

# THE CEYLON PATRIOT.

PUBLISHED ON FRIDAYS.

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August 12th, 1864.]

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Twenty-four lines and under—three pence per line.  
Above twenty-four two “ “ “  
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A whole column—ten shillings.  
For the second insertion two-thirds and the third and every future insertion, one-half of the above charges if printed on succeeding days of publication.  
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No Advertisement will be printed for less than one shilling.

## NOTICE TO ADVERTISERS.

All advertisements received without specifying the numbers of insertions will be continued in successive issues until countermanded, and charged for accordingly.

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Subscribers are respectfully requested to give notice of any change of address, or any irregularity in the delivery of the paper.  
No verbal orders for discontinuing subscriptions can be attended to. Subscriptions are considered to be in force until countermanded in writing.

## Notice to Correspondents.

All communications to the Ceylon Patriot must be Post Paid. We also request that all letters to our address as the Editor of the Ceylon Patriot be authenticated as otherwise they may not receive attention.

## NOTICE.

### ORIENTAL BANK CORPORATION.

AN AGENCY of this Corporation was opened in Jaffna, on Tuesday the 16th ultimo for the transaction of Banking business.

CURRENT DEPOSIT ACCOUNTS may now be opened.

FIXED DEPOSITS may be lodged for periods of One, Two, and Six months, to bear interest at the rates of Three, Four, and Six per cent per annum, respectively, and LOCAL BILLS will be received for Collection.

DRAFTS will be issued and purchased on the Head Office, on all Branches and Agencies of the Corporation on the Cochin Branch of the Bank of Madras, and on all Branches of the National, Provincial, and Commercial Bank of Scotland and on the Provincial Banks of Ireland.

Information as to Rates of Exchange, &c., may be obtained at the Bank.

R. V. DUNLOP, Acting Agent.

A. WILLISFORD, Act. Accountant.

Jaffna, 4th March, 1864.

## FOR SALE.

Two Globes; one Terrestrial and one Celestial.

Apply at the Patriot's Office.

June 30th, 1864.

S.

## NOTICE.

A young man offers his services to any gentleman who may require a Clerk, Accountant, Canaccapilly and Overseer, &c.

Apply at the Patriot's office.

A. B.

## FOR SALE.

French Pot paper, Quills and Pencils.

Apply to S. S. of Batticotta.

## FOR SALE.

An American, eight-day, Striking, Alarm Clock of a moderate size, and

A Lady's Writing Table with drawer, &c. of an attractive form and American Mahogany work, and so constructed as to be used at any time necessary as a good and convenient chair.

For particulars

Apply to

L. S. Strong.

Manipay, 12th August, 1864.

## NOTICE.

The undersigned is in receipt of a good supply of Madras Head Kerchiefs of the finest colour and quality and of the following dimension and price.

3 Cubits £0 11s. 0d.

Orders from any part of the Island will be carefully attended to in case the price and postage are prepaid. Postage on a single kerchief would come to 8d.

Terms Ready cash.

L. S. Strong.

Manipay, 2nd August, 1864.

## NOTICE.

Messrs S. Muttootamby and company beg to inform the Public that they have the following articles for sale at their recently opened shop in the Main Street, Pettah, Jaffna.

Children's Silk Gowns.  
Do. Cotton Stockings.  
Do. Gilt Belts.  
Girl's Felt Hats.  
Boy's Do.  
Do. Straw Hats.  
Do. Garibaldi Hats.  
Ladies' Gilt Belts.  
Do. Pearl Silk Gloves.  
Do. Felt Hats.  
Do. Coloured Muslin Dresses.  
Do. Shawls.  
Do. Cotton Stockings.  
Gentlemen's Felt Hats.  
Do. Leather Belts.  
Do. Woolen Striped Baniaps.  
Do. Flannel Ready made Shirts.  
Gentlemen's Linen Shirt-Collars.  
Do. Woolen Socks.  
Do. Cotton Socks.  
Woolen (Superior.)  
White Alpecca.  
Blue Do.  
Coburgh Do.  
Silk Gown Pieces.  
Coloured Muslin.  
Superior Lappets.  
Flannel.  
Chintz.  
Victoria's Lawn.  
Long Cloth.  
Rose Coloured Cambric.  
Book Muslin.  
Drill.  
Shirting.  
Linen Drill.  
Grey Cloth  
White Hand-kerchiefs. (Superior.)

Lace.  
Neckties.  
Flowerd Net.  
Ribbon.  
White Tapes.  
Thread (Reel and Balls.)  
Thimbles. (German)  
Needles.  
Penknives.  
Hair Powder.  
Do. Do. Puff.  
Oilmenstores.  
Soap.  
Biscuits. (Superior.)  
Pearl Barley.  
Sugar.  
Sugar Candy  
Loaf Sugar.  
Cheese.  
Sage.  
Coffee.  
Black Tea.  
Green Do.  
Port Wine.  
Sherry Do.  
Brandy. (Superior.)  
Brandy.  
Claret.  
Gin.  
Old Tom.  
Con Beer.  
Do. Porter.  
Champagne.  
Soda.  
Lemonade.  
Stationery.  
Gun Powder.  
Shots.  
Caps.  
Kettles.  
Rat Traps.  
Candles.  
Wicks. (Lamp)  
Looking Glass. (Different sorts and sizes.)  
Brass Locks. (Do)  
Do. Hinges. (Different kinds and sizes.)  
Do. Bolts. (Do)  
Do. Drawer Handles. Do.  
Padlocks. (Superior)  
Screws. (Different Sizes.)  
Table Spoons.  
Twine. &c. &c.  
Pettah, Jaffna, 5th August, 1864.

## DEATH.

We regret to learn that Mr. W. M. Be-ling of Badulla died of Cholera some days

ago. He was a promising young Proctor, and his compilation of law reports introduced him very favourably to the legal profession.

## The Ceylon Patriot.

We beg to inform the public that Mr. T. M. Tampoo of the Jaffna Bar, will in future act as Sub-Editor to the "Ceylon Patriot" and will be at liberty to receive letters and other papers to our address as Editor. Mr. Tampoo is also authorized to sign receipts, bills, &c. as may become necessary in the transaction of business in the Patriot Office.

## THE SUPREME COURT.

(Criminal Sessions, Jaffna.)

Mr. Justice Temple opened the 2d Criminal Sessions on the 9th Instant and not on the 8th as expected. A report of Cases tried this time will be given in our next issue. We hope our legal Correspondent will not disappoint us.

## OUR GOVERNMENT AGENT.

We are glad to hear that our Govt. Agent has recently received from England a supply of valuable medicines, which are reported to be powerful antidotes to that dire disease, cholera. But we have not yet heard whether the medicines are distributed amongst the sick. The best disposal that can be made of them we think, would be to have a good supply in the Friend-in-Need Society's Hospital, available to any man at any time; and also to send supplies to the different places where the disease prevails and entrust the same to some one who will undertake to distribute it. We hope that every one will now try to be provided at once with these medicines and give them a thorough trial should necessity require their use.

## THE STEAMER PEARL.

This Steamer arrived at Jaffna on Monday the 8th Instant, with the Senior Pusne Justice and other officers of the Supreme Court on board. She is likely to leave our shores again next week taking the Justice to Trincomalee and Batticaloa and thence to Colombo. The Steamer 'Jaffna' we hear is now at Kayts and soon leave for Negapattam.

## FESTIVAL.

The yearly festival at Scanda Swamy temple, Nellore, has commenced and people have already began to flock together to attend it.

We are apprehensive that the crowding together of so many people at this time will be disastrous. Exposure to the nocturnal air without proper and timely sleep for successive nights is something to be greatly deprecated.

## THE COIR NUISANCE CASE.

In our next issue will appear the truly "learned" Judgment of the Supreme Court in the above case. We certainly sympathize with the Careoor operatives, but under the Nuisance Ordinance 1862, there is no alternative but that the practice of burying Coir husks in the beach at Paseoor should be condemned.

In the meanwhile we see no reason why these operatives could not bury their husks in another locality without giving any room for annoyance to others.

## WRECK OF A NATIVE DHONY.

We, have just heard that a dhony belonging to one of the Point Pedro Merchants was wrecked between Trincomalie and Batticaloa and that a cargo of nearly 200 Avannam of Paddy and 13 passengers are lost. Particulars will be given in our next issue.

## THE MADRAS AND COLOMBO STEAM COMPANY.

The above Company are in treaty with Government for the purchase of the "Pearl," and we should think Government would do well to accept any reasonable offer. What the present of an elephant would be to a poor man, the Pearl has certainly been to the Government of Ceylon—ruinous to keep. *Colombo Observer.*

## FEMALE EDUCATION.

We understand that the Secretary of State has appointed Miss Elizabeth Gray to be Principal Teacher of the Girls' School at Jaffna on a salary of £200 per annum, in the room of Miss Teeling who fell a victim to the epidemic prevailed in that district about a year ago. Miss Gray, we learn, will remain for some time at Galle, as the school there very much requires the services of a good teacher at present.

*Observer of 28th July, 1864.*

## ARRIVAL OF THE OVERLAND MAIL.

(By Telegraph.)

From Galle, 2nd August, 8-45 A. M. Steamer *Nabia* from Suez anchored.

From Galle, 22nd August, 9-35 A. M.

Extract from *Home News* of 11th July.—

On the 4th of July, Mr. Disraeli moved a vote of censure on Ministers, Mr. Gladstone replied Mr. Newdegate moved an amendment declaring that the independence of Denmark should be guaranteed and Mr. Kingslake moved another amendment approving of the policy of peace. The debate was concluded on the 8th when Mr. Newdegate withdrew his amendment and the vote of censure was thrown out by a majority of 18 for Government in a House of 608 members.

The Earl of Malmesbury moved in the Upper House on July 8th, a vote of censure similar to that in the Commons. The Marquis of Clanricarde moved an amendment expressing regret that Denmark had been allowed to expect aid. The Earl of Malmesbury's resolution was carried a majority of 9 against Government in a House of 345 members. It is now understood that Ministers will not at present dissolve Parliament.

Prince John of Glücksburg, brother of the king of Denmark, has proceeded on a visit to Berlin to negotiate for a settlement. The Danish Ministry subsequently resigned in a body, consequent it is supposed upon this act of the Danish Sovereign.

General Grant has been defeated in his attack on the Weldon Railway and has retired to his entrenched position. Hunter has retreated with considerable loss pursued by the Confederates. Sherman has been defeated with a loss of 3,000 men. Lee is being heavily reinforced.

Lieutenant General Sir Robert Percy Douglas has been appointed Governor of the Cape of Good Hope. *Examiner.*

## CORRESPONDENCE.

## REPORT

of the Trincomalie Pettah Library.

In resigning their trust the Committee of the Trincomalie Pettah Library have but a brief account of their labours to offer, particularly, as during their tenure of office nothing discouraging to the prospects of the Institution has been encountered.

1st. Your Committee have to thank "His Excellency the Governor and the Legislative Council for the additional grant made to the Institution for 1864 in the votes for that year.

2nd. Comparing the receipt of the present with those of past years, your Committee find that those of the present year have been considerably increased in consequence of many additional Members having been enrolled; the entrance fee arising from these admissions adds materially to the increase.

The expenditure has been most carefully regulated and the balance in your Committees hands, as per accounts duly audited made up to the year ending February 1864, is £35 1s. 11½d. but of this a sum of £30 5s. has been subsequently remitted in settlement of accounts with Book Sellers in England and in advance for Papers and Periodicals up to September next.

Looking to the low state of the funds your Committee have not ordered out a supply of Books, but they would strongly impress upon the mind of their successors the importance of making a remittance to England for this purpose from the expected Government grant, as selection of the books to be ordered has been already made.

Your Committee have at last been enabled to have printed copies of a catalogue of the Books and also copies of the rules of the Institution prepared, the want of which has hitherto been materially felt.

Your Committee have to thank such of the Naval Officers on service afloat who have become Honorary

Members and for their generous aid and support to the Institution.

Notwithstanding that the Committee has been for sometime past short of, two of its members the working of the Institution has been carried on efficiently and as satisfactorily as ever.

In conclusion the Committee have to thank the European, Burgher and native community for their support without which it would be utterly impossible for so valuable an Institution to prosper and in resigning their trust they feel much pleasure that they do so under such favorable circumstances as are shown by the two-fold fact of freedom from debt and the possession of a balance.

W. F. WILLIAMS, (Secretary)

13th June, 1864.

Proceedings at a General meeting of the Members of the Trincomalie Pettah Library held at the Library Room, on Monday the 13th June, 1864, at 7. P. M.

On the motion of Mr. G. E. Colomb; Seconded by Mr. W. F. Williams, the Rev. S. O. Glenie was called to the Chair.

The Chairman having opened the meeting with an address appropriate to the occasion, called upon the Secretary to read the Report. The Report having been read the following Resolutions were adopted.

1. Moved by Mr. B. Crispeya, seconded by Mr. G. Felsianes. Resolved that the Report just read be received and adopted.

2. Moved by Mr. R. B. Holgate, seconded by Mr. E. Roelofs. Resolved that the best thanks of this meeting be respectfully conveyed to Government for the devotion made in aid of this Institution for 1863.

3. Moved by Mr. C. J. Buttery, seconded by Mr. J. G. DeRos. Resolved that a respectful application be made to His Excellency the Governor for the sum voted by the Legislative Council for the Trincomalie Pettah Library for 1864.

4. Moved by Mr. R. Andree, seconded by Mr. Felsing. Resolved, that the thanks of this meeting be offered to the Officers and Members of the Committee for 1863, and that the following gentlemen be appointed for the ensuing year.

Mr. Colomb, <i>President.</i>	Mr. E. Kahle.
" C. Buttery, <i>Treasurer.</i>	" E. Roelofs.
" W. F. Williams, <i>Secy.</i>	" B. Crispeya.
" J. G. DeRos.	" W. H. Buttery.
" G. Felsing.	

5. Moved by Mr. G. E. Colomb, seconded by Mr. W. Williams. Resolved, that the Editors of Local Newspapers be requested to publish the proceedings of this meeting in their respective Journals.

6. Moved by Mr. W. H. Buttery, seconded by Mr. E. Kahle. Resolved, that the best thanks of this meeting be tendered to the Rev. S. O. Glenie for his able and obliging conduct in the Chair.

W. F. WILLIAMS, (Secretary.)

(From our own Correspondent.)

## COLOMBO.

A cart was removing bags of rice, and in spite of the chitty, the owner of them, going along with it, a daring and desperate character came up to the cart, quietly laid hold of a bag as though the property was his, coolly shifted it to his head and took to his heels. Some slight noise, however, having attracted the attention of the chitty, he hotly pursued the thief to some distance, when (and this is the striking feature in the matter) that as the loser was running in despair, another man who was evidently an associate of the rogue, ran up to the chitty and inflicted a blow right across his face, which stunned and stopped him from further progress when the thief disappeared. Where were the Police, while this was transacted, is a question which may naturally arise in the minds of your readers, and which must be solved by the Police Force themselves. From what I am told, the above case of theft, is not a rare occurrence.

Permit me, Mr. Editor, to invite the attention of the Post Master General to the necessity of appointing a Post Office Messenger who understands the Tamil language. The Messenger who is now employed to take letters to the Tamils (of whom there is a large and respectable community in Colombo) is a Singhalese man, untaught in the Tamil and in consequence quite incapable of reading the Tamil addresses; nor does he understand English. And why the Post Office authorities entrust the safe delivery of letters (which are as a rule very important and precious to the senders as well as to the receivers) to such illiterate men in those two languages, I cannot understand. If the addresses are in Singhalese, then it is all right. But while they are in English and Tamil, to pursue the policy which is now adopted, cannot but work an injustice to the Tamils. If it be said that the Tamil community in the place, is too small and does not require one who understands Tamil, why, I ask, appoint a Tamil Interpreter to the Supreme Court, or to the District Court? These appointments are sure indications of the requirements of the Tamils? If their interest is consulted in the forensic matters is it not worth while to consult it in the post departments? If it be deemed that the dismissal of the present Messenger will entail a hardship on the poor man, I beg to suggest to the authorities concerned, the expediency of requiring him to learn the Tamil as well as the English Alphabets and their respective first books. I wish to be thoroughly understood not to insinuate, in the least, anything personal against the present Messenger. From

the little I have known of him, I should say he is a good man, and to attribute wilful mischiefs to him, I shall not be forward.

We have had heavy showers of rain since Sunday last and on Monday and Wednesday, there was almost incessant rain. To-day the weather is clear. Steamer "Jaffna" is now riding at anchor at the roadstead in Colombo, and is ready to leave this for Jaffna, to-morrow.

For about a month no vessels arrived here from Jaffna.

Colombo, 29th July, 1864.

## POINT PEDRO.

(From a Correspondent.)

Sir,

It is long since I contributed to your valuable Journal, and I now send my usual scraps, hoping they would find a corner in one of your earliest issues.

To begin with the Customs Department; during the current month, I understand, that 20,495 bushels of Paddy have been imported from India, whilst there was a quantity, amounting to 6,570 bushels added to our granary from the rich stores of Batticaloa. And the Rice imported from beyond sea, amounts to 299 bushels, and the coast-wise import is but 32 bushels. The duty collected on Exports, Imports, &c. amounts to £442—15—0.

During the last year, the quantity of Paddy imported for the first seven months from the various ports of India, amounted to 112,899 bushels, whilst the import, up to date, from the commencement of the year, amounts to only 74,680 bushels, showing a decrease of 38,219 bushels, during the two corresponding periods. But this decrease is, to some extent, made up by the import of Rice; for during the last year there was only a quantity of 3,680 bushels, whereas 22,318 bushels have been imported during the current and past months of this year, the increase in Rice being 18,638 bushels over the last year.

The death of the Preventive Officer at Kayts, starts up several changes in the Department. I hear that Applications for the vacancy, as well as for the prospective office of Landing Waiter, which may be made vacant by the promotion of that officer to that post, are despatched, with anxieties, by official and unofficial candidates. It is but natural to expect that one of the four Landing Waiters rather the senior, will be, or must be, promoted to the Preventive Office.

There arises the next question, who deserves the post of Landing Waiter thus becoming vacant? It is perhaps premature to discuss the claims of the vacancy in embryo, which may prove abortive. But I may add that either of the Shroffs has better claims to succeed as Landing Waiter, were his post should become vacant, seeing that their promotion lies in this direction.

The next department deserving notice is our local tribunal. Arrears have been greatly cleared of by our patient and intelligent Magistrate. There has been recently an import of several members of the Bar into our litigious District, as there were many cases in which they were retained.

The people are anxious to see that their present Magistrate P. Selby, Esq. is confirmed in his post, and I hope this intelligence of his permanent appointment will soon be received.

The educational department is progressing; and there is every hope that the sphere of usefulness of the local superintendent (Rev. W. Walton) will be extensive and permanent and that his wedded life would contribute much towards it. In the whole District of Vadamoratchy there were nearly 787 cases of Cholera of which not less than two-thirds have fallen victims to this dreadful epidemic. It lurks chiefly at Ploly, Caravetty, and Imyanan crotchey.

The Government Agent (P. A. Dyke, Esq.) sold on the 20th Instant, Dry grain Rent of the third quarter, for nearly £300 Sterling. The Renters who do not always take the trouble of inspecting and examining the crops, before they bid for them shall, I understand, suffer a loss by the bargain, although they adopt their usual system of extortion. These speculators, are a mischievous set of traders, and are cruel and hard masters, reaping where they sow not.

The fields require the replenishing showers and are not yet prepared for cultivation, having been allowed to lie fallow. We had very slight drops of rain, which are perhaps but a prelude to mighty torrents. The Maniagar of our District (Mr. Wytelingam Moodliar) has recently established a Private Anglo Tamil School near his residence to train up his children as well as others. But this School is now closed up owing to Cholera

which surrounds his abode. Such indigenous establishments carry with themselves much credit and praise.

I remain, Yours truly  
A. SPECTATOR.

ATTICALOA.

THE JUBILEE OF THE WESLEYAN MISSION.

Sir,

We have lately been much delighted in this important locality, by the visit of two American Missionaries from Jaffna, who came here on a Bible Tour. Messrs. Hastings and Sanders have during their stay amongst us, toiled earnestly and well, and we trust not in vain. Their efforts in the noble cause will ere long we hope bear abundant fruit, for in the discharge of their Mission they have won the good will and affection of all classes of the people.

We have also had an opportunity of hearing from the Pulpit, and in the Platform, the Revd. Simon Horner Stott, the eldest son of the Revd. Ralph Stott, formerly a much respected Missionary at Batticaloa. He came down as a deputation to attend the Jubilee Meeting of the Wesleyan Missionary Society. His manner reminded us of his amiable father, in whose glorious foot steps the Son is now treading, and that he may emulate his father in the same good work is the earnest wish of all.

The Revd. Mr. Stott told us, that he wished originally to labor in Southern Africa where his father is now stationed, but that when the Conference Minutes were issued, his destination was found to be Trincomalie.

A meeting was held in the Wesleyan Chapel in aid of the Bible Society on the 28th Ult., the Revd. W. Talbot in the Chair. Messrs. Hastings and Sanders gave us a lucid and detailed account of the operations of the "British and Foreign Bible Society," and their earnest appeals were ably followed by the Revd. Messrs. Hornby, Somanaden and Hunt, and a collection in aid of the Society concluded the proceedings of the evening. The Jubilee of the Wesleyan Mission was held in the same place the next evening (26th ult.) to commemorate the Wesleyan Missionary Society founded in 1816; and also the landing, 50 years ago of the first Wesleyan Missionaries at Galle. After the proceedings had been commenced by singing and prayer, and reading a portion of Scripture, the Assistant Government Agent, Mr. Morphew, with his accustomed kindness took the chair. After a few congratulatory remarks on the occasion he called on Mr. Talbot the resident Missionary. Mr. Talbot then gave the audience an account of the origin and rise of Wesleyan Methodism—its introduction into the Island of Ceylon fifty years ago, the labors of Mr. Ault the first Missionary at Batticaloa and of the success attending the operations of the Mission in this place up to the present time. The Revd. Messrs. Hastings, Sanders, Hornby, Stott, Somanaden and Hunt, then spoke at length; and Messrs. Roelofs, J. Somanaden and J. All-goonpulle, members of the Wesleyan Church, also took part in the proceedings.

After the speeches were over, Mr. Talbot said, that though it was not originally his intention to make a collection, or open a Subscription List at that Meeting, yet as it had been suggested, that something ought to be done on such an occasion, he would place on the table a public Subscription List and if after the manner in which Jubilee Meetings were held in England, and if one felt disposed to subscribe then, an opportunity was thus presented. Several parties immediately came up to the Platform and put down their names for very respectable sums. There was altogether promised at the Meeting £45, which it is hoped before the Subscription List closes it will reach £100.

The Revd. Mr. Talbot proposed, and the Revd. Mr. Hastings seconded a vote of thanks to the Chairman which being carried unanimously, the Doxology was sung, the Benediction pronounced, and the Meeting separated.

Yours,  
A. B. C.

TRINCOMALIE.

Dear Sir,

I find from your paper of the 23th Ultimo, this day come to hands, that your Trincomalie Correspondent has given you some erroneous information regarding the movements at Trincomalie, and these errors I think but fair should be corrected, and with your permission I shall do so particularising them under their several heads.

Arrival of Admiral King

Your correspondent is correct in saying that a salute was fired, but certainly not from all the Guns of the "Vigilant" and "Wasis" as he says, on the occasion.

Appointment of a successor to the Native Writer in the Modliar's Office.

The successful candidates neither "a son-in-law of the Modliar" nor is the "Modliar his" Father-in-law,

and the choice of Mr. Theywannagapulle's appointment did not rest with the Modliar. He was along with 3 others examined by G. W. Paterson Esquire, a gentleman capable of judging for himself and incapable of being influenced by any party, and was recommended for the Office from the fact of his having been found by that gentleman the best qualified of all the candidates.

Electric Telegraph Movements

An experiment was tried—but your Correspondent has magnified his information when he states that the wire is extended over more than  $\frac{1}{2}$  the line, the wire extends over only 37 miles, which is I believe little more than  $\frac{1}{3}$  when we consider that the distance from Trincomalie to Kandy is scarcely 114 miles

Trusting that your correspondent will be more correct in his future information and prevent the public being misled.

I remain, Dear Sir,  
Trincomalie, 4th August, 1864. A lover of truth.

THE ORDINANCE OF FRAUDS AND PURJURIES.  
No. 7 of 1840.

(From our Legal Correspondent.)

The object of the above ordinance is the prevention of frauds and purjuries; and in effect it is similar to the English "statute of frauds." The 2nd clause of this ordinance is of a very great interest to a large class of native land owners in this country, and it must be admitted that the rights of planters, lessors, mortgagers, and tenants, as regards the mode of acquiring a right to or interest in land, are very imperfectly understood both by our professional and lay readers. The rule laid down by this clause is "That no promise" bargain contract or agreement \* \* \* for establishing any security, interest, or encumbrance affecting land or other immoveable property (other than a lease at will, &c.) shall be of force or avail in law, unless the same shall be in writing, and signed by the party making the same, &c. in the presence of the licensed Notary Public and two or more witnesses present at the same time, and unless the execution of such writing, deed or instrument, be duly attested by such Notary and witnesses." This is all plain enough; but the erudition and subtle reasoning by which this clause has been evaded, for the purpose of administering "substantial justice," have put different construction upon the rule, and according to the opinion of lawyers the word "land" is of a very comprehensive character including trees, houses, fruits, &c. The decisions on the subject were conflicting and the process applied to determine questions, hair-splitting. Precedents there were touching Tobacco, Plantains, Chillies, Coffee, &c. &c.; but no general rule was laid down in any of those cases. But the learned and elaborate Judgement delivered by Mr. Justice Thompson in No. 1056. C. R. Ratnapoora, now about 3 years ago, settles the question finally. The principle laid down in it is intelligible, lucid and clear, and it is that

The sale of growing fruits produced by human industry, whether they are ripened or still require nutriment from the earth in order to bring them to a state of maturity, is not within the 2nd clause of the Ordinance No. 7 of 1840.

Our readers must bear in mind that the sale of growing crop only is here held, not to affect an interest in land; but it is to be gathered from the other parts of the above Judgement that where lands are rented out to be cultivated and before the seeds are buried therein, the contract falls within the scope of the 2nd clause and must be in writing executed before a Notary and witnesses. The Judgement above referred to being one of great practical utility is quoted at length for the benefit of all our readers.

Present, The Chief Justice, and Judges Temple and Thomson.

No. 1056. C. R. Ratnapoora.

In this case the Plff. sues the Deft. for one third share of the crops of certain chenas which the Plff. was prevented from taking by a third party, and he claims £2-15 0 damages.

On examination the Plff. says "I took the rent of the lands on lease for one year for 5s. 6d.—but comparing the Plaintiff with the Petition of Appeal it is clear that the Plff. only bought the  $\frac{1}{3}$  crops. This is also admitted in Def't's answer. There is nothing to shew that the price was paid beforehand, so that the contract is wholly executory.

On the trial a nonsuit was moved for under the 2nd clause of the Ordinance No. 7 of 1840. as the lease under which the Plff. claims should have been on a stamp and attested by a Notary; the objection was held good. Plaintiff was nonsuited with costs.

The Plff. in effect excepts to this judgement, on the ground that a growing crop is not "an interest, in land," the second clause of Ordinance No. 7 of 1840 requiring a notarial instrument. The question as to what is "an interest in land?" has not only been the subject of much judicial inquiry under the English statute of frauds but also of express decision in Ceylon. The 4th section of the statute of frauds (England) enacts "that no action shall be brought upon any contract or sale of lands, tenement, or hereditaments, or any interest of or concerning them, unless the agreement upon which such action shall be brought or some memorandum or note thereof, shall be in writing and signed by the party to be charged therewith or some person thereunto by him lawfully authorized." The ordinance of frauds and purjuries some what differs from this in language and also in a principle which does not come into operation in this case.

The second section of No. 7 of 1840 enacts that no sale &c. of lands &c. and no promise, bargain, contract or agreement for effecting any such object or for establishing any security, interest, or encumbrance, affecting land &c. shall be of force or avail in law unless the same shall be in writing and signed by the party making the same or otherwise notarially executed.

The question "what is an interest in land?" is common to both enactments, and in determining the question, this court has always made use of the English precedents. An interest in land is not created by any contract, unless the contract confers, an exclusive right to the land for a time for the purpose of making a profit of the growing surface, (i. e. when the surface only is in question) then the contract would be one for the sale of an interest in land. (Warwick. V. Bruce 2, M. and S. 205.)

This has been the principle upon which all the cases respecting sales have been determined and the English Courts have decided that in the first place the sale of a growing crop does not give any exclusive right to the land at any time, as even the right to go upon the land to gather the crop is only an easement which does not in any way pass any right to the land (Per Holroyd Evans V. Robert's 5. B. and C.) nor has the right to have the crop remain upon the ground to infer any interest in the land, and this point the English Courts have settled by analogy to the Doctrine of Emblements.

Lord Ellenborough says "In a contract for the sale of potatoes at so much per acre the potatoes are the subject matter of the sale and whether at the time of the sale they are covered with earth in the field; or in a box, still it was the sale of a mere chattel." (Warwick. V. Bruce, ante.) Again in the case of

Sansbury and Matthews. 4 M. and W. 347. Mr. Baron Parke says, "that the sale of a growing crop is a contract for the sale of goods and chattels at a future day the produce of certain lands and to be taken away at a certain time. It gives no right to the land; if a tempest destroyed the crops the loss would clearly fall upon the owner and seller of the crop, "or in other words the owner of the land is the owner of the crop until the crop is severed and in fact no property passes until the crop is delivered either by the severance by the owner or by the purchaser being permitted to sever it for himself, which is indeed constructively a delivery by the owners.

Thus by the law of England growing crops come within the description of emblements and are deemed chattels by reason of their being raised by labor and manurance—this applies however only to cereal crops such as grain &c., and, not to crops or grass or fruit. The view taken by the law of England has been affirmed as the law of Ceylon in the case No. 10286 Negombo, and 5670 Negombo.

The first case related to an implanted crop of tobacco and in this case, the Supreme Court makes a distinction between the sale of a growing crop and the sale of a crop the seeds or plants of which are not yet in the ground deciding that the sale of the former is not a sale of the interest in land and that the sale of the latter is.

This is conformable with all the English decisions and also with the opinions of Lord Coke (Co. Lit, 556) and it may be laid down as a principle on the basis of both English and Ceylon precedents that the "sale of any growing produce of the earth (reared by labour and expence and within the definition *fructes industriales* or emblements) in actual existence at the time of the sale whether in a state of maturity or not is not to be considered an interest in or concerning land within No. 7 of 1840.

The second case decided by the Supreme Court on this question related to the sale of plantain bushes. The case decided that case to affect an interest in land, but does not militate against the principle laid down as it does not appear that the Court regarded plantains as *fructes industriales*, or that they were planted prior to the sale.

The result of these cases, and of the many others which have been decided upon the subject is thus stated in William's Sanders 277. C. N. (F) A similar and very clear view of this subject is also taken by Lord St. Leonards, see concise view of Law of V. and P. J.—98. Ed. 1851.

It appears to be now settled that with respect to *fructes industriales* (i. e. the corn and other growth of the earth, which are produced, not spontaneously but by labour and industry) a contract for the sale of them while growing, whether they are in a state of maturity or whether they have still to derive nutriment from the land in order to bring them to that state, is not a contract for the sale of an interest in land, but merely for the sale of goods. (Evans and Roberts 5. B. and C. 820) Sansbury V. Matthews (4. and W. 343.) and it will make no difference whether they are to be reaped or dug up by the buyer or by the seller. John V. Flint's (10 A. and E. 753.) The true question is whether, in order to effectuate the intention of the parties, it be necessary to give the buyer an interest in the land, or whether an easement of the right to enter land for the purpose of harvesting or carrying them away is all that was intended to be granted to the buyer.

In this instance it is left doubtful whether the crops sold were growing crops or not. The case is therefore remanded for further hearing.

I AM DYING.

Raise my pillow, husband dearest;  
Faint and fainter comes my breath,  
And these shadows stealing slowly,  
Must, I know, be those of death.

Sit down close beside me, darling;  
Let me clasp your warm, strong hand—  
Yours, that ever has sustained me  
To the borders of this land.

For your God and mine—our Father—  
Thence shall ever lead me on,  
Where upon a throne eternal,  
Sits His loved and only Son.

I've had visions, and been dreaming  
O'er the past of joy and pain;  
Year by year I've wandered backward,  
Till I was a child again—

Dreamed of girlhood, and the moment  
When I stood your wife and bride—  
How my heart thrilled with love's triumph  
In that hour of woman's pride!

Dreamed of thee—and all the earth-cords  
Firmly twined about my heart—  
O the bitter, burning anguish  
When I knew that we must part!

It has passed, and God has promised  
All thy foot-steps to attend;  
He, that's more than friend or brother,  
He'll be with thee to the end.

There's no shadow o'er the portals  
Leading to my heavenly home;  
Christ has promised life immortal,  
And 'tis he that bids me come.

When life's trial wait around thee,  
And its chilling billows swell,  
Thou'lt thank Heaven that I am spared them,  
Thou'lt then feel that 'all is well.'

Bring our boys unto my bed-side;  
My last blessings let them keep—  
But they're sleeping; do not wake them—  
'They'll learn soon enough to weep.

Tell them often of their mother;  
Kiss them for me when they wake;  
Lead them gently in the path-way;  
Love them doubly for my sake.

Clasp my hand still closer, darling,  
This, the last night of my life;  
For to-morrow I shall never  
Answer when you call me 'Wife.'

Fare thee well, my noble husband;  
Faint not 'neath this chastening rod;  
Throw your strong arm round our children;  
Keep them close to thee—and God

Anon.

