PRIME MINISTER

Mrs. Bandaranaike

The above, who was Prime Minister of Sri Lanka in the 1960s, and again between 1970 and 1977, wrote to you on 11 June asking that the British Government should refer to the United Nations Human Rights Committee the fact that, as she believes, her human rights have been violated.

Technically, it is open to us to take this action. But if we do, we shall certainly offend the present Sri Lankan Government. President Jayewardene is friendly to Britain; Mrs. Bandaranaike was not.

I therefore propose to reply on your behalf to Mrs. Bandaranaike saying simply that we have reached the conclusion that it would not be appropriate for us to take up her case. We would also get our High Commission in Colombo to point out to the Sri Lankan Government that other countries (for example, the Scandinavians) may not decline to take action if approached by Mrs. Bandaranaike, and that they may therefore care to look into her allegations.

Agree that we should act in this way?

A.J.C.

It is a very strong letter to write - "we don't" but "others may"!

21 July, 1982.

Can we not rest on the point that Sri Lanka has ratified the protocol? Is there nothing we can do with Sri Lanka [illegible]

PRIME MINISTER

Mrs. Bandaranaike

I am sorry to trouble you with this again. We cannot, as you suggest, rest on the point that Sri Lanka has not signed the protocol. The fact that she is a party to the Covenant, and that we and Sri Lanka have recognised under Article 41 of the Covenant the competence of the Human Rights Committee to receive inter-State claims, means that we are entitled to bring forward a complaint against Sri Lanka.

I think the only reply we can give to Mrs. Bandaranaike is that we have decided that it would not be appropriate for us to take up her case.

We do not need to do anything more than this. But if you felt that we ought to make some effort on her behalf, we could suggest orally to the Sri Lankan Government that they look into her allegations.

Agree that I should write as proposed? Yes MC

Do you also want us to speak to the Sri Lankan Government as proposed?

Yes

MC A.J.C.

23 July 1982

HLE RM

cc: FCO

10 DOWNING STREET

From the Private Secretary

26 July, 1982

The Prime Minister has asked me to thank you for your letter of 11 June. It has been carefully considered, but the conclusion has been reached that it would not be appropriate for the British Government to take the matter up in the way you propose.

A.J. COLES

Mrs Sirima R.D. Bandaranaike,

GR
PPs ?
cfr

CONFIDENTIAL

Foreign and Commonwealth Office

London SW1A 2AH

20 July 1982

Dear John,

Sri Lanka: Letter from Mrs Bandaranaike to The Prime Minister

Thank you for your letter of 24 June asking for advice on who should reply to Mrs Bandaranaike's letter and in what terms.

Mrs Bandaranaike was Prime Minister of Sri Lanka in the 1960s and again between 1970 and 1977. You will recall that in 1977 she suffered a landslide defeat at the hands of Mr Jayewardene when Mrs Bandaranaike's SLFP was left with only 7 out of 168 seats in Parliament. She was later found guilty of abuse and misuse of power by a Special Presidential Commission established by President Jayewardene under legislation enacted in 1978 to enable him to bring her to book for the alleged abuses of her period of Prime Ministership.

Mrs Bandaranaike alleges that her deprivation of civil rights and the legislation under which she was charged are in contravention of the United Nations Covenant on Civil and Political Rights (CCPR) to which Sri Lanka is a party. She is debarred from holding public office and from voting but not (until an election is called) from electioneering or public speaking. She is however correct in saying that she cannot take her case to the UN Human Rights Committee (the body which monitors the Covenant) since Sri Lanka, though a State Party to the Covenant, is not a Party to the Optional Protocol which enables individuals to bring claims before the Committee. She is also correct in suggesting that Britain may on her behalf bring an inter-state claim against Sri Lanka, since both states have agreed to recognise, under Article 41 of the CCPR, the competence of the Human Rights Committee to receive and consider such communications.

Mrs Bandaranaike faces us with a difficult choice. There is little doubt that her claim is elegible for consideration by the Committee and that we are entitled to bring it to the Committee on her behalf. On the other hand, Mrs Bandaranaike's deprivation of civil rights is a highly political issue in Sri Lanka where manoeuvring is already beginning for the general elections due next year. Any indication that HMG has a sympathy for Mrs Bandaranaike would undoubtedly cause grave offence to the Sri Lanka Government and to President Jayewardene himself. Moreover Mrs Bandaranaike was not notably friendly towards Britain or British interests; President Jayewardene undoubtedly is.

/We should

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We should therefore turn down Mrs Bandaranaike's request. Given that she is a former Prime Minister of Sri Lanka and could conceivably be Prime Minister again it would be useful to have some legal excuse for our refusal. Unfortunately no such excuse is available. We therefore suggest a polite rejection on the lines of the attached draft. Given that Mrs Bandaranaike is a former Prime Minister of a Commonwealth country it would be appropriate for the reply to issue from No 10, but it would be better to come from you rather than from the Prime Minister herself.

In order to protect our position on human rights we propose discreetly to inform the Sri Lankan Government of Mrs Bandaranaike's request and of our rejection of it, pointing out that we are aware how sensitive the issue is domestically in Sri Lanka. We would go on to say that other parties to the Covenant (eg the Scandinavians) may not take the same view of a similar request by Mrs Bandaranaike. It might therefore spare future embarrassment if the Sri Lankans were to look at Mrs Bandaranaike's allegations with regard to their obligations under the UN Covenant. If the Prime Minister agrees, we shall instruct our High Commissioner to speak in these terms once the reply to Mrs Bandaranaike has been delivered.

Yours ever,

for (J E Holmes)
Private Secretary

A J Coles Esq
10 Downing Street

CONFIDENTIAL

DSR.11 (Revised)

DRAFT: ~~XXXXX~~letter~~XXXXXXXXXXXXXXXX~~

TYPE: Draft/Final 1+

FROM:

A J COLES

DEPARTMENT: TEL. NO:

Reference

SECURITY CLASSIFICATION

Top Secret
Secret
Confidential
Restricted
Unclassified

TO:

Mrs Sirimavo R D Bandaranaike
65 Rosmead Place
COLOMBO 7
Sri Lanka

Your Reference

Copies to:

PRIVACY MARKING

.....In Confidence

CAVEAT.....

SUBJECT:

The Prime Minister has asked me to thank you for your letter of 11 June. It has been carefully considered, but the ~~Prime Minister has concluded~~ conclusion has been reached that it would not be appropriate for the British Government to take the matter up in the way you propose.

Enclosures—flag(s).....

Alan
Would you reconsider keeping this in CF?
Kay 29/7

OK
27/7
FILE

RM

10 DOWNING STREET

From the Private Secretary

26 July, 1982

SRI LANKA: LETTER FROM MRS BANDARANAIKE

Thank you for your letter of 20 July. I shall be writing to Mrs Bandaranaike, broadly in the terms proposed. The Prime Minister agrees that our High Commissioner in Colombo should be instructed to speak in accordance with the last paragraph of your letter when the reply has been delivered.

A I COLES

Brian Fall, Esq,
Foreign and Commonwealth Office

(2) Chased FCO again today - ringing back K.D. 13/7

Mrs. BANDARANAIKE

(1) Rang FCO today. We should get advice early next week. 9/7

12/7

10 DOWNING STREET

From the Private Secretary

24 June, 1982.

(3) Chased FCO. This is a difficult case, Dept had to consult the lawyers. Draft going to Douglas Hurd tonight. Should be here on Monday 19/7. KD. 16/7

(4) Reminder first chase on 19/7 dsg.

I enclose a copy of a letter which the Prime Minister has received from Mrs. Bandaranaike, President of the Sri Lanka Freedom Party. I should be grateful for advice on whether a reply should be sent to this communication and, if so, who should sign it.

A. J. COLES

John Holmes, Esq.,
Foreign and Commonwealth Office.

Mr Coles
A letter for
Mrs Bandaranaike.
? how to deal

R 22/6

JB
23/6

SIRIMA R. D. BANDARANAIKE

65, ROSMEAD PLACE,
COLOMBO 7,
SRI LANKA.

11th June, 1982.

Your Excellency,

1. I am addressing this communication to you in view of the fact that Great Britain, being a State Party to the International Covenant on Civil and Political Rights, has made a declaration under Article 41 of that Covenant recognising the competence of the Human Rights Committee established under that Covenant to receive and consider communications from other States Parties to the effect that it is not fulfilling its obligations under the Covenant.

2. My country, Sri Lanka, being a State Party to the aforesaid Covenant, has also made a declaration under Article 41. It is, however, not a State Party to the Optional Protocol which enables individuals who claim to be victims of a violation of any of the rights set forth in the Covenant to communicate directly with the Human Rights Committee. Therefore, a citizen of Sri Lanka whose rights under the Covenant have been violated can reach the Human Rights Committee only through the intervention of a State Party which, like Sri Lanka, has made a declaration under Article 41. This communication is being addressed to Your Excellency in the hope and belief that Your Excellency's Government, in the exercise and discharge of its responsibilities to the international community and to the cause of freedom and democracy, will consider it fit and proper to refer to the Human Rights Committee the facts and circumstances set out below.

3. I am the President of the Sri Lanka Freedom Party, having been elected to that office in 1960 and been re-elected regularly thereafter. The Sri Lanka Freedom Party and the United National Party are the two major national political parties in Sri Lanka, and since 1952, these two Parties have, alternatively, been elected to office by the free votes of the people, cast freely at periodic general elections. I have served as Prime Minister from 1960 to 1965 and from 1970 to 1977, and as Leader of the Opposition from 1965 to 1970. At the last general election held in July 1977,

contd.

contd.

my Party was defeated, but I was elected to Parliament from the electoral district of Attanagalla which I had represented continuously from 1965.

4. In February 1978, my successor as Prime Minister, Mr. J. R. Jayawardene, secured the passage through Parliament of the Special Presidential Commissions of Inquiry Law, No.7 of 1978, which sought to establish a Special Presidential Commission with power to inquire into the conduct of public officers; to find whether any person has been guilty of any act of "political victimisation", "misuse or abuse of power", "corruption" or any "fraudulent act"; and to recommend whether such person should be made subject to "civic disability". Civic disability was defined in that law to mean the disqualification of a person -

(a) from being an elector and from voting at any election of the President of the Republic or of Members of Parliament;

(b) from being nominated as a candidate at any such election;

(c) from being elected or appointed as the President of the Republic or as a Member of Parliament;

(d) from holding any public office.

A constitutional provision which came into force in September of that year, empowered Parliament to impose the penalty of civic disability for a period not exceeding seven years on any person who had been found guilty by a Special Presidential Commission. The aforesaid offences were hitherto unknown to the law of Sri Lanka, and were being made punishable for the first time. For the first time, too, Parliament was being empowered to determine and impose penalties on named individuals.

5. In August 1978, a Special Presidential Commission consisting of three Judges appointed by President Jayewardene (who by then had assumed office as President of the Republic by means of an amendment to the Constitution which deemed him to be the first executive President with authority to exercise the powers of both offices of President and Prime Minister) commenced at ex parte sittings to record evidence relating to my Administration from 1970 to 1977. Within one month, by a constitutional amendment, the Supreme Court was reconstituted,

contd.

contd.

and eight Judges who were senior in office to two of the Commissioners were excluded by President Jayewardene from that Court. At the same time, the third Commissioner received from President Jayewardene an unprecedented promotion from the District Court to the Court of Appeal, by-passing the High Court.

6. On 9th November 1978, on my application, the Court of Appeal held that the Special Presidential Commission had no jurisdiction to inquire into, or report on, or make recommendations in relation to, my Administration between 1970 and 1977 since that was a period prior to the date of enactment of the Special Presidential Commissions of Inquiry Law, and accordingly that Court issued a Writ of Prohibition against the aforesaid Commission. On 20th November, the Government of President Jayewardene rushed two Bills through Parliament. The first of these, the Special Presidential Commissions of Inquiry (Special Provisions) Act, No.4 of 1978, declared the judgment of the Court of Appeal to be null and void and the Writ of Prohibition issued by it to be of no force or effect in law, and gave retroactive effect to the offences referred to in paragraph 4 above. The second was a constitutional amendment which stripped the Court of Appeal of its writ jurisdiction in so far as a Special Presidential Commission was concerned.

7. In May 1980, I was summoned by the Special Presidential Commission to appear before it and to explain and justify to it certain action alleged to have been taken by me as Prime Minister during the period 1970-1977. I appeared before the Commission, but declined to submit to its jurisdiction since, inter alia, I considered that, in a parliamentary democracy, a Prime Minister and her Cabinet are collectively responsible and answerable for the government of the country only to Parliament, and ultimately to the people at a general election. I pointed out that if it was alleged that I had in any way contravened the law as it then existed, the Government was free to institute the appropriate proceedings before the regular courts. A copy of the statement made by me to the Special Presidential Commission on that occasion is annexed hereto.

contd.

contd.

8. After further ex parte proceedings, the Special Presidential Commission, on 25th September 1980, issued an interim report in which it held me guilty of the offence of "abuse and/or misuse of power". Two weeks previously, the International Covenant on Civil and Political Rights had entered into force for Sri Lanka.

9. On 16th October, President Jayewardene caused two resolutions to be introduced in Parliament, and by utilising his parliamentary majority secured their passage on the same day. By the first resolution, Parliament imposed civic disability on me for a term of seven years. By the second resolution, Parliament expelled me from its membership.

10. On 17th October, President Jayewardene caused amendments to be moved to two Bills which were on the Order Paper of Parliament, and by utilising his parliamentary majority secured their passage into law. These two laws, the Parliamentary Elections Act, No.1 of 1981 and the Presidential Elections Act, No.15 of 1981, prohibited me from canvassing for, or acting as agent of, or speaking on behalf of, a candidate, or in any way participating in an election. These prohibitions are enforceable with fine and imprisonment.

11. In August 1981, President Jayewardene, purporting to act in the exercise of his powers under the Public Security Ordinance, took possession and control of the headquarters of the Sri Lanka Freedom Party, and has so far failed to hand it back to me or to my Party.

12. No legal remedy is available to me, in terms of the present laws of Sri Lanka, against any of the Acts and resolutions of Parliament, the findings of the Special Presidential Commission, or the executive actions of President Jayewardene. In fact, in respect of each of the matters referred to above, the jurisdiction of the Courts to inquire into and pronounce upon, has been expressly taken away by law.

13. It has now been officially announced that the Parliamentary Elections Act will be further amended to disqualify all the candidates nominated by the Sri Lanka Freedom Party and to strike out all the votes cast for all such candidates if I, as the leader of that Party, were to

contd.

do any act to further their candidatures, whether before or after an election is called. By this amendment to the law, President Jayewardene seeks to ensure that only the candidates of his Party will be qualified to be elected to Parliament.

14. In terms of the Constitution of Sri Lanka, a general election of Members of Parliament as well as the first national election of a President of the Republic are due to be held within the next eighteen months. By means of the aforesaid Acts and resolutions which President Jayewardene, the leader of the United National Party, has caused Parliament to pass with the aid of his parliamentary majority, he has ensured that I, as leader of the chief Opposition Party, will be disqualified from contesting him when he seeks election for the first time to the office of President of the Republic, and that I will also be disqualified from canvassing, speaking and in other ways participating in the general election campaign on behalf of the Party of which I am the elected leader. Consequently, President Jayewardene has eliminated his chief rival for presidential office and has deprived the main political Party in opposition to his own of effective leadership. Parliamentary democracy which has thrived in Sri Lanka for over three decades will thus be replaced by an autocratic one-Party system of government.

15. I submit that:

(a) The Special Presidential Commissions of Inquiry Law, No.7 of 1978, as amended by the Special Presidential Commissions of Inquiry (Special Provisions) Act, No.4 of 1978, under which I was found guilty of abuse and/or misuse of power in September 1980, and in terms of which civic disability was imposed on me in October 1980, is in violation of Article 15 of the Covenant, in that I have been held guilty of an offence on account of an act or omission which did not constitute an offence, under national or international law, at the time it was alleged to have been committed, and a penalty has been imposed on me when no such penalty was applicable to such act or omission at the time it was alleged to have been committed.

contd.

(b) The rsolution of Parliament imposing civic disability on me for a period of seven years and expelling me from Parliament to which I had been duly elected, constitute cruel, inhuman or degrading treatment or punishment, in violation of Article 7.

(c) The provisions of the Parliamentary Elections Act, No.1 of 1981 and of the Presidential Elections Act, No.15 of 1981, under which I am prohibited from canvassing, speaking or in any way participating in an election, deprives me of my right to freedom of expression and the right to peaceful assembly, in violation of Articles 19 and 20.

(d) The aforesaid Acts and resolutions of Parliament and the proposed further amendment to the law relating to parliamentary elections, discriminate against me on the basis of my political opinions, contrary to Articles 2 and 26, and deny me the right and opportunity to take part in the conduct of public affairs, to vote, and to be elected to public office, and deprive the millions of citizens of Sri Lanka who have and still support the Sri Lanka Freedom Party from giving free expression to their will at parliamentary and presidential elections, in violation of Article 25.

(e) the Special Presidential Commission, constituted as it was of Judges who had been hand-picked and promoted in advance by my chief political opponent; who derived their authority to determine the charges against me on a warrant issued by my chief political opponent; and who reported their findings and recommendations to my chief political opponent; was therefore, neither competent, independent, nor impartial, and was accordingly acting in violation of Article 14.

(f) The imposition on me of a penalty, not by a competent, independent and impartial tribunal, but by Parliament, was in violation of Article 14.

contd.

(g) The seizure by President Jayewardene of the headquarters of the Sri Lanka Freedom Party and the proposed further amendment of the Parliamentary Elections Act, are acts calculated to interfere with the right to genuine elections, and are therefore in violation of Article 25.

16. I shall be glad to clarify, or submit further documentary material in support of, the statements made above, if Your Excellency should so require.

Yours sincerely,

Sirima R D Bandaranaike

Mrs. Sirima R. D. Bandaranaike.
President, Sri Lanka Freedom Party.

H. E. The Rt. Hon. Margaret Thatcher, M.P.,
Prime Minister,
United Kingdom of Great Britain.

STATEMENT

Made by

Mrs. Sirimavo R. D. Bandaranaike

M. P. for Attanagalla

and

President of the

Sri Lanka Freedom Party

before

THE SPECIAL PRESIDENTIAL COMMISSION

on 7th May 1980

INTRODUCTION

The appointment of Commissions of Inquiry to investigate matters of public concern, after a general election that has led to a change of government, has become a familiar phenomenon in Sri Lankan politics in the recent past. It has had in some cases a limited value to the extent that it has genuinely helped to inform the public of certain facts and circumstances that were unknown to them at the time of their occurrence. It has thus enabled people to form a proper judgement upon matters which may have been the subject of suspicions and apprehensions which had lend to undermine confidence in the working of public institutions and the conduct of public men. These advantages and benefits were achieved only when such inquiries were free from any partisan political interests and an objective and impartial investigation was made possible. It was for this reason only that in Parliament I welcomed the appointment of a Commission of Inquiry and was ready to participate in such an independent and unbiased inquiry.

The present Government of the United National Party has however shrewdly recognised its potentialities as an instrument for a very different purpose, namely, the non-violent yet cold-blooded liquidation of chosen political opponents, while seeking to maintain an illusion of legality and the appearance of a regular judicial process. With this objective in view in March 1978 it enacted the Special Presidential Commissions Law and later its amendment in the same year when certain legal infirmities in it were exposed, by using its steam-roller majority in Parliament. Both Bills were rushed through Parliament in order to conceal the Government's sinister purposes.

Its diabolic character became evident within a few months of the passing of the law. Its subsequent history in the ensuing two years, which I have set out in the pages that follow, reveals the true nature of these proceedings. This law has very dangerous portents for the future of democracy and has tragical consequences for the independence of the judiciary in Sri Lanka. It will in due time most certainly lead to the establishment of a dictatorship through the technique of disenfranchising political opponents. When noticed to appear before it by the Special Presidential Commission I made the following statement as I considered it my duty to warn the People and protest against this act of calculated political victimisation, even if in so doing this Government would, no doubt, vengefully proceed to impose civic disabilities upon me in ex-parte proceedings.

Sirimavo R. D. Bandaranaike

May 1980.

Honourable Members of the Commission, I am here today in response to the notice issued to me, requiring my attendance for the purpose of being heard on the matters set out therein. It has become necessary to explain my position in regard to the Special Presidential Commission Law and the proceedings so far had, considering what had happened during the past two years since its enactment. I do this in order to make my position clear, not only to the Members of the Commission and the Government that has been responsible for its establishment, but also to the People of this Country whose Prime Minister I have been for the longest period in our nation's history. It is especially my duty and responsibility to set out as fully as I can the reasons which have impelled me to take this stand to the vast numbers of my countrymen, who still continue to have their trust and confidence in the Sri Lanka Freedom Party which I have been privileged to lead for the last twenty years.

That task of leadership of the Party I undertook, in order to fulfil the great aspirations and carry forward the principles and policies of its founder, the late Prime Minister, Mr. S. W. R. D. Bandaranaike, who was struck down while engaged in the liberation of the down-trodden masses of our land from the economic and social oppressions of that time. In continuance of that noble endeavour I have sought to follow the path which he foreshadowed and have had, from time to time in that undertaking, to encounter strong opposition and obstacles of every kind, ranging from criminal acts of conspiracy to overthrow the government, defections and acts of betrayal within the Party, armed insurrection and the plots of certain reactionary elements both within the country and outside it. I am now confronted by a conspiracy of a different kind—one which cunningly wears the external cloak of the law but which is in reality both undemocratic, unlawful and unconstitutional and is the very negation of fairness and justice.

I want to make it clear to all concerned that the decision which I have taken is a carefuly considered response to a calculated political manoeuvre by the United National Party to force me into a period of political exile, in order that they may continue to rule this country without fear of challenge to their political hegemony and proceed in their unprincipled exploitation of the People of this country. I have taken this decision with a full awareness of the consequences which may follow if the Government decides to carry through its ill-conceived plan of enforcing my expulsion from Parliament. Confident in the support of the People of this country, I am prepared to face the consequences of this undemocratic act of the Government in seeking my disenfranchisement, the consequent deprivation of

my other civic rights and the denial of my right to participate fully in the political life of this Country by holding the highest public office in the land as the elected representative of the People and as the President of the Republic. I shall now proceed to explain the reasons for this decision and the grounds upon which I make this charge against the Government.

The Special Presidential Commission Law is in truth a legislative scheme, designed ex post facto, to disqualify selected political opponents on arbitrary grounds and is motivated by considerations of personal revenge and political expediency. It is a law which has as its ostensible object the creation of high standards in public life but which is really aimed at advancing the partisan political interests of the U.N.P. by undermining, if not destroying ,the possibility of effective political leadership in the S.L.F.P. It seeks thereby to assure for the present Government a further term of office with the help of certain political elements whom they hope to win over. It is aimed at removing from the political arena those who have always adopted an uncompromising attitude of opposition to the U.N.P. and who have refused to be inveigled into office in collaboration with the U.N.P. but have firmly stood outside it in the interests of vast numbers of people who oppose the U.N.P. and its reactionary policies. This law is aimed at creating a one-party state by arbitrarily disqualifying those who can provide an effective political challenge to the U.N.P. and who have the capacity to form an alternative government.

Despite its thin veneer of legality it is in reality an unscrupulous act of naked political victimisation and its fundamentally undemocratic action which reveals the authoritarian character of this Government, despite its pretensions of fairplay and justice. It follows the pattern of other legislation introduced by this Government, such as the Local Authorities (Imposition of Civic Disabilities) Law Nos. 38 and 39 of 1978 which have in the most arbitrary fashion disqualified a large number of persons in the sphere of local government politics in this country. By this means the Government through its five-sizth majority in Parliament is seeking to ensconce itself permanently in office by systematically depriving their political opponents of their civic rights, a tactic well known among totalitarian governments.

Before the introduction of the Special Presidential Commission Law a citizen of Sri Lanka lost his civic rights, forfeiting his right to become a member of the Legislature upon a strictly judicial finding of the regular courts wich have been established for the judicial determination of disputes and controversies. The grounds on which a person could be so denied his civic rights were known in advance; they were precisely defined in the relevant laws, they had to be proved accoding to a strictly judicial procedure and everybody had a clear idea of the circumstances in which such consequences would follow.

The only laws which prescribed this penalty of forfeiture of civic rights were (a) the Bribery Act (b) the Public Bodies (Prevention of Corruption) Ordinance and (c) the Ceylon Parliamentary Elections (Order-in-Council). Under the first and second named laws, the offence was bribery and this offence was precisely defined. In the case of the first law the form of trial was the same as in any other criminal trial and the findings of the trial court were subject to appeal. Under the second named law the findings could be that of a court or a Commission under the Commissions of Inquiry Act. But even the decision of a Commission was subject to the supervisory jurisdiction of the Superior Courts. Under the Elections Law a person lost his civic rights only when an Election Judge found a person guilty of an election offence. These were either corrupt practices or illegal practices which were closely defined and from the findings of an Election Judge, who followed a strictly judicial procedure, there was a right of appeal to the Supreme Court. The normal rules of evidence were observed in all these cases and every accused person or respondent had every opportunity of properly defending himself.

In contrast, the Special Presidential Commissions Law does not provide for any of these customary safeguards. A person aggrieved by its findings has no right of appeal. This Law says very clearly that any report, finding, order, determination, ruling or recommendation made by the Commission under that law shall be final and conclusive and shall not be called in question in any court or tribunal, by way of writ of otherwise. Findings of fact or law cannot therefore be questioned. Even manifest errors of law which vitiate the findings, especially when concepts are not defined, cannot be questioned. These are some of the disabilities and disadvantages which a person brought under it has to suffer even though the most far-reaching consequences follow upon its findings and recommendations.

The law does not define any of the terms of abuse of power, misuse of power, political victimisation, fraud or corruption. Although their general signification may be known, by reason of the absence of a clear definition there are no recognisable limits to the acts or forms of conduct or behaviour which the Commission can find as coming within these expressions. The Commission has not in any of the reports published so far sought to explain these concepts nor has it interpreted them in the manner of judicial exposition. Its findings are of an ad hoc nature and they do not afford much guidance to a person facing an inquiry. However erroneous the views of the Commission may be, however unsustainable on the evidence they may be shown to be, a person aggrieved by such a finding has no remedy.

The difficulty created thereby is increased by reason of the fact that the Commission has adopted a practice of not designating in the notice issued on a party, any particular allegation of fact as constituting any

specific offence or the prescribed form of statutory conduct. It is further aggravated by the practice adopted by the Commission of not informing a party-noticed even at a later stage of the specific offence that is alleged against such person. This is a denial of that elementary rule of natural justice of informing a person who is to suffer a penalty on the findings of a tribunal, of the exact nature or description of the offence charged. How can a person who has himself to speculate on whether he is being accused of abuse of power, misuse of power, corruption, fraud, political victimisation or a plain contravention of a law properly defend himself?

Although at the commencement of the inquiry when the Commission does not know what material will transpire in the course of the investigation it may not be able to specify the offence, yet at the end of this inquisitorial stage of the inquiry before the party-noticed is asked to explain and before the Commission embarks on the process of adjudication it must in all fairness inform the party-noticed of the charge of which he may be found guilty. This is the right of every accused person. This the Commission has signally failed to do in the inquiries so far concluded and has thereby violated the rules of natural justice.

The whole object behind the appointment of a Commission of Inquiry is to ascertain the truth in regard to any matter of public concern when by reason of the existence of rumours and suspicions of illegality or irregularity there is a crisis of confidence. It is absolutely essential that such an inquiry should be conducted with objectivity and fairness, free from any preconceived theories, any particular view point or political bias. In order that there should be such a scrupulous regard for fairness and truth, eminent jurists have considered it necessary, in a well-known report that has been published on the working of Commissions of Inquiry Act in the United Kingdom (often referred to as the Salmon Commission Report) that leading of evidence before the Tribunal should be undertaken by independent counsel, unaffected by any particular political affiliations.

But what has happened here? The Government has in the most flagrant manner disregarded this principle. The work of investigation has been done by lawyers who have strong political ties with the United National Party and the investigations have been conducted in a manner directed to subserve the partisan political purposes of the U.N.P. Senior Counsel leading the team of lawyers leading evidence before the Commission is none other than Mr. A. C. de Soyza, a member of the Working Committee of the U.N.P. who campaigned for the Party. So right from the start the Government was not interested in finding out the turth, but in presenting to the public its own view of what was the truth. Thus the entire proceedings before the Commission became an extravaganza of political propaganda against me and the Sri Lanka Freedom Party.

In a properly conducted Commission of Inquiry which has as its object the ascertainment of all the relevant facts, Counsel leading the evidence of any witness before the Commission must be completely open-minded in the conduct of the inquiry. In an inquisitorial proceeding he is expected after the preliminary examination-in-chief of each witness to test the veracity and accuracy of their testimony, by himself cross-examining them in order to expose any contradictions and exaggerations in the evidence. Nothing like that has happened before the Commission. Instead Counsel leading evidence has not sought to elicit from the witnesses what happened but has through leading questions quite openly suggested to each and every witness the answers expected of them. Since no attempt has been made by the Commission to stop this practice one must assume that it had the full approval of the Commission. In the result the very object of a Commission of Inquiry has been defeated. It has assumed the character of an ex parte prosecution even at the inquisitorial stage of the inquiry and has thereby negatived the very purpose and object of this stage of the inquiry.

The procedure that has in fact been adopted during the investigatory stage of the inquiry is contrary to the basic principle of the inquisitorial method. The Commission which is invested by law with this responsibility has left the direction and conduct of the investigation in the hands of a team of lawyers who, though they have been euphemistically described as counsel assisting the Commission, are in truth a team of prosecuting counsel who have conducted themselves regardless of the ordinary restraints expected of those who participate responsibly in a judicial proceeding. Senior Counsel who led evidence at this inquiry was permitted an unrestricted freedom to indulge himself in an orgy of character assassination and villification of myself and other members of my party which was calculated to cause maximum prejudice and has in fact destroyed in advance the possibility of an impartial and dispassionate consideration of the evidence. This was given the widest publicity in the press and repeatedly broadcast over the State radio, presumably as entertainment for supporters of the Party.

I have read the record of proceedings furnished to me and from the opening speech made by Senior Counsel for the State, and the selective manner in which witnesses have been called, it is clear that the preliminary stage of the inquiry which is expected to be of an exploratory nature has been undertaken not by the Commission but by a group of politically motivated lawyers who have not been interested in discovering the facts but in procuring evidence to give the Commission's findings the required political slant. Judging by what appears in the Report of the inquiry against Mr. Nihal Jayawickreme, the former Secretary to the Ministry of Justice, they certainly have achieved their ends.

From the record of proceedings of the inquiry held ɪo parte against m it is patent that evidence has been led in a thoroughly prejudicial manner. The record contains page after page of leading questions that leave no room for a voluntary or spontaneous answer from the witness. In permitting evidence to be led in this slanted fashion, the Commission has abdicated its primary responsibility of executing the terms of the Warrant which requires it to investigate the facts itself. Instead it has passively allowed itself to be led along the path of familiar accusations made against me by my political opponents.

This is not all. The Commission has been subjected to such a continuous torrent of prejudicial comments by the Government lawyers, while the evidence of witnesses was being led, in order to condition its thinking that it would require a superhuman effort for the Commission to rid itself of these preconceptions and approach the evidence objectively. The interruptions by Counsel made while witnesses were giving evidence, the numerous promptings and suggestions made quite openly while the evidence was being led make it a difficult matter to discern what the real evidence in the case is and leaves no room for doubt as to what has taken place in the private chambers of counsel who led the evidence of these witnesses.

The answers given by witnesses in their cross-examintion by Mr. S. Nadesan, Q.C. in Mr. Jayawickreme's inquiry reveals the manner in which these witnesses came to give evidence and clearly shows that the entire direction of the inquiry has been left to the initiative of the Government lawyers. This has led to a wholly distorted picture of the facts being placed before the Commission.

On the other hand the Commission was under a duty to direct the inquiry and not allow itself to be guided along a selected path. But that is not what happened and in the result a person in my position has neither the benefits of a truly inquisitorial proceedings which it should have been up to the stage that I was noticed, nor the advantage of an adversary proceeding which the inquiry should now assume—the chief of which is a specific charge with sufficient particulars as will enable a person to be properly defended. Neither requirement has been satisfied and the result will inevitably be a denial of elementary justice.

The preliminary inquiry before notice was issued on me has been so controlled by the Government lawyers that vital witnesses, whose evidence would have struck anyone as being material, have not been examined. It is indeed surprising how any inquiry into the regularity of the land transactions referred to in the annexe could have been undertaken by the Commission without examining either the Minister of Agriculture and Lands who was in charge of this subject and who made a statement in the National State Assembly when the matter was debated oɪ the Chairman of the

and Reform Commission on the question of the alleged evasion of the law. Is it because the highly profitable exercise of exchanging poor quality lands for excellent estate lands made by the leading members of the present Government would come to light?

In regard to the first five matters set out in the annexe, which are charges of a personal nature, my position is simply this. If I have contravened any law of this country, unlike the President who apparently needs a cloak of immunity, I am prepared to face any charge before the regular courts of the land. If it is alleged that I have defrauded the Government or that I am guilty of any act of corruption, caused damage or injury to any person, I invite the Government to institute appropriate legal proceedings before a court having jurisdiction where I can properly defend myself, where I shall at least be informed of the charges against me and the law which I have contravened, where the prosecutor will not be permitted to exert undue influence on the mind of the judge or the witnesses while the case is proceeding. I refuse to be tried by a Special Tribunal selected by my chief political opponent which is called upon to report to him, so that he and his party can decide on the punishment, namely, the period of my disenfranchisement.

Why is the Government reluctant to go before the established courts? It is simply because the Government can find no law under which they can punish me. They have therefore decided to create new offences and a new tribunal free to adopt its own procedure. Any act of the previous Government which the U.N.P. have opposed or criticised when in the opposition they wish to designate as an abuse of power or as a misuse of power or by some other nebulous term and prescribe a period of exile from office for those whom they allege are guilty of such conduct. It is thus a plain and simple case of political revenge and political victimisation under the guise of law.

It is the supreme irony that this law which is aimed at punishing abuse of power and political victimisation is itself a collossal act of abuse of parliamentary power and is the very instrument for the victimisation of their strongest political oppponent. It is no more and no less than a Machiavellian plan to exclude me from the political arena by securing my disenfranchisement and disqualification from political office for the next seven years, in the vain hope that the Government will thereby assure for itself another term of office.

Has the Government forgotten its own Constitution about which it boasts so much? This Constitution claims to guarantee persons from being found guilty of acts or omissions which at the time they took place did not constitute offences and against the infliction of punishment for acts which were not so punishable. The Special Presidential Law contradicts this very principle. The protection of the Constitution evidently does

not extend to the Government's political opponents. Perhaps they should have put that in a proviso, if they were honest about it.

The so-called object of this law has been said to be to ensure purity in public life. Nobody would argue about such a high moral purpose. But what is the reality? If the Government is honest in its professed objective, why was the warrant issued to this Commision restricted to the period 1970-77? Did the abuse of power or the misuse of power occur in the history of this country only during this period? Has it now ceased to exist? Is corruption in public life a thing of the past? Is political victimisation an obsolete concept? Is nepotism no more? Why has the Government despite allegations of unprecedented acts of corruption in the highest echelons of power refrained from appointing a Commission to inquire into its own misdeeds? The increase in corruption today is proportionate to the phenomenal increase in public expenditure. No doubt the Government feels secure thinking that since the imposition of civic disability requires a two-thirds majority, a future Government is unlikely to secure it with the new sysem of proportional representation. So the Government desires to use its five-sixths majority in order to extinguish any threat to its own position, through the medium of the deprivation of civic rights without any real fear of reprisal. Does the Government really believe that it can hoodwink the people of this country by this piece of chicanery? Already the people of this country have during the past three years seen through the hollow pretensions of this Government and their total incapacity to solve their problems. No doubt the Government is aware of this and thinks it is time that I should be banished from the political scene.

Why am I being brought before the Commission at this juncture? Long before I was noticed to appear on the 27th February 1980 several months ago last year, there were five others on whom notices had been served (according to the Commission's Second Interim Report) whose inquiries would have preceded mine. No doubt it would be convenient for the Government if I was disenfranchised at this time and expelled from Parliament. No doubt the Government is getting ready to impose on the People greater burdens and hardships which are the inevitable results of their reactionary policies, inefficiency and the collossal corruption. It is clear that despite its massive majority in Parliament the Government feels that it is daily becoming more and more unpopular because it has swiftly belied the expectations of those who fondly believed that the United National Party would usher in the millennium.

In regard to the allegations of a political nature which have been framed against me, my reply is that by virtue of my position as Prime Minister, I was vested with full executive power to carry on the administration of the Government which I had been elected to lead and the power and

authority which I held under the respective Constitutions then in force enabled me to govern this country together with the Cabinet of Ministers under a system of collective responsibility to the House of Representatives and thereafter to the National State Assembly, each of which was the respository of the sovereignty of the People. I must therefore quite plainly decline to explain, be answerable or be accountable in respect of the acts of my Government to any non-sovereign body or tribunal which has no constitutional authority to override or supersede the sovereign legislature, which alone had power and authority to question my actions or that of my Government and to which alone I was responsible.

Both under the 1946 Constitution Order-in-Council and the First Republican Constitution adopted in 1972, as the Prime Minister of a democratically elected Government, along with my Cabinet of Ministers, I was responsible to the Legislature and answerable to it for the government of the Country. Under both Constitutions the Legislature was supreme over all other organs of Government and especially under the Republican Constitution of 1972 there was no doubt about it and it was expressly provided that sovereignty was in the People and was inalienable. That sovereignty was exercised through the National State Assembly. My responsibility and the responsibility of my Cabinet of Ministers was to the National State Assembly which was the supreme instrument of State power and was the symbol of the People's sovereignty decreed by the Constitution to be inalienable. The National State Assembly was therefore inherently incapable of delegating its exclusive right and authority and the correlative duty vested in it to any other body or institution and certainly not to a non-sovereign body outside Parliament such as the Special Presidential Commission and which was not rcognised as having any such power or authority by the Constitution of 1972. If sovereignty means anything it means that the decisions, authority or approval granted by such sovereign body cannot be overridden or superseded or otherwise questioned, by a non-sovereign body. Throughout the period of my stewardship as Prime Minister the conduct of my Government was subject to questions and debate in Parliament. My directions to public officers and the administration of the departments under my immediate control were subject to question and debate in Parliament. So were the declarations of the state of emergency brought into force by the Governor-General and later the President, on my advice in consultation with my Cabinet of Ministers. Is this Government seeking to introduce a new principle of the vicarious liability of a Prime Minister for the collective decision and responsibility of the Cabinet of Ministers? I am not prepared to violate the principle of Cabinet secrecy even if my case has to go by default. The Public Security Act has provided Parliament as the only body which has cognizance over the question of an emergency and

expressly declares that the fact of the existence or imminence of a State of public emergency shall not be called in question in any court. How can this Commission presume to inquire into the question of the declaration of the emergency when the law says it is not justiciable and that law remains unamended? The attempt made to question the need for the emergency through the evidence of a disgruntled policeman now in retirement and a self-confessed insurgent is hilarious indeed. Even the matters affecting my personal conduct such as the land transactions were the subject of debate in the National State Assembly and the Assembly on that occasion rejected the vote of no-confidence sought to be made against me by the opposition. If the N.S.A. as a sovereign body rejected that motion and rejected the allegations of impropriety on that occasion, a later Parliament cannot usurp that power, determine otherwise and seek to make me accountable or answerable to it now. Just as much as one Parliament cannot bind a future Parliament, the present Parliament cannot assume a jurisdiction or power that was once vested in a former Parliament that was itself a sovereign body. If what was properly a matter for the former Parliament cannot be usurped by the present Parliament, how can it possibly be assumed by a non-sovereign body like the Special Presidential Commission?

It is therefore plain to see that the Special Presidential Commission Law was ultra vires the First Republican Constitution of 1972 under which it was passed because in setting up a body external to the National State Assembly to examine the conduct of the Prime Minister and the Cabinet of Ministers it contradicted both the principle of collective responsibility to Parliament provided by Article 92 and the principles that the sovereignty of the People was exercisable by the National State Assembly alone. (Articles 3 and 4). These were fundamental postulates of the system of government under which I functioned as Prime Minister. The present Government could not have validly secured the enactment of this Law No. 7 of 1978 without first amending these Articles of the Constitution, assuming that Articles 3 and 4 could in any event have been amended at all without a Constituent Assembly being summoned. My position is therefore that this Commision had at its very inception no legal or constitutional authority to enquire into my administration whether as Prime Minister or the Minister of Defence and External Affairs.

The constitutional validity of the original Bill could not be properly examined because it was rushed through as an urgent Bill under Article 55 of the 1972 Constitution and the Constitutional Court which was called upon to determine its validity in less than twenty four hours even with the assistance of the Attorney-General failed to detect these vital contradictions. So the Bill was not one passed as a Constitutional amendment as it was erroneously thought to be consistent with it. It did not receive

the Speaker's certificate to the effect that the Bill had been passed by a majority of two-thirds of the Assembly and the law could therefore not have been properly interpreted in a manner consistent with the Constitution of 1972 which was the fundamental law at the time.

After the Bill was enacted as Law No. 7 of 1978 and after the 1978 Constitution was adopted on the 7th September 1978 I challenged the jurisdiction of the Special Presidential Commission on several grounds. The Court of Appeal granted a Writ of Prohibition against the Commission upholding the contention that the Warrant was invalid as the law was not retrospective in its operation and did not authorise an inquiry in respect of a period prior to the law but did not rule in my favour in respect of the other grounds urged, including the question of the validity of the Law. Although the validity of the Law could not have been challenged as long as Article 48(2) of the 1972 Constitution was in force (i.e. till 7th September 1978) it did not operate as a bar after the repeal of that Constitution. But the judgement of the Court of Appeal erroneously proceeded on the basis that this Article was a bar against the validity of the law being impugned, although the 1972 Constitution had been repealed and was no longer law when the Application for a Writ of Prohibition was filed before the Court.

After the judgement of the Court of Appeal was given, when it was announced in Parliament by the Prime Minister that steps would be taken to amend the law so as to make it restrospective, on the advice of my lawyers, I sought leave from the Court of Appeal to appeal against its judgement to the Supreme Court on the grounds decided against me and was granted leave to appeal to the Supreme Court. I could not proceed with the appeal as Parliament was not content merely to amend the law and issue a fresh warrant but took the unprecedented step of declaring the judgement pronounced by the Court of Appeal null and void and of no force or effect whatsoever which left me with no judgement which could be reviewed in appeal. Parliament thereby deprived me of my legal remedy. This was first time in the history of this country when Parliament declared void a judgement of one of the Superior Courts of this country. In the result I was deprived of the right of prosecuting my appeal before the Supreme Court. Although His Excellency the President had publicly stated, even before the case began, that he would abide by the judgement of the Court, the Government went back on this declaration obviously determined to secure my disenfranchisement at any cost. Not only did the Government nullify the judgement, it went on to take away from the Court of Appeal any jurisdiction to deal with such an application, as if to intimidate the Court, in future cases. In view of the transfer of this jurisdiction to the Supreme Court I filed a second application for a Writ of Prohibition on the other grounds which had been

decided against me by the Court of Appeal on the very day the amending law was being debated in Parliament.

The strange events that followed show the implacable desire of Government to secure my enforced exile from politics. Perhaps the People of this country do not know that the amending Bill which the Government brought before Parliament and which was referred to the Supreme Court for its opinion on the 16th November 1978 under Article 122 (1) (b) of the 1978 Constitution was not the same Bill which finally received the Speaker's certificate as the Special Presidential Commissions of Inquiry (Special Provision) Act No. 4 of 1978. The Bill that was placed before the Supreme Court did not contain a vital and material clause which now appears in the Act as section 21 A which was to all intents and purposes a legislative direction to the Supreme Court as to the interpretation of this law. It provided that the provisions of this law and the warrant issued under it shall be so interpreted as to give the Commission jurisdiction to inquire into my conduct as Prime Minister notwithstanding that the conferment of such jurisdiction may be construed to be or to have been inconsistent with the provisions of section 46 (1) of the Constitution Order-in-Council of 1946 or section 92 or section 106(5) or of any other section of the Constitution of Sri Lanka of 1972. It was a legislative judgement given in advance of the Court hearing. This clause which was expressly and specifically designed to meet the grounds of attack on the law, that were being urged by me in my second application for a Writ of Prohibition then pending before the Supreme Court, did not appear in the Bill that was placed before the Supreme Court for its opinion. Such a provision would clearly have violated Article 4(c) of the Constitution of 1978 which requires the judicial power of the People to be exercised through the courts and not directly by Parliament and since it related to the powers of government which were included in the concept of sovereignty of the People, as provided by Article 3, it would have infringed Article 3 as well and no amendment of Article 3 was possible without the holding of a Referendum in compliance with Article 83.

So the Supreme Court which was specifically invited to consider the question, whether the amending Bill was one which required the approval of the People at a Referendum and compliance with Article 83 of the Constitution, gave its opinion on a Bill which did not contain the all important section 21A that violated Articles 4(c) and 3, the amendment of which would have required a Referendum. This Government has therefore by-passed the Referendum procedure for obvious reasons. It has transgressed its own Constitution because it suited them in their relentless desire to disqualify me. This is no accident as the Government would not have dared to place this issue before the People at a Referendum which the Supreme Court would have held was necessary, had section

21A been included in the Bill on which it gave its opinion. If the Government is sincere in its desire to respect the wishes of the People and its own Constitution, it should even at this stage hold a Refeendum on this question.

Throughout the Second Reading of the amending Bill not one member of the House referred to this section despite a lengthy debate on the Bill simply because it was not there in the Bill. It was not moved as an amendment during the Committee stage of the Bill and this fact is borne out by the only version of Hansard dated 20th November 1978 that is yet available. If this clause was moved on the floor of the House and a copy of the amendment was either read or handed over I could not have failed to see its significance.

Some days later when my lawyers examined the enacted law No. 4 of 1978 they found to their dismay and to my own amazement this new section 21A in the Act which means that Parliament had in effect delivered the judgement in my second application for a Writ of Prohibition even before the case was heard by the Supreme Court. When the case came up before the Supreme Court at my request the case was postponed in order that the question of the authenticity of this section in the Act No. 4 of 1978 be investigated. The regularity of the inclusion of this section in the amending Act was raised in Parliament by the Hon. Leader of the Opposition. The Prime Minister at this stage quite openly stated that he had, while the amending Bill was being debated, received a copy of my second application for a writ from a source which was not identified and by implication admitted that this section had been specifically introduced later to meet the very points raised in my new application before the Supreme Court. The Speaker ruled that the amendment had been duly passed. I then requested the appointment of a Select Committee to go into the extent to which the Government has gone in their single-minded object to secure my disqualification from standng for the office of President in the election due to take palce in 1984. I have been denied the right which every citizen has of going before the highest court for a just determination of my case. After all when this has happened can I have any reasonable expectation of a fair trial?

The Government has in the most unashamed and flagrant manner interfered with the Judiciary of this country. With the inauguration of the new Constitution all the Judges who held office in the former Supreme Court and the High Court Judges ceased to hold office. Some judges of the former Supreme Court were appointed to the Court of Appeal which was in fact a demotion as it was no longer the highest court, while other members of the old Supreme Court were elevated to the new Supreme Court over the heads of Senior Colleagues and yet others found themselves compulsorily retired without any charge being made against them or a word of explanation offered. This is the way the Government respect-

ed the Judiciary of this country. While professing to create an independent judiciary it has in the most cynical and scandalous manner violated the principle of judicial independence and intimidated the Judiciary.

Another instance of the scant respect the Government has for the Judiciary of this country is the way in which its representative before the Commission at its initial stages assailed the conduct of members of the Judiciary including judges of the Supreme Court who enjoyed constitutional protection against such attacks. The Special Presidential Commissions Law before its amendment did not authorise the Commission to inquire into the conduct of a Judge in view of these overriding constitutional provisions. But the Commission permitted them to be subjected to scandalous attacks notwithstanding these safeguards and notwithstanding the law of contempt of court. This is the extent to which the Government has overawed the Judiciary of this Country. I think the whole country would deplore, as much as I do, the way in which this Government has by this law embroiled the Judiciary in partisan political conflicts. In this way this Government has acused and will continue to cause grave damage to one of our most valued institutions.

There are other reasons why I feel that no useful purpose would be served by participating in these proceedings.

The virtual complainant in respect of some of the matters that are the subject of the inquiry against me is none other than His Excellency the President himself. For example, the charge of prolonging the period of the State of Emergency, approving the disruption of the so-called satyagraha of the U.N.P. in 1973, directing the I.G.P. in regard to inquiries on complaints made by politicians which included a complaint of an alleged threat on the life of Mr. J. R. Jayewardene are criticisms made by the President himself. They are all political criticisms and allegations levelled at my Government and myself by the leader of the U.N.P. both in Parliament and outside it to which replies have been given at the appropriate time. Any finding in my favour on these allegations must by necessity affect the credibility of the President himself who is the virtual complainant though he is not a witness before the Commission and cannot even be summoned to give evidence.

Now it is the President and not the Chief Justice who has chosen the three members of the Commission. In March 1978 the President himself chose them from over fifty members of the judiciary who were eligible under Section 2 of the Law for appointment. No doubt the present members of the Commision were appointed, as the warrant says, by reason of the great trust and confidence the President has reposed in them. But members of the Commission unlike members of the Judiciary have no security of tenure, hold office at the President's pleasure and are in law removable

by him at any time. It is such a Commission which is called upon to examine and report to the President, among other things on the truth of the very complaints which he himself has made against me and my Government on the floor of the National State Assembly and outside it. Is this not a remarkable situation?

I cannot think of any system of justice anywhere in the world where judges are called upon to report to the virtual complainant, upon a matter which personally concerns the complainant, as to whether or not the complaint is true and the person accused is guilty. Yet this is what the Commission is called upon to do. That is not all. On receiving this report it is the President who is the complainant and his political group in Parliament and not an impartial court that will determine the punishment namely, whether or not civic disabilities are to be imposed on their chief political opponent and if so, for how long! It is the complainant and his supporters who will decide on the punishment. Judging by the speed with which the Government acted in the case of Mr. Nihal Jayawickreme I have no doubt as to what the U.N.P. intends to do in my case. The question is, am I expected to co-operate in this conspiracy to bring about my own political destruction?

The President having appointed persons of his choice as Commissioners has at various times at public meetings expressed in no unmistakable language what he considers to be the outcome of these proceedings. Thus he is reported to have stated, according to the Ceylon Daily News of the 7th August 1978, shortly after the Commission began its sittings at a U.N.P. rally held on 5th August at Kotahena, after recounting various atrocities alleged to have been committed by the prevous government:

> "There was no law and order during her regime. One had only to read or listen over the radio to Mr. A. C. de Zoysa's address to the Presidential Commission these days to realise what injustices had been committed during that period."

Can this Commission reject what His Excellency proclaims to be the truth? At the same meeting the Prime Minister is reported to have stated:

> "Mrs. Bandaranaike was trying to make the people forget what she and her Ministers had done during their seven years in office. But they were being exposed before the Presidential Commission appointed to probe their misdeeds."

Neither of these news items have been contradicted. These are unashamed attempts in public to influence the Commission appointed by it.

Ordinarily any person who presumes to interfere with the work of a court or judicial body is liable to be punished for contempt of court and is liable to be deprived of his civic rights under Atricle 116 (2) of the Constitution. But His Excellency is above the law and by Article 35 of the

Constitution he is granted immunity from suit in respect of any thing done by him in his official or private capacity. So he can with impunity interfere in this proceeding in which he is so vitally interested.

I say he is vitally interested in this matter because if I am found guilty by his nominees and deprived of my civic rights by his own political party which constitutes five-sixth of the present Parliament he will have ensured that his strongest political opponent eliminated in advance from the contest at the very first election to be held for the election of the President of the Republic. I say this is the whole purpose and object behind this elaborate facade of legality of a Commission of Inquiry.

Having regard to all these matters I have reasonable grounds to believe that my participating in the proceedings of this Commission will serve no useful purpose except to give the U.N.P. an opportunity of humiliating me in the same way that the Government's lawyers sought to denigrate me and my family and indeed everybody else who have fallen foul of the Government. There will begin another carnival of calumny which will be given full publicity in the Government newspapers and then broadcast over the State radio. I shall not be a willing party to such humiliation and a revival of that disgraceful exhibition even if it means the end of my political career. It will be an insult to the People of this country whose Prime Minister I have had the distinguished honour to be. I have always accepted the judgment of the People without bitterness or rancour. If at a fairly held election it is their wish and decision that I should not lead this country again I shall certainly accept that but I shall not bow down to the machinations and ruthless desires of this Government which seeks to destroy me politically and destroy democracy in this country. Even though courts of the land have been barred from giving me relief, I shall take this issue before the People who will ultimately decide our destiny.

I do not honestly believe that in the circumstances, which I have stated, it will be possible for me to have a fair trial and a fair opportunity of exonerating myself. For these reasons I desire to inform the Honourable Members of this Commission that I do not intend to participate further in these proceedings and accordingly I am now withdrawing from it. I thank Your Honours for the patient hearing given to me.

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