

## Literary Register.

Supplement  
to Daily  
"Observer."

VOL. V.—TUESDAY, NOVEMBER 18, 1890.—No. 16.

Price 12½ cents.  
R4 per annum.

## THE E'EN BRINGS A'HAME.

The scene was one familiar enough to most Anglo-Indians. A stifling hot day in July, when just enough rain had fallen to make the thermantidotes useless and the whole place one huge, unhealthy, steaming Turkish bath, without a single one of those luxuries that distinguish that most delightful and enjoyable of all the many varieties of "tub."

MacCudmore, C.S., Deputy Commissioner of that charming spot Rangulpur, where litigation flourished like a poisonous weed, had just delivered judgment in a common enough sort of case where the plaintiff, supported by nineteen witnesses, had sworn to "facts" with an inaccuracy truly Oriental, defeating his own ends by overlaying a small substratum of truth with huge quantities of evident and glaring lies, so that his case seemed absolutely ruined; till the defendant assisted by a score and a half of "bbai-band" so utterly and absolutely perjured himself that of the two the plaintiff appeared, perhaps, the less scoundrelly liar.

MacCudmore, C.S., told them in broad Scotch-Urdu that he thought them equally unworthy of belief, and that it would be better for them both if they had looked to their crops instead of listening to what two smart youths who had just returned to their village as full-blown *mukhtiar*s—and being fine, pushing young fellows had naturally tried, and successfully too, to knock up a little bit of business—had to say. He then dismissed the case: each side to pay its own cos's.

He was very weary, was MacCudmore, C.S., and he adjourned the court to take his modest lunch of three very uninviting-looking sandwiches and an imperfectly cooled bottle of bazar soda-water. They do not have "early kutcherry" at Rangulpur: so he sat down to tiffin and his thoughts turned to far away Inverness, and his wife and bairns in the cottage looking over the grand old loch. And in fancy he thought he was having a ramble away up in the mountains with his eldest boy, home for his last summer holidays, and the talk they had about the boy's future and how he was to go to "a crammer's" and then pass for "the Indian Civil" and, perhaps—who knows?—come and serve under his own father. And MacCudmore, C.S., said to himself: "Weel, weel, I'll no fash mysel the day. McNallish, C.S.—an' aye but he's a canny mon, is Archie—he tak's o'er fra' me i' the morn, an' it's mony a day till Donald MacCudmore'll do kutcherry again, gin he closes the court the night. 'The E'en brings a' hame' an' it's mony a long an' weary year sin' I left Scotland and it's fain that I am to see it, an' the wife, an' the bairns, ance again. But I'll soon be startin' noo, an' to morro's no great way off."

True, true for you, honest auld MacCudmore! You have done your last day's work: not for many a day only, but aye, for you have been too faithful a servant of that Soulless One, the Government of India, to be consigned to that horrible torture

designed for the unjust judges of the earth, namely, to hold perpetual court in the nether world with no hopes of privilege leave, pension or promotion.

MacCudmore, C.S., ate his sandwiches and drank his soda-water, and thought that he would have just forty winks before returning to that smelly court and those wrangling pleaders. He had polished off a lot of work that morning: there were no arrears, and McNallish, who was to relieve him, was just out from Home and simply hungry for work. So, yes, MacCudmore, C.S., thought that he would have forty winks, and dozed off to sleep. He had been out for many years without taking furlough; his constitution was not what it had been; the day was frightfully hot; and the punkah-wallah was very sleepy too. He pulled slower and slower, and yet the Sahib remonstrated not: so he thought he, too, might have a snooze, which he accordingly took.

Time wore away, and the pleaders began to wonder why "the court," usually so punctual, did not put in an appearance. The punkah-wallah slept away undisturbed at the end of his rope, giving it every now and then a fitful pull in the midst of his dreams of a Paradise where punkah-wallahs got 40 dibs a month and only had to pull for two hours a day, and where atta was five maunds for the rupee. And inside MacCudmore seemed to sleep heavily too. And the time wore on.

At last a pleader waxed indignant: he was losing valuable time and so forth: so the old jemadar of chuprassies, who for well-nigh thirty years had had his dusky and ever-itching palms greased by "umedwars" and litigants, was sent to see what ailed "the court." He came back looking as much upset as was in the power of a Native who had seen so many Sahibs come and go, some on promotion, as it is doled out in the *Gazette*, others on the long-looked-for pension, and yet others, for Rangulpur is a very unhealthy station, to that rest longer than furlough or pension, where time is not measured by years, nor pension reckoned by rank or length of service, but where real merit, possibly for the first time, finds its true and just reward.

The old man said little. He sent one peon for the Civil Surgeon and another for the Sahib's bearer and gharri, and then told those assembled, addressing the *Sherishtadar*, as in duty bound, that Sahib was very ill, in fact *behosh*, and that it was evident that "the court" would not sit again that day.

The Doctor came and looked very gloomy. MacCudmore, C.S., had heat-apoplexy. They got him to his empty bungalow and did all that loving hands could: but he never recovered consciousness all through the night. He raved and rambled, now thinking himself back again in that smelly court where he had spent so many of the best days of his life, now fancying himself a toy again, in the painful way that men do when the hour is nigh for them to step into the shadows that limit mortal vision. But at the last, just as the sun rose to make another glaring, pitiless day, he

rose on his bed, gave one long, exulting, stirring cry, long remembered by those who heard it, and called out triumphantly, as if he saw clear through the mists of death into the future of eternity: "Wife, derlin," an' bairns, my tonny ares. Don't ye fash yersel's. God wills, it's true, that I munna' see ye noo, but there's more e'en than comes wi' this earth's sunsets, an' at last there'll come an' E'en that'll bring a' Hame."

And they buried him as the sun went down at e'en, just as the mail that should have borne him towards Europe went whistling out of the station of Rangulpur.—*Pioneer*.

## THE ISLANDS OF IONA AND STAFFA.

(By a Ceylon Planter.)

One of the prettiest, and to the archaeologist the most interesting, of all the trips in and among the western islands of Scotland, is from Oban to the far-famed caves of Staffa, and thence to the neighbouring island of Iona, for so many centuries the burial-place of the kings, chiefs and priests of Scotland. Leaving Oban at 8 o'clock in the morning, you are taken through the Sound of Mull, past the mouldering remains of Duart Castle, and through endless landlocked channels and seas, such as can only be seen on the west coast of Scotland. Every little island has its quota of sheep-grazing on the marvellously sweet herbage which everywhere covers the grey volcanic rocks. Some of these islets could not have been more than half an acre in extent, and yet even on these there would be two or more sheep. Some I noticed still smaller, and these had a solitary sheep apiece. On such a farm the shepherd would not require a dog at all, but should manage everything with a good boat and a crook! The day I left Oban was the finest they had had this season. The sea was as glass, and the hills and valleys of Mull and Argyllshire were bathed in warm sunshine. Tall mountains were visible on every side, and as far as the eye could reach or telescope scan, hills upon hills were seen fading into the blue mist of the horizon. But I will leave these minor beauties to be read of and described elsewhere, and will beg my reader to follow me ashore to the Island of Staffa. The passengers are landed in boatloads of fifty. These fine life-boats belong to James MacBrain, the proprietor of nearly all the passenger steamers running on the west coast of Scotland. Very often, even in summer (for it is only in summer that these trips are available), the sea is so rough that passengers are unable to land at all; but today the sea is ideally calm, and there is no difficulty at all in landing. We stepped ashore at the clam shell cave on the eastern side of Staffa and scrambled ashore as best we might. Everywhere are columns of intensely hard and dense basalt. Wherever the action of the sea has reached the columns, the surface and edges of the stone have been smoothed and gently rounded; but higher up, the columns have their angles as clearly cut and defined as if they had been cast yesterday instead of myriads of years ago. How these columns have been cut off and removed is a loss to me, for there is a regular terrace consisting of closely-packed tops of basaltic columns round the base of the low cliffs of similar structure which surround the island. Now if these columns had been broken off by the action of the sea in order to form this terrace, surely some of these fragments would be found among the numerous bays and inlets in the island. But such is not the case.

Not a single loose column is to be seen anywhere, those now standing in serried phalanx look as if they had been so standing since creation. My own idea is that the basalt has, at one time, been covered by a layer of softer sedimentary rocks which has succumbed to the fierce onslaughts of the Atlantic and left its foundation of basaltic crystals to continue the fight they had lost. The columns are five-, six-, and seven-sided, there being only one square column in the whole island! On coming out of Fingal's Cave I met a stalwart relic-hunter who had found out the only loose chunk of basalt I fancy in the whole island. He was endeavouring to break a specimen piece off it, but had met his match. Though he lifted the chunk, which must have weighed quite 40 lb., above his head and dashed it with great force on the surrounding columns it was of no use. Every time the missile struck, it bounded away like a tennis ball, but refused to break, and I left my friend perspiring but persistent. Fingal's Cave, called after Ossian's hero, is a beautiful spot. Its roof is lofty and vaulted like a cathedral, its sides displaying an endless succession of basaltic pillars arranged in beautiful symmetry. The sea which fills the lower level of the cave from end to end is profoundly deep and of the loveliest green. Passage to the end can be obtained by means of a narrow railed ledge, and when at the far end looking seaward the whole scene is unique and fine. But it is late, and we must be returning to the ship. After leaving the island the steamer hastens to Iona, and soon its rocks and ruined cathedral are seen rising above the waves of the Atlantic. T. D.

(To be continued)

## A TRIP TO MATARA.

(By a Colombo Resident.)

Matara, October 28.

Poulier's Island, once a resort of the many brave young men who could cross the sea with safety, is now left bare, ten being all that remain of the grove of fine coconut trees. The District Road Committee, having bought the island some twenty years ago, has since used the place as a metal depot; and a good deal of the rocks and red earth have been removed for road-making. Mr. Elliott, who Government Agent, having seen the feasibility of such a work constructed a permanent causeway to it. I am informed that the Local Board is intending shortly to convert the island into a pleasure resort for the good folks of Matara.

Great improvements have taken place here since my last visit, and Mr. Baumgartner, the Assistant Government Agent, has to be congratulated on the fine appearance of the town. The old Dutchman's folly of a canal between the fortifications and the market is being filled up fast by prison labor; and the ground which used to be covered with low jungle and the resort of jackals is now made into a fine promenade for the beauty and fashion of Matara. Beyond the Kotuwegoda market a dog-pen and a cattle-pen have been built by the Local Board; but the cattle are slaughtered some distance beyond on the seashore in the gaze of all frequenting the ramparts, &c. Cannot the Local Board build some place on the sea-beach and avoid such sights as I saw yesterday? The old burial-ground seems to be neglected very much, and those gentlemen who are carrying out the duties of elders and deacons of the Pres'byterian Church should

be ashamed of themselves to see the last resting-place of their fathers and forefathers left neglected. Ten rupees a year would keep the place as it ought to be. The General Cemetery on the other hand is kept up very well, and reflects great credit on the Local Board Inspector. The roads in and around the town are maintained as best they can be with the little money allowed for their upkeep. A new road has just been traced and opened connecting the famous Nupé bazaar (kept in good order under Mr. Baumgartner's keen eye) with Hithettiya. This will draw a good deal of produce from the vegetable gardens of the latter place to the market. The telegraph line is another improvement unknown in days of yore; it has instilled business into the place, and petty traders and others can be seen utilizing the wire, and the expenses are fully met by the revenue received. On our drive round on Monday evening we called on Costan Arachchi, a venerable old Sinhalese medical practitioner living at Pamburana. The Arachchi is now very old and infirm, but yet he retains his faculties and with pride relates incidents about the late King of Kandy, the Revd. Mr. Gogerly (who married him in the twenties), and every Governor, Government Agent and Assistant Government Agent up to the present Agent Hamuduruwo Mr. Baumgartner.

THE MEDAL OF 1818.

To the Editor, "Ceylon Literary Register."

Colchester, 8th Oct. 1890.

GENTLEMEN,—On Monday I received a copy of the *Ceylon Literary Register* dated September 16th, 1890, and I judge sent by yourselves? I therefore hasten to thank you for your courtesy in the matter, and also for the interesting account your paper contains of the circumstances which took place 62 years since, and further for your share in the procuring for me the Replica of Medal struck by Ceylon Government of the day to commemorate the gallant action of men of my old corps, by kindly advertizing for any specimen of Medal which might be at present in existence in the Island. Indeed, no small interest seems to have been awakened by my letter of March last to the Colonial Secretary, to whom I am deeply indebted for his so kindly entertaining my request, and for causing a *facsimile* to be struck. I hope soon to have the Medal mounted and presented to the old Mangalores.

Faithfully yours,

SPENCE VASSALL HENSLOWE,  
Late Capt. 73rd Regiment.

CEYLON IN 1816.

Dear Sir,—The article in the last number of the *Ceylon Literary Register* headed "Ceylon in 1816," is highly interesting; and I append a few additional details to the information given by you.

The "Mr. Brohier" whose marriage notice is printed was the father of the respected Assistant Auditor-General. The lady whom the late Mr. Peter Brohier married was Miss Ann Louise Elizabeth, third daughter of A. C. F. Count of Raneowe (not Ranjowe as printed).

The other marriage notice has reference to the marriage of Mr. J. A. De Neys, a Surveyor in Colombo, and some time after in Kandy. Mr. De Neys was married to Miss Maria Wendt (not Wond). Both Mr. and Mrs. De Neys lived to see their 50th

wedding anniversary on the 13th November 1866. Miss Maria Wendt was the aunt of the late wife of the present District Judge of Colombo.

The birth notice of the son of the Rev. Mr. Palm refers to the birth of the late Chaplain of Wolvendal Church, the Rev. J. D. Palm; both father and son were Chaplains of the same church, the son succeeding the father.

The account of the deportation of the King of Kandy to India on board the "Cornwallis" is also very interesting. A very full account of the embarkation of the King of Kandy was published by Mr. E. L. Siebel, of Kandy, in the columns of the *Orientalist* of March 1884 from information contained in a letter by a witness of the proceedings. Mr. Boyle Brohier, a younger brother of Mr. Peter Brohier referred to above.—Yours faithfully,

ANTIQUARIAN.

CEYLON IN 1816.

(From the "Asiatic Journal," vol. II,  
June-Dec. 1816.)

(Continued from page 118)

SKETCH OF A JOURNEY TO THE SUMMIT OF  
ADAM'S PEAK, IN THE ISLAND  
OF CEYLON.

Recently performed by two Officers.\*

While we were in Saffragam, we resolved to put in execution a project of which we had talked in Colombo, and before our return to visit Adam's Peak. This plan we have accomplished,—leaving Baddeggedera in the morning of the 6th, we gained the summit on the next day, at half past two in the afternoon. Our first march from Baddeggedera was five miles and a half of tolerable road through a fine and interesting country, along the left bank of the Caltura river to the royal village and extensive lawns of Gillemalley. From this place the king received his store of *Jaggery*. There are about two hundred and fifty inhabitants, who are well looking and of a creditable appearance. Their houses are numerous and comfortable.

From Gillemalley, at three o'clock, we set out for Palabatula, situated on the top of the Allehentune Mountain, at the distance of four miles and a half, in a N.E. direction. The ascent is about two miles and a half in length. Here is a small religious establishment, where the priests live, who have the care of the holy impression of the foot on the Peak; and there is good shelter for traveller. We slept at this place, and soon after daylight next morning renewed our journey, accompanied by one of the priests as a guide; the road leads for a mile and a half, over a very rugged and abrupt ascent to the N.E. up the Nulu Hella, at the bottom of which about a quarter of a mile from Palabatula, we crossed the Olura river, and all the way up to the top of the hill we heard it on our right hand running below. The next ascent is the Hourtilla Hella of three quarters of a mile, still more rugged and difficult than the former, the road at some places having an angle of full fifty degrees. We then ascended the Gonatilla Hella, about half a mile still more steep, and the air became cooler and

\* In the preceding volume of the *Asiatic Journal*, page 442, is given an account of a Journey to the summit of Adam's Peak, performed by Lieutenant Malcolm, on the 26th and 27th of April, 1815. The present sketch of a second journey, performed by two officers in company (apparently in the month of October following) is extracted from the *Ceylon Gazette*, November 1. Some disagreement will be observed between the two accounts, as to the orthography, and even the names of places; but it is a rule adhered to in these pages, to allow every particular writer his own choice on these points.—*Edit.*

clearer. The next stage is to Deabeture, rather more than a mile, and here is the summit of this mountain, the road up which is one continual rise of four miles without any intervening descent; although the hill has four names, and each division is marked by a whitewashed stone on the right side of the road. There is here a small Ambalam (a Cingalese rest-house) and the ruins of a building erected by Eyheylapolle (the late Dessave of Saffregam). The adikars and dessaves were accustomed to be carried as far as this point when they visited the Peak, which opens to the view bearing E. by N. The road now extends in a N. E. direction, four miles over the hills of Durmaraga, Pedrotalagalla, Malle Malla Kandura, and Andea Malle Hella, and is excessively steep and difficult. From the latter the Peak itself rises about a mile, or three quarters, in perpendicular height. From this place the way is fair climbing; the direction at first N. E. then S. E. again N. E. and lastly N. W. where the perpendicular ascent is encountered; this is only to be surmounted by the help of several massy iron chains, which are strongly fastened at top, let down the precipice, and again secured below. These chains are donations to the temple, and the name of the donor is engraved on one of the links, made solid for that purpose. The height of the precipice is about twenty feet, and many holes are worn in the face of the rock by the feet of the numerous pilgrims who have ascended it with the assistance of the chains.

At half past two in the afternoon we reached the summit. It is an area of about one fifth of an acre, surrounded by a stone wall four feet and a half high, of four unequal sides, with two entrances, one on the south, and another on the east, and an opening to the west, in the form of an embrasure. In the middle is a rock of about nine feet high, on which is the famed impression of the Holy Foot. It has in fact a most shapeless appearance, bearing little resemblance to a human foot; and, what is most unfortunate for the tradition of its being the last footstep of Badulla, when he strode from Ceylon to Ava, the toes, if they can be discerned, are turned toward the west! The clouds which arose as we were ascending, prevented our having any view; and we occupied ourselves till four o'clock in taking a plan of the summit—we then found it was much too late to think of returning to Palabatula, and resolved to remain during the night on the Peak. I can hardly attempt to describe the extraordinary grandeur and variety of the scene that opened upon us at sunset—above our heads the air was perfectly serene and clear; below, a thick bed of clouds enveloped the mountain on all sides, and completely intercepted our view. But every now and then the beams of the sun broke through a mass of clouds, and threw a brilliant light over the surrounding mountains; then suddenly the opening was closed, and all was again hidden from our sight. These beautiful glimpses were often quite momentary, and frequently repeated, sometimes even twice in a minute, nor did the operation entirely cease until it was dark. We spent a wretched night in a most comfortless hut, about thirty feet below the summit. There was a piercing wind, and the cold was far greater than I had ever felt since I left England—unluckily we had no thermometer with us, but I think the quicksilver would not have risen above 40°.

The rising of the sun presented a magnificent scene, but quite different from that of the evening—the whole surrounding country, except Uva, was covered with clouds, above which only the tops of a few mountains were visible. Hunas Garee Kandy bore 25° N. E.; and a mountain, that we decided to be Hagarina, 22° S. E. The whole country of Uva was exposed to view, and lay stretched out in appearance just beneath our feet. The sea on that side was perceptible, and bore S. E.; which must have been in the neighbourhood of Paltoopane, and it was perhaps the Maha Leway, or great natural Saltpan, that we observed.

At seven in the morning we began to descend the mountain, and reached Palabatula at noon.

(To be continued.)

## THE ADMINISTRATION OF JUSTICE IN CEYLON.

(From the "Law Quarterly Review," Jan. 1886.)

(Concluded from page 190.)

The Roman Dutch law, that is, the law which prevailed in the United Provinces of the Netherlands, before it was superseded by the *Code Napoléon*, is the ultimate common law of Ceylon. For example, about fifteen years ago there was much conflict of judicial opinion on the question—whether, in cases of intestacy, the succession should go according to the law of North Holland or the law of South Holland. At last the question was set at rest by an elaborate judgment of Chief Justice Sir Edward Creasy. The parties to the case in which that final determination was arrived at were Sinhalese, and the case, styled after English fashion, would have been styled *Wickrem Aratchigè v. Waputanrigè*. Many will deem this sufficiently absurd, but there is much worse behind. However, before describing further the ills for which the Roman-Dutch law is responsible, I must explain how the Roman-Dutch law got in at all.

Towards the close of the 17th century the Dutch were masters of some forts and plantations on the sea-board, and on the west coast they exercised more or less control over the intervening belts of territory. Over these possessions they administered their own Roman-Dutch law. About 1796 these Dutch possessions were ceded to us, and, by the usual rule, the law then in force in the ceded territory would remain in force until altered by the conquerors. Thus the Roman-Dutch law was continued as the common law for these strips of territory. In process of time we acquired dominion over the whole island, and still the Dutch law was supposed to govern our possessions, thus becoming the ultimate common law of the whole of Ceylon, and governing in places where no Dutchmen ever set his foot. Certain native customary laws are administered in the central and northern provinces when ascertainable. Where these are silent the Dutch law, as expounded by Voet, Greenewegen, and other Dutch jurists, must prevail. The mischief resulting from this it would be hard to exaggerate. At this day no one can read the Dutch law-books, and the Latin ones are practically beyond the capacity of the bulk of legal practitioners. The situation would indeed have been unbearable, had not English law pure and simple been imported into various important departments, such as Law of Evidence, Banking, Bills of Exchange, etc. Still, in the absence of special provision, the Dutch law governs. The present generation of lawyers, doing their business in English, derive their legal ideas largely from English text-books; English improvements and English civilization have spread all over the island, yet the common law is Dutch. But it is with regard to Procedure that the result has been most disastrous. As Dutch institutions dropped out of sight, much of the Dutch law became meaningless. English procedure and forms of pleading tacitly crept into use in indistinct and blurred fashion, without ever having been enacted or precise. The result is—chaos and confusion.

The Dutch Criminal Law has long been in great measure virtually obsolete; something—it is difficult to say how much—of English Criminal Law imperceptibly crept into use without express enactment; and in point of fact, incredible as it may seem, the judges were left to administer a kind of equitable criminal law on their own responsibility. At last, after long years of uncertainty, this latter anomaly has been remedied by Codes of Criminal Law and Procedure (in which much has been borrowed from India), which came into operation at the beginning of this year.

Two other topics of Law has suffered a similar kind of paralysis arising from this halting between the English and Dutch systems, viz., Hypothec or Mortgage, and Administration of Deceased Persons' Estates. The natives traffic very largely in petty mortgages, down to the value even of a few rupees, and

this uncertainty of the law operates very hardly and unwholesomely on them. It works much hardship also in the case of European mortgages on coffee or other estates, and many an English investor has found cause to rue it. Perhaps even more disastrous is the legal paralysis with regard to Administrations, arising simply from confusion between two inconsistent systems, the Dutch and the English. The Dutch system was one of paternal administration; the estate being taken out of the control even of an executor. The English system (followed in India) allows the executor or administrator to act on his own responsibility, and interferes only when special cause for interference is shown by some party interested. The Board and Chambers which transacted this business in the Dutch times no longer exist, but the tradition of the Dutch Procedure still lingers in the rules of Court. The result is hopeless delay and confusion, to the advantage of no one save the local lawyers, as year after year, sometimes for tens of years, these administrations drag on.

Unlike India, Ceylon has no Courts in which justice is administered in the native languages,\* excepting, indeed, the 'Village Tribunals,' an institution akin to the Indian 'Panchayet,' which of late years has been partially introduced in some districts, with a jurisdiction limited to R20. If a villager seeks to recover any sum between R20 and R100 he must sue in the Court of Requests, filing a libel written in the English language, and providing English translations of all documents he may use as evidence. Claims over R100 must be preferred in the District Court, which has an unlimited civil jurisdiction. Similarly, petty criminal offences are punishable by police magistrates. The District Courts have a large criminal jurisdiction, though still limited. The graver offences, including capital crime, are disposed of in the Supreme Court by a judge and jury. In all these Courts English is the legal language, and all the proceedings are conducted in English, by the aid of interpretation. As I have had no personal experience of the Indian vernacular Courts I will not pretend to say on which side the advantage lies, but there are certainly disadvantages inseparable from the employment in small cause courts of a language not understood of the people. Perjury is made easier; and there is further the serious drawback that the native suitor, not understanding the language in which the proceedings are conducted, is placed wholly at the mercy of subordinate court officials and the local native and Eurasian lawyers. His evidence is interpreted to the judge, but the judge's observations are not necessarily interpreted to him; he very likely is never made aware of the judge's *ratio decidendi*, especially if (as too frequently happens) his case has failed through the inefficiency of his lawyer. There is, again, the further risk of the proceedings suffering from incorrect interpretation. I do not say that the proceedings in the Courts of First Instance suffer from dishonest interpretation; but I am afraid they suffer sometimes from sheer incompetency on the interpreter's part. The interpreters are but poorly paid, and interpretation needs no mean degree of intelligence, plus, a very thorough knowledge of both the languages concerned. It has happened to me, when trying criminal charges on circuit, to find the rendering of a local interpreter characterised not merely by inaccuracy but by absolute distortion.

In the civil courts there is considerable miscarriage of justice—apart from what may be due simply to successful falsehood—arising from defective procedure, coupled with the inefficiency of the local practitioners. A vast number of law-suits run their course without the real facts in dispute—what lawyers call 'the merits'—having really come before the Court. The Supreme Court in Appeal has constantly the mortification of having to deal with long standing suits, in which the 'merits' have never been fairly reached.

Passing to criminal matters, the tribunal in which the most miscarriages of justice take place is, I am afraid, that which is charged with the disposal of the gravest matters, viz., the Supreme Court. As I have already said, the graver criminal charges, including murder, are tried in the Supreme Court, by a judge and jury; and trial by jury is not an institution adapted to Ceylon. It was introduced in 1810, avowedly in the hope that it would exercise a valuable educational influence over the people, by promoting a regard for justice and truth. No account seems to have been made of the amount of injustice to be perpetrated by juries pending the completion of the educational process, or indeed of the improbability of injustice exercising any wholesome influence at all. In point of fact, after nearly eighty years of experiment, trial by jury in Ceylon has proved a disastrous failure. Mr. Herbert Spencer has pointed out the futility of attempting to plant such an institution among people who 'lack that substratum of honesty and truthfulness on which alone it can stand.' 'To be of use,' he says 'this, like any other institution, must be born of the popular character. It is not trial by jury that produces justice; but it is the sentiment of justice that produces trial by jury as the organ through which it is to act, and the organ will be inert unless the sentiment is there.' Far worse than inert; actively mischievous; so it is in Ceylon. The native and Eurasian jurors are deficient in what Mr. Spencer styles the sentiment of justice. If the circumstances offer no inducement to partiality, they still betray an indolent indifference and a conspicuous absence of any vigorous determination to unravel the truth. When a personage of any influence is tried by a jury of the natives and Eurasians of the district, the chances are decidedly in favour of an acquittal, however strong the evidence for the prosecution may be, unless indeed the private complainant be a personage of still greater local influence. In the town of Kalutara, a populous place midway between Galle and Colombo, no Supreme Court Criminal Session has been held for many years, for the simple and significant reason that the juries were so notoriously untrustworthy.

In other respects, also, the system is unsatisfactory. If the Ceylonese jurors lack the 'sentiment of justice,' the European jurors too often lack the necessary knowledge of the people. It must not be supposed that trial by jury in Ceylon means that the prisoner is tried by his peers. On the contrary, we have Sinhalese prisoners tried by Tamils, Eurasians, Europeans, and so forth. I have seen young English lads, newly arrived in the island, and entirely without experience of the people, sitting as jurors to hear native evidence and try Sinhalese and Tamil prisoners, perhaps for their lives. The jury is chosen from one of three panels, a panel of English-speaking jurors, a panel of Sinhalese-speaking jurors, and a panel of Tamil-speaking jurors. The vast majority of cases are tried by the English-speaking jury, which is composed of Europeans, Eurasians, and such natives as are supposed to understand English. I say supposed because there is every reason to believe that many of the natives who sit on the 'English' jury do not in fact understand English sufficiently to enable them to follow the proceedings intelligently. In short, the trial by jury is not trial of the prisoner by his peers, but by an arbitrary tribunal consisting of several lay judges of fact. The tribunal might still be an efficient one, but experience has proved it to be the reverse. In trials by jury in England the mass of testimony laid before the jury is mostly true, and the main question is whether the facts thus disclosed indicate that the defendant is guilty or not guilty. On such a question the judge's summing-up is of much value to the jury, and can do no harm. In Ceylon the question in nine cases out of ten is—are the witnesses for the prosecution telling substantially the truth or are they lying? There are obvious objections to requiring judges to sum up to juries the considerations bearing upon such a question. The more exhaustive the summing up as an analysis of the case under trial, the more valuable it becomes to

\* The native languages are less enjoyed for official matters in Ceylon than in India, and Europeans in Ceylon are in general less conversant with the vernacular than their brethren in India.

certain of the Court-frequenting population, as a practical lecture on the means of effectively getting up false evidence.

There is one exceptional jury, viz., the English speaking jury at Kandy, which not infrequently consists almost to man of English coffee-planters. This is a very intelligent jury, and if the parties and witnesses are Tamils, the planter-jury, being accustomed to deal with Tamils, and understanding the language, can give a shrewd decision. When the case is Sinhalese, the planter-jury is less efficient: they are apt on the whole to believe too much of the evidence, and I have seen unjust convictions of Sinhalese defendants in such cases. If the charge be one of stealing coffee from a European estate, an inconvenience, to put the matter mildly, at once arises. A Sinhalese defendant charged with coffee-stealing by an English planter naturally objects to the planter-jury, and the prosecution, on the other hand, objects equally to a Sinhalese jury.

Although criminal charges are investigated and defendants discharged or committed for trial by magistrates, mostly members of the Civil Service, the work of the magistrates is constantly supervised and controlled by certain legal officers, who constitute in effect a department of Public Prosecution. The original idea seems to have been that the magistrates, being laymen, would occasionally need the aid of professional lawyers. Gradually the department so far encroached on the civilian magistracy, that the latter were expected to refer everything to the department. To be thus kept in leading-strings is not likely to promote judicial strength on the part of the magistrates, besides which, the constant references backwards and forwards occasion unseemly delays. Perhaps a worse mischief is that, as the department of public prosecution is constituted, its proceedings hardly promote efficiency. We constantly find cases sent for trial which never should have been committed at all, prosecutions abandoned for no apparent reasons, indictments defective, and justice mis-carrying because the Crown Counsel imperfectly understood the nature of the evidence necessary to sustain the charge. Apart from all question of legal skill, it would be impossible to overrate the amount of anxious care necessary in dealing with the criminal charges which natives bring against each other.

Municipalities have been introduced into Ceylon, with benches of municipal police magistrates officered by the municipal councillors, who are almost exclusively native and Eurasian. These municipal tribunals are fit only for abolition. Indeed the municipalities cannot in any sense be deemed very successful. The truth is that the population of Ceylon are hardly ripe for any form of self-government, and in attempts to introduce it there is always the probability of affording opportunities scrupulous for oppression or illicit gain to unscrupulous Eurasians or English-speaking natives. Not long ago a statute had to be passed in order to disqualify for election to the municipal council of Colombo a disbarred native lawyer, who had recently emerged from gaol after undergoing a heavy sentence of imprisonment for a fraudulent crime. The municipal magistracy is a patent evil, but the timid native public will never raise their voice to ask for its abolition, while any proposal to do away with it will awaken clamorous opposition from those whose craft is in danger.

The people look to us to provide them with justice. 'You are our father and mother; we look to you'—the native villager often says to the English government officer. We have not given the people representative government, and indeed to attempt anything of the kind would be inhumane. It would be simply delivering the people into the hands of the natives and Eurasian lawyers. A despotic government is the only government humanely possible, but we should never forget that it is a form of government which throws on us a very heavy responsibility. We are in effect governing a voiceless people, unable to tell us what institutions would best benefit them. I might, had I space, go further into details and multiply illustrations, but enough has been already

said to show that both in criminal and in civil matters the legal machinery which we have provided grinds out very unsatisfactory results. The mischief arising from all this miscarriage of justice extends very far beyond the individual cases in which wrong is done. When influential criminals are acquitted and innocent men convicted on false charges crime becomes popularised. The would-be offender speculates on the chances of an acquittal, and conviction loses much of its deterrent effect in the face of the well-known fact that a considerable number of the inmates of the goals are innocent men convicted on false testimony. I know of no sadder task than to listen, at the periodic gaol-visitation, which Supreme Court judges make, to the piteous protestations of native prisoners. Such protestations, of course, are untrue, as well as truly made, but it is undeniable that a large number of the convicts owe their convictions simply to unjust verdicts. Nor should we forget that civil failures of justice occasion much crime, particularly that crime. It is a common thing for a judge, when sentencing a prisoner for some assault arising out of some village dispute, to say,—'You had no right to take the law into your own hands; there were the courts of justice open to your complaint.' I have often thought what a mockery such an address must seem to many a native prisoner.

Ceylon now has a newly made Penal Code and Code of Criminal Procedure. Time will soon test these. A Civil Procedure Code is urgently needed. Everything should be as simple as possible, bearing in mind that the suitors can not command efficient professional aid in the Courts of First Instance. The Indian method, under which the issues are settled by the judge, is decidedly one to be adopted in Ceylon. The native and Eurasian lawyers, termed proctors, to whom is confided the bulk of the legal business of the island, occupy a very important and responsible position indeed, inasmuch as they are the means of communication between the Courts and the great mass of native suitors who do not understand the language in which the Courts do their business. Unhappily, speaking of these practitioners as a class, their proceedings are characterized by a low scale of professional morality and efficiency, and especially by an absence of the ability or disposition honestly to advise the client.\* Indeed advice, properly so called, is almost unknown. The proctor ordinarily has little idea of making inquiry, before he commits his client to litigation—whether the facts afford a prospect of success. Of the many natives and Eurasians who now-a-days flock to England for legal education, it is much to be wished that some would spend some little while in the offices of English solicitors, for the simple purpose of learning how clients should be advised and cases got up. It is in these respects that the Ceylonese lawyers are especially deficient. But, unfortunately, the Ceylonese who goes to England for legal education thinks, as a rule, simply of obtaining his legal degree, and has no thought of acquiring in England any practical insight into the way in which legal business ought to be transacted.

All remains of the Roman-Dutch law should be cut down and grabbed up, root and branch. Codes, after the fashion of the Indian codes, are needed on many subjects. For example, by an ordinance enacted many years ago, the English Law of Evidence was introduced into Ceylon *en bloc*; and yet it is in many respects unsuited to the country, being based on the general assumption that testimony is in general truthful. Take, as an instance, what are termed, 'dying declarations.' The English law admits these on the assumption that the declarant, being face to face with death, will not at such a supreme moment stain his soul with falsehood. Yet in the East the declarant's thought is not improbably this.—'In a few hours I shall be beyond the reach of judicial punishment; so I may as well pay off a few old scores.'

\* Lawyers in Ceylon are divided into advocates and proctors, corresponding roughly to barristers and solicitors. I am now speaking in general terms of the proctors who appear in the Courts of First

I have frequently heard the regret expressed that summary punishment is not meted out to the perjury so common in the Courts. Undoubtedly a summary dealing with the perjured witness in the presence of his fellow-villagers would be salutary, if practicable; but perjury is hardly an issue which can be disposed of summarily. The truth is that perjury will be most effectively checked, not so much by prosecutions and convictions as by depriving it of success. Let procedure be improved and the tribunals strengthened, so that perjury shall rarely succeed, and perjury will become comparatively rare. It is unhappily true that the natives are more dishonest in our Courts than in their own private life; and this is a fact which we should seriously lay to heart. The inefficiency of our administration of justice promotes dishonesty.

It will of course be understood that, in speaking as I have done of certain characteristics of native and Eurasian inhabitants of Ceylon, I have been speaking generally. Men of honour as well as ability are to be found in both classes. What I report is simply the average experience of the law courts.

Ceylon would probably be better off had she never been separated from the government of India. But, however that may be, one thing is certain, viz, that if the people are to have an efficient administration of justice, existing institutions must be extensively remodelled. In any efforts which may be made in that direction it should never be forgotten that in Ceylon, as in India, infinite harm may be done by an inconsiderate importation of English institutions. The task of devising institutions which will work efficiently in an Eastern dependency is so difficult that one can hardly be surprised if those on whom the responsibility rests are sometimes tempted to cut the knot by borrowing from England; and there is a speciously tempting show of magnanimity about that way of getting rid of the difficulty. A few phrases about equality, and the duty of sharing with our native fellow-subjects the glorious institutions of free England, and you get rid of the difficult task, at the expense of saddling the country with some institution efficient in the place of its birth, but incapable of efficiency in the new soil. We are bound in justice to treat our native fellow-subjects as our equals. But equality is one thing; similarity is another. It is no kindness to them to legislate for them as though that which suits our home must necessarily suit theirs.

L. B. CLARENCE,  
Senior Puisne Justice of the Supreme  
Court of Ceylon.

TRANSLATIONS OF INSCRIPTIONS, TO  
SERVE AS AN APPENDIX TO THE  
"EPITOME OF THE HISTORY  
OF CEYLON."

WITH AN INTRODUCTION BY THE  
HON. GEORGE TURNOUR, ESQ.

(From the "Ceylon Almanac" for 1834.)

Since the publication of the "Epitome of the history of Ceylon," in the Almanac of last year, I have received from Captain Forbes the historical inscriptions engraven on the stone slabs at Mihintale and Pollonnar-roowa, and on the rock under which the great temple of Dambulla has been built; and as I am requested to contribute, for the Almanac of next year, such further illustrations of general interest as will serve to corroborate that sketch of the local history, I have had translations made of those inscriptions, in elucidation of which I offer the following observations.

I cannot, however, avail myself of the materials obtained through Captain Forbes' researches without again acknowledging the obligations I am under to him, for the unreserved access he has allowed me to have to the results of his successful exertions to verify the authenticity of the native annals. More than seven years have elapsed since I first imparted to him the discovery I had then recently made, that the despised

records of this Island contained a connected history, extending back to so remote a date as nearly six centuries before the birth of Christ. Shortly after this, I commenced the translation of the Mahawanse, which I only carried to the 10th chapter, when I heard that that task had been already achieved in England, and that the work was ready for the press—which made me relinquish (as I have already stated) the project I had then embarked in. I consequently merely took a few notes in the course of my subsequent reading of the remainder of that work. This accounts for my having borrowed (limited as I was as to time,) so much more from the less authentic Singhalese works, in compiling the Epitome, than from the Mahawanse itself. Since my removal to Kandy, more than five years ago, from want of leisure, I have scarcely referred to a native book. During the whole of this period, Captain Forbes has been zealously engaged in his researches. In the course of his enquiries into the portion of the history of Ceylon anterior to the Wijayan dynasty, and connected with the Budhas of this *kulpa*, who preceded Goutama, (which I left wholly untouched) he has ascertained that many satisfactory data connected with the history of that still remoter period may yet be gleaned from the native annals; and he has succeeded in defining and establishing several interesting, but hitherto disputed points, as to the locality of the scenes and acts recorded in the fragments of the Ramayana, which are extant, or orally traditional, in Ceylon, by having identified, in various parts of the Island, the places named in the account there given of the flight of Seta. I have recently met with an unexpected corroboration of the correctness of his opinions, in the narrative of the travels of a Fakir\* in the middle of the last century, published in the 4th vol. of the Asiatic Researches. I make the following extract from that paper, as it moreover confirms the native report, that there is another plain called the Bhoput Talawa, near Nowera-Eliya, still unexplored by Europeans; and as it invests that popular convalescent station with a additional interest, from its having been ascertained by Captain Forbes that the "See'a Koond" is situated in the neighbourhood of Nowera-Eliya, and that some of the other incidents of interest narrated in poem, also occurred in that vicinity.

"From Jaggernaut our traveller returned by nearly the same route to Ramisher† whence he passed over into Silan, or Ceylon, and proceeded to its capital, which, some he observes, call Khundi (Gandi) and others Noora; but that Khundi, Maha Rauje is the Prince's designation; and that further on he arrived at Oatling‡ on a river called the Manicungunga, where there is a temple of Cartica, or Corticaya, the son of Mahadro, to which he paid his respects, and then went on to visit the Sreepud, or "the divine foot," situated upon a mountain of extraordinary height§; and on one part of which there is also (according to this Fakir's description) an extensive miry cavity, called the Bhoput Tank, and which bears also the name of the tank of Ravan, or Raban, (the b and v being pronounced indifferently in various parts of India,) one of the former kings of the Island, well known in the Hindu legends for his wars with Rama, and from whom this Tapu, or Island, may probably have received its ancient appellation of Tapobane, (i. e. the isle of Raban.) But, however this may be, our traveller states, that, leaving this Tank, he proceeded on to a station called *See'a koond*, (where Rama placed his wife Seta, on the occasion of his war with her ravisher Ravan,) and then reached at length to the Sreepud, on a most extensive table or flat, where there is (he observes) a bungalow built over the print of the

\* The testimony of this Hindu is the more valuable, as the identification of Ceylon with Lanka is not admitted by the Indian Pundits; or rather, to use Tod's words, it is "an idea scouted by the Hindus who transfer Lanka to a very distant region."

† Ramisseram.  
‡ Katragam.  
§ Adam's Peak.

divine foot; after worshipping which, he returned by the same route."

To revert to the historical inscriptions. They verify the chronology developed in the Epitome with the utmost precision which could have been expected from them. Although Mr. Upham has been misled into the assertion (History of Buddhism page 31,) that the Mahawanse contains "dates most carefully affixed to every transaction of the missions or promulgation of Buddha's doctrines," there are but few dates given either in that work or in the Singhalese histories. No other mode therefore of adjusting the chronology of the native history could be had recourse to, than that of adding successively the number of years each sovereign has reigned, to any one of those given dates. As the fractional parts of the year are not generally specified with respect to the term of each reign, a progressively increasing error must necessarily accumulate from one given date to another, when an opportunity is at last afforded for correcting the series of anachronisms. I consequently consider these apparent defects in the chronology of the native histories to be one of the most convincing proofs of their genuineness and authenticity; as they establish, beyond all possibility of doubt, the absence of any attempt to adjust the individual or collective terms of the reigns of the several kings comprised between any two given dates, to the full period embraced between them.

On many accounts, I have considered it desirable that these inscriptions, which are composed in the abstruse idiom and phraseology employed in regal and sacred documents, should be translated by a person who possessed a thorough knowledge, not only of that idiom, but of the doctrines, rites and ceremonies of Buddhism. I therefore placed them in the hands of Mr. Aumour, of Kandy, who both from his attainments as a Singhalese scholar, and from his long intercourse with the Kandyan priests, was the best qualified of any person I am acquainted with to execute the task. It is to him I owe the following able translations, which are rendered as nearly verbatim as the subject's treated of would admit.

The inscriptions at Mihintale bear no date. They must have been recorded about the year of Buddha 805 A.D. 262. From the inscriptions themselves, and on reference to the Mahawanse, I find that three princes of the Oshestria tribe, descended from Okaaka, and connected with the Lamini, branches of the royal family, whose domains were near Mayanganna in Bintenne, repaired to the court of the reigning sovereign, Wija Indoo, in A.D. 241. They were received into favour and appointed to the highest offices in the state, of which they availed themselves in the course of a few months to conspire against their benefactor, and to put him to death. One of these princes, Sangatissa, ascended the throne, and retained the other two, Sirisangabo and Golooabhaa, in their high stations. Sangatissa was carried off within four years by poison, which was secretly administered to him in a jambo fruit, by the inhabitants of the western villages, to which the king was in the habit of making excursions, when he probably subjected those people to the extortions inseparable from the royal progresses of the olden times. Sirisangabo succeeded him in A.D. 246, who was a rigid devotee, and had taken the vows of the order *atta sill*—the ordinances of which, together with the observance of many rules of devotion and acts of self-denial, totally prohibited the destruction of animal life. It may readily be conceived that the feebleness of a government administered by so bigotted an enthusiast, soon led to anarchy. Crimes of the greatest enormity, committed with impunity, rapidly increased in all parts of the kingdom. When the malefactors were brought to the prison of the capital, as the king's vow precluded the possibility of their being executed, they were secretly released at night after condemnation, and the corpses, furnished by the usual casualties of a populous city, were exhibited at the place of execution, on gibbets and impaling poles, as the victims of the violated laws. By these means, says the Buddhist historian, a pious king successfully repressed crime, and yet gave

the criminal time and opportunity to reform. The result, however, as might have been expected, was precisely the reverse of that representation. The whole frame of society was disorganized, and a famine, with its usual concomitant, a pestilence, combining with these public disorders, Golooabhaa, who then held the office of treasurer, easily wrested the sceptre from the weak hands which then swayed it. Sirisangabo offered no resistance. He privately left the city, taking with him, observes the historian, nothing but his "perankada" (water strainer,) which is used by all the devotees from the *pan sill* to the *atta sill* order, to prevent the destruction of the lives of the animals which they would otherwise imperceptibly swallow in drinking unstrained water. The Mahawanse briefly closes the history of this king by stating that, in his wanderings as an hermit, he met with a peasant, who shared his scanty repast with him. Wishing to reward this act of charity, and having nothing else to bestow, Sirisangabo by the supernatural power he had acquired by his life of piety, "detached" his head from his shoulders, and presented it to the peasant, desiring him to produce it to Golooabhaa, which he did, and received his reward.

The subsequent writers of the Singhalese histories, and the expounders of those histories to Europeans\* have unsparingly used their usual privilege of exaggeration and embellishment, in their accounts of the life and death of this idolized sovereign of Ceylon. They represent that the usurper Golooabhaa set a high reward on the head of Sirisangabo; and that many heads, obtained by murder and assassination, had been produced before the usurper, by persons who successively forfeited their own heads for the imposition they had attempted to practice. Sirisangabo, hearing of these enormities, resolved to put an end to them by sacrificing his own life. In this frame of mind, he met with a peasant who had fled from his home horrified at the suggestion of his wife, of destroying the king. He revealed his distress to his disguised sovereign. In order that the reward might be secured to this man, the king avowed himself, and with his own hands severed his head from his body. The head was produced to Golooabhaa, and the bearer of it was about to suffer as another impostor, when it sprung up, and self-poised in the air, addressed the usurper, proclaiming itself to be the head of king Sirisangabo. The peasant is stated to have received his reward, and the head was buried with great pomp at Attwanagala, over which the usurper raised a dagoba, which is still standing.

\* Philalethes, page 33, — Davy page 299.  
(To be continued)

THE  
BURIED CITIES OF CEYLON;  
A GUIDE BOOK TO  
ANURADHAPURA AND POLONNARUWA;  
WITH CHAPTERS ON  
DAMBULLA, KALAWEWA,  
MIHINTALE, & SIGIRI,  
WITH  
LITHOGRAPHED PLAN OF  
ANURADHAPURA,  
BY  
S. M. BURROWS, M.A. OXON.,  
CEYLON CIVIL SERVICE.

Price—Stiff paper cover R2, boards R2.50  
postage 8s.

Published by A. M. & J. FERGUSON, Observer,  
Office, Colombo; and Trübner & Co., London.

Also to be had of Stationmaster, Matale; C  
M. S. Book Depôt, and of H. W. Cave & Co.,  
Colombo; d'Esterre & Co., Kandy; Colombo  
Apothecaries' Co.; Mackay & Co., Hulftsdorp.

Printed and published by A. M. & J. FERGUSON.