

# The Hindu Organ

(THE CHEAPEST WEEKLY IN CEYLON)

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## NOTICE.

Mr. M. Selvadurai of Nallur, Licensed Surveyor and Diploma holder of the Ceylon Technical College and holder of Special License from the Surveyor General, will undertake all kinds of Survey works, including Fiscal and court surveys.



## THE HINDU ORGAN.

JAFFNA, WEDNESDAY, OCTOBER 5, 1904.

### "NO MARKS NO PROCESS."

It will be seen from the proceedings in the Supreme Court published elsewhere that Mr. T. Namasivayam, late Clerk under Messrs. Walker Sons & Co., Colombo, who was slapped and kicked by Mr. Thorpe, Engineer in that Company, and a brother of the Police Magistrate of Colombo, has failed to obtain redress even from the highest Tribunal in the Island. Mr. Namasivayam complained to the Police Magistrate of Colombo against Mr. Thorpe charging the latter with assault; but the Magistrate, after remarking that the complainant was not entitled to any remedy as he bore no marks of violence, sent the case to the Additional Police Magistrate, Mr. Hellings, on the plea that the accused was his brother. Mr. Hellings, however, without recording any evidence, declined to issue process on the ground "that the harm caused, if any, was exceedingly slight."

The failure of the Police Magistrate of Colombo and the Additional Police Magistrate to issue process against the Englishman who slapped and kicked a respectable Tamil clerk in the manner described by the complainant, was enough to cause very great dissatisfaction among the Ceylonese throughout the length and breadth of the Island. It was felt that a grave miscarriage of justice had taken place and that the Supreme Court should be moved to remedy the great wrong done to the Clerk, not only by the accused but also by the two Police Magistrates. One of them felt himself placed in a delicate position, owing to the fact that the accused is his brother. He was, therefore, right in sending the proceedings to the Additional Police Magistrate. But what call had he to record his opinion that no process should issue owing to absence of marks on the person of the complainant? Mr. Hellings, evidently falling in with the views of the brother of the accused, dealt with the case in an off-hand manner.

The question was whether a person

was entitled or not to redress in a criminal court of justice, if he was kicked, beaten, ill-treated, and insulted by another without leaving any visible marks of violence, and the dissatisfaction in this case was greater, as the complainant is a Ceylonese, the assailant is an Englishman, and the Magistrate who started the theory, "no marks, no process," is the brother of the accused. If the Thorpe-Hellings made law were to prevail in the Colony there would be no safeguard against the ill treatment and oppression of the poor and the helpless by the rich and the mighty, and especially against the high-handed proceedings of the Europeans in their dealings with the sons of the soil. If a man is even abused or insulted, process is issued, inquiry made, and the accused punished if he is guilty of the offence. But here the person kicked and subjected to great indignities by a European was sent from one court to the other to be told that it was the privilege of the accused to do it without leaving any visible marks on him. It was, therefore, felt that the Supreme Court should be moved and appealed to against the decision of the Police Magistrates. It was also hoped that, if an application were made to the Supreme Court, the startling proposition of the Police Magistrates would be knocked on the head by their Lordships granting a rule calling upon one of the Magistrates to show cause why a "Writ of Mandamus" should not issue to compel him to issue process against the accused in this case.

There was some delay in making the application to the Supreme Court, and people here thought that the unfortunate Clerk did not like to risk his situation in the Company by carrying matters any further. But he has made the necessary sacrifice by resigning his office and approached the Supreme Court with his grievances, in the hope that he would receive justice there. The judgment of His Lordship the acting Chief Justice, however, has caused greater disappointment and dissatisfaction among the Ceylonese in general than the decision of the Police Magistrates had done. As the learned Counsel for the appellant remarked, "there should be no impression in Ceylon that a man cannot approach the courts in a case of this kind without at least his case being inquired into in a judicial spirit." If the case be dismissed after inquiry on any of the grounds set forth by the Magistrates or the Chief Justice, the dissatisfaction and discontent of the public would not have been so great as they are now. With all deference to His Lordship we may say that his assumption that the accused did not assault the accused but indulged in an "unwarranted familiarity" is unwarranted by any facts or circumstances of the case. Here is a complainant who swears that he has suffered considerable bodily pain by the blow and kick inflicted on him and great pain of mind was caused to him as they were done in a public office and in the presence of several persons. These allegations stand undenied. Yet

His Lordship has come to the conclusion that what was done did not constitute an offence but a case of "unwarranted familiarity". His Lordship was expected to make a ruling on the point of law, raised by the Magistrates, namely, whether marks are necessary to issue process in a case of assault; but he leaves that question alone, and sets up his own theories which, in our humble opinion, are not more sound or convincing than those of Messrs. Thorpe and Hellings.

Mr. Namasivayam has thus been denied justice, as he understood it to be, wherever he went in search of it. The acting Chief Justice, however, holds out the hope that, if that "unseemly act" were repeated by the accused, "some sort of remedy would be open to the complainant." But the injured Clerk is no longer a fellow employee with the accused in Messrs. Walker Sons & Co., to see if the same kind of treatment would be again accorded to him by Mr. Thorpe. He must now be a sadder but wiser man for having the temerity, not only to charge a European superior with assault, but also to resign his office to free himself from its trammels, in his fruitless attempts to see his assailant legally punished. He will have, however, one comfort, that he has the sympathies of his countrymen from one end of Ceylon to the other in his present unfortunate position.

The Chief justice of the Supreme Court also having declined to interfere, it is not in the power of the Government itself to compel any Courts to inquire into the complaints of Mr. Namasivayam. But the Hon'ble Dr. Rockwood, the Tamil Representative, will do well to bring this case to the notice of Government in the Legislative Council, as a public discussion of the subject cannot fail to have a salutary effect on judicial officers, and on Europeans like Mr. Engineer Thorpe who think that they can do anything with Ceylonese subordinates with impunity.

### THE DENATIONALIZATION OF THE SINHALESE.

We published in our issue of the 21st Ultimo the speech of Mr. P. Ramanathan C. M. G., K. C., delivered at the Ananda College on the denationalization of the Sinhalese. The *Ceylon Independent* and the *Ceylon Standard* wanted the public to believe that this speech had created the bitterest feeling among the Sinhalese community in general against the Solicitor-General, though, as any unbiased person would see, Mr. Ramanathan spoke on the occasion as a true friend of the Sinhalees and warned them against their tendency to become denationalized. It would, however, appear from an article which we quoted, in our last issue, from the Sinhalese newspaper, the *Sandaresa*, and from the resolution of the Slave Island Sinhalese Literary Association which we publish elsewhere in this issue, that all true Sinhalese are grateful to Mr. Ramanathan for the, to use the words of the resolution, "instructive and encouraging

words" spoken by him, and that it is the denationalized Sinhalese and men belonging to no nation in Ceylon who have been a little upset by those words. We hope the Tamil Solicitor-General will survive the attacks maliciously made against him in certain quarters in connection with his speech at Ananda College.

### THE FIRST SUCCESSFUL CEYLONESE IN THE INDIAN CIVIL SERVICE.

Intelligence has been received here by wire that Mr. Alfred C. Tampoe, the youngest son of Mr. T. M. Tampoe, retired Police Magistrate of Jaffna, had passed the Indian Civil Service Examination. He proceeded to England in 1898, as University Scholar from St. Thomas College and has had a brilliant University career, having passed the Mathematical Tripos of Cambridge with credit. He is the first Ceylonese who has achieved success in the Indian Civil Service Examination. We congratulate him on his success and wish him a bright career in the Indian Civil Service. Mr. Tampoe has by his success in this Examination brought great credit not only on himself, his family, and his community, but also on the Ceylonese in general.

### LOCAL & GENERAL

**The Weather**—Although there have been some indications of rain for the last three days, yet no rain has yet fallen. The continued absence of rain is causing grave anxiety.

**The Registrar of Lands**—Mr. M. Caralasingam, Mudaliyar, Registrar of Lands, Jaffna, has gone to Colombo on leave and Mr. S.R. Muttucumaru Chief Clerk, acts for him.

**Fire**—Two stone built houses in the town belonging to Messrs. G.A. Tisseverasinghe and J. Ethirveerasinghe caught fire and were burnt. They were newly built houses and thatched with cadjans.

—Mr. M. Selvadurai a Licensed Surveyor and a Diploma holder of Technical College, Colombo advertises elsewhere that he is practising in Jaffna as a private Surveyor. He is an old boy of the Hindu College and we wish him every success in his undertaking.

**His Excellency's visit to Ratnapura**—His Excellency Sir Henry Blake and Lady Blake are now on a visit to Ratnapura.

**Abolition of "On Service Postage Stamps"**—A recent circular issued by Government abolishes the use of Service Postage Stamps.

**An Observatory for Colombo**—The Secretary of state has sanctioned the construction of an Observatory for Colombo at a cost of Rs 20,500.

**The next Pearl Fishery**—We learn from the *Times of Ceylon* that it is the intention of the Government to fish, wash and sell the Pearls on their own account at the next year's Pearl Fishery.

**Calcutta University**—The Calcutta University has issued a notice that after 1905 no Matriculation Examination will be held outside its present area, namely, Bengal, Burmah and Assam.

**The late Mr. William Digby C. I. E.**—The death is announced of this gentleman who was in the seventies connected with the *Ceylon Observer*, as its sub-Editor. He subsequently became Editor of the *Madras Times*, and of some Provincial dailies in England. He was also the author of the life of Sir Richard Morgan. Mr. Digby

was made a C. I. E. for his philanthropic labours in connection with the Indian famine of 1878. He was also the author of several works on Indian topics and the Indians had no greater champion of their rights in England than Mr. Digby. His death is a great loss to all Eastern subjects of His Majesty and we deplore it in common with our countrymen and our brethren in India.

**Lotteries**—We learn from our contemporary of the "Ceylon Independent" that the Inspector-General of Police has been informed by the Government that no steps are to be taken for the suppression of Lotteries unless elements of fraud are present.

**The Retirement of Mr. James Hensman B. A.**—In the retirement of this gentleman, fellow of the Madras University, and Principal of the Kumbakonam College, after 35 years service, the Educational Department of the Madras Presidency loses one of the most distinguished officers who has been rendering valuable service in the cause of education. He is one of the sons of Jaffna who have distinguished themselves in India and of whom his countrymen are justly proud. It is Mr. Hensman's intention to spend the rest of his days in Jaffna. We wish him a long life and enjoyment of his well-earned rest.

**Motor Car Mail Service**—The Government has issued a notice calling for tenders for Motor Car Services for Mails. The places to be served by these swift going conveyances are Bandarawella and Badulla Badulla and Batticaloa, Matale and Trincomalie, Colombo and Chillaw, Chillaw and Putlam.

### THE REPORT OF THE NORTHERN PROVINCE BY MR. J. P. LEWIS.

(continued from our last issue.)

#### VII—PRECAUTIONS AGAINST PLAGUE.

The "Serendip" patrolled the coast of the Northern Province as usual, but was absent during the year for four and a half months at Colombo undergoing repairs.

Three persons who, contrary to the plague regulations, communicated with the late Lieut. Jackson's boat when it arrived at Pt. Pedro from Negapatam were prosecuted in the Police Court and fined. Two persons who took passages by the "Lady Gordon" from Paumban to Trincomalee in November and surreptitiously landed at Jaffna were also prosecuted in the Police Court and fined.

Coolies landing at Kayts on account of the Railway Extension were disinfected and quarantined at Fort Hammenheer. The following are the numbers landed;—

July	45
August	15
September	26
November	15
Total	101

The number of rats for which rewards of 5 cents per rat were paid during the year was 10,901, and since rat-killing was begun in May, 1900, 32,262. I should feel more satisfaction in recording these large numbers were I satisfied that small field rats were recognized as animals that helped to convey the plague infection, and that it was intended that their destruction should be paid for. I find that about nine-tenths of the rats destroyed were small field rats.

#### VIII—SALT.

A quantity of 2,733 cwt. of salt was manufactured at Chiviyatern in 1903. There was no formation at Karanavai or Vellapparavai lewayas owing to unfavourable weather. The cost of the salt, owing to the very small quantity manufactured, was 78 cents per cwt.

The total charges incurred during 1903 on account of salt were as follows, viz:—

	Rs.	c.
Cost of collecting and storing salt	2,134	41
Watching natural formation of salt	70	49
Cost of establishment	3,808	70
Commission to headmen on salt sold	2,094	27
Transport of salt from one store to another	1,331	23
Repairs to stores	285	30
All other miscellaneous charges	26	8
Total	9,750	48

The salt produced in the Northern Province is of two kinds, artificial and natural. The artificial salt

is manufactured in the pans at Chiviyatern, the extent of which is 100 acres, and of which an area of only 70 is now cultivated. The manufacture is carried out by the owners of the pans upon an annual license issued by the Government Agent, who pays them at the rate of 15 cents per cwt.. The average quantity turned every year is 25,000 cwt., but in 1903, owing to heavy and unusual showers of rain at intervals in the dry months, June to September, the formations were damaged or destroyed, and, as stated above, only 2,733 were collected. There had not been such a failure for eighteen years.

There was some delay on the part of the manufacturers early in the season, though much pressure was brought to bear upon them to begin the manufacture, and the work of deepening the channels which had hitherto been done by the manufactures, was partly done on Government account.

The construction of the railway and irrigation works in the Province has in fact disorganized the labour market, and it is difficult to get people now to take the same interest in salt manufacture that they used to do.

Natural salt forms in the lewayas at Vellapparavai and Karanavai and in many other lagoons in the peninsula and on the mainland of the Jaffna, Mannar, and Mullaitivu Districts. The collection, however, is confined to the lewayas I have named. There are fifty of these lewayas with an aggregate acreage of perhaps 10,000, and at the rate of 50 cwt. per acre for a year a collection of 500,000, or, allowing for unfavourable conditions, 250,000 might be expected. The formation depends entirely on natural causes, and a high wind or heavy rains damage or destroy it and spoil the prospect of a good harvest. Such unfavourable conditions are fortunately the exception and not the rule, and under ordinary circumstances collections can be made in the lewayas for at least three months in the year, July to September.

These conditions were present in 1903 in their worst form, and not a single hundredweight of salt could be collected. Up to 1896 there had not been a failure for ten years, but during the last ten years there was no self-formation in 1895, 1900, 1902, and 1903. The average collection for the remaining six years is 56,358 cwt. per year. The largest collection in any given year was 96,159 cwt. in 1898; the smallest, 24,190 cwt. in 1899. The average cost of collection is 12 cents per cwt..

It is reckoned that Jaffna requires 30,000 cwt. of salt annually, Mannar 10,000, and Mullaitivu 5,000, and there is an order of Government that salt sufficient for two years' consumption should, whenever possible, be kept in the stores, a necessary precaution where the collection and manufacture are so dependent on the weather.

There were only 5,224 cwt. of manufactured salt in the store, and it was necessary to obtain a supply elsewhere. Government was addressed on the subject, and as a result 40,000 cwt. were shipped to Jaffna from Madras in November. The whole cargo was landed and put into the stores at Karaiyur in four days, the weather fortunately and unexpectedly being favourable for landing it. It has cost about Re. 1.33 a cwt.

I do not think Government makes as much out of the salt-producing capacity of the Jaffna District as it might do. I suggest—

(1) Improvements in the manufacture of salt. The manufacturers now take little or no interest in the work, which is only engaged in because it is a time-honoured custom. There is a want of system about the present methods of manufacture. In the first place, they start work too late in the year. It should be begun not later than the end of February or early in March, the date being fixed by the Government Agent and notified by beat of tom-tom. People who do not begin work in time, or who do not bring a sufficient number of labourers to work the pans, should be shut out for the year, and the manufacture in the pans of the defaulters should be carried on on Government account, a nominal rent being paid to the owners. Two things are essential for the proper formation of salt:—

- (1) The water that accumulates in the wet weather must dry up or be drained off in the dry weather; and
- (2) Sea water must be let in from time to time during the dry weather to evaporate and from deposit of salt.

At present the manufacturers trust to nature for the performance of these operations, the pans being below sea level, and the sea in the south-west monsoon performing the second with more or less regularity. It is a question for consideration whether the pans should not be surveyed with a view of ascertaining whether it might not be possible to introduce some more scientific method of draining the pans and letting in sea water.

(2) An increased collection of naturally-formed salt. It is estimated that the Vellapparavai and Karanavai lewayas can produce a crop of 500,000 cwt. of naturally-formed salt annually, and that if every allowance is made on account of unfavourable weather, unproductive grounds, &c., at least half that quantity could be collected. But at present a very much smaller quantity than this is collected, the average for the last ten years being 50,400 cwt.

The self-formed salt at these lewayas is "a purer salt in larger crystals and cleaner as a rule than the salt manufactured at Jaffna" (Sir W. Twynam). It is highly desirable, therefore, to consider the advisability of taking measures to collect the formations at those lewayas, where it has been usual hitherto to

Handwritten notes: "Srinivas" and "10/5/04".

destroy them. The destruction is generally based on the ground that the salt is "unfit for collection, the crystals being immature and not well formed." But I understand that in India formations of this kind even are collected and mixed with better salt.

As it is now, little or no attention is paid to these formations, and the reason is obvious, they exist only to be destroyed. The headmen are, indeed, supposed to exercise some sort of supervision over the lewayas, but in most cases this is, I believe, more imaginary than real. The formations are sometimes not even reported, and there is reason to believe that the headmen are not even made aware of their existence until after there has been considerable pilfering from them.

If it is intended that there should be an extensive collection, some of the headmen, say the Udaiyars, must be placed in immediate charge of the lewayas and paid a small salary for the work, the payment depending on the manner in which it is performed. They must furnish monthly—in the salt-forming season weekly—reports on the state of the lewayas in their charge, and the Maniagars should be vested with the power to order a collection to be made at once whenever one seems advisable. Too much time is at present wasted in sending samples of salt to the Kachcheri and awaiting orders, before the receipt of which the formation is likely to be destroyed by rains or some other cause. A bonus of Rs. 50 might be offered for every thousand hundredweight collected over 50,000, to be divided between the Maniagar, Udaiyar, and Vidanes. These operations might be extended to other lewayas, if found advisable.

(3) An increased export trade in self-formed salt. Sir William Twynam has kindly furnished me with the following notes:—

If we had a regular export trade beyond sea, very much of the difficulty and expense experienced in working the salt revenue in the North would be got over, because, as I have reported more than once, the sale for export at times has nearly covered the cost of collection of "self-formed salt, the cost of the manufactured salt, and of destroying and watching salt unfit for collection." In fact, in one year I believe it actually did so. Government was therefore always advised by Mr. Dyke and myself to do all it could to encourage the export trade by reducing the price of salt, even down to the cost price, so as to repay what would be spent in watching and destroying.

When there was a demand for salt for Calcutta years ago, it used to be sold at 10s. 6d. per ton, Government bearing all the expenses of shipment. The salt was then purchased by firms in Colombo and taken away by English ships as ballast to Calcutta. That trade ceased, but one sprung up to Penang and Sumatra, and several native vessels came for salt. The trade got into the hands of the Moors and Chetties; they bid against each other, raised the price considerably, and bore all the expenses of shipment.

I asked the tindal of one of the ships whether it paid them taking it at that rate. He said they managed to sell it for the same price at Penang or Sumatra, their object being to get a ballast that would pay instead of sand. The price having once gone up in this way the Government did not seem inclined to let it go down, and the trade has declined.

A short time ago I came across one of the merchants who used to buy, and asked him why he had given up the trade. He said that if Government would only reduce the price, he would be ready to buy the whole of the salt that was in store.

Mr. Dyke more than once represented to Government why an export trade in salt should be encouraged, even if the salt were sold only at cost price without bringing in any profit whatever to Government. I had to call attention to his reports on two or three occasions, when Government called on me for explanation in regard to the heavy cost incurred in some years of drought in watching and destroying salt unfit for collection.

The total export in round numbers was from 1844 to 1878 (both inclusive) 45,000 tons, an average of a little over 1,300 tons per annum; from 1879 to 1901 (both inclusive) 4,000 tons; average, some 1,000 tons per annum. Total export beyond sea from 1844 to 1901 70,000 tons; average for fifty-eight years, 1,200 tons per annum. Add to this sent coastwise to Trincomalee, Batticaloa, Hambantota, and Galle, 17,000 tons, making a total export beyond sea and coastwise on account of Government of 87,000 tons, showing an average from 1844 to 1901 of 1,500 tons over and above the requirements of the Province.

It would surely be more profitable in the long run to collect the inferior salt formations in the lagoons and to sell them even as ballast for vessels at cost price than to destroy them as is at present done.

(to be continued)

**THE ASSAULT ON MR.**

**TILLIAMPALAM NAMASIVAYAM.**

APPLICATION FOR A RULE NISI ON MR. HELLINGS.

§ REFUSED BY THE ACTING CHIEF JUSTICE.

NO ASSAULT—ONLY "UNWARRANTED FAMILIARITY."

Advocate Mr. B. W. Bawa moved yesterday in the Supreme Court, before His Lordship the Acting Chief Justice, for a Rule Nisi on Mr. R. B. Hellings, one of the Police Magistrates of Colombo, to show cause why a writ of Mandamus should not issue to compel him to issue Process against the accused (Mr. T. S. Thorpe) in case No 88,867 of the Police Court of Colombo. Mr. Bawa (with him Advocates Messrs. Wadsworth

and Balasingam) addressing His Lordship said: The petitioner, my Lord, in this case, is a clerk or store-keeper who was employed in the firm of Messrs Walker Sons & Co., Ltd. He complained to the Police Magistrate of Colombo, Mr. Thorpe, that on the 15th September Mr. T. S. Thorpe, another employe of Messrs Walker & Co, caused hurt to him by striking him with his hands, and kicking him—

**AN OFFENCE PUNISHABLE**

under Section 314 of the Penal Code. Mr. Thorpe the Police Magistrate, examined him and having recorded his evidence, made this order:

"The accused (sic) has no marks whatever to show, and I do not issue Process unless the alleged assault is sufficiently grave to leave at least some marks. However, in this case, the accused being my brother, I send the case to the Additional Police Magistrate for orders."

The complainant then appeared before Mr. Hellings, the Additional Police Magistrate, and Mr. Hellings apparently took the hint from Mr. Thorpe, and without examining the complainant at all, or ascertaining the circumstances under which the assault had been committed, made the following order:—

"Complainant appears. His evidence has been recorded. He says he has no mark of injury and none is visible. I decline process on the ground that the harm caused, if any was, exceedingly slight, (See section 88, Penal Code)."

The complainant, my Lord feels aggrieved that his complaint has not been enquired into and adjudicated upon. The mere absence of marks is no ground whatever for the Police Magistrate refusing Process or refusing to hear his complaint.

**MANY VERY SERIOUS ASSAULTS**

may be committed with no sort of mark being left on the complainant's person and judging from the evidence that the accused gave before Mr. Thorpe, the Magistrate, the assault was committed on a part of his person which not only would not be likely to retain marks, or at all events—even if it did leave marks—on a part of his person which it would not be decent for him to exhibit to the Court. This is what the complainant said to the Court:—

(Counsel then proceeded to read the statement of the complainant in the Police Court as follows)

**T. NAMASIVAYAM SWORN:**

Tamil, 21, Clerk at Walkers'. Captain's Garden, 15th September 10-30 a. m., accused came to the store where I work with a Sinhalese man. I am clerk under the store-keeper. I opened a door of a room where I work and walked towards him. Accused said he wanted a big spanner. I told my cooly to take a big spanner. Accused Mr. Thorpe, then said he wanted one of 6½ inches. I said "none of that size". He turned and struck me on the chest with open hand. He hit me because I said there were no spanners of that size. Then he pointed out a place and told me to go and look for spanners of that size there. He followed and kicked me on the buttocks. I have no marks anywhere to show. No spanners of that size could be found.

Continuing the remarks, Mr. Bawa said: In a large class of cases, my Lord, the gravity of the assault depends rather upon the relations of the parties and the circumstances under which the assault is committed, than upon the severity of the injuries inflicted.

**AND UPON THE INDIGNITY**

to which his complainant is subjected. Here we have two employes of the firm, one a native and the other a European, and the latter, apparently presuming upon his superior position, has abused it, and committed an assault which it would be impossible for any man of self-respect to overlook.

His Lordship: It depends on how it was done. It might have been done playfully.

Mr. BAWA: Possibly my Lord, and if Mr. Thorpe makes that apparent, and if Mr. Thorpe had apologised, as one might apologise to another for an assault committed playfully the matter might have been overlooked. But it is important, my Lord, that there should be no impression in the country that a man cannot approach the Courts in a case of this kind without at least his case being enquired into in a judicial spirit. Mr. Thorpe, the Police Magistrate, of Colombo, very rightly, has refrained from taking action, in view of the circumstance of the accused being his brother, but I would submit that Mr. Hellings' part in this matter is absolutely indefensible in Law. Counsel then went on to cite sections 148 and 149 of the Criminal Procedure Code, dealing with the commencement of proceedings before Police Courts; and the procedure laid upon a plaint being preferred. He next cited section 151 which laid down that, if, after examining the complainant, the Magistrate found that there was no evidence established, he may refuse to issue Process.

Continuing, Mr. Bawa said that the Magistrate referred to section 88 of the Penal Code. That section ran as follows:—

**"NOTHING IS AN OFFENCE**

by reason that it causes, or that it is intended to cause, or that it is known to be likely to cause any harm if that harm is so slight, that any person of ordinary sense and temper would complain of such harm." No doubt, if on proper enquiry, it appeared to the Magistrate that the assault was such as would bring it under section 88 the Magistrate would be right in refusing Process, but it could not possibly be said that an assault such as that complained of, and deposed to before Mr. Thorpe could come under that section. And he would submit that the mere fact Mr. Thorpe who himself occupied a subordinate position in the firm occupied a slightly higher position than the complainant, did not mean that he was at liberty to commit any unprovoked assault on his subordinates in the performance of their ordinary duties. The circumstances spoken to in the evidence, which he had read negatived the theory of its having been intended as a joke. Apparently Mr. Thorpe was in a very bad temper, and, that being so, he must take the consequences of his behaviour. Complainant distinctly said. "He turned and struck me ..... he followed and kicked me." Then in the 6th paragraph of his affidavit he said: "I have suffered considerable bodily pain by the blow and the kick inflicted by the accused, and great pain of mind and disgrace have been caused me by the accused beating and kicking me in a public office in the presence of several persons." He (Counsel) was also informed that the result of the incident was that complainant had had been obliged to resign his post under Messrs. Walker Sons & Co. A gross injustice had been done, and it should at least be enquired into.

**HIS LORDSHIP'S ORDER.**

HIS LORDSHIP made the following order:—I think this is not a case in which I ought to grant a rule. The application is for a rule (nisi) calling upon one of the Magistrates of Colombo to show cause why a "writ of mandamus" should not issue to compel him to issue Process against the accused in case No. 88,867 of the Police Court of Colombo. From the complainant's account of the matter it does not seem to me that the act of the accused was meant as an assault. There was nothing in the circumstances to excite anger on his part, and it seems to me that the accused indulged in what I may call an unwarranted familiarity—a familiarity in which

**HE HAD NO RIGHT TO INDULGE**

except with a person with whom he had acquaintance sufficient to justify what he did. I can quite imagine his putting his hand out on the complainant's chest and as he went away, his putting out his foot and touching him on the hind quarters.

Mr. BAWA: There is nothing, my Lord in the evidence of any admission on the part of the complainant of any familiarity on Mr. Thorpe's part.

His Lordship: well, I call it a familiarity. It does not appear to me that he meant to hurt the complainant. It is an unseemly act and if it were repeated on the person of an employe who objected to it, and with whom the accused had no right to take such liberties, I have no hesitation in saying that some remedy would be open to the complainant. As however, the alleged act admist of the meaning which I have put upon it, and the complainant himself admitted that there were no marks upon his body and as he did not assert that what was done was done with any violence, I think I ought not to grant this rule.

**THE AFFIDAVIT AND PETITION OF APPEAL.**

The following were the Complainant's affidavit and petition of appeal:—I, Tilliampalam Namasivayam, of No. 7, Captain's Gardens, Colombo, not being a Christian do solemnly, sincerely and truly affirm and declare as follows:—

1. I am the Petitioner abovenamed and Complainant in the above styled case, and was on the 15th September, 1904, a Clerk in the employ of Messrs. Walker Sons & Co. Ltd., Colombo.

2. I charged the accused in the said case with voluntarily causing hurt to me by striking me with hands and kicking me and thereby committing an offence punishable under the 314th Section of the Ceylon Penal Code.

3. Mr. W. E. Thorpe, the Police Magistrate of Colombo, examined me and having recorded my evidence, made the following order:—

"The accused has no marks whatever to show, and I do not issue Process, unless the alleged assault is sufficiently grave to leave at least some marks. However, in this case the accused being my brother I send the case to the Additional Police Magistrate for orders."

4. I appeared on the same day before the Additional Police Magistrate of Colombo, Mr. R. B. Hellings, who without recording any further evidence made the following order:—

"Complainant appears, his evidence has been recorded. He says he has no mark of injury, and none is visible. I decline Process on the ground that the harm caused if any, was exceedingly slight. (Sec 88, Penal Code).

5. I attach hereto a certified copy of the proceedings

in the above styled case.

6. I have suffered considerable bodily pain by the blow and the kick inflicted by the accused and great pain of mind and disgrace have been caused me by the accused beating and kicking me in a public office in the presence of several persons.

The Petition of the Petitioner abovenamed states as follows:—

1. The Petitioner is the Complainant abovenamed and was on the 15th September, 1904, a Clerk in the employ of Messrs. Walker Sons & Co., Ltd., Colombo.

2. The Petitioner charged the accused in the said case with voluntarily causing hurt to the Petitioner by striking him with hands and kicking him and thereby committing an offence punishable under Section 314 of the Ceylon Penal Code.

Mr. W. H. Thorpe Police Magistrate of Colombo, examined the Petitioner and having recorded his evidence, made the following order:—

"The accused (sic) has no marks whatever to show, and I do not issue process, unless the alleged assault is sufficiently grave to leave at least some marks. However, in this case, the accused being my brother, I send the case to the Additional Magistrate for orders."

4. The Petitioner appeared on the same day before the Additional Police Magistrate of Colombo, Mr. R. B. Hellings, who without recording any further evidence made the following order:—

"Complainant appears. His evidence has been recorded. He says he has no mark of injury and none is visible. I decline Process on the ground that the harm caused, if any, was exceedingly slight (see 88 Penal Code.)"

5. The petitioner attaches hereto a certified copy of the proceedings in the above case.

6. The petitioner has suffered considerable bodily pain, by the blow and the kick inflicted by the accused, and great pain of mind and disgrace have been caused to the petitioner by the accused beating and kicking the petitioner in a public office in the presence of several persons.

Wherefore the petitioner prays that Your Lordships may be pleased to issue a Rule Nisi on Mr. R. B. Hellings, Police Magistrate of Colombo, calling upon him to show cause why Writ of Mandamus should not issue to compel him to issue process on the Plaint submitted by your petitioner, and for such further and other relief as to your Hon'ble Court shall seem meet.

**"THE DENATIONALIZATION OF THE SINHALESE."**

Dear Sir—I beg to request you to be good enough to publish the enclosed two letters in your next issue.

D. O. DE SILVA.

Honry. Secretary.

Jnanarabodha Samagama,  
3, Bray brooks Street, Slave Island,  
24th Sept. 1904.

(Letters referred to)

P. Ramanathan Esqr. K. C., C. M. G.,  
Solicitor-General  
Colombo.

Dear Sir—I am directed by the Slave Island Sinhalese Literary Association known as the "Jnanarabodha Samagama to send you a copy of the following resolution unanimously adopted at its meeting held on the 9th inst. under the presidentship of Mr. G. Mendis Gunasekera, Mudaliyar.

"The society with great pleasure record its hearty approval of the instructive and encouraging words spoken by Mr. P. Ramanathan K. C., C. M. G., Solicitor-General of Ceylon, at the recent Prize Distribution of the Ananda College for the welfare of the Sinhalese Nation, especially for urging the young Sinhalese to learn, use and cultivate their mother-tongue, with a view to check the denationalization of their race.

It is very gratifying to the Society which was started 5 years ago, to promote the intellectual and social welfare of the Sinhalese to hear such salutary advice from a distinguished gentleman of position and learning.

The Society remembers at the same time with gratitude the many favours conferred on the Sinhalese by Mr. P. Ramanathan, when he was a member of the Legislative Council.

The Society, therefore, takes this opportunity to convey its hearty thanks for the valuable advice given at a time when it was most needed.—I am, Dear Sir, Your obedient servant,

(Sigd.) D. O. DE SILVA.

Hony. Secretary.

Colombo, 13th Sept. 1904.

D. O. De Silva Esq, Hony. Secretary Jnanarabodha Samagama, Colombo.

Sir—Your letter intimating to me the passing of a resolution by the Jnanarabodha Samagama of its appreciation of my address at the Ananda College at the recent Prize Distribution and of my past services to the Sinhalese nation, has reached me.

I thank the Samagama most cordially for the resolution so kindly passed and trust that the good work now being done by the Literary Association will be persevered in and make itself felt in different directions in Colombo.

Yours most truly,

(Sigd.) P. RAMANATHAN.

Colombo, 23rd September, 1904.

**MR. LYTTTELTON'S COMPROMISE**

Mr. LYTTTELTON, in dealing with the relations of India and the Transvaal, has not done as badly as Lord Milner wished, nor so well as he ought to have done. That is our reading of the curious Blue-book, which was issued a few days ago, containing correspondence relating to the position of British Indians in the Transvaal. The volume consists of four documents, with their enclosures. In the first dated January 23

British Indians as put forward by Sir M. Bhow-naggee, which Mr. Lyttelton enclosed. The second document is dated April 18, and is apparently Lord Milner's reply. But in reality Lord Milner does little more than forward, with his approval, a statement of the anti-Indian case and a draft scheme of anti-Indian legislation prepared by Sir Arthur Lawley, the Lieutenant-Governor of the Transvaal. Neither of these papers contains anything which can be described as a reply to Sir M. Bhow-naggee's memorandum. The third document is a telegram, dated July 8, in which Mr. Lyttelton sends to Lord Milner an outline of the decision of his Majesty's Government; while the fourth document, dated July 20, is a despatch in which Mr. Lyttelton sets forth that decision in full, together with a statement of the considerations upon which it purports to be based. By far the longest paper in the Blue-book is Sir M. Bhow-naggee's memorandum, which strikes us as being by no means badly done, though it might have been more effective if it had been compressed into one-quarter of its present length. But with nearly everything which it contains we find ourselves in agreement, and we need not dwell upon it or repeat what has been said so often in these columns. It is more important to see what it is precisely that Lord Milner and Sir Arthur Lawley propose, and what it is that his Majesty's Government are prepared to permit. Let us say at once that we have seldom read anything more insolent than the letters and the proposals of the Governor and the Lieutenant-Governor of the Transvaal, and it is tolerably obvious from Mr. Lyttelton's final despatch that the tone of these insubordinate officials has not been lost upon the Government at home. Sir A. Lawley's letter is dated April 13. The judgment of the Supreme Court of the Transvaal in the recent test-case, which decided that a location for residence is not a location for trade, was not delivered until May 14. But Sir A. Lawley and Lord Milner knew very well what to expect, and their proposals aim at reducing the judgment to a nullity. I am advised by the Attorney-General, Sir A. Lawley actually writes, that in his opinion the decision of the late High Court will probably be reversed by the Supreme Court, and that it will be impossible for the Government to carry into effect the restrictions upon Asiatics in regard to trade and residence which they deem necessary. In view of the protests which the decision of the late High Court called forth from our Government, it might have been expected that British officials in the Transvaal would welcome the prospect of its reversal by the Supreme Court. But so far is this from being the case that they actually refer to the probable decision of the Supreme Court as a matter which increases the urgency of anti-Indian legislation.

The substance of this legislation, as proposed by Lord Milner and Sir A. Lawley at the bidding of a group of anti-Indian traders in the Transvaal, is as simple as it is monstrous. It falls into two parts. In the first place, in order to make it as difficult as possible for any British Indians to enter the Transvaal in future, these precious officials—more Kruger-like than Mr. Kruger—propose to enact an Immigration Restriction Law on the lines of the Cape and Natal Acts, and expressly providing an education test for would be immigrants for the purposes of which Indian languages would not be accepted. In the second place, in order to make it as difficult as possible for Indians already in the Transvaal to carry on their business effectively, they propose that, with two classes of exceptions, all such Indians, notwithstanding the judgment of the Supreme Court, should be required both to live and to trade in locations and should be prohibited from holding land outside locations. The two classes of exceptions which they are good enough to suggest are as follows: (1) That British Indians who had established business outside locations before the war should not be disturbed; and (2) that any other British Indians who might be able to satisfy the Colonial Secretary of the Colony that their mode of living is in accordance with European ideas, should be allowed to live, with their servants, outside, but not to trade outside locations. The effect of these proposals is sufficiently obvious. If Lord Milner had his way, the extreme Boer plan—which however Boers never enforced—would be adopted as the general rule, and Indians in general would be confined to locations, both for trade and residence. Of these two restrictions, as everybody who has followed the controversy is well aware, the restriction with regard to trade is infinitely the more important. Yet, when we come to the suggested exceptions, the right of trading outside locations is limited to the small and not easily ascertained class of

side locations before the war; while with regard to other Indians, though they be already resident in the Transvaal, and no matter how free from reproach their mode of living may be proved to be they are to enjoy, after satisfying the Colonial Secretary, only the limited and dubious right of residing outside locations, and they must still carry on their business if they can, within them. It is not necessary to stigmatise such proposals as these. That they should even be put forward by British officials, after all that has happened, and after the language employed by British Ministers with reference to the (inoperative) Boer law, indicates a depth of turpitude, of duplicity, and of shamelessness with which one would not lightly credit the most arrogant of "imperialists."

So much for the proposals of the "White League" and their obedient humble servants. But what is the policy of his Majesty's Government? The answer is that it is a compromise; and a discreditable compromise. Mr. Lyttelton draws a distinction, for which it is difficult to find any adequate basis in morals or in equity, between the case of future immigrants and the case of existing residents. With regard to the first, he is ready to accept without qualification the very stringent Immigration Restriction Law which is proposed, and that, too, though he is under no illusion as to its natural and necessary consequences. It will, as he puts it, undoubtedly effect the purpose in view of limiting, and indeed will, as I believe, almost entirely check, the influx of British Indians and Asiatics into the country. That, then, is the policy of his Majesty's Government—in spite of all their denunciations of the Boers, in spite of their remonstrances with the self-governing colonies upon their illiberal and unworthy treatment of British Indians, and in spite of the opportunity which was offered to them in the Transvaal of redeeming their pledges and of setting a right example, they deliberately acquiesce in the permanent and systematic exclusion of British Indians in the future? With regard to Indians who are already in the Transvaal, Mr. Lyttelton is not prepared to go the whole way with Lord Milner. But neither does he insist on the repeal of the Boer location law, although our Government protested against it not merely in its last stage, but in every stage. Mr. Lyttelton's policy, in short, is to stand by the Boer law as now interpreted by the Supreme Court. That law enables the authorities, for sanitary purposes, to point out locations for British Indians for residence but not for trade. The effect, therefore, of our Government's policy is (1) to restrict future Indian immigration to the Transvaal within the narrowest possible limits, and (2) to give the local authorities the power to send any resident Indians, and any Indians who may hereafter succeed in entering the Transvaal, to locations for residence, while they are to remain free from restrictions in respect of trade. This is something, no doubt; but in comparison with what the Government were morally bound to do, it is next to nothing. It is a blow at the stability of the Empire, and a deliberate reduction of the status of British Indians. In explaining why his Majesty's Government cannot deal as harshly with Indians actually resident in the Transvaal, as Lord Milner proposed, Mr. Lyttelton writes:—

His Majesty's Government cannot believe that the British community in the Transvaal appreciate the true nature of the proposition which some of its members are pressing upon you. They, as Britons, are as jealous of the honour of the British name as ourselves, and, even if a material sacrifice were necessary to vindicate that honour, I feel assured they would cheerfully make it. His Majesty's Government hold that it is derogatory to national honour to impose on resident (sic) British subjects disabilities against which we had remonstrated, and to which even the law of the late South African Republic rightly interpreted did not subject them, and they do not doubt that when this is perceived the public opinion of the colony will not any longer support the demand which has been put forward.

There is the fallacy. Mr. Lyttelton improperly introduces the qualifying epithet "resident" before British subjects. But the point of the remonstrances did not lie in their residence, but in the fact that they were British subjects, and the claims which we put forward as against the Boers were for all British subjects for all time. Is it not derogatory to national honour to impose new restrictions which the Boers never even contemplated, and, instead of loyally fulfilling our pledges, to cast about for the minimum which may save us from the appearance of having wholly and without exception betrayed them? —India.