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Place	Rate	Rate	Rate
Town	1-00	1-00	1-00
Inland	1-00	1-00	1-00
Foreign	1-00	1-00	1-00
Delivery	1-00	1-00	1-00
R. C. R. C. R. C.			
Eos. 1-00 1-00 1-00 Yearly			
Eos. & 1-00 1-00 1-00			
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The Law Of THESAWALAME AMENDMENT URGED

Memorandum by Mr. G. G. Ponnampalam, M. S. C.

(The following is the text of a memorandum submitted by Mr. G. G. Ponnampalam to the Attorney General.)

THE age-long principle of the Thesawalamai was the conservation to each spouse of his or her separate property belonging to the spouse at the time of marriage. This ancient legal idea of the Tamils anticipated, by centuries, the modern theory of separate ownership of property by each spouse. It is not necessary to argue that this rule of law laid down by the Thesawalamai is fair and equitable, for the inherent justice of this salutary provision of the law is self-evident. The Tamils have been enjoying the benefits of this legal principle for centuries and the idea of separate ownership of property is one of the cardinal features of Tamil society and Tamil civilisation. This principle of the Thesawalamai is in keeping with the New Matrimonial Rights Ordinance, introduced in Ceylon and applies to Low Country Sinhalese and others. The Matrimonial Rights Ordinance was specially introduced to conserve the rights of each spouse over his or her separate property and it abolished community of property embodied in Ordinance No 15 of 1876 now repealed. Further as will be admitted this principle of Thesawalamai is in accordance with the principles of English Law.

The Supreme Court in its recent decision in AVITCHICHETTYAR VS. RASAMMA reported in 35 N.L.R. page 313 has however held counter to this salutary principle of Thesawalamai that property acquired by a wife during the subsistence of the marriage out of money which formed part of her separate estate is not her separate property but that it is liable for the debt of her husband.

The Supreme Court interpreted the language of the sections of the Law as permitting such a conclusion and the decision being that a full court (bench of three Judges) is binding on all concerned.

It is respectfully submitted that the learned Judges no doubt purporting to follow the words of the Thesawalamai Ordinance have not given effect to one of the greatest principles of the customary law of the Tamils and have over-ruled earlier decisions of the Supreme Court on the point.

The decision in AVITCHICHETTYAR VS. RASAMMA not only goes counter to the well established principle of Thesawalamai on the point, but also over-rules a series of decisions of the Supreme Court including a judgment of two eminent Judges, one of whom is happily with us and who is an honoured Member of the State Council. I mean Sir Stewart Schneider.

Supreme Court Interpretation of The Law

The relevant portions of the law are contained in Sections 8, 21, and 22 of the Thesawalamai Ordinance.

In 22 N. L. R. Page 198 NALLIAH vs. PONNAMMAH, Sir Thomas de Sampaio sitting with Sir Stewart Schneider delivered the judgment of the Supreme Court and interpreted the Law thus at page 203:—

"It is well settled, I think that if the money by which acquisitions are made during marriage can be earmarked or traced back to the mudusom of the husband or the wife, the acquisitions should not be considered part of the common property, but would partake of the nature of the source from which they sprang. The Acting District Judge, who is a gentleman of great experience, and well versed in Jaffna customs, has, in a well-considered judgment, found that the investments in question to the extent of Rs. 8,000/- was traceable to the moneys which had belonged to the husband before the marriage, and that the investments less that sum, should alone be considered common property and be liable to be accounted for in the testamentary accounts. This finding of fact, and the ruling of the learned District Judge, are, in my opinion quite right and just. Mr. H. J. C. Pereira for the appellant, however, has raised a new point. He contends that whatever might be the correct interpretation of the original Thesawalamai, the meaning of Mudusom and thediathetam, has been altered by the Ordinance No. 1 of 1911. Section 17 of the Ordinance declares that "property devolving on a person by descent at the death of his or her parents or of any other ancestor in the ascending line is called mudusom (patrimonial inheritance)" and Section 21 declares that "the following property shall be known as thediathetam of any husband or wife: (a) property acquired for valuable consideration by either husband or wife during the subsistence of marriage, b) profits arising during the subsistence of marriage from the property of any husband or wife." The argument founded on these provisions is that the husband's professional earnings before marriage, not being property devolving on him by descent were not part of mudusom, and that the investments on bonds, and promissory notes, wherever the money came from, were property acquired for valuable consideration during marriage, and therefore were thediathetam or acquired property. There are one or two difficulties arising from this view of the matter. Mudusom does in general mean, property devolving by descent and this perhaps, was its sole meaning in the ancient days when unmarried sons and daughters could not acquire anything for themselves, but what they acquired belonged to the parents, and would come back to them on the death of the parents. But this custom as to disability has long since become obsolete, and sons and daughters can now acquire for themselves before marriage, and such property has been considered their mudusom. Else under what other class would such property fall? It cannot be thediathetam since the acquisition is not made during the subsistence of the marriage. Then, again, the expression "property acquired for valuable consideration" in section 21, well applies to acquisitions by purchase and the like but is wholly inappropriate to investments of money on loans. The truth appears to be that Sections 17 and 21 of the Ordinance

Opium and Ganja by Parcel Post

POSTMAN'S SUSPICIONS LEAD TO SEIZURE

A Parcel Dispatched from Pt. Pedro

A bulky parcel dispatched from Alvai, Pt. Pedro, roused the suspicions of a Postman in the General Post Office, Colombo, and led to the seizure of five lbs of ganja and two lbs. of opium, valued at about Rs. 1500, on Thursday.

The postman's suspicions were aroused at the weight of the parcel, and he lost no time in informing the Superintendent of Mails, who, in turn, communicated with the Post-Master General. The matter was then reported to the Crime Police.

The Crime Police instructed the postman to deliver the parcel as usual—it was addressed to a cobbler running a shop in Dematagoda and was dispatched from Jaffna—while Mr. D. Lloyd, acting S. P. (Crimes) and sub-Inspectors Aiyer and Ephraim (Crimes) watched from the Dematagoda-Maradana junction.

Almost immediately after the parcel was delivered to the addressee, the Crime Police officers raided the shop and opened the parcel.

The cobbler was placed under arrest, and taken to the Maradana Police station. It is stated that he denies any knowledge of having received similar parcels before, nor does he know the identity of the sender.

The parcel is said to have been sent from Alvai, near Pt. Pedro. The Northern Division Police have been informed, and every effort is being made to trace the sender.

Sub-Inspector Krishna Iyer, of the Crime Police, filed two complaints in the Colombo Police Court, charging P. Karthigesu, of Dematagoda Road, Maradana, with the illicit possession of two pounds of opium and seven pounds of ganja.

The accused, who was before Court, pleaded not guilty in both cases.

The Magistrate fixed the trial of both cases for September 4th and allowed the accused to stand out on bail in Rs. 200 in each case.

are not, and do not purport to be, definitions of mudusom and thediathetam. They, I think, are intended to be only general explanations of the Tamil words. The provisions of the Ordinance which are most relevant to the present question and determine the rights of husband and wife to property acquired before marriage, are those contained in Sections 8 and 9 which declare such property to belong to the man or woman, as the case may be, for his or her separate estate. I think therefore, that the money which the husband had saved out of his earnings before his marriage belonged to him for his separate estate, whether it is strictly called mudusom or not. The circumstance that it was invested during marriage does not change its character. Even if he invested it in the purchase of property during marriage, and not on mere loans I think that in view of the principle of the decisions on this point the property would receive the character of the money invested, and would not be regarded as thediathetam".

Sir Ambalavanar's Interpretation

Sir Thomas de Sampaio upheld the judgment of the District Judge of Jaffna. Continued on page 3

Immigration of Aryans into India

The First Revolt and the Brahmins

By Lt. Col. U. N. Mukherjee

AT SOME remote period, the precise date of which cannot be ascertained, a number of men with women and children, entered India from north-west and settled in the land. Who were they, whence they came—whether they were a pastoral or nomadic race, no body can say. They came from outside and settled in the country, that is all that can be said. They did not come however empty-handed—they brought with them the 'Vedas'. There is strong presumption to believe that the newcomers came to India to find a shelter, where they could dwell in peace and pursue unmolested their 'Vaidic' lives. The men who came to India were not a detached branch of any parent stock—it is more likely that they formed part of a people with whom they have difference and they sought refuge in some foreign land where they could enjoy security to follow their faith. The trail of the immigration to India can still be traced among the people who live near about the "Hindu kush," in whose religion, till they were converted into Mahamodenism traces of 'Vaidic' worship could be distinctly recognised. The parent stock from which these people (whom we shall call Aryans) some have long disappeared; even their existence is a matter of dispute among the students of antiquity.

Highly Civilised

The new-comers settled in the land of their adoption, lived as a close body among themselves without having any connection or holding any relationship with the original inhabitants of the country. Their 'Vaidic' lives had nothing in common with the lives of the primitive inhabitants who surrounded them. They brought with them institutions and tradition of a high state of civilisation and above all they brought with them 'Vedas', which they cultivated and whose teachings they followed. They could have nothing in common with the people around. A faint resemblance may be traced in the relation of the early Christian settlers in America and the aborigines of the Continent. In the case of the Europeans and Americans there was a certain amount of intermingling chiefly in the seizing of American women by the Europeans to be kept as their concubines and in the attempts to convert the original inhabitants to the Christian faith. None of these two can be discerned in the relationship of the Aryans with the original people of the country. The newcomers had come to seek a shelter where they could follow their faith in peace; they had not come for wealth or conquest. Besides the difference in habits, in ideas of personal cleanliness in culture, in mentality was too great to be easily bridged. But the greatest barrier was the 'Vedas'. They are songs that are chanted. That is an art that can be learned only after arduous training. Any deviation from its proper pronunciation not only distorts its sense but renders the contents meaningless. Then again it requires a most subtle intellect to

grasp the true import of the Hymns a level of intellect to which the others could not possibly rise. Putting all these together it can be understood why the Aryans and the indigenous population never intermixed or came close to each other. At the present day the Coles of Ranchi district and the Hos of Singhpur and the neighbouring Hindus living in the two districts live apart. In the present day there is no sensible reason why they should. But tradition has hardened into the present custom. It is as the sellers of jungle products or as the field labourer that the Ho and the Hindu occasionally meet but there is no question of fusion or intermingling.

The First Revolt

Time went on and the descendants of the Aryans multiplied in number, as the Israelites did in Egypt. Very likely unrest was brewing among the descendants of the 'settlers' for a long time but a time arrived when it broke out into an open revolt. What were the precise causes of this? The first revolt of which we have any information among the Aryans will never be known but a guess can be made with a certain amount of confidence. The Aryans and the non Aryans lived side by side probably for centuries. On the borderland where the two races met; there must have been some amount of contact and of give and take. On the side of the Aryans, the adaptation of anything non-Aryan either as regards personal habit or of anything concerning their faith could not have been in the eyes of the other Aryans of the nature of an improvement or deserving of imitation. We see that many of the descendants of the old Aryan settlers had fallen away from their original personal habits of personal cleanliness and in that respect had become like the uncivilised barbarians. This was one cause but there was a far more serious matter. The Aryans stood by the 'Vedas', it was their prop. more than that, it meant their existence. Then came a time when the 'Vedas' were threatened with a serious danger. Many among themselves had given up the sacred Book. The defection of a few Protestants into the Roman Catholic Church or of a few Christians into the Mahomedan fold will not be regarded as serious matters to the communities concerned but the giving up of the 'Vedas' by the Aryans was as we see from the after effects of the Revolt a far more serious matter. If a Christian in the old days, say in Byzantium after the Attoman conquest, gave up the Bible—metaphorically speaking, for it is not likely that he had a copy of the books in his possession—it would not have been considered a very serious matter by the general body of Christians. But if on the other hand he found fault with the doctrine laid down in the Bible or in the interpretation or about the authenticity of the book it would have been regarded as a far more serious matter. He would be called a heretic of schismatic; he might collect followers from a sect and revolt. What the consequences of such a revolt would have been every one knows: the Christians had a uniform and summary way of dealing with such delinquents.

Changes

From the "Bhriug-Bharadwaj Sambad" (182 Santi) we get a brief but (Continued on page 3)

Manager's Notice

The Offices of the "Hindu Organ" and the Saiva Prakasa Press will be closed Tomorrow and in the afternoon on Wednesday, for the Car and Theertham festivals of the Nallur Kandaswamy Temple, and there will be no issue of the paper on Thursday, the 29th inst.

Supply of Firewood to the Railway

Sealed tenders will be received by the Chairman, Tender Board, General Treasury, Post Office Box 500, Colombo up to 12 noon on Tuesday, September 3, 1935, for the supply of 4300 cubic yards of firewood to the Railway from Tariyankulam Released Forest in the Anuradhapura Range delivered at the Anuradhapura Railway Station Yard. Distance of transport is about 3 miles.

Further particulars and conditions may be obtained from the Divisional Forest Officer, Dry Zone Division, Jaffna.

H. E. C. LUSHINGTON,
Acting Conservator of Forests.
Office of the Conservator of Forests,
Colombo, 30th July 1935.
G. 31. 26-8-35.



Hindu Organ.

MONDAY, AUGUST 26, 1935.

DISILLUSIONED AT LAST

THERE WILL BE REJOICING IN CERTAIN quarters, notably in communal circles, at the refusal of the Secretary of State to entertain the demands of the Board of Ministers to liberalise the present constitution. We ourselves had our own misgivings regarding the success of the Hon. the Leader of the House when he set out on his mission without securing the support of the leaders of minority communities who had all along stood up for larger reforms but whose faith in the good intentions of the JAYATILAKE party had been shaken by tactless moves of the party in power. SIR D. B. JAYATILAKE by reason of his experience and devotion to duty enjoys a pre-eminent position in the public life of the country, and had he only taken the trouble to use his influence to secure the confidence of the minority communities, his mission to Whitehall would not have been the failure it is today. When SIR BARON and his group decided to accept the invitation to walk into the parlour and undertook to give a trial to the Denoughmore Constitution, the Tamil under the leadership of men like MESSRS W. DURAISWAMY, K. BALASINGHAM and H. A. P. SANDRASEKERE K. C. who realised the nature of the "reforms" proffered, stood out of the Council and carried on a campaign for real reforms. SIR BARON, however, swallowed the bait and accepted office under the new constitution. Had the JAYATILAKE party refused to accept the new constitution, and joined hands with his colleagues in the old Legislative Council, the movement for reforms would have taken a different course altogether.

With adult franchise and Ministerial portfolios vouchsafed under the new constitution SIR BARON thought the time had come for the Sinhalese to resume the overlordship of this Island and no opportunity was missed to decay and belittle the step taken by the Tamil leaders. Ill-concealed efforts were also made to

smother organisations which opposed the present constitution. Ministers and Members who owned allegiance to the Ceylon (Sinhalese?) National Congress went about the country saying that the present constitution was a "great" improvement on the old one. Indeed, one distinguished publicist claimed that sevenths of Swaraj had been achieved!

The working of the constitution during the last four years has demonstrated to no one better than to SIR BARON and his colleagues the shortcomings of the constitution. The inherent defects of the system were well known before it was put into operation. The PERERA resolutions represent the criticism of the constitution by the State Council itself. But the Board of Ministers were in no mood to take action on the resolutions till their hands were forced to indite the Ministers' Memorandum. No steps were taken to secure public support to the Ministers' demands. The curt refusal of the Secretary of State to receive a deputation on reforms should have warned SIR BARON of the nature of the response that awaited his mission to Whitehall.

There were many opportunities when the minority communities could have been won over. SIR BARON ignored these opportunities and in an over-weening confidence in the merits of his cause and his own capacity to persuade the authorities in England, did not care to secure public support for his mission.

SIR BARON himself is to blame for his failure. It is not too late yet to mend. The co-operation of every community should be secured for the revision of the constitution. Reactionaries there will be in every community. And where none is it will be easy for the bureaucracy to create as many as they may have need for. It is beside the point to say that only a handful of Ceylonese are in favour of reforms. When in human history did the populace at large ever support a movement until it had already achieved success? The group of Ceylonese who are determined to win Self-government for the country is already sufficiently large and vocal to give a convincing reply to those who want all Ceylonese and all sections of them to make a unanimous demand before it can be listened to.

Returning with an empty bag, SIR BARON who participated at the Conference of the Empire Parliamentary Association in London cannot help being assailed with the feeling which GOKHALE expressed on a memorable occasion in the following words.

"We a subject people must all the days of our life live in an atmosphere of inferiority and the tallest of us must bend."

We trust SIR BARON, now a disillusioned leader, will make amends for his short-sightedness in the past and rally the progressive forces in the country for another bid for self-government. For, the problems of the country need a Government in which the men in power will give their undivided allegiance to the best interests of the country. We must have a Government in which the men in power, knowing where obedience will end and resistance will begin, will not be afraid to amend the social and economic code of life according to the dictates of justice and expediency. This role the British Government will never be able to play. It is only a Government which is of the people, for the people and by the people that will make this possible.

That "it requires no special inquiry to ascertain that some police officers are corrupt or that there are cases of abuses of their powers"

Wholesome Advice To The Police

is the deliberate statement made in a report of the Executive Committee of Home Affairs on Mr. A. E. Goonesinghe's motion to enquire into the working of the police force. The Committee as well as the public deplore the dire necessity of the circumstances which require that an average of 1372 officers out of a total sanctioned strength of 3120 including all ranks from the Inspector General downwards should be punished every year for some misconduct or another. In view of the findings of the Executive Committee of Home Affairs with regard to the morale of the local police force, the instructions issued by the Commissioner of Police, Calcutta, published elsewhere, should be of special value to our guardians of law and order. From what the Commissioner says we shall not be wide of the mark to assume that the defects noticed in the Calcutta Police are not dissimilar to those obtaining here. The Commissioner deserves praise for his outspoken Note. It furnishes a bold and frank condemnation of the failings of the Police and offers wholesome instructions for making the police ideal servants of the public. It ought to serve as a code of conduct to the Ceylon Police, and will repay daily reading and application. The Note gives sound advice as to how a police officer should behave, how an Inspector of police should be an example to his subordinates and how the feelings and the purse of the people should be treated with consideration. The Commissioner cites the example of the London policeman who is extolled as an exemplar for efficiency and courtesy. He emphasises, and very rightly, that the police should realise that they are the servants of the public and not its masters or bullies. This conception of a policeman's duty cannot be too strongly emphasised.

Being a lawyer in active practice, Mr. G. G. Ponnampalam, M. S. C., is in a

Amendment to position in Thesawalam

to appreciate the difficulties created by the interpretation of The diathetam by the Supreme Court in Avitchichetty Vs. Rasamma. In the memorandum submitted to the Acting Attorney General Mr. Ponnampalam lucidly sets forth the precise definition of The diathetam as contained in the Thesawalam and accepted by a long series of decisions and appeals for an early amendment of the interpretation clause of ordinance 1 of 1911. We trust this matter will be taken up without delay so that numerous suitors in the different courts of this district may have their rights to property settled in the light of the well-established principles of Thesawalam. We are aware Government proposes to introduce legislation to give effect to the recommendations of the Thesawalam Commission. But the amendment called for by the recent Full Bench decision is a matter of urgency and cannot be solved for any length of time without causing serious hardship to the Tamil inhabitants of Jaffna.

Servants And Not Bullies

DUTY OF POLICE TO THE PUBLIC

Calcutta Commissioner's Note

Mr. A. D. Gordon, officiating Commissioner of Police, Calcutta, has issued a Note for the guidance of the Calcutta Police Force detailing the duties of the police towards the public.

He states that it is his special desire that strenuous and systematic efforts should be made to improve the attitude of the subordinate ranks of the police force towards the public. While realising the difficult position of the police in this matter, every attempt should be made to make all ranks understand that they are the servants of the public and not their masters, and that while their duties are often very unpleasant both to themselves and to the public, it is of utmost importance that by the exercise of unflinching civility and courtesy they should make the execution of such duties as little harassing and distasteful as possible.

He also desires the inspectors and section officers to understand that it is not only their duty to impress the importance of this matter on their staffs, but that in the first place they should be very careful to set a high example themselves in this respect and, secondly, that they should promptly take notice of any complaints made in this connection.

Mr. Gordon recalls messages from a lecture delivered to him while he was in charge of the Police Training College at Jaffna. In that lecture he drew attention to the attitude of the public towards the police. The reasons, he said, were twofold. In the first place the public has an inherent dislike to going to a police station and a rooted objection to giving evidence in court. This state of affairs can be remedied by instructions and sympathetic advice.

"The second point which causes our service to be in such disfavour with the public is one that we can and should remove. The remedy is in our hands, in yours and mine."

"Servants—Not Masters Of The Public"

It is "the over-bearing high handed conduct of the police towards the public, their hectoring, bullying methods, their lack of consideration for the feelings or the purse of others; in short, their forgetfulness of the fact that they are public servants, that the police officer is the servant, not the master of the police."

The Note states that the present excellence and efficiency of the London Police is not a superhuman miracle but the result of diligence and attention to the great fact that the force is appointed for the service of the police. Mr. Gordon wants the police to note that by a firm insistence on the duties of the police towards the public in the matter of courtesy and willingness to assist, in fact, true public service on the part of all ranks the public have been won over from an attitude of animosity and distrust to one of trust and affection.

One of the first points the police in India should pay attention to, in order to achieve the same change of attitude on the part of the public is, the treatment by the police of the complainant. The Commissioner points out that the Complainant on arrival at a police station to give his information should not be kept waiting nor should he be treated as if he were a criminal nor even as one soliciting a favour. In reporting the case he is fulfilling the law, and in asking for an investigation he is demanding not a favour but a right that is his by law from a public servant paid by Government out of the country's revenue to carry out that law.

There is yet one more important duty the police owe to the public, and this concerns their bearing towards the criminal, both suspect and convict.

"One day," the Commissioner concludes, "you may be in a more responsible position and you will then have a free hand in carrying out the in-

MANIPAY MURDER

ACCUSED ACQUITTED

The Manipay murder case which was tried at the Northern Assizes in which one Thambyah Selvadurai stood charged with the murder of Duraiswamy Namasivayam of the same place was concluded on Thursday.

The accused was found not guilty and acquitted.

Acting Police Magistrate

Mr. K. Kanagasabai has been gazetted to act as Commissioner of Requests and Police Magistrate, Jaffna, Kayts and Mallakam, during the absence of Mr. K. Alvappilai, on August 29.

A Farewell Function

A Farewell function to Mr. A. Ponnaiya, Superintendent Government Training College, Kopay, will be held on Saturday the 31st August at 5 p. m. in the Training College Hall. Mr. K. S. Arulnandy, Divisional Inspector of Schools, will preside and Mr. E. T. Dyson, Govt. Agent, will unveil the portrait.

(Cor)

Personal

Srimat Sangara Subramania Satchiadanda Rajayogi, the well known Preacher arrived at Jaffna yesterday and is staying at the Mootatamby Madam at Nallur.

Mr. M. Asaipillai, proctor, who was laid up with malarial fever since he returned last month from Kataram, has recovered and is attending Court from last week.

Last Week's Weddings

BALENDRA—KANDIAH

"Kalyani," Main Street, Jaffna, was the scene of a pretty wedding on Friday when Dr. W. Balendra was married to Miss Manonmayi Kandiah, daughter of the late Mr. V. Kandiah and Mr. Kandiah. "Kalyani," the bride's residence, was tastefully decorated for the occasion and the ceremonies took place at 8 a. m., in the presence of a large gathering of relatives and friends of the parties.

MUTTUCUMARASWAMY—THAMBYRAJAH

The marriage took place on Friday at 8.30 a. m. at the bride's residence at Changanai of Miss Analeethomy, daughter of Mr. T. M. Thambyrajah, with Mr. C. Muttucumaraswamy student-at-law. There was a large gathering of relatives and friends present.

ARUNASALAM—SOMASUNDARAM

The marriage was solemnised on Friday at the bride's residence at Aaicottai of Mr. M. Arunasalam teacher, Hindu English School, Kockuvil, with Miss S. Sellammah, daughter of the late Mr. K. Somasundaram of Aaicottai, in the presence of a large gathering of relatives and friends.

ARUMUGAM—SINNAPPAH

The marriage took place on the 17th inst. at "Mani Mahal," Mallakam, of Mr. K. Arumugam of Tellipallai West, presently of Sarawak Oil fields Ltd. Miri, with Srimathi Amirthamalar, daughter of the late Mr. and Mrs. Sinnappa of Mallakam.

(Cor.)

AIYADURAI—THAMBIMUTTU

The marriage was celebrated on Friday at Vaddukoddi of Mr. K. Aiyadurai, Proctor, S. C. and Notary Public, Jaffna, with Srimathy Manonmayi Ammal, daughter of Mr. Thambimuttu of Vaddukoddi and sister of Mr. T. Sivaprakasam, Co-operative Officer, Singapore.

Instructions you have now received in insisting on your subordinates doing the same, and in watching the attitude of the public change, and it is with this service on our part and a change in the attitude of the public that you can hope for a truly efficient police service, one trusted and respected by the people.

THE LAW OF THESAWALAME

(Continued from page 1)

Jaffna who was a leading Jaffna Tamil lawyer, and who is referred to in the above judgment as a gentleman of great experience and well versed in Jaffna customs. The District Judge referred to was the late Sir Ambalavanar Kanagasabai who was a Member of the old Legislative and Executive Councils and who was one of the prominent Advocates of his day and was the leader of the Jaffna Bar. He was considered in his time to be a patriarch among the Tamils. It is instructive to note his interpretation of the Law. At page 200 of the 22nd volume of the New Law Reports, his judgment in the same case states:—

"The principle is fair and equitable that the conversion of one property into another does not alter the character of the property converted, but transmits it to the object which takes its place. Here the money is clearly earmarked, and it is unreasonable to say that simply because a land was purchased during the subsistence of marriage through with mudsom money, it should be regarded as thediathetam. The Ordinance No. 1 of 1911 only declared the law that existed in respect of acquired property and did not alter it. Section 21 of this Ordinance says what shall be known as thediathetam. But in my opinion it does not go to the length of saying that the mere accident of purchase during married state gives the property the character of thediathetam. The valuable consideration referred to in that section must have been itself thediathetam to make the property thediathetam as it was the case before the Ordinance. A land purchased by a person during married life with money acquired by him before marriage cannot be regarded as property acquired for valuable consideration within the meaning of Section 21. In other words, the share in question is like a property purchased by a husband with money donated by his father. Sections 20, 21, and 22 should be read together. The only alteration that was made in respect of thediathetam was by Section 8 which was taken over from the Ordinance No. 15 of 1876 to improve the position of a wife with regard to some of her own earnings. If it be said that money acquired before marriage does not fall within one or other of the properties classified in these sections, my answer would be that the man who acquired it would be the sole owner of the property, whether it remained as money or turned into a land, and, the question of inheritance will not arise till after his death."

Sir T. F. Garvin's Interpretation

In the judgment reported in the 35th volume of the New Law Reports AVITCHCHETTYAR vs. RASAMMAH, Sir Thomas Forrest Garvin interprets the law in a different manner.

"Under the law as it obtained prior to the enactment of ordinance No. 1 of 1911 property acquired during the subsistence of such a marriage by one of the spouses and paid for with money which formed part of his or her separate estate was regarded as the property of the spouse who purchased it and did not form part of the thediathetam property, see JIVARATHAM vs. MURUKESU. But inasmuch as Kanagasabai and Rasammah were married subsequent to the date when ordinance No. 1 of 1911 came into operation, the question must be determined with reference to the laws enacted therein.

Section 21 of that Ordinance is as follows:—

- (a) property acquired for valuable consideration by either husband or wife during the subsistence of marriage
- (b) profits arising during the subsistence of marriage from the property of any husband or wife.

It is then provided in section 22 that thediathetam of each spouse shall be property common to the two spouses, that is to say, although it is acquired by either spouse and retained in his or her name, both shall be entitled thereto. Subject to the provisions of the Thesawalamai relating of liability....."

The learned judge here has attempted to interpret the language of the legislature as it appears in Section 21 according to his lights. It is respectfully submitted that the said judgment of Sir T. F. Garvin does not interpret the Thesawalamai correctly even if it be conceded that it has in-

terpreted the language of the section correctly.

Difference of Opinion

We have on the one hand the opinion of eminent men like Sir Thomas de Sampayo Sir Stewart Schneider, and Sir Ambalavanar Kanagasabai, and on the other, the opinion of an equally distinguished jurist like Sir T. F. Garvin. It is submitted that in view of this difference of opinion arising out of different laws and contrary interpretations of the same sections of the law, the relevant sections of the Ordinance require further examination and amendment.

Such examination and amendment is urgent as the section which is the subject matter of contention comes up for interpretation fairly often in our Courts and as also the pecuniary interests involved in some such cases is considerable.

Meaning of Thediathetam

With regard to the meaning of the word Thediathetam, only a Tamil who is fully conversant with the language will be able to appreciate its full import and exact significance. The word 'thetam' in Tamil connotes 'property acquired' or 'acquired property for valuable consideration'. The word Thediathetam connotes or implies a double process of acquisition. The word thediathetam roughly translated from Tamil into English would mean or convey the idea of acquired property or property acquired for valuable consideration through, and as a result of one's exertions. The description of thediathetam as given in Section 21 does not do full justice to the exact significance of the word in Tamil. It is also further submitted that the description of thediathetam as given in Section 21 is rather loose and is not comprehensive.

It is respectfully submitted that the interpretation of the section of the Law by Sir Thomas de Sampayo and Sir Ambalavanar Kanagasabai is in accordance with the well established principle of the Thesawalamai and the usages and customs of the country. The Thesawalamai is customary Law. It is also stated that the opinions of Sir Thomas de Sampayo and Sir Ambalavanar Kanagasabai are in conformity with the long chain of decisions of the Supreme Court going as far back as JIVARATHAM vs. MURUKESU reported in the very first volume of the N. L. R. at page 251. Here the Supreme Court held that according to the Thesawalamai of Jaffna, money inherited by a husband and converted into land does not form part of the Thediathetam. Such land should be treated as a separate property if the money can be earmarked. In this case Withers and Brown J. J. had the advantage of listening to Sir Ponnambalam Ramanathan, another patriarch of the Tamils, and who was an authority on Thesawalamai and who was well versed in the customs of the Tamils, and to Sir Thomas de Sampayo. The principles of Thesawalamai on the point were fully gone into in this case and the Matrimonial Rights Ordinance No. 1 of 1911 does not amend the old Law, as will be seen from the judgement of Sir Thomas de Sampayo and Sir Ambalavanar Kanagasabai in NALLIAH vs. PONNAMMAH.

It is interesting to note that Sir P. Ramanathan appeared in this case for the appellant who was interested in maintaining that according to the Thesawalamai, money inherited by a husband and converted into land does not form part of the thediathetam. The contrary argument was on that occasion presented to Court for the respondent by Sir Thomas de Sampayo himself then a Counsel. 25 years later Sir Thomas de Sampayo officiating as Judge went into the matter fully and held against what he argued in 1895.

Under the circumstances the Tamils affected by the Thesawalamai feel that the Attorney General should move without delay in getting the law

a-mended.

Need for Amending Law

Even if it be argued that the section of the law as it now stands is clear and is free from doubt, it is submitted that the law should be amended in order to bring it into conformity with the common law of the land, the principles of the New Matrimonial Ordinance applicable to Low country Sinhalese and others, the English law on the subject, with modern ideals of progress and fair play and the altered conditions of life prevailing in Tamil society.

The Thesawalamai as the word connotes is a body of customs and usages, and the customs and usages of the Tamils have changed with the times. There are not unchangeable like the laws of the Medes and the Persians. It is hardly necessary to labour this point as it is clear beyond doubt that the decision in AVITCHCHETTYAR vs. RASAMMAH is in conflict with the earlier decisions of the Supreme Court and against the well settled and time-honoured principles of the Thesawalamai. What is required is the necessary amendment to the law.

Apart from the particular point indicated in this communication there are certain other matters in the Jaffna Tamil Matrimonial Rights Ordinance which require amendment to bring the same into conformity with the New Matrimonial Rights Ordinance which abolished Ordinance No. 15 of 1876 and which is now applicable to the Low Country Sinhalese.

The Tamils consider it their good fortune that at this juncture they have a distinguished Sinhalese gentleman presiding over the Attorney General's Department, and who will to some extent be personally acquainted with their customs and laws and who will bring about the desired amendment at no distant future.

Obituary

MR. M. MOOTATAMBY

The death occurred on the 16th inst. at his residence, "Leete" at Rismead Place, Colombo of Mr. M. Mootatamby the well-known Broker. The deceased was 63 years of age at the time of death and leaves besides his widow, a son, Mr. Swaminathan a daughter Mrs. Mahadeva and a large circle of relatives and friends to bemoan his loss. The late Mr. Mootatamby was a leading figure in the Hindu Community and was well known for his public benefactions. He spent a large part of his wealth for educational and religious work. He had the Science Laboratory in the Moolpay Hindu College built, equipped and maintained at his own expense. Valuable improvements and extensions were made in the Maruthady Pillayar Temple, Velakkai Pillayar Temple and Suthumalai Amman Temple. The Mankayarkarasy Vidivalalai at Nallur and the Maddamadjoining it were acquired by him for the benefit of the Hindus. The spacious Theertha Maddam facing the Nallur Temple is another benefaction for which the Hindus will ever be beholden to the late Mr. Mootatamby. The famous Hindu Temple at Muneswaram also claimed the attention of Mr. Mootatamby who spent about Rs. 50,000 in building up all the four court-yards. The late Mr. Mootatamby leaves behind an example worthy of emulation by his co-religionists.

Answer to Correspondent

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H. 114 1/8/35 to 31/1/36.

Immigration of Aryans into India

(Continued From Page 1).

extremely clear idea of the Revolt that took place at one time in India. Evidently the descendants of the original 'Vaidics' had changed considerably from their forefathers, and it had become necessary for them, if they desired to keep alive their faith, to take special and decisive measures. The steps that they took were momentous indeed. When the Aryans first came and for centuries after, there was no distinction among them of man from man. They were all called Brammans. They were Brammans because they followed the 'Vedas'—the terms Brahman, 'Veda' or Brahma as mentioned before are synonymous. They were all twice-born 'Dwijas'; they were born for the first time from the womb of their mothers, that was their first birth, and they were re-born when they were versed (or initiated) in the 'Vedas'. Others who did not know the 'Vedas' were Ekajas or once-born. Excepting the (Brahman) Aryans, in the old 'Vaidic' polity, every body in their eyes was an 'Ekaja', who had many names given to them one being Sudra. When the first Revolt broke out those who had given up the 'Vedas' were given the name of 'Ekajas' and 'Sudras' like the aborigines. We notice for the first time that from the descendants of the old Aryans, a section that had given up the 'Vedas' was chopped off and that they were given the name of 'Sudras'—the name that the non-vaidic original inhabitants of the country bore.

Remodelling Society

When the Aryans found that their faith was in danger they set about remodelling their social polity. Hitherto among themselves there was no distinction of man from man, with them all men were equal. There was no restriction, every one was called a Brahman and 'Dwijji', every one read the 'Vedas' the sacred books in which their ancestors had lived and died. There was no restriction as to the work each man did, every one could chant the 'Vedas', offer sacrifices to the Gods, wear arms, engage in commerce or till the ground. That was the old polity their fathers had brought with them and that polity had hitherto been maintained. But signs of corruption had appeared that threatened the purity or even the existence of the 'Vedas'. It was necessary that measures should be taken to avert the catastrophe.

The first question, the main question and almost the only question, was the preservation of the 'Vedas'. They chose among themselves a special body of men selected very likely for their character and attainments to whom they entrusted the duty. To this class of man they gave the special name of Brahmins. Hitherto all the descendants of the ancient Aryans were called Brahmins; now a special class among themselves was created to whom alone were entrusted the preservation and the spread (among the Aryans) of the sacred book.

These men were specially chosen and the discipline by which they voluntarily bound themselves was by no means lax or light. Their lives were to be limited to the performance of six and only six duties, that was to

ATTEMPTING TO MURDER BROTHER

Accused Acquitted

Pethurupillai Antonipillai of Narathanaï who stood charged at the Northern Assizes with attempted murder of his brother Pethurupillai Neekilapillai, by stabbing him with a knife, was found not guilty and acquitted.

A Govt Scholarship

The Gazette of August 23rd gives details of a Government Scholarship available to Ceylonese students under 25 years of age and hold the London B.Sc. degree to pursue a course of studies at the Indian School of Mines at Dhanbad, in Bengal.

The Theft at Keerimalai

Anent the report of a theft at Keerimalai, published in the "Hindu Organ" of August 12, we are informed that the theft did not take place at the Shroff's maddam but in some other maddam.

be no distraction to divert them from their duties. The duties were first to learn the 'Vedas', second to teach them to the Aryans alone. This limitation the Brahmins have always maintained. It might have been due at first, as mentioned before to the determination of the Brahmins to maintain their purity but later on other causes came into operation that made them rigidly adhere to the rule. The third duty was to chant hymns and offer sacrifices for themselves and the fourth to help others who were of course to be Aryans to do the same. Formerly every 'Vaidic' (or Aryans) could perform these two duties himself without the help of any body—evidently corruption had entered deeply among the community and the majority had so far deteriorated that they required the assistance of men better qualified than themselves to perform the sacred offices. These constituted their sole work but they had to live. They were debarred from earning their livelihood by following any occupation, the only way of obtaining food left to them was alms that was laid down as their fifth duty. But lest they grew avaricious and amassed wealth (the only source of which was for them begging) they were enjoined as their sixth duty to give alms. Reading and teaching, performing the sacrifices for himself and for other Aryans, accepting of alms and giving of alms were laid down as the only duties of the class who were henceforth to be known by the special name of Brahmins. To this discipline the men voluntarily bound themselves to preserve the 'Vedas'. Thousands of years have elapsed since and many things have happened to the followers of the 'Vedas'—but the old tradition has not altogether disappeared.

(Amrita Bazar Patrika).

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Y. 137, 1-11-34—30-10-35

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(M. 75. 1-6 to 31-12-35) (r)

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(Gr. 1. 12-8 to 11-11-35)

Order Nisi

IN THE DISTRICT COURT OF JAFFNA
Testamentary Jurisdiction No. 8628.
In the matter of the estate of the late
Seethevippillai wife of Theyagar
Kumarasamy of Ploly West

Deceased.
Theyagar Kumarasamy of Ploly West,
Vs.
Petitioner.
1. Sithamparapillai Velupillai of
Ploly West
Dead. 2. Thiagamma daughter of
Kumarasamy of do

Respondents.
1. Velauthar Sithamparapillai and wife
2. Sinnappillai of Ploly West
Substitutes of the 2nd Respondent.
This matter of the petition of the above-
named Petitioner praying for Letters of Ad-
ministration to the estate of the late Seethe-
vippillai wife of Theyagar Kumarasamy of
Ploly West coming on for disposal before
C. Coomaraswamy Esquire, District Judge,
on the 21st day of June 1935 in the pre-
sence of Mr. K. Subramaniam Proctor for
Petitioner and on reading the Petition and
affidavit of the Petitioner dated 23rd October
1934.

It is ordered that the Petitioner as the
widower of the said intestate is entitled to
have Letters of Administration to the es-
tate of the late Seethevippillai wife of
Theyagar Kumarasamy issued to him un-
less the substitutes of the 2nd Respondent
abovenamed shall on or before the 31st day of
July 1935 shew sufficient cause to the
satisfaction of this Court to the contrary.
(Sgd.) C. COOMARASWAMY,
District Judge.

The 2nd day of July 1935
Extended to 13-9-35
(O. 61. 26 & 29-8-35)

Order Nisi

IN THE DISTRICT COURT OF JAFFNA
Testamentary Jurisdiction No. 66

In the matter of the estate of the late Thanka-
muttu alias Parupathippillai wife of
Velupillai Chelliah alias Chelvasothy
of Karanavai North

Deceased.
1. Ramu Sinnathamby and wife
2. Yalippalithal both of Karanavai
North
Vs.
Petitioners.
Velupillai Chelliah alias Chelvasothy of do
Respondent.

This matter coming on for disposal before
C. Coomaraswamy Esquire District Judge on the
14th Day of March 1935 in the presence
of Mr. K. Mutukumar Proctor on the part
of the Petitioner and the Petition and affidavit
of the Petitioners having been read:-

It is ordered that the Petitioners as the
parents and heirs of the deceased be declared
entitled to take out letters of administration
and that letters of administration be issued
to them accordingly unless the Respondent
or any other person shall appear before this
Court on or before the 22nd of May 1935
and shew cause to the satisfaction of this
Court to the contrary.
The 2nd day of April 1935.
Sgd. C. Coomaraswamy
District Judge

Order Nisi extended to 30th August 1935
(O. 62. 22 & 26-8-35)

Order Nisi

IN THE DISTRICT COURT OF JAFFNA
Testamentary Jurisdiction No. 105.

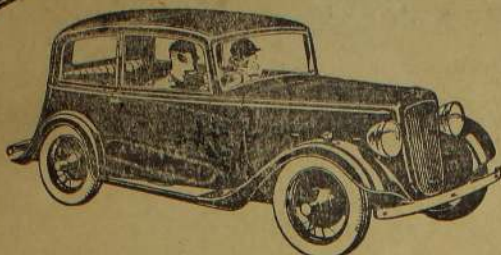
In the Matter of the Estate of the late
Ambalavanar Suppappillai of Vannar-
ponnai West Deceased.
Suppappillai Ramiah of do — Petitioner.

Vs.
1. Thangamothu widow of Suppappillai
of do
2. Suppappillai Rasiyah of do
3. Murguesu Namasiyayam
4. Wife Sellachchay of do — Respondents.

This matter of the petition of the petitioner
praying for Letters of Administration to the
estate of the abovedeceased coming on
for disposal before C. Coomaraswamy Esq.,
District Judge, on the 16th day of May 1935 in
the presence of Mr. T. N. Subbiah Proctor on
the part of the Petitioner and the affidavit of
the Petitioner dated the 15th day of May 1935
having been read, it is declared that the Peti-
tioner is one of the heirs of the said intestate
and is entitled to have Letters of Administra-
tion to the estate of the said intestate issued
to him unless the Respondents or any other
person shall, on or before the 10th day of
July 1935, shew sufficient cause to the satis-
faction of this Court to the contrary.
Signed this 9th day of May 1935.
Sgd. C. Coomaraswamy,
District Judge.

Extended for 29-8-35,
(O. 63. 22 & 26-8-35)

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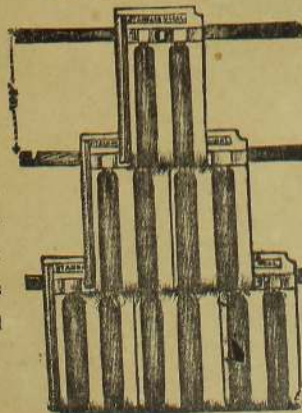
(H. 50. 16-5 to 15-11-35.) (M)

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