

BY HAND

5th November 2003

Mr. Karu Jayasuriya, M.P.
Deputy Leader of the United National Party
2, Amarasekera Mawatha
Colombo 5.

Dear Karu,

Pursuant to the telephone conversation had this morning, I set out the following for your kind attention:

I refer to the Code of Conduct for the UNP Members of Parliament, a copy of which you kindly forwarded to me by Letter of 9.9.2003. I am constrained to draw your attention to the following:

- “1.3 You should at all times **abide by the Rule of Law** and act in accordance with the **letter and intent of the Law.**”
- “2.4 You should at all times **respect the Rule of Law** and refrain from making false accusations or holding out **threats to anyone.**”
- “3.11 **You should not interfere with the working of the Courts**, Police or any government department or corporation or agency. You should refrain from visiting police stations.”

Given the foregoing, it is beyond comprehension, as to how you (if you did) and those others conspired and plotted over the last weekend to move an impeachment Motion against the Chief Justice, which matter was prominently carried, both in the electronic and print media, even before such Motion was handed over to the Speaker, reportedly yesterday. You would admit that such conduct and actions cannot form a part of the legislative process in Parliament, in so far as, such conduct and actions having been elsewhere, and are therefore not privileged.

The aforesaid conduct and actions have been in the very teeth of the hearing before a 5-Member Bench of the Supreme Court held on Friday, 31.10.2003, in relation to a matter referred by the Executive President, as she constitutionally might, exercising the right vested in her under Article 129 (1) of the Constitution, and whilst the decision making process on the said matter by the Supreme Court was pending, and the Report thereon yet to be forwarded to the Executive President. The said conduct and actions would not only be an act of intimidation of the Chief Justice, but also of the other 4 Supreme Court Judges, who comprised the Bench, even extending a sense of apprehension amongst the judiciary as a whole, in violation of the Constitution in this democracy.

The above conduct and actions, I am advised, would not only tantamount to the contempt of the Supreme Court, which could be dealt with under Article 105 (3) of the Constitution, but also constitute an interference with the judiciary in violation of Article 116 of the Constitution, and on conviction attracting, *inter-alia*, civic disability for a period of 7-years. The unprecedented action today by the Members of the judiciary from the High Court downwards, constituting judicial officers exercising original jurisdiction, puts this matter of interference with the judiciary, beyond any doubt, whatsoever.

As intimated to you on the phone, recently a 5-Member Bench of the Supreme Court presided by the Chief Justice, made 2 Determinations in which, the Supreme Court, *inter-alia*, unanimously determined that **the enactment of unconscionable the law will be struck down and that the law certainly cannot strengthen the strong and weaken, the weak.** I enclose copies of the 2 Supreme Court Determinations.

I also enclose a copy of the Writ Application pertaining to the purported "Income Tax Amnesty Law" filed in the Court of Appeal, on which Notice was issued recently, the contents of which are self-explanatory. You would, no doubt, agree that the above dicta of the Supreme Court would be most relevant and pertinent and ought be taken cognisance of.

I earnestly implore you, to put the interests of the nation above any other considerations, whatsoever, and courageously defend it, and act according to your conscience and principles espoused, leading by example at this critical juncture of our country.

As requested, shall telephone you tonight with a view to meeting tomorrow.

Best regards,



Nihal

cc: Her Excellency the President

REGISTERED POST

27th June 2003

Hon. Karu Jayasuriya, M.P.
Chairman, "Code of Conduct" Committee
Deputy Leader, United National Party
Minister of Power & Energy
2, Amarasekera Mawatha
Colombo 5.

Dear Mr. Jayasuriya,

I acknowledge with thanks, Letter dated 10.6.2003, you had caused to be forwarded, through your Co-ordinating Secretary, acknowledging my Letter dated 2.6.2003 addressed to the Hon. Prime Minister, copied to you, and those others stated therein, on the matter of the *camouflagingly* and *misleadingly* titled – "Inland Revenue (Special Provisions) Bill".

Whilst, I note your appreciation of my submissions, which you have noted to be *very interesting*, I wish to ascertain, as to what action you have taken or propose to take in such regard, *in the greater public good*, for the *sake of the impoverished masses* of this country, *and in the interest of upholding the rule of law* ?

I did not receive a response from the Hon. Prime Minister, *on such a vital and important matter* ! I have forwarded to the Hon. Prime Minister the enclosed further Letter dated 25.6.2003, the contents of which said Letter *are self-explanatory*. *Why hide the truth and reality from the public, knowingly to mislead and deceive the public ?*

In the scenario of the *analytical exposure* demonstrating that the *purported* "Income Tax Amnesty" to be a "deception" perpetrated on the *impoverished masses* of this country, *in betrayal of their trust and an advocacy of a culture of State sponsored prevention / frustration of investigation into and prosecution on frauds, offences and crimes against society, thereby eroding moral standards*, I trust that the "Code of Conduct" to be formulated by your Committee, appointed by the Hon Prime Minister, *would not be a mere "red herring" and an "eye-wash" !*

I regret that I am compelled to so state, given the *dicta* of a Resolution reported in the media to have been *unanimously* adopted by the Working Committee of the United National Party in April 1982, *"to enforce high standards of conduct among those elected and selected to hold public office"*; *quote -*

"Whereas any democratic system of government requires honest leaders and whereas the rampant corruption under the Sirima Bandaranaike administration resulted in the government forfeiting the moral strength vital for honest leadership and good government, and whereas the UNP at the 1977 general election pledged that those holding elected public office shall set an example of moral behaviour by adhering to high standards of conduct free from suspicion of corruption and that those who violate such standards will suffer the consequences, and whereas the present government has in furtherance of this pledge formulated a code of conduct and expanded the terms of reference of the special presidential commission, and whereas further measures are necessary to purify public life to ensure that those holding elected public office are above suspicion of corruption.

Therefore, the working committee of the United National Party resolves that the party takes the initiative to enforce the high standard of conduct among elected and selected public officials who are members of the party and thereby set an example to other political organisations.

The working committee further resolves,

- (i) That the leader of the party inquire into the conduct of party members who have been elected or selected to public office i.e. members of parliament including those holding ministerial office, members of district development councils, members of local authorities, chairmen and members of the boards of corporations and similar officers.

- (ii) Where after any inquiry under para (i), the leader of the party is of the view that any such member has failed to adhere to the high standard of conduct expected of those holding elected and selected public office to be free from suspicion of corruption, the leader of the party shall request the member of the party to resign from such elected public office.
- (iii) The leader of the party shall report to the working committee in regard to inquiries held and action taken under paragraph (i) and (ii).
- (iv) Every member shall co-operate in any inquiry under paragraph (i) answering all questions put to him at the inquiry and by producing all documents including income tax returns, bank statements, declarations of assets and liabilities made under laws in force for the time being, declarations under the customs ordinance and the exchange control act etc., which in the opinion of the leader of the party is necessary for such inquiry.
- (v) The leader of the party may formulate such rules as are necessary for the conduct of inquiries under paragraph (i).
- (vi) Any member who,
 - (a) on being called upon to resign elected public office in accordance with paragraph (ii) fails to do so, or
 - (b) fails to co-operate in any inquiry in accordance with paragraph (iv) and (v) shall be "expelled from membership of the party "

Has not history revealed that what transpired thereafter was exactly the opposite, with the complete erosion of moral and ethical standards and the civil society revolting today demanding, not only the formulation of a "Code of Conduct", but also, the effective enforcement of the strict observance thereof, and ensuring "good governance". Is not the *camouflagingly* and *misleadingly* titled – "Inland Revenue (Special Provisions) Bill" as analysed, a complete paradox to such demands? Thus would it not warrant immediate action by your Committee?

Sir Ivor Jennings stated that – "... the most elementary qualification demanded of a Minister is honesty and incorruptibility. It is, however, necessary not only that he should possess this qualification, but also that he should appear to possess it"

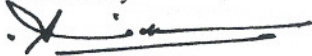
Lord Hailsham expressed the same sentiment thus – " A politician must be trustworthy, and if he is found out telling a lie or if he is discovered in even a small financial dishonesty, he can only bow himself out of public life"

If a Minister or a Member of Parliament conducts his personal or financial affairs in such a manner that falls below an 'acceptable standard', the Minister may be required to resign. Finer has described such conduct as being – "... a personal misadventure of the Minister, which raises such doubt about his personal prudence or integrity as to cause him to resign." – Hillary Barnett

Do you not agree that, the *analytical exposure* of the "Inland Revenue (Special Provisions) Bill" reminds one of the quotation from Sir Walter Scott:

*" O what a tangled web we weave,
When first we practise to deceive ! "*

Yours truly



Nihal Sri Ameresekere

cc: Mr. V.N.C. Gunasekera, President, Organisation of Professional Associations
 Mr. Asite Talwatte, President, Institute of Chartered Accountant of Sri Lanka
 Mr. Pravir Samarasinghe, President, Sri Lanka Division, Chartered Institute of Management Accountants
 Mr. Ananda Wijesekera, P.C., President, Bar Association of Sri Lanka
 Mr. Prema Cooray, CEO & Secretary General, Ceylon Chamber of Commerce
 Mr. Rohan Edirisinha, Director, Center For Policy Alternatives
 Mr. Kingsley Rodrigo, Director, Paffrel
 Dr. Lloyd Fernando, Chairman, Marga Institute
 Mr. Crishantha Weliamuna, Executive Director, Transparency International
 Mr. Siri Ranasinghe, President, Editors' Guild