

TRIBUNE

CEYLON NEWS REVIEW

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ANOTHER RACKET?

CREDIT CORPORATION NEEDS PROBE

The inquiry into the conduct of Mr. N. U. Jayawardana has brought to light a most unsatisfactory state of affairs in many departments of Government and many Government institutions.

One institution that needs an immediate probe is the Agricultural and Industrial Credit Corporation. This institution was brought into existence in 1943 or thereabouts for the sole purpose of assisting nationals of this country to develop as agriculturists and industrialists. Capital at very low rates of interests about 2% was made available to such individuals and repayment was in easy instalments spread over fifteen to twenty years.

For Speculation

An investigation as to the persons who have benefited by this institution will throw much light and it would be possible to find out whether the A. I. C. C. has really served the purpose for which it was created or whether it has been used for the benefit of a few individuals.

It is also necessary to find out if the money lent by the A. I. C. C. was only for the purpose of assisting agriculturists

or whether it was abused by speculators to obtain capital at low interest for buying and selling property for the purpose of making quick and easy money.

"Tribune" has reason to fear that at least some persons have used the A. I. C. C. for the purpose of obtaining capital for speculative purposes.

And what is more disconcerting is that the one instance we have so far discovered centres around the firm of lawyers who are the official lawyers of the A. I. C. C. The firm is Messrs De Silva and Mendis which have been in the news recently in many ways. Mr. Felix de Silva, the senior partner of the firm figured largely in the N. U. Jayawardane inquiry.

Navam Estates Ltd.

It has been brought to the notice of "Tribune" that a limited

liability company named NAVAM ESTATES LIMITED has bought and sold property with funds borrowed from the A. I. C. C. NAVAM ESTATES LIMITED had as its original shareholders and directors, the wives of two persons who are now senior assistants (or may be even partners) of De Silva and Mendis. A third director was also an assistant at De Silva and Mendis but he resigned his directorship when he took an appointment for a short while under the Crown, but he has continued to be a shareholder.

It must be also mentioned that the husband of one of the two wives was at the time the company was incorporated and did the first transaction a servant of the Crown, and the registered office of the Company was at his address. The address continues to be at his house and when he changed houses, the registered office of NAVAM ESTATES LIMITED was likewise changed. This gentleman is now one of the more important personages at De Silva & Mendis.

The two other Directors and shareholders of the Company are two lawyers, one of whom is

Special Article
on

TRIAL AT BAR & BY JURY

See page 2

TRIAL AT BAR AND

BY JURY

The arrest and the impending trial of those associated with certain newspapers makes it necessary that the members of the public should inform themselves about the procedure adopted by the authorities to bring these journalists to trial, about the form of such trial and about the implications of the steps taken by the authorities.

The Members of the public must judge for themselves whether the procedure adopted in these instances by the Minister of Justice, an appointed member of a democratic government, is justified, whether the provisions of law which enabled him to adopt this procedure should be allowed to remain in the statute book and how the fundamental rights of the people must be safeguarded.

Without A Jury

The most important feature of the trial at Bar ordered by the Minister under the provisions of section 440A of the Criminal Procedure Code is that **IT IS A TRIAL WITHOUT A JURY.**

Section 440A was introduced into the Criminal Procedure Code by a panicky foreign government in 1915 during the first World War and the days of Martial Law.

The jury system like the Cabinet system is an imported thing. Our legal system especially the administration of criminal law and all our concepts of justice in criminal cases are based entirely on the English Law. To know how the system must be worked for the greatest benefit of the people and so as to ensure them their liberties it is necessary to examine its history and its importance in English jurisprudence.

Magna Carta

Sir Ivor Jennings in his recent book "The Queens Government", in the very first page of the book in the chapter entitled *Freedom Under the Law* says:

"If an Englishman (who may be regarded as typical of the peoples of the Commonwealth) were to put his fundamental political beliefs into a single formula it would go something like this:

'No man (or woman) may be arrested by a policeman unless he has broken the law, nor be kept in prison unless a magis-

trate or judge and jury have found him guilty of an offence; nor may he be deprived of his property except by a legal proceeding and then only on payment of compensation; nor may any Government official push him around unless the law says he may, and then only if the official strictly obeys all the legal formalities and makes certain that the man has a square deal.....'

By

BARRISTER

"It is an interesting formula, for in principle it is not very different from that to which King John agreed to at Runnymede in 1215. The exact meaning of the famous 39th Article of Magna Carta is a matter of some controversy, but it may reasonably be translated as follows:

'No free man shall be taken or imprisoned or disseised (i. e. deprived of his lands) or outlawed or in any way destroyed, nor will we go upon him, except by lawful judgement of his peers (meaning his equals) or the law of the land.'

For 700 Years

'This famous declaration has been in the law books, in slightly amended form, for over 700 years. Magna Carta was confirmed by subsequent monarchs, usually at the request of parliament, thirty seven times. It was

resurrected by one of our greatest lawyers, Sir Edward Coke - 'tough old Coke, the toughest man England ever knew' - in the reign of James I and Charles I. He wrote a commentary upon it in a volume of his *Institutes* which was published by the authority of Parliament in 1642, the year in which the Parliament decided to defy Charles I. The *Institutes* are the foundation of the modern law, the source to which lawyers have recourse when modern precedents are lacking or produce no clear principle. It was Coke who drafted the Petition of Right of 1629, the second of our great constitutional documents, and the arguments in Parliament on this Petition were founded in Six Acts, Magna Carta itself and five Acts confirming it. The ideas of the 39th Article are implicit in the law of England as well as explicit in the books."

Birthright

In practice, this right was centred around the right to a trial by jury. "Trial by jury" writes Mukerji in his book *Trial by Jury and Misdirection*, "thus secured by the Great Charter has always been regarded as the grand bulwark of the liberties of every Englishman. It is the Englishman's birthright and it is that happy way of trial which, notwithstanding all revolutionary times, has been continued beyond memory to the present day, the beginning of which no history specifies, it being contemporary with the foundation of the State, and one of the pillars of it both as to age and consequence. 'Today it would be easier to uproot the foundation of the British throne itself than to tear this venerable landmark from the British constitution or the affections of the British people.' So sacred and valuable was the institution in the eyes of the English people that all

Continued on page 15

..... What was the cause of the collapse of values of



Government Securities in 1953 causing loss

of millions of rupees to investors?

J. R. BUNGLED

The question has often been raised as to why Government Securities dropped in value in a phenomenal manner after the Budget of 1953. The Table published on this page indicates the sharpness of the drop.

It has been found convenient by certain interested persons to explain this sharp decline by saying that it was due to the Hartal and the Hartal alone. The Hartal may have played a part, but it was certainly not the main reason for this debacle. The Hartal undoubtedly brought about a crisis in the politics of this country, but it was not of a sufficiently long duration to have any major effects on the economic and financial structure.

Interest Rate

Any student of financial matters will not find it difficult to put his finger on the true reason for this slump in Government securities which has meant a loss of several million rupees for many persons who had invested money in Government gilt edge loans.

The reason, one can make bold to say, was the statement made by the Finance Minister, Mr. J. R. Jayawardene, in his Budget speech in July 1953, that the Government was contemplating an increase in the interest rate. This is what he said in that speech :

“.....in an economy like Ceylon's, rising capital expenditure is a precondition of expanding development. Ceylon could have afforded to finance this development at a low interest rate so long as it could have fallen back on a substantial cushion of external assets. It could have then safely expanded bank credit to augment the supply of

by
(Our Financial Correspondent)

real savings. But this is not possible now. *Ceylon can no longer afford the luxury of low interest rates The truth is that, save under exceptional conditons of easy finance and affluence, low interest rates are incompatible with an expanding economy in an under-developed country*”

Piffle

This seemingly weighty pronouncement by the ex-Minister of Finance is just piffle. It is an accepted axiom and plain commonsense that under-developed countries should endeavour to obtain capital for development at the lowest rates of interest possible. All international aid schemes are based on this truth: that an underdeveloped country should be given or lent capital free or at nominal interest. For this

same reason, internal aid schemes like Housing Loans, Agricultural Credit Loans are also based on low rates of interest.

Right up to the time of this declaration of Mr. J. R. Jayawardene, the Ceylon Government had been raising money at interest rates ranging from 2¼% to 3½%—both for long-dated as well as short-dated loans. All these loans were raised at par, except one raised on August 1, 1953 (shortly after the Budget) which was at Rs. 99.

There can be no complaint about the interest policy of the Government up to the moment. But Mr. Jayawardene's announcement followed by the Central Bank's increase of the rate for advances to commercial banks from 2½% to 3% proved disastrous.

Continued on page 13

CEYLON GOVERNMENT LOANS

Loan	Rate	Term	Before Budget After Budget	
			1953	1953
Ceylon Government	3½%	1957/62	105½	98½
do		1959/64	101½	97¾
War Loan	3%	1959/69	100½	89¾
do		1956/60 "A" series	103	97¼
do		"B" series	102¾	96¾
National Loan	3½%	1964/69	106½	94¾
do	3¼%	1956	104½	100½
Victory Loan	3%	1965/70	100½	90
Nat. Development	3%	1965/70	100½	90
Sri Lanka	3%	1969/74	100	85¼
Ceylon Government	3%	1966/71	100¼	86¾
do		1972/77	103½	83¾

This is not a complete list of all Government Loans but it is a major representative sampling

Letter

Senadhipathi Writes To "Tribune"

Tri Sinhale Not American-Inspired

Thri Sinhala Jatika Peramuna,
Headquarters, Mahaiyawa,
Kandy, 28 July, 1954.

The Editor,
"Tribune", Colombo.

Dear Sir,

Reference to the Thri Sinhala Jatika Peramuna occurs twice in an article on the Indian High Commissioner, Mr. Desai's politics in "Tribune" of 24. July. With such notice as you take of it, the Peramuna can have no quarrel: you are within your rights in disagreeing with its objectives and also in apprehending that "it might become a major danger in this country". But surely, it is untrue to say that it is financed and otherwise encouraged by the Americans.

Your Comments on public matters, as a rule, are informative

and incisive. All the more therefore do I regret this inference on your party. The Thri Sinhala Jatika Peramuna considers it a doubtful distinction to associate itself with anything that is not wholly and completely indigenous I can tell you that it is above par in its politics and is organized so to remain until, its national objectives achieved, it disbands itself as voluntarily as it arose. Its guiding spirit is the indigenous nation itself, not any part of it, and its incentives, all of them, flow from the people. Money can sell nothing to it; money can buy nothing with it, neither dollars, nor sterling nor rupees. Its initial momentum stemmed from the Indigenous Nation's will, even as its high acceleration does now.

In our view, an indigenous

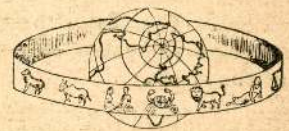
national is not at liberty to call his nation names. Who does so brands himself a traitor, does he not? He, in our view, is your "racialist and neo-fascist". It is the Peramuna's first avowed objective to try to become "a major danger in this country" to him and his like.

Yours Sincerely,

H. W. RAMBUKWELLA.
Senadhipathi, Thri Sinhala Jatika Peramuna.

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Hindu Astrological Society,

POONA-4, (India)

(Raos)

We publish alongside a letter from Senadhipathi Rambukwella (formerly Wijeyaratne) complaining about certain comments we made in our issue of July 24 about the Tri Sinhale Peramuna. What he seems to object to seems to be the charge that the Americans have a great deal to do with the Peramuna. We would like to remind the worthy Senadhipathi is that this charge has been openly made on the floor of the House Representatives by Mr. C. Suntharalingam, Member for Vavuniya. This charge has not been adequately met or refuted. We ourselves are in possession of certain facts which support Mr Suntharalingam's views. In the near future we hope to disclose these facts together with others we are now collecting to show the intimate links between the Americans and the "racialist and neo-fascist element" in this country, elements from which are likely to emerge the Bao Dais, Synman Rhees, Chiangs, and the like. If the Senadhipathi does not know the interest the Americans take in the Tri Sinhale Movement, it is a case of a General who does not seem to what know officers and members of his army are doing.

The Senadhipathi claims that Tri Sinhale is "wholly and completely indigenous". We would like to have clarification about the meaning of this word indigenous. Evidence that has so far reached us indicates that Tri Sinhale objects to the presence in this country of Ceylon Moors, Ceylon Tamils, Ceylon Burghers, Ceylon Indians, Indian Tamils... (but, it has so far not objected to the presence of Britishers and Americans here.) In the circumstances, we have no alternative but to infer that the term the indigenous connotes the rankest communalism and the crudest racialism. We are quite willing to be convinced otherwise by the Senadhipath. — Editor

“ . . . in criminal hands, radium can bec

very dangerous . . . the future is

in the hands of mankind . . . ”



NUCLEAR RADIATION

[An interview with Irene Joliot-Curie, world-famous French physicist]

“The ‘experiments’ with atomic explosions carried out by the Americans in the Marshall Islands which, far beyond the safety zone reserved by them, far away from the prohibited waters, reached the Japanese fishermen and their catch by means of radiations, very simply represent a crime against all humanity. These experiments can have unpredictable, incalculable effects, far-reaching consequences. They can introduce new diseases which can spread over the entire earth. They can raise radio-active dust which can fall again anywhere, here, in America—no one can tell in advance.”

Indignation

Irene Joliot-Curie said these words very slowly, weighing each phrase, as is her habit. Beneath her customary calm, in the office of the Curie laboratory which she directs, where nothing is out of place, where no noise penetrates, I felt the indignation and even the suffering of a great scientist who, with her life's companion, had made one of the greatest discoveries of all time and was watching criminals making off with it to turn the happiness of mankind into tragedy.

Irene Joliot-Curie is a professor at the Sorbonne; Frederic Joliot-Curie is a professor at the College of France. Winner of the Noble prize (with her husband), she was Secretary of State for Scientific Research (a post created by the People's Front government in 1936) and Commissioner for Atomic Energy after the Liberation (when Frederic Joliot-Curie was High Commissioner). Undoubtedly she has the most titles, and

When an A-or H-bomb explodes, chain reactions raise the temperature of the bomb substance to more than a million degrees. Everyone who is in the path of the radiations emitted by the disintegration of the bomb is afflicted by frightful radioactive burns. In addition, a wave of shock creates a current of wind which carries a part of the radio-active elements to very high altitudes. Moreover, a snow of dust and cinders can travel thousands of miles and more. It was this dust which injured the Japanese fishermen. This snow can remain suspended for months and even years.

the most merited and authentic ones that a woman can have.

Exceptional

But behind the prestige of the scientist, the woman cannot be forgotten. The tall slim silhouette, the broad arched brow, the clear eyes, the rare, quick, ingenuous smile, belong to a woman of exceptional energy and moral character.

She continued:

“Neither I nor Frederic Joliot-Curie are surprised at the ‘unforeseen effects’ of the American experiments. Our American colleagues cannot plead ignorance or

surprise... What we know they know too.

“A very long time after the eruption of the volcano Krakatoa, the dust circulated for years above the whole earth. High up above all the continents, it even changed the sunsets. Dust fell for months in the most unexpected places. Well, imagine what the explosion of an A- or H-bomb can produce. Rains of radio-active dust can fall anywhere, including the territory of the United States. The American people must be told this. The mere fact that the Americans declared Pacific waters as prohibited, as if that ocean were a lake within the boundaries of the United States, is scandalous enough and proves their contempt for other peoples.

Jap Fishermen

“Besides, ‘safety limits’ are practically non-existent, because fish or any other animals which are affected but not killed transport the radio-activity beyond the ‘limit’. The Japanese fishermen in all the cases in question were fishing far beyond the ‘safety limit’, and you see what happened. But the danger even exceeds what is known at present. There can be dangers of all kinds—the climate can be deranged, biological effect can make themselves felt in living beings, men and beasts, for a long time afterwards. Unknown mutations may appear. Species useful to man may disappear entirely as a result of the radiations. I repeat it is impossible to estimate exactly the different dangers created by these experiments. All humanity must be put on guard. The people in street the do not know what menaces them if these experiments continue. There is no guarantee that

Continued on page 11

JUGGLERY

[An extract from the Budget speech made on Monday June 26, 1954]

Sesional Paper No. VI of 1954, which gives the Accounts of the Island, shows a rather appalling position and it is appalling in that it is to a certain extent hidden. We have outstanding, as at 30th September last year, advances on loan funds—that is money we have already expended and which should be transferred to loan funds in due course—amounting to Rs. 564,000,000 and, if we add to that the revised estimate of expenditure on Loan Fund Account for the current year of Rs. 214,000,000, we have the figure of Rs. 778,000,000 on Loan Fund Advance Account.

Already Spent

Now, the amount which, may we say, has been put aside—that has been provided by previous loans—is Rs. 303,000,000 i.e. Rs. 233,000,000, as at 30th September, and a loan of Rs. 70,000,000 which completed the Rs. 400,000,000 on the last loan. So that, the position is, when we have transferred the total permissible on the available loans, we are still left with Rs. 475,000,000 which we have expended but which we cannot

transfer to any place because there is nowhere to transfer it.

In other words, we have already hypothecated future loans to the extent of Rs. 475,000,000. As you know, this House passed a few months ago a Development Loan Bill authorising the raising of loans to the extent of Rs. 600,000,000 which would include loans raised in the United Kingdom and from the World Bank. Those loans have already been raised and they total approximately Rs. 170,000,000.

So we can raise by the loans that we have just authorised only Rs. 430,000,000 which does not cover the amount we have already spent. In other words, although we talk about our sterling assets, balance of trade and all that sort of thing, we have a hidden debt of Rs. 475,000,000 against loans which we have not even raised yet and which we are not authorised to raise. Suppose we could not raise those loans, where do we stand

I then come to the Consolidated Fund which, by our Constitution, has to bear all expenditure and to which all revenue is credited. In fact, as you know, the Appropriation Bill which we pass during these weeks specifically states in Clause 3 that all loan fund expenditure shall be debited in the first place to the Consolidated Fund. Then, in due course, although we have not done it this year, we pass a Resolution of the House transferring to a certain loan whatever expenditure it can bear and crediting the Consolidated Fund. In the accounts which are presented to us, all we have in the Consolidated Fund is an accumulated surplus at October, 1952—add the revenue, deduct expenditure, and there is a balance—there is no mention of the loan fund expenditure and the re-crediting of loan fund expenditure to the Consolidated Fund. So that it would appear to me that we are not presented with a true picture of the Island's finances.

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CALLED AND PAID UP CAPITAL	..	57,55,865
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DEPOSITS AS ON 30-6-53	..	22,15,00,878

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Anniversary Of



INDIAN INDEPENDENCE

A day after this column appears in print India will celebrate her Independence Day. Hence it would not be out of tune if my thoughts today wander around India's achievements during this short period since August 15, 1947.

Evaluation

From colonial slavery to independence is the greatest accomplishment a nation could hunger for but the independence achieved would be meaningless if it did not bring in its train a sense of freedom to the freed people, a sense of partnership in the building of his country, and last but not the least, some measurable relief to his economic condition.

Since independence I have travelled a long way all over India, tens of thousands of miles, many times over to East, West, North, and South. To one bent upon debunking everything that the Congress Government in India is doing it would not be difficult to don the mantle of Miss Mayo or Beverley Nichols. In fact a debunker would find it an easy job to spotlight the dark spots in Free India which would generally suggest rampant corruption, poverty, and gross nepotism in the country.

To one who would like to look at New India with reasonable sympathy and honesty he would not take long to evaluate India's achievements since her freedom.

Achievements

The sum total of these achievements would prove to be much more vital, much more substantial than her failures. The big dams across the mighty rivers which are being built across the country stagger the imagination of those even who come from

technically so superior a country like that of USA or USSR. Technologically, since 1947, New India has marched ten times ahead. The network of establishments of national laboratories, national factories, workshops, are sufficient testimonials to any who is not willfully blind.

New cities are springing up everywhere, new colonies, new railroads, fresher national airlines, better human relationship—these are not minor achievements which a country could boast of within the mere span of seven years. And to remember India was not even allowed to manufacture on her own a pin during the British rule. The picture is different now. She is manufacturing ocean-going ships, huge railroad locomotives, experimenting with atomic energies for domestic uses, tapping newer mining resources. These are not small things.

Those of us who have visited the gigantic locomotive factories at Chittaranjan (West Bengal), those of us who have been to the sights of DVC, in fact those of us who have cared to visit any of the huge New India's life-giving projects in operation could not but be very optimistic of India's future.

Democracy

Experiments with democracy is a new phase in India. When independence came it was found that two centuries of foreign domination and economic exploitation had converted the people generally into a phlegmatic herd; less initiative and demagogic. Gullibility of the voter, mass illiteracy and absence of a democratic tradition contributed much to the last general election. But still on the whole the people's choice was the only alternative

to what seemed to many seasoned political observers to be near chaos.

It is a fact that the Congress Party in India won the election mainly because of Mahatma Gandhi's magic name and one man's colossal popularity. But that is not the whole truth. Jawharlal Nehru is not the only man in India. There are small Nehrus working everywhere today. Little men with brave hearts, honest convictions, and fearless devotion that counts for India's onward march.

Aesthetics

Not that material achievements have been Free India's only goal during the last few years. Aesthetically she has taken bold and imaginative steps to gear up her cultural progress as well. Establishment of not merely one but three National Academies, (which involves the expenditure of millions of rupees annually) namely, the Academy of Letters, Academy of Music and Dancing, and Academy of Art are milestones in New India's aesthetic rejuvenation. To a stagnate colonised Asian people the significance of these three Academies will not look small affairs.

In a country where progressive literature is being burnt by the express orders of its knighted Premier, in a country where ghettoism is governmentally advocated, and where the Yankish methods are finding a sure haven in South East Asia and where foreign troops are given a welcome passage to fight and perpetuate enslavement of brother Asians, the Indian Independence Day should have as ennobling a significance as it is to us, the people of Nehru's India.

August 7, 1954 Shibdas Banerji.

CRICHEL DOWN

We have published on another page a report and a comment on an affair that has caused a major constitutional crisis in England in recent weeks. The Minister of Agriculture in the Churchill Cabinet thought it necessary to tender his resignation and the Prime Minister to accept it because it was found that certain officials under him had behaved in a bureaucratic manner in the matter of certain lands known as Cricchel Down. We draw particular attention to this simply because it has many useful lessons for us in Ceylon.

We who pride ourselves on being a democratic country and on the fact that we follow the constitutional practices of Great Britain cannot afford to adopt only such principles of democracy and such constitutional precedents as suit the convenience of a small cliquish coterie in power. The principle emerging from the affair of Cricchel Down has fundamental significance, and if this principle is applied to Ceylon as it should be, political life in this island will be much healthier and more democratic.

Retired

The facts that have been revealed in the N. U. Jayawardena inquiry, for instance, will and must necessarily lead, if the Cricchel Down principle is applied, to the resignation of the Ministers under whom Mr. N. U. Jayawardena worked. Some of these acts are more flagrant abuses of position and power than the worst that was alleged in the Cricchel Down matter, and if the Ministers concerned had any regard for democratic parliamentary practice they would have not only resigned from the Cabinet but retired from politics a long time ago.

SEATO

Sir John Kotelawela turned himself into a trapeze artist in order to get out of the mess he got himself into by some of his remarks about SEATO. When the news of the Dulles-Eden proposals were first made public, Sir John's reactions were tantamount to the need for such a Pact in order to keep the Communists and Communism at bay. He spoke of Communist aggression as an excuse for the SEATO. The public was led to the belief, and quite correctly too, that Sir John was in favour of SEATO. From his statements in Parliament and outside no other inference was possible.

However, when India made it quite plain that she would have nothing to do with SEATO, Sir John was perturbed. He countered with call for a Conference of Colombo Powers to decide on the attitude South East Asian countries to SEATO. Plausibly, it was argued by Lake House that the C-Powers should present a United Front, (forgetting that the decisions arrived at last April made it obvious that SEATO would be unacceptable to these countries). Sir John suggested Kandy, Rangoon and even New Delhi for such a conference. India however has made it quite clear that a Conference as unnecessary for the purpose of discussing SEATO.

Wall Street

Burma and Indonesia, too, have come out strongly against SEATO. Both these countries have declared that they would consider a conference necessary only if it was to discuss a Pact or an Organisation which will include all Asiatic countries, including China, in a scheme for Security and Peace. Only Pakistan has come out un-

equivocally in favour of SEATO but this was to be expected from a country which is now virtually an American colony. It must be remembered that Pakistan, at a time, when MEDO was under discussion elected to join the Middle East group of countries in the WHO regional organisation (and not the South East Asia group), and it surprises many why Pakistan should find a place among South East Asian Powers. Pakistan of Mohamed Ali must decide whether it wishes to be a MEDO power or a SEA power. It must not be allowed to have its feet in two camps in order to carry the message of Dulles and the Wall Street bankers to two distinct areas.

Rejection

Be that as it may, the speeches made in Parliament last week, particularly the speech of Mr. Dudley Senanayake, which was cheered by both sides of the House, made it quite clear to Sir John that people of this country will not tolerate any alignment with SEATO powers. Sir John thereupon beat a hasty retreat from the position he had taken up earlier. He said that he would wait until the C-Powers met before making up his mind fully. The C-Powers, at least the majority of them and the ones who are still sovereign and independent, have indicated quite clearly what they feel.

There is, therefore, no excuse left for Sir John not to make a public declaration of the attitude of his Government to SEATO. If he has any doubts, the least he can do is to summon meeting of the Parliamentary Party to find out just what its members feel.

JUST BRIEFLY by SERENDIB

STATE DRIVE SLUMS

ASIAN LEADER GAUTEMALA

VERNON LONDON LOAN

TURF CLUB

The Public was indeed disappointed that Governor-General Goonetilleke did not drive in State last Saturday. Sir Oliver was seated all alone pensively in his official box at the Grand Stand, and the disappointment of the public was even greater that he did not disclose his assets.

In the past, the Turf Club entertained the the Governor-General to lunch on the Cup Day. The G. G. would go back to Queens House after the repast and at the appointed time—usually about 4 or thereabouts—drive with pomp and pageantry into the Race Course and down the straight up to the Grand Stand.

This time, the Cup Day was shorn of all its glory according to one of the daily papers. Why was the State Drive so unexpectedly cut out?

Is it that Sir Oliver feels that a Ceylonese G. G. should discard the pomp and parades of Imperial British Proconsuls? And that Ceylonese G. G.'s should confine their activities to visiting slums?

And if that were so, why has Sir Oliver not visited Mallika Lane or what is left of it?

Sir John

Sir John Kotelawela has been busying telling Asia and the world what should be done about SEATO, about PEACE and about a great many other matters. Lake House has been devoting a great many columns in its front-page recently to impress upon the public the stature of Sir John as an international figure. The Lake House shows its hand unmistakably when it wants Asia to adopt the "third area of peace" formula for subordinating Asian countries to Yankee domination, and hopes Sir John will be able to deliver the goods. Lake House shouted itself hoarse before the Colombo Conference in April demanding of Asian Premiers that

they create a third area of peace against communism, and the Conference made it quite clear they would not start a crusade against any "ism". Lake House seeks to bring this Yankee Foreign policy again before a Conference and for for this purpose Sir John seems prepared to go even to New Delhi.

What Lake House does not seem to bargain for is that Sir John is not taken seriously by India, Burma or Indonesia. Only Pakistan regards him as a fellow-traveller of the Americans and therefore a comrade (but one without arms).

Gautemala

At the end of the last Colombo Conference of Asian Premiers, a foreign diplomat told me a story about our worthy Premier. The story may seem unbelievable, but those who know of just how much of foreign affairs our Premier knows will agree that the story does not do him disservice. The story is as follows.

At the end of a day's proceedings, three Asian Premiers—Nehru, U Nu and Jojo—with advisers and other diplomats were having an animated chat about world affairs. Sir John joined the group. The topic was at that moment about Israel. After a few minutes, Sir John is said to have intervened and asked:

"What's this, Israel?"

Nobody is said to have taken this question seriously and the conversation had proceeded. Sir John is stated to have repeated the question and not having got any reply, he is said to have asked with a sense of annoyance:

"Now, what is this all about?"

What is Israel? Noolaham Foundation.
noolaham.org | aavanaham.org

The story then proceeds to record the Nehru shrugged his shoulders and stated:

"Israel is a country."

This, it would appear, quietened Sir John. But a few minutes later, his eyes are said to have lit up. The conversation had moved to another topic. It was Guatemala. Sir John waited impatiently and then is said to have asked in an eager tone.

"Now, who is she, this Guatemala?"

Guatemala no doubt rhymes with Asokamala, and Begum Para!

There is every possibility that this story may have acquired literary finesse as it snowballed among the diplomats present in Colombo during the Conference, but there is no doubt that every one of them thought the story typical of our Premier.

It is time that Lake House realised that Sir John is not the man whom other Asian Premiers will listen to.

A Cup of Tea

Is it true that a number of persons (young things) go up to Queens House to have a cup of tea with a member of the staff of the Governor General? It is said that when persons go to Queens House to sign the Visitors Book, they are promptly invited to have a cup of tea. These persons are naturally happy about having a cup of tea and do so. And they go away without signing the book so that they may go again to have another cup of tea. Great fun indeed!

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TURF CLUB

Continued from page 9

Vernon

A new columnist on the *Times of Ceylon* who goes by the name of Vernon has taken upon himself to defend the London Loan. His method is the age old method of attempting to white-wash the inexplicable.

He states that the new State of Rhodesia and Nysaland floated a Loan in London 1972/74 at £ 4. 4s. per cent at £97½. He says that this loan was subscribed in less than five minutes and that stock was issued in bearer scrips. He further states that the Nysaland stock sold the next day at ¾ths premium.

For these reasons, he says, that the unusual events centring around the Ceylon Loan are not really very unusual, and he asks the bright question: "Are we now to expect our misguided and sometimes deliberately misleading critics to start their abuse on the Rhodesian Government, too, for having issued a successful loan?"

It is not for us to abuse the Rhodesian Government. It is for the poor native Africans who are herded in settlements without any rights and who are being exploited and robbed by a WHITE COTERIE that passes for the Government of Rhodesia and Nysaland. ! Some day soon Negroes of Africa will make this demand !

But, the Rhodesian Loan is no answer to the Ceylon Loan. A pertinent question is whether the Rhodesian Government took the cue from the Ceylon boys? Or did our boys get a couple of bright ideas from the number of loans so-called African Governments like East Africa, Tanganika and the like have floated in London.?

But all this is beside the point. Colleague and fellow columnist Vernon should answer the charges against the Ceylon Loan directly and specifically, and not attempt oblique defences by taking cover behind Governments like those of

Rhodesia and Nysaland. And the public would feel less suspicious about such lame excuses if the *Times of Ceylon* is not so closely connected with a firm of lawyers alleged to be involved in the floating of the London Loan.

Turf Club Elections

I mentioned about two weeks ago that the Turf Club was in the throes of a mighty election campaign. The elections are over and fifteen worthy gentlemen have been elected. But the process of electing has been a hard and painful one. One would have expected that a Club consisting of persons who claim to be the *elite* of the island would elect its Committee without the politics of the market place. However, these elections conclusively showed that something is vitally wrong with the Turf Club.

No doubt that a number of those who have been elected to the Committee had nothing to do with the sordid practices which are said to have marred the elections. Undue influence, transporting of voters under duress or under the influence of a friendly drink and the exploitation of friendship and business ties are some of the malpractices alleged. That these unbecoming methods and worse were anticipated by the outgoing Committee is shown by the fact that for the first time in its history members of the Turf Club were called upon to send their specimen signatures in advance before the elections. This was presumably done in order to prevent *impersonation*. The fact that the members of the outgoing Committee thought that members of the Club would impersonate each other tells a story all its own. I was so intrigued by this request for specimen signatures that I made a special effort to discover as to whose fertile genius gave birth to this wonderful idea. All that I have found out so far point to Sir Edward Jayatilleke, the former Chief Justice, as the one responsible for this. If I am wrong in this, I would like to be corrected.

I do not know what members of the Turf Club feel about being asked to furnish specimen signatures before electing the Committee, but if my Club - I belong to a couple not so distinguished as the Turf Club—made the same request to me I would have had some very hard things to say to those responsible for insulting members in this way.

Skunk

As I said earlier something is really wrong with the Turf Club. And the public have a right to know more about it because millions of rupees of punters' money goes into the coffers of the Turf Club each year.

I wish to draw the attention, particularly of the non-race going public to the kind of atmosphere in which racing now does take place. I chanced to glance at the *TRESPASSER'S RACING NEWS* of August 10, 1954, and one "article" in it is a brilliant example of the sordid squalor in which racing is enveloped.

"A Steward of the Ceylon Turf Club, on a day on which good manners and perfect etiquette were everywhere evident, was guilty of an act of skunkishness of which even a skunk would have been ashamed. This skunk Steward exuded the skunk stench when the time came So one skunk went to another skunk for instructions. No instructions were issued as foul-mouthed Mr. ———, with a vanity we would normally associate with a prostitute in front her ponce, decided to....." The Steward referred to is named several times over in the article.

The extract I have quoted gives a fair indication of what the article purported to convey. The Steward in question is, as far as the general public is concerned, a worthy and eminent gentleman. And the publication known as the *TRESPASSER'S RACING NEWS* is an institution in itself where Ceylon racing is concerned. If I am not wrong, a leading member of the Committee once proposed that a memorial be erected to *TRESPASSER* in the middle of the Race Course for the services it has rendered to racing!

NUCLEAR RADIATION

Continued from page 5

the effects will not be felt a very long time afterward, even here, in our country. We must get atomic weapons prohibited by a solemn agreement of all nations."

Spoken by this woman who is so moderate and so scientifically precise in all things, these words have especial significance.

More Good

Ventured to ask a delicate question :

"When you discovered artificial radio activity and nuclear fission, you must have foreseen the possible utilization of the great discovery for war?"

Irene Joliot-Curie looked at me :

"Yes, we foresaw it. When we heard in Brittany of the explosion in Hiroshima, it was not an unexpected blow to us, because everybody had been talking about American experiments with atomic bombs; but it was a very acute shock. Even so I cannot answer you otherwise than as my father, Pierre Curie, did, in regard to radium:

"It is conceivable that in criminal hands, radium can become very dangerous. And it might be asked whether humanity will be benefited by learning the secrets of nature, whether it is mature enough to profit by them, whether this knowledge will not be harmful. The example of Nobel's discoveries is characteristic.. I am one of those who think, with Nobel, that humanity will reap more good than evil from the new discoveries."

Mankind

"My father uttered those words at the time when he and my mother were awarded the Nobel Prize, in 1903. It was a great act of faith in humanity.. Frederic Joliot and I have performed the same act of faith... *The future is in the hands of mankind.*"

This woman who has given life to two children and who is already a grandmother (although she is only 54 years old) meant that the peoples must take the future in their own hands and must fight to make the great discoveries, and the immense discovery of artificial radio-activity by Frederic and Irene Joliot-Curie, yield "more good than



..... threatens mankind

evil", make the deserts productive and fertilize the earth instead of destroying it and threatening humanity with a more absolute, more total destruction than all the plagues and catastrophes of the past.

In the little garden of the Curie laboratory, Irene Joliot showed us the busts of her parents :

"They worked for peace, for the future, for their children and all the children in the world. Frederic and I have also worked for happiness."

It seemed to us that in the name of the Curies, in the name of Frederic Joliot, and in her own name, this woman who is so outstanding and yet so like other people, was making an appeal to the people of the whole world to act so that "humanity will reap more good than evil from the new discoveries."

—An Interview Reprinted from "Femmes Francaises."

WHY SURPLUS ?

Mr. R. E. JAYATILAKA

I have been told that in most of these co-operative stores there are large stocks of unsold rice. It is not that people are averse to buying a particular variety of rice. The trouble is that the people have not the money to buy the rice.

In the City of Colombo about 50 per cent. of the working population do not eat even one rice meal a day. They do not have the money to buy the rice to feed themselves and their families. Their earning capacity has been reduced owing to lack of employment.

It is for this reason that the Government is now faced with the problem of surplus rice which they wish to export. If the people have sufficient money in their hands they would buy rice even outside the ration, but the stark truth is that they have no money and are unable to buy even their rationed quota of rice.

* * *

Mr. B. H. ALUWIHARE :

I would like to quote from the 1953 Administration Report of the Food Commissioner. At page 12 he states :

"Although 7,348,988 ration books were issued during the year the rationed rice actually issued to consumers was sufficient only for 6,144,000 persons. These 1,200,000 rations not issued would be due to the recovery of coupons from partial producers and to consumers not drawing their rations for various causes."

I had a survey made of the purchases and the take-off of rice from every co-operative society in my area and in every co-operative society after the raising of the price there was a reduction in the take-off of between 25 to 60 per cent. They varied—

—From Hansard

U. S. BENT ON WAR

BIGGER ARMY

America's Assistant Defence Secretary, Mr. John Hannah picked up a pair of scissors and snipped off the word "secret" printed in large letters across the paper he held in his hand—and then revealed details of the Government's plan to build up active military forces and reserves of 6,100,000 men.

Frank

Hannah—in his last day in office before returning today as President of Michigan State College—was frank about the motives.

He said "The whole thing is geared to all-out war with the Soviet Union and that's the only war that counts. You can't wait for Russian bombers over New York."

He disclosed too that the United States had abandoned plans to cut her active forces, because of the Far East situation.

New Reserve

The new total of trained men, it is noticed is roughly comparable to the more than six million men, reported to be under arms behind the Iron Curtain.

The scheme of course has to go before Congress. It may have a tough time there. It calls for a two-year active military spell for "all qualified young men", followed by compulsory service in the new reserve set-up, approved by President Eisenhower and his top defence advisers, the National Security Council.

This universal military service proposal would mean organised reserve forces of 3,055,894 men available in combat units in the event of war.

Fully-Trained

Of these 1,692,235 would be in "fully-trained, manned and equipped

divisions that could be called up within an hour.

The remainder would be in the Navy Marine Coops Air Force and Coastguard Reserves.

The active forces will have a strength of 3,047,000 — (Express-News Service).

From
Ceylon Observer, July 31.

ATOM WAR IN INDO-CHINA

LONDON, July 21.

The Prime Minister, Sir Winston Churchill, told his followers that the danger of atomic warfare in Indo-China had led to his decision to go to Washington for talks with President Eisenhower, Parliamentary sources said today.

They said Sir Winston had disclosed privately to Conservative M. P.'s that the specific issue which had prompted him to take action was the suggestion by the U. S. Secretary of State, Mr. John Foster Dulles, that the United States and Britain should intervene jointly in the Indo-China war to restore the French position there.

That suggestion, together with a recommendation by Admiral Arthur Radford during his visit to London that the U. S. forces should include units equipped with tactical atomic weapons, and convinced Sir Winston that exhaustive consultation with Americans was urgently necessary, the sources said.

Sir Winston was said to have disclosed this background to his Washington visit when he addressed a private meeting committee of Conservative members of Parliament.

Parliamentary sources said Sir Winston described his reaction as "sharply negative" not only because the use of atomic shells could provoke retaliatory action with the same weapon, but also that it could lead to a clamour for the hydrogen or atom bomb to be used.

The fact that the suggestion came from an officer of Admiral Radford's rank and office as Chairman of the Joint U. S. Chiefs of Staff, caused Sir Winston to make his decision to go to Washington, the sources said. Parliamentary sources recalled that shortly before the Geneva conference, Mr. Dulles had called on the British Government first to join in a common warning to China and then to support the United States in aerial intervention to save Dien Bien Phu.

Britain refused the first, because it would have wrecked the chance of a parley with China, and the second because it appeared to be "impractical", the sources said.

This brought Admiral Radford to London, to explain how it could be done by the use of the tactical atomic shell to seal off the Dien Bien Phu battlefield, Parliamentary sources said.

From *Times of India, July 22.*

J. R. BUNGLED

Continued from page 3

There was a drop of 3 to 15 points in value of these securities, and the majority of them dropped below par.

Gilt Edge made Speculative

By this foolish and indefensible declaration by the Finance Minister, all of Ceylon gilt-edge government securities became speculative stock overnight. *When the Government unexpectedly announced that it was going to offer higher rates internally for borrowings, naturally all old loans at low rates ceased to have the value they had.*

It is believed that pressure was brought upon the then Finance Minister to make this declaration by the Foreign Exchange Banks in Colombo. These banks had large accumulated balances in Ceylon built up from deposits by Ceylonese to whom they paid $\frac{1}{2}$ % to 1% interest. Owing to Exchange Control Regulations these banks could not transfer these monies abroad for investment as in the "good old days." Hence their anxiety to obtain higher rates of interest for local investment was the only thing possible.

The Ceylon Government, furthermore, was at that moment "hard-

up" owing to the inept financial policies of Mr. J. R. Jayawardene. In order to borrow from these banks, all that Mr. Jayawardene could think of was to offer them the bait of higher rates of interest. He would have done better if he indicated that the Ceylon Government would bring legislation (that exists in the U. S. A.) forbidding foreign exchange banks to obtain deposits from nationals.

Fluid State

Moreover at this time the Finance Minister approved of a move to push up interest rates in Savings Banks deposit. This created a fluid state in the Investment Market. And in the stampede, millions of rupees worth of stock was unloaded on the market.

Surprisingly enough, some of these stocks were from the holdings of the Central Bank and it was sold through its nominees. This fact was accidentally discovered in the local stock market when one instrument of transfer was from the Central Bank.

These are the reasons from the debacle in the stock market in 1953 and all stem from the Finance Minister's decision to increase interest rates.

Not Followed

Fortunately for Ceylon, Mr. J. R. Jayawardene ceased being Minister of Finance from October 1953. *His successor saw the danger of such a policy of inflating interest rates, particularly as at this time other countries in the world like India and the U. S. A. were bringing down their interest rates.*

As a result of reversing the policy outlined by Mr. J. R. Jayawardene partial confidence has been restored in the gilt edge investments of Ceylon. For instance, the 1957-62 $3\frac{1}{2}$ % loan, which was at 105 before the Budget Speech of 1953 and which dropped to 98 after it, has now recovered to 102.

Though internally the Ceylon Government continues to offer low interest rates of interest - the most recent is $3\frac{1}{4}$ % - it has raised money in London at £ 4. 4s. per cent, tax free plus other charges, and also in U. S. at $4\frac{3}{4}$ %

There does not seem to be any logic in the financial policies of the Ceylon Government. It is time that clear-cut policy be evolved consistent with the economic resources of the country and one which will assist in the economic regeneration of the island.

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MINISTER RESIGNS

— because officials bungle

An incident which led to the resignation of a member of the Cabinet [July 20] and to two junior Ministers offering their resignations (which were refused by the Prime Minister) gives an insight into the strong antipathy in this country towards anything savouring of what is known as the 'tyranny of the bureaucracy'—or unreasonable rule by officials.

The curious story behind the affair, with its dramatic climax, was, very briefly, this: The better part of 20 years ago, some downland—Crichel Down—was acquired by the Government for use as a bombing practice target for the Royal Air Force. When it was no longer needed for this purpose, it was transferred to another Gov-

We wish to draw the attention of our readers to a report and comment about a matter that has created constitutional history in England in the last month. Ceylon claims that it follows England in the matter of constitutional practice, but if this were so, many of our Ministers should have resigned a long time ago.

ernment department and, when a representative of the original owner sought to buy it back—since it formed part of an estate held by the same family for some two hundred years—a dispute developed

between the applicant and a number of Government officials.

An Adverse Report.

Eventually, a public inquiry was ordered by the Government, and this was conducted by an independent lawyer of high standing. After hearing evidence and examining all the correspondence, the lawyer reported that in his view, the Government officials had shown an unreasonable attitude towards the private citizen concerned and that they seemed to have set themselves to resist his regaining the downland because, as he put it, the citizen had dared to question a decision by an official.

Various officials were named in this adverse report, which aroused great public indignation. Supporters

Continued on page 15



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Trial At Bar and By Jury

Continued from page 2

attempts to subvert ended with shame and severe punishment of persons attempting to do so."

Judges of Fact

The great American advocate Hon. S. May in his address at the Michigan Law University in March 1873, defended the jury system in the following terms:

"I believe that a jury is always the best and fittest tribunal to find the facts of a case. I hold this to be true in the very nature of things. I know the argument that is used upon this point, and what is said about unlettered juries, about difficult mental processes, and about the trained and disciplined mind of the judge. But here I believe is the better test. The facts to be found in a trial in the courts are generally the facts about common life. The deductions and conclusions to be drawn from the facts, in nine cases out of ten, are the deductions and conclusions of ordinary human experience. These do not so much require learning and logic as practical commonsense, knowledge of human nature as seen in such men and not in books, and intuitive perception of right and wrong—qualities often found combined, I think, in the jury box than the bench. It will not do to say, that because the judge is generally superior in natural endowments to the average juror and ordinarily is his better in mental training and acquirement, that, therefore, he will the more surely and certainly draw from a mass of tangled facts the right and justice of the case.

Aggregate Wisdom

"For facts cannot be dealt with like principles or arbitrary scientific rules, and right and justice are not always to be arrived at like mathematical results. Often the very learning and discipline of the Judge may have unfitted him for this work by educating him away from the people. And it should not be forgotten in this connection that usually the facts in a case are narrated by living witnesses in a Court, whose look and manner and the possibility

of whose story should be scanned and weighed by men practised in the ways of and not easily to be imposed upon.

"But grant, if you please that there is no advantage in these respects with the jury on the grounds that I have claimed; is there nothing still in the fact that the verdict of jury is the aggregate wisdom of twelve men, while the finding of a Judge is but the wisdom of one man? Here (i.e. in criminal cases) its use cannot well be questioned.

"Here, certainly it needs no defence. The learning of the law, in criminal causes, should be to side of protection and humanity. And so it is declared to be. The State is great and powerful, and overshadows the individual; and though it be necessary for its good that crime be prevented and punished yet the State is not greatly harmed by the escape of a guilty man.

Against Tyranny

"But the conviction and punishment by death or imprisonment

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MINISTER RESIGNS

Continued from page 14

ters of the Government in Parliament called the Minister responsible for the officials, SIR THOMAS DUGDALE, Minister of Agriculture, before them in private and severely criticised him. Accepting the Constitutional theory that he alone was responsible for the acts of his officials—even though he might know nothing of them—SIR THOMAS faced the House of Commons and, after explaining all the facts, publicly announced his own resignation. This was accepted by the Prime Minister and transmitted to the Queen.

Chivalrous Action.

SIR THOMAS is highly popular personally and his going caused regret, but there was general approval of his 'chivalrous action'—as the Prime Minister called it—as vindicating the right of the citizen to protection from unfair or dictatorial treatment by officials and as upholding the rule that the Minister at the head of a Govern-

ment Department must be accountable to Parliament for all acts done in his name, however exalted or humble the official concerned may be. The affair was generally agreed to be a useful reminder to all of these two important principles of our public life.

Some of the officials concerned in the case have been removed to other offices.

ANOTHER RACKET?

Continued from page 1

reputed to be the standing counsel for De Silva and Mendis.

Mount Prospect

The special Investigator from the 'Tribune' office assigned the task of investigating NAVAM ESTATES LIMITED has so far unearthed one transaction. On April 2, 1951, NAVAM ESTATES borrowed Rs. 50,000 from the A. I. C. C. on the mortgage of Mount Prospect Estate, Kegalle (Bond No. 42 attested by Miss. R. Nagalingam of Messrs De Silva and Mendis). This loan was paid off on May 12, 1951, that is within a six weeks of obtaining the money.

Mount Prospect Estate was bought by this Company and almost immediately blocked up and sold in divided lots at a big profit to the company.

At least, in this instance, the A. I. C. C. had lent money for the purpose of speculation. And what is disturbing is that the money has been lent to a company which is no more than a private show of certain members of the A. I. C. C.'s official lawyers and their close friends.

"Tribune" would like to have more information from its readers about the activities of NAVAM ESTATES LIMITED and also of other groups, individuals, or companies who have been lucky enough to obtain funds from the A. I. C. C. for speculation. 'Tribune' will continue its own investigations.

However, what we have revealed is sufficient to warrant a full and thorough investigation being instituted by Government into the affairs of the A. I. C. C. It will be also relevant and pertinent to find out what role De Silva and Mendis have played in the affairs of the A. I. C. C.

TRIAL AT BAR and BY JURY

Continued from page 15

of an innocent man is a thing unspeakably shocking. No care can be too great to prevent such a tragedy. 'Better', then says the human maxim, 'that ninety-nine guilty men should escape rather than one innocent man should suffer'. And all our hearts and sympathies respond to the same,

"...AND THERE IS ANOTHER REASON.....THE RIGHT OF TRIAL BY JURY.....IS NEEDED IN THE STATE TO GUARD AGAINST TYRANNY AND OPPRESSION BY THE GOVERNMENT."

It is difficult to believe that May would have stated or that any man in his senses would claim that an ordinary jury drawn from the people cannot assess the facts of common life as to the reputation of any person, however mighty, and the extent to which it has been injured by a false libel.

Per Patriam

In Kenny's *Outlines of Criminal Law*, it is stated that "when a person indicted pleads 'not guilty' to the accusation he thereby 'joins issue' with the Crown. The issue must be decided by a trial. His indictment will be tried *per patriam* by a petty jury composed of twelve representatives of his countrymen."

And, thereafter, the book goes on to quote with approval Blackstone's famous dictum:

"It is the most transcendent privilege which any subject can enjoy or wish for, that he cannot be affected either in his property, his liberty or his person but by the unanimous consent of twelve of his neighbours and 'equals.'"

It is true that, "states Kenny," as an instrument of accurate inquiry, the value of the jury may sometimes be small. In matters of complicated mercantile accounts, or in scientific disputes about a prisoner's insanity or the results of a poison, or in any very protracted investigation, trial by a common jury - 'that bizarre creation' as Garofalo calls it - would

have little superiority over trial by ordeal or compurgation, were it not for the guidance afforded in the judge's summing up.

Humane

"Hence, ever since the Rules of 1883 (Order XXXVI.) trial by a judge, with no jury, has been recognised as the normal *civil* method. BUT IN CRIMINAL CASES IT IS NOT IMPORTANT THAT THE VERDICT SHOULD BE ACCURATE AS THAT IT SHOULD BE HUMANE AND, MOREOVER, BE SUPPORTED BY PUBLIC SENTIMENT: to let off some guilty men is a lesser evil than to punish an innocent man. Consequently, in all criminal accusations that are of any gravity, the protection afforded by trial, by jury is a privilege worthy of the eulogium pronounced on it by Blackstone."

In England, it is impossible for a person accused of an offence of any gravity to be deprived of his right to be tried by a jury. No Ministerial directive can deprive him of it.

Sir Roger Casement and Joyce (Lord Haw-Haw), who were both accused of treason, were tried by juries. Myleis, who libelled the King, was tried by a jury.

On every occasion when a person is accused of a grave offence in England his trial, whether upon committal by justices or a grand jury or upon information filed by the Attorney-General or even where it is a trial at the Bar, it is a jury which judges the facts.

In Ceylon

It is not as though there were no provision in Ceylon for a trial at Bar with a jury in cases like those even on information exhibited by the Attorney-General. Section 29 of the Courts Ordinance provides for the Chief Justice to direct a trial by three judges and a jury and so does Section 216 of the Criminal Procedure Code.

It is useful at this stage to examine some of the provisions of Section 440A. It runs thus:

"(1) In the following cases, that is to say -

(a) in the case of any offence under section 120 of the Penal Code, by information, unless the

context otherwise implies, referred to as 'sedition');

(b) in the case of any other offence which by reason of civil commotion, disturbance of public feeling, or any other similar cause, the Governor may consider to be appropriately triable in the manner in this section provided.

the Governor may, by warrant under his hand, direct that the person charged shall be tried *before the Supreme Court at Bar by three judges without a jury.*

(2) A trial under this section may be held either upon indictment or upon information exhibited by the Attorney-General and the limitations of sections of 385 shall not apply to any information so exhibited."

After Ceylon achieved independence it is the Minister of Justice and not the Governor who issues the direction.

In the case of the offence of criminal defamation, therefore, it is a condition precedent to the exercise of the Minister's power that there should be civil commotion or disturbance of public feeling or other similar cause. The "other similar cause" by the rules of legal interpretation has to be *ejusdem generis* with the first two.

In short, the wording shows that it is under conditions similar to those that existed in 1915 that it was intended that even a foreign Governor should use the powers vested in him by section 440A of the Criminal Procedure Code.

What will a Ceylon jury say if it is empannelled today to decide whether such conditions exist?

(To be continued next week)

"Barrister" will discuss in his article next week the implications of being tried under section 440A and of being brought to trial upon information filed and not upon indictment.