arms. They had also planned to rob the Co-op Stores at Coolavady.

(L. Silva)

(Contd. by Mr. T.P.Fernando from 9.10 a.m.)

3.7.1979

9.10 a.m.

J. D. M. ARIYASINGHE (CONTD.):

TO MR. TENNAKoon, Senior S.C:

Q: Did Selvakumar on this occasion hand over to you in the course of questioning a list of names of youths involved in this movement?

A: I am surprised by the question, because normally we do not reveal what transpires in confidence. I do not know how this information got out.

Q: From the investigations made by the CID I learnt that a list had been handed over by this particular suspect?

A: A list came to me. A copy of the list was sent by me to the Intelligence services division. I may be able to find the original. I would rather have it confidentially placed before the Commission.

Q: Was Selvakumar, to your knowledge, questioned in regard to the murder of Alfred Duraiappah?

A: Yes.

Q: Are you aware that during your period of office in Jaffna a meeting organised by the UNP where Mr. J.R. Jayawardena was to address the crowds was disrupted by the youths in Jaffna?

A: There was an incident where the meeting was disrupted. Confidential inquiries made by me revealed that the stage at which the disruption took place was when Hon. J.R. Jayawardena was questioned with regard to the march in 1956 to Kandy and also when he was questioned about the time of the Chelvanayakam - Bandaranaike Pact. The information we had was that certain questions were raised by Thambidorai Muthukumaraswamy.

Q: Who is Thambidorai Muthucomeraswami?

A: He is the son of the retired District Judge Thambidorai.

Q: Are you aware of Mr. Thambidorai's involvements with politics?

A: He is one of the inner council members of the TULF.

Q: Yesterday you promised to bring certain reports which you did not have when I questioned you. I believe that you have those reports now ?

A: Yes.

This is the report in connection with the meeting held on 20.5.1975 at the Jaffna Esplanade organised by the TUF.

I produce this marked A.422. This meeting was tape-recorded by the police. On the same night the transcription was done and it was forwarded under the same date to the D.I.G. Mr. Ana Seneviratne. It was forwarded to him that night itself.

Q: Would you kindly read this report ?

A: I have blacked out the name of the Intelligence officer who did the tape-recording.

(Witness reads A.422) This meeting was held also as a part of a reception to Casi Anandan, but he was not present as he had been arrested by that time.

Q: The last speech was the speech made by Mr. Amirthalingam?

A: Yes.

Q: In that speech he clearly states that the struggle they are going to carry out would be similar to the struggles carried in Vietnam and Cambodia ?

A: Yes.

Q: What was the nature of the struggles in Vietnam and Cambodia. Were they non-violent struggles or armed struggles?

A: From what I have read about them they were armed struggles.

Q: Costing thousands of lives? - Yes.

Q: You produce Mr. Amirthalingam's speech marked A.422(a)?

A: Yes, Your Honour.

Q: He also refers in this to the incident which took place at the IATR conference in 1974?

A: Yes.

Q: And says that 10 people were shot and killed ? - Yes.

Q: Was a single shot fired? - No.

Q: Was there a single case of death as a result of gunshot injury?

A: No.

Q: It is a deliberate and diabolical distortion of facts?

A: Yes.

Q: In fact you read out a speech made by Mavai Senathirajah ?

A: Yes.

Q: There he indicates in no uncertain terms the use of violence as an alternative to ahimsa?

A: Yes.

Q: Did any speaker or for that matter any one who was on the platform get up and try to prevent that kind of speech ?

A: No, Your Honour. I was personally present at this meeting.

Q: You produce Mavai Senathirajah's speech marked A.422(b)?

A: Yes.

(Mr. Tilagadas continues from 9.50 a.m.)

T.P.Fernando.

3.7.79

9.50 a.m.

J.D.N. ARIVASINGHE:

AD. BY MR. MENNEKON CONTD.

Q: You also here have recorded a speech made by the editor of the 'Suthanthiran', Kovai Maheswaran? A: Yes.

Q: Mr. Amirthalingam has claimed before this Commission that he has nothing to do with this 'Suthanthiran'?

A: I have seen Kovai Maheswaran attending a number of TUP meetings.

Mr. Mennekoon: Mr. Sivasubramaniam tells me that he is still the editor of the 'Suthanthiran'.

Q: This meeting was held on the 20th of May, 1975? A: Yes.

Q: You also have with you a confidential report sent by the intelligence division of the police service on the 5th of January, 1975 containing what happened at a reception accorded to Kasi Anandan who had arrived in Jaffna on 3.1.75 after his release from detention, which report you produce marked A423?

A: Yes.

Q: Could you kindly read this? A: (A423 read by witness)

Balaratnam has been one of those arrested in consequence of a statement made by Sathiyaseelan. Ganasekeram is concerned with the transport of detonators from India.

Q: There was also a commemoration meeting held on 10th January, 1975? A: Yes.

Q: That was to commemorate the incident of 10th January, 1974 at Verasingam Hall? A: Yes.

10 a.m.

P. Thilagadas.

J. D. M. ARIYASINGHE: (Contd.)

To Mr. P. Tennekoon, Senior S.C.:

A report was prepared by the Intelligence Services Division and a copy of that report was forwarded to me. I produce that marked A.424.

Q: At this meeting too, statements similar to the ones contained in A.423 were made ?

A: I do not say they are similar. There was reference to the I.I.T.R deaths, which reference is not true.

Q: They have said the police shot and killed 10 persons ?

A: Yes.

I did not forward this report A.424. It was prepared by the Intelligence Services Division.

Q: A.423 contains speeches that were tape recorded and later transcribed and translated the same night ?

A: Yes.

Q: That document A.423 refers to Tamil organisations in foreign countries working for Tamil Eelam ?

A: Yes. There is reference in A.422.

Mr. P. Tennekoon, Senior S.C.: There are a large number of reports, but I have got the witness to read only two of them to the Commission.

Q: You spoke about a meeting of Mr. J.R. Jayawardene which was wrecked ?

A: Yes.

Q: Is it correct to say that Mr. J.R. Jayawardene had to be escorted by police ?

A: Yes.

Q: Considering the totality of the evidence led before this Commission, who is responsible for the terrorist activities in the North - which Political Party ?

(Question is withdrawn)

Mr. Karunaratne:

As Your Honour indicated to me to point out the type of questions I put to Mr. Amirthalingam regarding certain activities of his son Kandeepan and Sivakumaran, might I point out to the submissions at page 11476 of the proceedings of 3.5.79. I said,

"I feel as far as my cross-examination is concerned.....

..... to refute these charges through this Commission. (Reads from page 11476 of the proceedings).

At page 11570 it is stated:

"Q: Is it your position that the T.U.L.F disassociate....

..... ?

A:

(Reads from page 11570)

At page 11574 it is stated:

"Q: Do you know that Mr. Doraiappah was killed ?

A:

(Reads from page 11574)

(L. Silva)

(Contd. by Mr. T.P.Fernando from 10.10 a.m.)

3.7.1979

10.10 a.m.

J. D. M. ARIYASINGHE (CONTD.):

MR. KARUNARATNE: (Reads from evidence) These are some of the questions I put to Mr. Amirthalingam.

TO MR. KARUNARATNE:

Q: You are aware that a police officer by the name of Gurusamy was shot dead in Jaffna day before yesterday?

A: Yes. I learnt.

Q: You are also aware that this gentleman gave evidence before this Commission?

A: Yes. So I learnt.

Q: Are you aware that an allegation has been made that a false wireless message was sent from Jaffna ?

MR. TENNAKOON, Senior S.C: It is true that the message was false. It is an admitted fact.

Q: You are aware that a false message was sent from Jaffna police station to Headquarters in Colombo ?

A: So I heard.

Q: Some type of evidence was led against the senior police officers of Jaffna regarding this matter ?

A: Yes.

Q: Mr. Gurusamy was the person who contradicted the position taken up by the lawyers appearing for the TRRO ?

A: I learnt that he has contradicted that. I was not personally present.

Q: Yesterday in your evidence you said that there was a protest meeting held on the public thoroughfare on the Republic Day in 1975?

A: Yes.

Q: That was an unlawful meeting ? - Yes.

Q: Slippers were thrown at the police officers who were on duty ?

A: Yes.

Q: What did you or your officers do?

A: I instructed the officers to be calm. I was present and the D.I.G. Mr. Ana Seneviratne was also present.

Q: You did not use a reasonable amount of force to disperse the crowd?

A: No, your Honour. In fact, I asked my officers not to even to arrest.

Q: Are you aware that during the time of Mrs. Bandaranaike in 1961 there were similar unlawful events at the Kachcheri premises when people were seated here and there and started a fast ?

A: I have heard of that.

Q: Do you know that Major General Richard Udugama dispersed that crowd with a armed force?

A: I am not quite sure of that.

Q: Do you know that from 1970s, during your tenure of office as S.P. Jaffna that the political organisation called the TUF or the TULF formed themselves into a law breaking group?

A: There were instances where they openly violated the law.

Q: There were series of instances when the law had been violated?

A: Yes.

Q: And you were entrusted with the enforcement of law ?

A: Yes.

Q: Naturally you and your officers would have had confrontations with the law breakers?

A: We were faced with the task of enforcing the law.

Q: There was a time when some sort of civil disobedience took place at Court premises and courts had to adjourn?

A: Yes.

Q: You were the S.P. at that time ? - Yes.

Q: What did you do ?

A: My personal opinion was that during a demonstration of that nature if we try to use force and disperse the crowds the incidents escalate and would lead to a greater breach of the peace. The particular offence committed was so trivial when compared to a greater breach of the peace which would result by trying to suppress it.

Q: On various occasions you have been negotiating with the law breaking authorities to come to peace?

A: At various instances I had dialogues with TUF leaders particularly with Mr. Kadiravelupillai, Mr. Navaratnam, and Mr. Sivasithamparam as they were the people who were mostly involved. I had dialogues with Mr. Amirthalingam also and even with the youth leaders.

(Mt. Tilagadas continues from 10.20 a.m.)

T.P.Fernando.

3.7.79

10.20 a.m.

J.D.H. AMIYASINGHE:

QD. BY MR. SUREEKUN CONTD.

QD. BY MR. KIMCY KARUNARATNE:

Q: Did this compromise pay any dividends?

A: On certain occasions it did, but not always. Particularly during the KKS by-election, we were successful in having a good dialogue and it paid dividends.

Q: Do you know that during your tenure of office as S.P. that the youth movement grew to dangerous proportions?

A: It was coming up: the numbers were increasing.

Q: You had the emergency powers as SP to enforce your authority against certain acts, and those acts have been prescribed by the emergency regulations. Did you use your powers to suppress the uprising of the unlawful politically motivated elements in the North?

A: I concentrated my efforts in maintaining peace, but I promptly took action on those acts which were likely to break into violence. On trivial incidents, I instructed my officers not to take action.

Q: You have submitted your reports to the Permanent Secretary, Defence and External Affairs at that time?

A: In fact, I had a conference with my DIG as well as the IGP and the Secretary of Defence. It was customary for us to consult our superiors before we went into action on matters which are likely to have political repercussions.

Q: Don't you think that because of this compromising attitude, you could not suppress the youths with the powers you had under the emergency regulations?

A: In fact, I believe the instructions that came down the line apparently had the blessing of the Government. We place every information before the Security Council, and the decisions were taken by the Security Council and passed on to us.

Q: You have already accepted this position that there was this politically motivated militant youth movement from the early 70s?

A: Yes. Even at the time I went to Jaffna, there have been a series of incidents, as we have seen from 1970 onwards, which escalated after May 22nd of 1972, and during the period, 22nd of May, 1972 to December, 1972, there had been a series of incidents where violence had been unleashed, where hand bombs had been used, and the youth movement was found to have been responsible for that.

Q: And your successor Mr. Seneviratne had to inherit the legacy of a growing youth movement? At that time he was devoid of emergency powers also?

A: I believe during a part of his period, he had emergency regulations.

Mr. Tennekoon: The emergency regulations were in force until 17th February, 1977, but the youths had been released before that.

Q: You have already stated in your evidence that the speeches of the political leaders were of a violent nature?

A: In some of the meetings, they have made violent speeches.

Q: If Mr. Anirthalingam has come before this Commission and said that his speeches were non-violent, would that be correct?

A: It is incorrect particularly in the light of the May 20th, 1975 meeting.

Mr. Shanmugalingam: That report was not put in and he was not asked for his explanation. Further, we don't know whether the reporting is correct.

Mr. Tennakoon: But the basic positions were put to him.

Witness: In fact I was present on that occasion.

Mr. Ravindran: Mr. Amirthalingam gave an explanation, Sir.

He said that was in reference to a case in the Mullaitivu Court where a case was filed over the shooting of a dog.

Mr. Tennakoon: He was very good at explanations, but that was also mentioned as having spoken by others.

Commissioner:

Q: You are referring to what date?

A: The meeting was held at the esplanade and the proceedings of that meeting were tape recorded, Sir.

Q: That was shortly before the Republic Day?

A: Yes, two days before that.

Commissioner: There were some exceptions there. They were not in line with the non-violent movement.

Mr. Shanmugalingam: A number of police reports were put to him, but this report was not put to him.

Commissioner: Speeches that were recorded by policemen were put to him. I don't know whether at that time this report was available.

Mr. Tennakoon: I did not have it, Sir.

ED. Contd.

Q: Mr. Duriappah was also killed during your time, and that was a political murder? A: Yes.

Q: Were you in charge of the investigations of the Duriappah murder case?

A: I directed the inquiries. I had a team of officers who worked in these investigations.

10.30 a.m.

P. Chilagadas.

J. D. M. ARIYASINGHE: (Contd.)

Q: Were you able to arrest any people ?

A: Yes.

Q: About how many were arrested ?

A: Two of the suspects who went for the shooting - Palapathy and Kirupakaran were arrested.

Mr. Shanmugalingam: We are leading evidence on cases where the accused were acquitted.

Commissioner: We cannot go behind the acquittal. Were there no Court cases you could rely on confessions.

Witness: A number of police officers who inquired into these cases were killed. Their oral evidence could not be placed before Court.

Commissioner: We cannot now show that the persons who were acquitted of those charges confessed in order to show that they were guilty. We are bound by the verdict as far as those were concerned. Regarding others who were not tried, you can rely on the confessions.

Witness: The statements of those persons who have not been tried are with us.

Commissioner: You can use those statements to contradict the others.

Mr. Shanmugalingam: About 25 to 35 had specifically confessed with regard to the murders. This witness was directing investigations. Those confessions were made to the police.

Witness: The main file has been misplaced by Inspector Bastiampillai. I have the sub-files.

Palapathy and Kirupakaran confessed with regard to the murders. There was one Inbam who confessed that he with Kandeepan and Kirupakaran made preparations to kill Mr. Doraiappah at St. Anthony's Church. There were Satyaseelan, Anandakumar and Selvakumar who confessed that they were conspiring to kill Mr. Doraiappah at St. Anthony's Church. They discussed with regard to the robbery of the lady. There were suspects who said that it was their duty to kill Mr. Doraiappah.

Mr. Shanmugalingam: Learned State Counsel has referred to one case as still pending. That is the case regarding Mr. Chandrasekera.

Mr. P. Tennekoon, Senior S.C.: We do not know what the position of this pending case is. If Sivakumaran was accused in that case, that would be the end of the case.

Mr. Shanmugalingam: Confessions in pending cases would not be admissible.

To Mr. Karunaratne:

Q: You gave evidence in Mr. Doraiappah's case ?

A: Yes.

Q: You referred to the arrangements made with regard to the murder of Mr. Doraiappah - the first place it was decided to kill him was at the Kovil and the second place was at St. Anthony's Church ?

A: Yes.

Q: Parties were charged for murder at the Kovil ?

A: Yes.

Q: They were not charged for conspiracy to kill him at the Church ?

A: Yes.

Q: Did you refer those files to the Attorney-General's Dept. ?

A: Yes.

Q: There was Mr. J.R.Jayawardene's meeting for which you gave permission ?

A: Yes.

Q: That meeting was disrupted by unruly elements ?

A: Yes.

Q: You also referred to the fact that Mr. Thambidorai's son also asked questions from Mr. J.R.Jayawardene ?

A: Yes.

Q: Was an unlawful assembly was caused by those who were against Mr. J.R.Jayawardene ?

A: Yes.

Q: Did you inquire about that matter ?

A: Yes.

Q: Did you set the law in motion by prosecuting the offenders ?

A: I went and met Mr. J.R.Jayawardene and he expressed the desire not to have this matter pursued. I got confidential inquiries made into this matter and I got a report on the confidential inquiries made.

Q: That was a criminal offence - breaking the law ?

A: Yes.

(L. Silva)

(Contd. by Mr. T.P.Fernando from 10.40 a.m.)

3.7.1979

10.40 a.m.

J. D. M. ARIYASINGHE (CONTD.):

TO MR. KARUNARATNE:

Though we made inquiries we could not get evidence on which we could take the matter to Courts.

Q: Did you investigate further into the matter?

A: Your Honour, I had delegated my A.S.P. to inquire into it. I do not know what investigations he had gone. I must check on that.

Q: What are the inquiries made regarding the conduct of Kandeepan. You have already mentioned that it was alleged that he had an unlicensed revolver?

A: Yes. Even in respect of the unlicensed revolver, I must say, that I did not fully followed it up. The matter was left to the team of C.I.D. officers who were investigating.

Q: For certain offences he was alleged to have done did you make inquiries to find out where he was?

A: I know that the team of C.I.D. officers had visited Mr. Amirthalingam's place and made inquiries about his son.

Q: You did not question Mr. or Mrs. Amirthalingam?

A: As far as I was concerned this was a very trivial matter. There were so many instances of this nature. This has assumed importance much later. At that point of time it was not considered as very important.

Q: Regarding the death of Mr. Doraiappah did you make inquiries from Mr. and Mrs. Amirthalingam?

A: Yes.

Q: That was not a trivial crime ? - Yes.

Q: Did Mr. and Mrs. Amirthalingam co-operate with you ?

A: They readily came to King's House for questioning and they made statements.

Q: That was conducted by the special team of investigators?

A: Yes.

Q: What do you know of Mr. Thambidorai, the retired D.J?

A: Do you know that he distributed pamphlets against the government?

A: I may not be able to say the exact date. Certainly, I am aware that he distributed pamphlets on several occasions.

Q: So, you would say that the father and the son were both in the movement?

A: I do not know whether the father was in the same movement, the liberation movement where the son was. I know that the father is an active member of the TUF.

COMMISSIONER: Q: The most you can allege against him is that he distributed pamphlets?

A: Yes, Your Honour.

Q: I think, you have already stated that in September, 1973 Siva Kumaran obstructed a police reservist?

A: Yes.

Q: That means he assaulted a public officer? - Yes.

Q: He was evading arrest and a warrant was issued ?

A: At the time of the obstruction he was arrested. Once the case was taken to Courts he was evading.

COMMISSIONER: Q: That is Nallur Temple case?

A: Yes, Your Honour.

Q: He was not acquitted of the offence with which he was charged?

A: I learnt that the case was pending at the time of his death. It was lettered C5.

Q: Siva Kumaran was evading arrest in the case of pointing a revolver at Mr. Chandrasekera and an open warrant was issued against him?

A: Yes. A reward notice was also published in the Police Gazette.

Q: He was arrested in that abortive attempt to rob a bank subsequently?

A: Yes, Your Honour.

Q: Who were the people who arrested him?

A: S.I. Wijesundera and a party of police officers.

Q: Did he encounter any difficulty in arresting him? - Yes.

Q: There was a very large meeting to honour Siva Kumaran?

A: Yes.

Q: You mentioned about a pledge taken by some youths at that meeting ?

A: Yes.

Q: What was the pledge?

A: In the name of Siva Kumaran, in the name of his soul and body they undertook to continue the struggle.

(Mr. Tilagadas continues from 10.50 a.m.)

T.P.Fernando.

3.7.79

10.50 a.m.

J.D.M.ARIYASINGHE:

A.D. BY MR.KARUNARATHNE CONT'D.

Q: And subsequently money was collected to erect a statue? A: Yes.

Q: I am now coming back to the 1975 republic day matter. Can you remember Mrs.Amirthalingam getting on to a large table on the road and delivering a very fiery speech? A: Yes.

Q: Where was this?

A: This was opposite the TUF office on the main road.

Q: When? A: That was the day they had the unlawful civil-disobedient campaign.

Q: Can you remember what she said?

A: Actually on that day, I was busy with the deployment of my officers; speeches were made against police officers. I had to keep my officers calm. Further, officers from the Colombo Intelligence had come to cover this meeting. So, Jaffna did not have the responsibility to cover that meeting.

Q: I am coming to the IMRR conference. There was an inquest proceeding and you gave evidence? A: Yes.

Q: This incident took place during your tenure of office as S.P. Jaffna? A: Yes.

Q: Are you aware that the Government at the first instance did not sanction ^{them in holding} ~~to hold~~ the meeting in Jaffna, but in Colombo?

A: Yes.

Q: Do you know finally the Government allowed the organisers to hold this meeting under certain conditions? A: Yes.

Q: What were those conditions?

A: The conditions were that no political speeches or anything of a controversial nature should be uttered.

Q: Under those conditions, you also asked the people concerned to observe those conditions during the period of the conference?

A: Yes. I also may qualify by saying that on the particular day/^{when} permission was issued for the conference, I was on sick leave. Mr. Chandrasekera was acting for me.

Q: Did the organisers undertake to conduct the conference in an orderly way by observing those conditions?

A: I learnt that the organisers, Dr. Mahadeva and Mr. V.S. Thurairajah agreed to abide by the conditions.

Q: Was that undertaking carried out by the persons concerned?

A: What I learnt was that it was carried out up to the termination of the IATR conference, but after the termination of the conference, when a special meeting was held in order to fete those who have attended the meeting, the meeting took a slightly different turn.

Q: Did you give specific instructions to Dr. Mahadeva and Mr. V.S. Thurairajah not to allow a particular person to speak?

A: Yes, not to allow Mr. Janatharan to speak.

Q: In other words, he was not allowed to enter this country?

A: So I received information from the CID.

Q: Now you are aware that he took a devious route and came to Ceylon?

A: I came to know that he had come from Malaysia to Ceylon under a different name, under the name of Ramasamy.

Q: Did the police inform the Government Agent on that fatal day that the speech made by the earlier speaker was inflammatory?

A: A report had been sent both by the officers of the intelligence service division who were in Jaffna as well as ^{by} the officers who had come specially from Colombo during this period to record this speech.

Q: Professor Naina Mohamed was there at the time of this incident?

A: Yes, inquiries revealed that Professor Naina Mohamed was speaking at the time the disturbances took place.

Q: Do you say that Professor Naina Mohamed's speech was inflammatory?

A: I was not personally present, but I learnt that Professor Naina Mohamed was saying something at the particular time when the police were coming in towards Weerasingham Hall. I don't know in what context it was said or with what intention it was said.

Commissioner:

Q: Why did the police go there at that time?

A: They were going to contact the organisers because Janatharan had come there, and there was almost an uproar over his appearance, and the people were blocking the road, and they were getting out of control.

Q: Somebody said that he was speaking about the beauty of the Tamil language?

A: Yes, I learnt that it was a very good speech.

Q: Did he suddenly speak on to other matters?

Mr. Shanmugalingam: No, Sir.

Mr. Tennekoon: Secretary Defence Mr. Jayasinghe stated before this Commission that he has stated certain things at this conference which were considered inflammatory.

Witness: I may be able to get the police report regarding his speech.

I heard he was quoting some poet in describing the beauty of the Tamil language.

Commissioner: He must be illustrating the beauty of the language by quoting some poems?

A: Yes, Sir.

11 a.m.

P. Thilagadas.

J. D. M. Ariyasinghe: (Contd.)

To Mr. Karunaratne:

Q: It is suggested that Mr. W.T. Jayasinghe made that allegation based on police reports ?

A: May be. He may have had the reports.

Q: Have you gone through the case record relating to the seven deaths at that Conference ?

A: I did not go through the case record. I know the contents. (Counsel reads from page 46 of A.306. This is what Dr. Mahadevan said, "Then again I went to the Regal Theatre..... Prof. Mohamed's speech was emotional".

Mr. Karunaratne: It may be that the police said that it was rousing the people.

Commissioner: An emotional speech may not be political.

Witness: The police interfered in this matter and made reports and at that stage we did not see that any inflammatory speeches were made.

Q: You were not personally present to explain what happened ?

A: No. I directed investigations.

Q: What were your findings on the deaths ?

A: Seven were due to electrocution: One was a fatal accident at the Bus Stand and the other was due to heart failure.

(ADJOURNED FOR A FEW MINUTES)

(RESUMED AFTER RECESS)

To Mr. Shanmugalingam:

Q: With regard to the statue of Sivakumaran, are you aware that at the very initial stages of the incidents, it was put down ?

A: Except for what I read in the papers I had no personal knowledge of it.

Q: (Refers to A.416) It is the report regarding the funeral of Sivakumaran ?

A: Yes.

Q: Right through, you said there was a crowd of about 15,000 ?

A: Yes.

Q: That crowd was very orderly and well behaved. The police did not have to take any action ?

A: Yes.

Q: Mr. Nadaraja was keeping law and order whereas that crowd was concerned ?

A: Yes.

Q: Some boys tried to tap a bus and he stopped that too ?

A: Yes.

Q: He saw to it that the buses were allowed to go on the road without any hindrance ?

A: Yes.

Q: It was very peaceful ?

A: Yes.

Q: Police did not have to take any action ?

A: Yes. They did not have to.

Q: At the place of the funeral there were speeches made ?

A: Yes.

Q: It is reported that when Mr. Kadiravelupillai started to speak, the youths shouted, "Don't speak of non-violence" ?

A: Yes.

Q: That was the view of the youths ?

A: Yes.

Q: He is one of the leaders of the T.U.L.F. ?

A: He is the Gandhi of the T.U.L.F. He has the image of a peace-loving man.

Q: He was the man who laid down the policy of the party ?

A: Yes.

Q: When the speeches were about to be over and when Mr. Amirthalingam was about to stop the speeches by saying it was growing dark, the youths said they wanted to hear Pushparaja speak ?

A: Yes.

(L. Silva)

(Contd. by Mr. T.P.Fernando from 11.25 a.m.)

3.7.1979

11.25 a.m.

J. D. M. ARIYASINGHE (CONTD.)F

TO MR. SHANMUGALINGAM:

Q: And all of them shouted that they were not concerned about getting dark and wanted Pushparajah to speak?

A: Yes.

Q: Mr. Amirthalingam tried to ignore that and carry on with the funeral arrangements?

A: Yes.

Q: The other section of the people insisted that Pushparajah should speak?

A: Yes.

Q: At first Mr. Amirthalingam was reluctant to allow Pushparajah to speak?

A: Yes.

Q: Even at the first attempt he was reluctant? - Yes.

Q: So that, he was not in favour of Pushparajah speaking?

A: I do not know what his intention was - whether it was to finalise the arrangements before it was dark or whether he had any other reason.

Q: Anyway, he was reluctant to call upon Mr. Pushparajah to speak?

A: Yes.

Q: You are also aware that in Jaffna women are not permitted to go to the place of cremation. They only cry inside the house and remain there?

A: Yes.

Q: In fact, on this occasion a large number of women including young girls went up to that place?

A: Yes.

(Witness reads the portion where the oath is taken which is marked as A.416(a)) This is in Mr. Amirthalingam's speech.

Q: He also said that the Tamils must take a pledge and said those words which were repeated by the crowd?

A: Yes.

Q: After that he called upon Mr. Kadiravelupillai to speak?

A: Yes.

Q: So that, am I correct in saying that even in Mr. Amirthalingam's speech on that occasion there was no exhortation of violence?

A: Not directly. When whole thing is taken in its context the implication is that he was not condoning violence.

Q: Did he in the course of his speech directly or indirectly ask anybody to resort to violence?

A: Not directly except for this pledge.

Q: These are the words even in the pledge: (Counsel reads)?

A: This is a reference to continues to struggle. The context is the struggle which Siva Kumaran carried on. The struggle Siva Kumaran carried on, we know, is not non-violence.

Q: He was referring to the struggle of the Tamils who were struggling for their freedom. Here also the word used is 'poratam'?

A: Yes.

Q: With regard to Siva Kumaran you referred to that temple incident?

A: Yes.

Q: Did Siva Kumaran make a statement on that occasion?

A: Yes.

Q: Have you got that statement?

A: No. I do not have it with me now.

Q: Do you have at least a hazy recollection of what he said?

A: Yes.

Q: Can you tell us roughly what he said ?

A: I cannot remember details. But I remember Mr. Siva Kumaran making reference to police using force on him. I directed Mr. Chandrasekera to hold an inquiry into the complaint of Siva Kumaran.

(Mr. Tilagadas continues from 11.35 a.m.)

T.P.Fernando.

3.7.79

11.35 a.m.

J.D.N.ARIYASINGHE:

EXP. BY MR. SHANMUGALINGAM CONTD.

Q: The temple incident started only after the police made the allegation that he was trying to harass two ladies who had come to worship at the temple?

A: Yes, he was in the company of one Sritharan.

Q: Can you say what Sivakumaran said on that occasion?

A: I cannot remember.

Q: Did he say that the police were harassing the two ladies and that he intervened?

A: No such allegation was brought to my notice that the police harassed the two ladies.

Q: Did he say anything in relation to the two ladies?

A: Not to my recollection.

Q: Was he questioned?

A: I also questioned him. That was ^{at} the temple police post. At that time he did mention that the police used force on him.

Q: On that aspect of the matter, did you question him?

A: No, that was a simple matter - I would not have questioned him.

At that time Sivakumaran had not come to our notice in connection with the other incidents. So that, this was not an important matter at that time.

Q: On that matter, did the police question Sivakumaran and record his his statement?

A: I am aware that Mr. Chandrasekera went fully into that matter, and he must have recorded his statement.

Q: Was any statement recorded from the two ladies who were involved in this incident? A: I cannot remember.

Q: If anything was recorded, that will be in the I.D.? A: Yes.

Q: Was any report put up to you about the questioning of these two ladies? A: I have no recollection.

Q: Subsequent incident was the assault on the police? A: Yes.

Q: Before that, there was this incident regarding the two ladies?

A: Yes.

Q: With regard to the first incident, was there any report made to you?

A: Yes, there is that possibility, but I have no recollection of that. At that stage, I had about 17 police stations. These things assumed importance only long after that. In September, 1973 this was not much of a significance. Normally, perhaps, I may not have come to know of this incident, but on that occasion, I happened to be present at the Nallur Kandasamy kovil premises.

Q: In Jaffna, a man trying to harass two ladies at a temple is an unusual occurrence?

A: No, I had complaints of this nature. That is one of the problems we had to face in these temple festivals where young men harass young ladies. Besides officers in uniform, we even detailed officers in mufti.

Q: Have anyone made a complaint to you?

A: Normally they don't want us to prosecute the offenders. They only make a complaint.

Q: No follow up action is taken?

A: Yes, it is only a matter of cautioning and chasing away.

Q: So, you don't know how many such incidents occurred?

A: Yes.

Q: You will think that it is an important matter to record his statement and the statements of the two ladies as to how this incident started?

A: Yes, because this was a matter which was going to Court.

Q: You have referred to the statement of one Sathiyaseelan and given a lot of evidence with regard to his statement?

A: Yes.

Q: In fact large chunks of his statement have gone into the record by you as evidence? A: Yes.

Q: You did not record his statement? A: No.

A: Nor did you know whether any preparatory work was done, whether he was dealt with by the police in order to put him into a fit and proper condition to make a statement?

A: No, in fact I met him on two occasions - both were in the CID office, and he did speak to me on a number of these matters. On both those occasions, he did not complain to me of any harassment by the police. I did not notice anything unusual on him to indicate that he had suffered at the hands of the police.

Q: This statement runs into a number of pages, 44 pages? A: Yes.

Q: It would have been recorded over a number of days? A: Yes.

Q: On those days of recording, were you present?

A: I believe about two days after his arrest, and subsequently a week after the arrest, I met him.

Q: Do you know whether they started recording his statement immediately. Can you say when he was arrested?

A: On the 22nd of February.

11.45 a.m.

P.Thilagadas.

3. 7. 79

11.45 a.m

J. D. M. ARIYASINGHE: (Contd.)

To Mr. Shanmugalingam:

Q: When did they start recording his statement ?

A: He was arrested on 23.2.73 - in the early hours, and was brought to Colombo. His statement was recorded in Colombo.

(The statement of Satyaseelan to Mr.P.V.W.de Silva dated 23.2.73 is marked A.425)

Q: He referred to some people - for example, a man who was frequently working in Mr. Navaratnam's house ?

A: He referred to Tissaweerasingham. The other aspects about Tissaweerasingham came to light from other inquiries.

Q: His statement referred to one of the conspirators who used to go to Mr. Navaratnam's house. Did you ask Navaratnam whether he knew anything about Tissaweerasingham ?

A: I do not know what the C.I.D. officers did at the inquiry.

Q: From your impression of the statement, is there anything in the statement to show whether Mr. Navaratnam or others had knowledge of it ?

A: What I knew was that Mavai Senathiraja had knowledge of these incidents.

Q: The statement about Senathiraja is that he gave money. You do not know for what purpose ?

A: (Reads from file.) I do not want to mention anything that would endanger the lives of the officers who conducted inquiries.

Mr. Shanmugalingam: We have not disclosed to this Commission with what anxiety we were staying at Anuradhapura. We were harassed there. We received telephone calls. Similarly in Trincomalee there was a lot of tension. In Colombo Your Honour would have noticed the elements that were present in the inquiry hall, particularly when Mr. Noordeen was giving evidence. They were hovering round my car in a threatening attitude when I was about to leave.

Mr. P. Tennekoon, Senior S.C.:

No such threat has been put or translated into action. The threats that are made now are put into action. (Mr. Tennekoon hands over a letter containing threats received by a witness who has already given evidence. He is a police officer.).

(L. Silva)

(Contd. by Mr. T.P.Fernando from 11.55 a.m.)

3.7.1979

11.55 a.m.

J. D. M. ARIYASINGHE (Contd.)

COMMISSIONER: Threatening of witnesses who have come before this Commission is a very serious matter.

MR. SHANMUGALINGAM: This is a very serious matter. I was thoroughly perturbed when I saw in papers about the death of Mr. Gurusamy.

COMMISSIONER: I really think the time has come to dissuade themselves from this movement and ask them to behave themselves.

MR. SHANMUGALINGAM: I tried to meet the leaders of the TULF over the week-end as told by Your Honour.

COMMISSIONER: I think it is up to them now to say that this is not what we expect. Speeches are alright, but what about the action.

MR. SHANMUGALINGAM: They should make public announcements in which they completely condemn such action. I could not meet them last week-end, but after tomorrow's adjournment I will try to meet them.

TO MR. SHANMUGALINGAM:

(Witness reads from Sathyaseelan's statement). There was actually a disruption of electricity by breaking down towers.

MR. TENNAKOON, Senior S.C: Three big towers had collapsed as their nuts and bolts had been removed. I will be leading that evidence.

- Q: These are references to Mavai Senathirajah? - Yes.
- Q: With regard to any senior leaders of the party, is there any reference whatsoever that they had any knowledge of these acts?
- A: Not to my knowledge.
- Q: In fact they were questioned in detail? - Yes.
- Q: You say that all these incidents are after 1970? - Yes.
- Q: It was after 1970 that standardisation was introduced?
- A: Yes.
- Q: It was after 1970 that this IATR conference was held at which there were certain unfortunate deaths?
- A: Yes.
- Q: It was after 1970 the new constitution was introduced?
- A: Yes.
- Q: Would you agree with me that these three factors connected with problems of cost of living and unemployment led to youth unrest?
- A: Yes, they contributed to those considerations.
- Q: Sathyaseelan was a Science graduate?
- A: Yes. He was unemployed.
- Q: Did he say when he graduated?
- A: In October, 1967.
- Q: This was in 1973? - Yes.

(Mr. Tilagadas continues from 12.05 p.m.)

T.P.Fernando.

3.7.79

12.05 p.m.

J.D.M. ARIYASINGHE:

LEAD. BY MR. SHANMUGALINGAM CONTD.

Q: Are you aware that with regard to graduates, the Government had a scheme by which a particular year graduates have to get employment before the graduates of the following year?

A: I don't know. I only know that Sathiyaseelan was the president of the unemployed graduates' union.

Q: Do you know the strength of that union?

A: I don't know. I remember he referred to some march they had against standardisation.

Q: Did he say how many were in the unemployed graduates union?

A: I cannot remember.

Q: So these were frustrated unemployed youths?

A: Sathiyaseelan was. Of course, there were some others who were unemployed also.

Q: You have been in Jaffna and you have moved with the people.

Would you agree with me that the Tamil population of this country as a whole is law abiding, and that is their attitude to life?

A: Yes, a large majority of the people are law abiding than some of the areas in which I have worked.

Q: The main concern of the student population is to study, pass examinations and get jobs. That is the traditional way of life in that part of the country?

Yes, to a good extent.

Q: In fact, in Parliament, it has been said that the main industry in Jaffna is education? A: Yes.

Q: In fact the only paternity the Jaffna parents give to their sons is education? A: Yes. In fact most of the suspects have passed the GCE Adv. Level examination and a number of them had been students at Katubette Technical College.

Q: You remember the insurgency of 1971? A: Yes.

Q: Where were you at that time? A: At Kuliyaipitiya.

Q: Kuliyaipitiya was also partly affected? A: Yes.

Q: It was erupted by the youths? A: Yes.

Q: Would I be correct in saying that the youths who revolted in 1971 were by and large the youths who had supported the United Front Government coming into office?

A: Yes, that is what our investigations revealed.

Q: In fact they had supported and put it in power?

A: Yes, they had supported.

Q: And within one year of the party coming into office, they revolted? A: Yes.

Q: They revolted the very Government which they helped to put into power? A: Yes.

Q: In fact many of them had actively supported in the election campaign, number of them have spoken at election meetings and put up election platforms?

A: I don't know the details, but they have supported the Government.

Q: But within one year, it happened? A: Yes.

Q: They were frustrated, and therefore, they rose against the Government? A: Yes.

Q: Would I be correct to say that without merely condemning the insurgency, which any right thinking man should do, one should also go into the causes?

A: Yes.

Q: Similarly, with regard to the incidents in Jaffna also, where we all condemn the acts of violence, one must also go into the causes?

A: Yes. In fact in the numerous reports we have put up, we have mentioned the fact that there was a sense of grievance on certain matters.

Q: A solution to the frustration of the youths can lead to a decline of the acts of violence?

A: Yes, if it is sorted out, it would help the police in the maintenance of law and order.

Q: For example, if a round table conference is held where these problems are sorted out, it will help in minimizing the acts of violence? A: Certainly, that would contribute more to minimize these acts of violence.

Q: You will not subscribe to the view that there is something endemic in the Jaffna man which makes him to set fire to various properties? That he is suffering from some sort of pyro-mania.

A: I will not rush to conclusions, but I would say that a large number of incidents had taken place - During my period, they set fire to Government buildings and property. I also came to know that similar attacks had taken place before I assumed duties in Jaffna and after I left Jaffna. When compared with the other areas where I have worked, I can say that in Jaffna there had been a large number of cases of arson.

Q: During the insurgency, you will recollect that a number of tea factories have gone up on flames. Near Singarajah, a modern factory which was electrically operated, was set on fire?

A: I don't know. Actually in my Kuliyaipitiya division, I cannot think of any instance of arson.

Q: Do you know that the Insurance Corporation had several claims arising out of fire caused during the insurgency?

A: I don't know.

Q: In fact you are aware that there is evidence before this Commission that during the riots of 1977 through out the Island, there have been numerous cases of shops and houses being set on fire?

A: Yes.

Q: You have heard that in 1958 a Hindu priest had been soaked in oil and burnt?

A: I have heard.

Q: In 1977 people had been burnt in Wattagama. In Anuradhapura people had been burnt?

A: I learnt that there had been some incidents, but I don't know the details.

Q: Anyway, you have learnt that there were a large number of incidents of arson right through the Island?

A: Yes.

Q: You referred to the taxi and a car being burnt? A: Yes.

Q: The taxi was used for a particular offence?

A: Yes, to shoot a man.

Q: After using the taxi for an offence, they have set fire to it?

A: Yes.

12.15 p.m.

P. Thilagadas.

J. D. M. ARIYASINGHE: (Contd.)

To Mr. Shanmugalingam:

Q: You know why it was done ?

A: To prevent finger prints being there.

Q: The same thing happened to the Doctor's car ?

A: Yes.

Q: It was not because they were itching to set fire to it -
they did it to avoid finger prints ?

A: Yes. In some other incidents in the Doraiappah case they
wanted to do the same thing.

Q: With regard to the Doraiappah case do you take up the posi-
tion that confessions were only from the accused ?

A: Yes. Others also could have made confessions.

Q: Were statements recorded from a number of persons taken
into custody ?

A: Yes.

Q: They amounted to confessions regarding the murder of Mr.
Doraiappah ?

A: On that day only two made confessions.

Q: Were statements recorded from persons other than the
accused, wherein they stated that they had shot
Mr. Doraiappah on that day at that place ?

A: Not from others other than these two. There were suspects
who had been involved in making preparations to murder
Doraiappah.

They had committed a number of robberies of cars and banks
where it was expressed that they were doing those to find money
to buy arms to murder Mr. Doraiappah. Regarding that, a number
of persons made statements.

Q: Altogether, how many people were taken into custody in connection with the murder of Mr. Doraiappah ?

A: To my recollection about 7 or 8 persons were taken into custody in July and August 1975. The police took into custody a large number of youth.

A large number of them were taken into custody on information received with regard to thefts of cars, attempted robberies of banks, Govt, establishments and Co-operatives. The information was that they were doing these acts to find funds to buy arms to murder Mr. Doraiappah and others. It was not only to kill Mr. Doraiappah, but others also who were referred to as traitors to the Tamils. We had a list of persons who were to be killed. The suspects who participated in violence in earlier cases were taken into custody as security risks. We felt there was a resurgence of violence which culminated in the murder of Mr. Doraiappah.

Q: In connection with the murder of Mr. Doraiappah, about 8 or 9 persons were taken into custody ?

A: Those were the persons directly concerned.

Q: How many persons were questioned in connection with the murder of Mr. Doraiappah ?

A: The questioning was not done by me. There was a case of robbery of a car and a case of murder of a taxi driver shortly after Doraiappah's murder.

The taxi was sold at Talawakelle. The local police in Hatton had arrested the suspects and recovered the car. We sent another officer who knew nothing about Mr. Doraiappah's case to bring the suspects. He brought them and produced them before

the Supdt. of Police, Kandy and those suspects had said they were concerned with the murder of Mr. Doraiappah. It appeared in the newspapers also. I questioned the suspect and asked him about the scene where the car had been abandoned. I also did a search in that area when I was around the area where the car was abandoned. This suspect could not say anything about the features of the area where the car was abandoned. I knew he was not speaking the truth. We did not believe him.

Q: He came forward and confessed he murdered Doraiappah -
but falsely ?

A: Yes. This was the suspect involved in the murder of the taxi driver. They had robbed the car to find money for an unlawful purpose.

(L. Silva)

(Contd. by Mr. T.P.Fernando from 12.25 p.m.)

3.7.1979

12.25 p.m.

J. D. M. ARIYASINGHE (Contd.)

TO MR. SHANMUGALINGAM:

COMMISSIONER: Q: But he denied having anything to do with the taxi?

A: He admitted that also.

Your Honour, unfortunately distorted versions have appeared in the press. From the information I gathered from other sources there was also the story of a deliberate attempt to mislead the investigators and spread false rumours about this case in order to discredit investigators. Perhaps, at that time, as professional policemen we never went to deny or to present the correct facts to the press.

Q: Here was a person who falsely claimed that he shot Mr. Doraiappah?

A: Yes. He would have been treated as a hero by the Tamil people.

Q: Similarly, were there any others who admitted that they did that ?

A: No.

Q: You generally know the facts of that case ? - Yes.

Q: In fact you were at the spot soon after that ? - Yes.

Q: In fact you have passed the get-away car?

A: I spotted the get-away car from a distance.

Q: Did you chase after that ?

A: When the car went off the road I spotted the car going.
I stopped there.

Q: Anyway, you gave evidence before Court. You were
questioned with regard to the terrain of the area?

A: Yes.

Q: Medical evidence was that the man who shot should have
been taller than the deceased because the shot had
come downwards?

A: One of the shots had come downwards.

Q: Evidence was that he was perpendicular at the time
he was shot at?

A: Yes, when he received the first shot.

I did not follow the medical evidence, but during the
discussion we had with the doctors this point was not
discussed. The suspect had come on the centre of the road.
Mr. Duraiappah was just by the drain.

Q: The first accused who was alleged to have shot was a
short person?

A: He was one of the suspects. He was a one out of those
arrested.

Q: The evidence was that he fired the shots?

A: According to police investigations there were two
others who fired shots.

According to the investigations there were three persons
who shot. Two were Prabhakaran and Sathkunam who were not
arrested and Kalapathy who was arrested. He shot from
behind the car.

Q: You investigated and recorded statements? - Yes.

Q: You found that you had enough evidence to warrant a conviction?

A: When we conducted investigations emergency regulations were in force and the investigations were conducted under those laws. At that time we were under the impression that we could get a conviction, but at the time the case came up for trial the emergency had lapsed and the case was heard under the normal law. Officer who recorded all these statements and who recovered various weapons had been killed. The other two officers who assisted him were also killed. In fact, Mr. P.V.W.de Silva and I hardly knew where the productions were.

Q: Firstly, at the time this offence was committed there was an emergency and there were emergency regulations?

A: Yes.

Q: Under those regulations the confessions, if recorded by an A.S.P. or an officer of higher rank were admissible?

A: Yes.

Q: Having those regulations in your mind the investigations were conducted according to law?

A: Yes.

Q: You also recorded statements of witnesses to support the statements already recorded ?

A: Yes.

Q: There were some eye witnesses?

A: Yes.

Q: Once having completed the dossier you sent it to the
Attorney-General's Department?

A: Yes. It was handled by the C.I.D.

(Mr. Tilagadas continues from 12.35 p.m.)

T.P.Fernando.

3.7.79

12.35 p.m.

J.D.M.ARIYASINGHE

Q.D. BY MR.SHANMUGALINGAM CONTD.

By that time I had received the transfer orders. I was moving out of Jaffna even before the Duriappah case. I was to go on 1st August, 1975, but owing to the Duriappah case, I was kept behind for a few months. I was moved out on the 30th of October. I had nothing to do with the investigations thereafter.

Q: Mr.Jesuratnam, the Mallakam Magistrate, held the inquest proceedings?

A: Yes.

Q: He also gave evidence?

A: He was listed in the list of witnesses.

Q: Are you aware that on one occasion, Inspector Bastiampillai made an application to the Magistrate saying that he wanted one of the accused to be taken out of remand saying that he wanted the accused to locate some articles? A: It is possible.

Q: And the learned Magistrate made an order allowing the application, and he also said that the Fiscal officer must accompany the accused?

A: I believe so.

Q: The next day Inspector Bastiampillai came back to the Magistrate and asked for a discharge of the accused? A: Possible.

Q: And when he was discharged and was going out, he was taken into custody again and brought to Colombo? Do you know that?

A: I don't know the details. I am not contesting that, if you say so.

Q: Inspector Bastiampillai asked the Magistrate's permission to take one of the accused to identify certain articles, and on the next day he moved that he be discharged, and as soon as he was discharged, he takes him away to Colombo. Is that a proper mode of police investigation?

A: I personally would not have allowed that type of thing being done, but I remember Inspector Bastiampillai and others who were investigating into this murder case, ^{making} ~~made~~ representations to me at various stages

about the obstructions and difficulties they had to face..

Q: What were the obstructions?

A: Intimidation.

Q: I suppose the application made to the Magistrate was a genuine application to take the accused to identify some goods?

A: Yes.

Q: The Magistrate also allowed it provided the Fiscal Officer accompanied him? That is also a proper order? A: Yes.

Commissioner:

Q: He asked that the accused be discharged? A: Yes.

Q: And then?

Mr. Shanmugalingam: When he was discharged, the police took him.

Commissioner: What is the point?

Mr. Shanmugalingam: Because the police wanted to keep him in their sole custody.

Commissioner: If he was arrested, he will be handed over to the Fiscal.

Mr. Shanmugalingam: Under the emergency regulations, they can keep him for 14 days without producing before the Magistrate.

Q: For that sole custody for 14 days, Inspector Bastiampillai adopted this ruse in a court of law? A: I don't know.

Commissioner: That is highly improper.

Witness: Actually the Magistrate did not bring this to my notice

Commissioner: If I were the Magistrate, I would have said 'yes, I will remand him under fiscal's custody and not under police custody'

Witness: I was in friendly terms with the Magistrate. I used to contact him regularly, but he never made any representations to me.

Q: He would not make representations to you because it was something which was regularly done by the officer?

Commissioner:

Did the Magistrate know that he would be taken into custody?

Mr. Shanmugalingam: No

Q: And then produced before the Magistrate?

Mr. Shanmugalingam: 14 days later he was produced somewhere in Colombo, and during the 14 days, he would have had the control of the man, and he would have made the person itching to make a confession.

Commissioner: And this man during that period made a confession?

Mr. Shanmugalingam: Yes. I can give the name of the accused.

Witness: I am definite that it is not one of the two suspects I referred to - Kalapathi and Kurupakaran - because these two suspects were arrested by the Jaffna police.

Commissioner: What happened later?

Mr. Shanmugalingam: He was tried later.

Commissioner: Was the confession led in evidence?

Mr. Shanmugalingam: No. By that time, they could not lead that evidence.

Q: Are you aware of one thing at least that there was a general complaint against Inspector Bastiampillai that he used third degree ^{methods} and harassed the suspects?

A: There were allegations made on platforms and once or twice in Parliament also that Bastiampillai used to torture the suspects but I as SP Jaffna during this period under whom this officer was working in the special unit for sometime, was never at any stage

informed or any complaints made to me or any representations made to me of any specific acts of torture or atrocities. The only specific complaint that was made to me was the incident over Pontgallan which I referred to earlier. That was the only incident where a complaint was made to me against Inspector Bastiampillai.

12.45 p.m.

P. Thilagadas.

J. D. M. ARIYASINGHE: (Contd.)

To Mr. Shanmugalingam:

Q: Font Gallan's position was that he had got permission from the police ?

A: The inquiries were in charge of Insp. Bastiam Pillai. Before the meals were given, he should have informed Insp. Bastiam Pillai.

Q: If a relation goes to the police station and asks a person at the desk whether he could see a person, is there anything wrong in that ?

A: Insp. Bastiam Pillai was in charge of the suspect. The suspect was in Kings House and permission had to be obtained.

Q: Is there any harm in a person who is in detention being given food by his relations ?

A: He should have got the permission from the police.

Q: No action was taken against Insp. Bastiam Pillai ?

A: Mr. Quintus Jayasinghe inquired into it, but in the meantime a civil case was filed and the departmental inquiry was laid by.

Q: Sufficient time was required for the inquiry ?

A: No sufficient time was given. Not even three months time was given. It was definitely less than three months, because I left in October.

Q: After completion of the inquiry they sent the file to the Attorney-General's Dept ?

A: I went out on transfer and the file was handled by the C.I.D. officers and they would have sent it.

Q: The Attorney-General at first decided to have a Trial-at-Bar under the Emergency Regulations ?

A: Yes.

Q: Indictment was served on that basis ?

A: Yes.

Q: They were brought to trial ?

A: Yes.

Q: A lot of legal arguments were taken up ?

A: Yes.

Q: They were, as to whether the regulations were properly framed ?

A: Yes.

Q: By the time the legal arguments were over, the Emergency expired ?

A: Yes.

Q: And the accused were to be charged under the normal laws ?

A: Yes.

Q: The delay in charging, was not due to the police and the Attorney-General ?

A: Yes. One person who was the prime mover of this case was not arrested. Another person who had played a big roll was also not arrested.

Q: Without the statements of those two, the file was sent to the Attorney-General ?

A: Yes.

Q: They were to be tried before a Trial-at-Bar and it was again decided to try them under the normal law ?

A: Yes.

Q: After the trial, the Jury brought a verdict of acquittal ?

A: Yes. So I heard.

Q: With regard to the murder of Mr. Doraiappah, a number of persons were charged and they were acquitted after trial ?

A: Seven persons were charged and two were discharged.

Q: At first seven were charged and the number was later reduced to five and then to two and finally the case went against the 1st accused only ?

A: Yes. And he too was discharged.

Q: Not even a defence was called in that case ?

A: I am not aware.

Q: With regard to other detainees under the Emergency Regulations, there was a constant demand by Mr. Chelvanayagam and other leaders, from public platforms and from the floor of the House, either to bring them to trial or to release them.

A: Yes. In fact we were wishing that they were brought to trial.

(To Commissioner:

This was during the Emergency Regulations. The Emergency Regulations could not be made use of. With regard to the statement made by Sathyaseelan, we sent about 30 (thirty) files to the Attorney-General, but still no cases have been filed.

Q: You did not find out the reason for that ?

A: No.

Q: If the confessions were admissible why did they wait so long ?

A: That happened only in certain cases. Some of the suspects were kept in detention for security purposes.)

Mr. P. Tennekoon, Senior S.C.: There were some persons who were considered security risks during that period.

Witness:

Witness: I think there was a difficulty as stated in the report.

I was told that the evidence was of a confessional nature and according to the regulations of that time it was not possible to try them effectively.

Mr. P. Tennekoon, Senior S.C.: There were various measures taken on the basis of the Emergency and there was a difficulty in that the Emergency Regulations could not be extended to cover other matters other than the matters connected with the insurgency.

Witness: This information was received somewhere in December 1974 and we were of the opinion that there were about eight cases which could be taken before Court without the confessions. I did not have the opportunity of attending any conferences regarding these cases. They were handled by the C.I.D.

(L. Silva)

(Contd. by Mr. T.P. Fernando from 12.55 p.m.)

3.7.1979

12.55 p.m.

J. D. M. ARIYASENGHE (CONTD.):

MR. SHANMUGALINGAM: I will mark certain copies of correspondence subject to my learned friend checking and finding out whether they are correct or not.

Q: There was just before the Non-aligned Conference a threat to go on a hunger strike by those 42 young men?

A: About those matters I know only what I have read in the papers.

MR. TENNAKOON, Senior S.C: More properly, these letters should have been put to Mr. W.T. Jayasinghe, Secretary Defence when he gave evidence.

MR. SHANMUGALINGAM: I thought of marking them now as it is alleged now that the leaders took up the position that those youths are innocent and that they should be released.

COMMISSIONER: They were not who could be brought to trial on any charge, but there was a danger to the state if they were let loose.

MR. SHANMUGALINGAM: The point they are making is that these people were taken into custody for committing violence, but the leaders wanted them released.

Witness (Contd.):

Most of them were taken into custody for committing violence against the state. There were a few taken into custody as

security risks.

COMMISSIONER: Q: There was no evidence to prove a crime?

A: Your Honour would have seen how this developed.

COMMISSIONER: A confession cannot be used against another person. Yet the persons in authority would have thought that these confessions are true.

Witness (Contd.)

We thought, when it came from the mouth of a suspect, to our conscience that they were concerned in a particular offence.

MR. SHANMUGALINGAM: Witness says that he took a number of persons into custody, recorded their confessions and forwarded the files to the Attorney-General to indict them. I am only concerning my questions to those. Under emergency regulations the confessions were admissible.

MR. TENNAKOON, Senior S.C: We considered that position and finally gave certain instructions to the police. Although the confessions were admissible we still had a difficulty whether the emergency which arose as a result of the insurrection of 1971 could be extended to other matters. It has been urged very forcefully.

MR. SHANMUGALINGAM:

Whatever the advice the Attorney-General gave I am not going to argue on that. What I say is that the political leaders asked the Prime Minister to bring those youths to trial or release them.

WITNESS (Contd.)

Misrepresentations that had been made all over is that these suspects were taken into custody for showing black flags.

MR. TENNAKOON, Senior S.C:

Our advice was that the law be amended. Nevertheless we could not advise the government to release them because they were considered security risks.

COMMISSIONER:

They were taken into custody and kept under custody because they were people who had to be confined. So, they were confined on the 2nd ground.

MR. SHANMUGALINGAM:

I am only justifying the demand of the political leaders.

MR. TENNAKOON:

These lawyers themselves, some of them members of the T.U.L.F. took up the position that the emergency regulations could not be applied into these matters and that they were ultra vires.

(Mr. Tilagadas continues from 1.05 p.m.)

T.P.Fernando.

3.7.79

1.05 p.m.

J.D.M. ARIVASINGHE:

AND. BY MR. SHANMUGALINGAM COMED.

Mr. Shanmugalingam: I was one of the juniors in that case.

The argument was the declaration of the emergency was itself bad. That was upheld by that court. When it went on appeal, they withdrew the case. All knew that the Supreme Court was going to reverse it.

Copy of letter dated 12.8.76 written by Mr. S.J.V. Chelvanayagam, M.P. to the Prime Minister is marked X 470.

Q: By this letter he refers to an earlier letter? A: Yes.

Q: And he says that the telegram and the letter have not even received the courtesy of an acknowledgement? A: Yes.

Q: Then he says he sent another telegram? A: Yes.

Q: He says, these young men are fasting; I want to meet them and dissuade them from fasting? A: Yes.

Q: He says, I want your permission to meet them and dissuade them?
A: Yes.

Q: These youths took this decision to fast at or about the time of the non aligned conference? A: Yes.

Q: Just prior to that? A: Yes.

Q: In order to draw the world opinion to their claims? A: Yes.

Q: Here Mr. Chelvanayagam says 'I want to persuade them to give up'
A: Yes.

Q: Now I mark the reply X471. Will you please read that?

A: Yes. (reads) These copies are all unsigned.

Q: In terms of X471, the Prime Minister says that there is no need for anybody to see them? A: Yes.

Q: According to K471, all these detainees including the names given in K470, namely, Kasianandan, Senathiraja, Anandavinayagam, Muthukumarasamy, Sathiyaseelan, and ~~the~~ others totalling 42 ~~men~~ were detained on the ground that they are considered a security risk, and not for anything else? For only security reasons?

A: Yes.

Q: So that it refers to these five persons and the other persons who are fasting, that is 42 persons?

A: I have no knowledge. In the letter of 16.8.76 there is a reference to their detention for security reasons, and there is no reference to names.

1.15 p.m.

P.Thilagadas.

J. D. M. ARIYASINGHE: (Contd.)

To Mr. Shanmugalingam:

Q: (Shown letter) This is a letter written by Mr. Chelvanayagam to Mr. Delgoda, Commr. of Prisons, dated 27.8.76, marked X.472 ? (Witness reads X.472)

A: Yes. This letter is unsigned.

Q: This letter follows the letter of the Prime Minister marked X.471 in which permission is not given ?

A: Yes.

Q: He followed it with the letter to Mr. Delgoda ?

A: Yes. I do not know what correspondence went on between Mr. Chelvanayagam and the Officials of the State.

Q: There is another letter dated 15.8.76 from Mr. Chelvanayagam to the Commissioner of Prisons, marked X.473 ?

A: Yes. (Witness reads X.473). This too is an unsigned letter.

Q: You also produce marked X.474 a copy of a letter written by Mr. Dharmalingam to the Prime Minister. It is dated 7.8.76 ?

A: Yes. (Witness reads X.474) That is also an unsigned letter.

Q: In that letter he state, "Either bring them to trial or release them" ?

A: May be.

Q: You produce a copy of a letter dated 24.8.76 from the Secretary to the Prime Minister to Mr. Chelvanayagam marked X.475 ?

A: Yes. (Witness reads X.475) This letter too is unsigned.

Q: Are you aware that during the period these youths in detention started their fast, a number of them were transferred from Welikada Prison to other prisons ?

A: I was not in touch with them.

Q: While this correspondence was going on, some youths were transferred to various other prisons ?

A: Possible.

Q: Are you aware that those detainees, when they were transferred to other prisons, were assaulted by prison officers and even the convicts also threatened to assault them ?

A: Except for such utterances at T.U.F. meetings, I was not aware of such things.

Mr. P. Tennekoon, Senior S.C.: The then Govt. was expecting to use the insurgents to form a Front.

Witness:

We heard that there was a conspiracy to murder I.P. Bastiampillai while these youths were in prison. In fact I have a report on this, which I submitted in 1974.

Mr. Sharmugalingam: May we have copies of the statement made by Sathyaseelan and other statements.

Mr. P. Tennekoon, Senior S.C.: I shall make them available to all Counsel.

Q: On 3.8.76 Mr. Dharmalingam had sent a telegram to the Prime Minister, Minister of Justice and the Commissioner of Prisons referring to these transfers to various prisons ?

A: Yes.

(Counsel marks that telegram X.476. Witness reads X.476)

It is dated 3.8.76.

Mr. Shammugalingam: The fast was before the transfer. Before the fast they were transferred. This was a transfer done because they wanted to fast.

Mr. P. Tennekoon, Senior S.C.: This was a matter that started just before the Non-aligned Conference. Before that there was no fast.

(L. Silva)

At this stage Commission adjourns for the day. Further hearing on 4.7.79 at 9 a.m..



