







(Before Justices Rampini and Mookerjee.)

ALLEGED ILLEGAL ORDER OF MR. CAREY.

Babu Dasarathi Sanyal on behalf of Mirza Ramxanali, Mutwalli of Motijhil Mosque at Serampore, moved for a rule on the District Magistrate of Hooghly to show cause why the order, dated 10th April last, directing the petitioner not to obstruct Sunnis from praying in the mosque should not be set aside.

It was contended that the provisions of sec 147 Cr. P. C. were not applicable to the facts of the case, that the District Judge having already declared that the mosque was a private one Mr. Carey had no jurisdiction to take proceedings under sec 147 Cr. P. C.

MAGISTRATE'S POWER TO HOLD LOCAL ENQUIRY.

Babu Dasarathi Sanyal applied on behalf of one Hashiram and three others who were convicted under several sections of the Indian Penal Code and sentenced to various terms of imprisonment by the Extra Assistant Commissioner of Nowgong, for a rule to show cause why the conviction and sentence should not be set aside.

Learned Vakill contended that the Extra Assistant Commissioner had no authority in law to make a local enquiry and had erred in relying upon the information obtained from his local enquiry and that had materially affected the decision of the case.

In support of his contention learned Vakill cited 21 Cal. in which Mr. Justice Rampini held that the Magistrate had no power to hold a local enquiry except under the circumstances, namely when the enquiry is under section 202 Cr. P. C.

Rampini, J.—Has the enquiry prejudiced the accused in any way? Vakill.—Yes, my lord. Rampini J.—The Magistrate can go to the place of occurrence to test the evidence?

Learned Vakill then read passages from the judgment of the lower court showing how the petitioners were prejudiced by the local enquiry. He further said that the Magistrate placed himself in the position of a witness besides that of a Judge.

The Magistrate was told that certain persons were seen going by rail and he forthwith went to the railway station. The Vakill in support of his contention further cited 9 Cal. Weekly Notes page 222 in which in a recent case decided by Justices Pargiter and Woodroffe in which it was held that a trying Magistrate had no power under the law to hold a local enquiry.

Their Lordships though quite agreed with the above ruling, rejected the application.

DEATH SENTENCE CONFIRMED.

This is an appeal preferred by one Purna Chandra Karmakar who had been convicted of abetment of murder and sentenced to death by the Sessions Judge of Chittagong. In this case there were two other accused, Dalbar Rahaman and Abdul Majid, who were tried by the Sessions for the same offence.

High Court July.

THIRD CRIMINAL SESSIONS

(Before the Hon'ble Mr. Justice Spink and a Common Jurys.)

MISCHIEF BY FIRE

EMPEROR vs. ALAN STAYLTON.

The accused was committed to the High Court Sessions on charges under sections 436 and 426 I. P. C. by Mr. A. W. Scroope, District Magistrate of Tippera, on or about 21st April last at Radhanagar committed mischief by fire by setting fire to and burning the house occupied as a dwelling house by Guru Charan Muchi and also committed mischief by fire by the dwelling house of Kishen Muchi inasmuch as that house caught fire from the use of Guru Charan Muchi.

The facts of the case as stated by the prosecution are shortly these. The complainant Guru Charan Muchi, an up-country man belonging to Gharipur, came to Akhaura about a year ago and took settlement of a plot of land on which he built his house from one Bansu Mishra, a resident of Radhanagar, a village which adjoins the station yard of the Assam Bengal Railway at Akhaura.

The accused pleaded guilty to the charge and made the following statement before the court:— "I was checking side widths of railway land working southward from Akhaura when I came across the huts in question at about 12 noon. In all there were four, three of which had encroached on Railway land.

"After asking the Muchi above mentioned whether the huts belonged to him and receiving a reply in the affirmative I requested him to remove them. This he declined to do under a month, but on my expostulating with him he reduced the time to 10 days, I then in perfect ignorance of the law told him that unless he showed signs of his intention to remove the huts within 15 minutes I should burn them down.

"I then went a short distance away and checked the railway boundaries with a measuring tape, and on returning found that the Muchi had taken no steps to set back the huts. I then set fire to the roof of the wall-less hut whereupon the old woman put up her hands to try to put it out. I put her hands down as far as I remember once. The man stood by looking on and doing nothing. The woman seeing the second hut which was about 5 feet to 6 feet high caught fire went into it and brought out a 'karahi' (iron frying pan) and a sack. Both huts were burnt down in a few minutes.

"The hut set fire by me was uninhabited and empty but the second one which caught fire, though I believed it to be uninhabited at the time, was, I found after the occurrence, tenanted by the old woman referred to above.

"In doing what I did I acted in ignorance of the law which I had no intention of breaking. I beg to acknowledge my mistake and to express my regret for my action and to offer my sincerest apologies to the court for so doing. I am willing to make the Muchies any reasonable compensation for this loss.

"As regards the shoes hides alleged to have been burnt down in the huts I can truthfully and honestly say that I saw no sign of any such stores. Had there been any in the old woman's hut, remnants of them would have been in evidence after the fire as the huts burnt too quickly to consume leather goods entirely.

"This my Lord, is the exact statement of every thing that occurred." His Lordship in delivering judgment addressing the accused said:—Alan Staylton you have pleaded guilty to an offence with which you are charged which is not only high-handed but illegal and your common-sense have told you that you should not have done it. The accused was ordered to pay a fine of Rs. 100 out of which Rs. 20 was ordered to be paid to the Muchis.

A Trevandrum correspondent writes:—The next Legislative Council meeting takes place on the 8th July when doubtless an interesting discussion will take place on the Bills lately introduced by Mr. Raja Ram Rao relating to the Revenue Code, and Mr. Veyra's judicial Reform Bill.

ANGLO-INDIAN AND INDO-ENGLISH TOPICS.

(FROM OUR OWN CORRESPONDENT.)

London, June 16.

THOUGHT FOR THE WEEK.

"What is to be our relationship with the people of India. It should not be that of conqueror and conquered. It could not strictly be paternal or fraternal, but it can be and ought to be that of manly comradeship.

"The people of India, with their warm, responsive natures, are essentially a people who may be treated as comrades. With that idea in our minds we should try to realise the grandeur and sublimity of the task which lies before us in India."

—Sir Francis Younghusband, Rede Lecture, Cambridge, June 10, 1905.

THE ROYAL WEDDING.

Last week we were mourning over grey skies and incessant rain which seemed likely to spoil the outward show of the functions arranged for the enjoyment of the young King of Spain on his first visit to England. The rain clouds, however, did not damp his ardour, and though he only caught a glimpse of King Sol, King Edward and his people gave the southern monarch a right royal welcome.

The plague-spot, brought to the notice of the Lieutenant-Governor, is, however, quite sufficient to damn the whole thing. For, on the strength of the Circular, the executive head of the Division is perfectly within his rights to fall foul of the judicial officer who does not punish a man severely whom, say, the Forest Department has hauled up. Or the Judge's ears may be pulled if he speaks a harsh word against an unscrupulous Police Officer in his judgment.

Dr. J. N. Ghose of Beadon Street, Calcutta, who had gone to Germany to study the open-air and sanatorium treatment of consumption at the Nordrach-Colonie Sanatorium, has sent us a paper on the curability or otherwise of consumption by this mail.

One cannot help wondering whether Sir Francis Younghusband realised the vital and far-reaching import of the weighty words which he pronounced with such emphasis in the course of the Rede Lecture he delivered last Saturday at Cambridge.

Words of wisdom. The Heads of many of the Colleges, including Trinity, Clar, St. John's, Christ's, Queens, Caius, Peterhouse, Pembroke, Magdalene, and Selwyn, together with other University officials, members of the Senate, the Public Orator, and a large number of ladies, Sir Francis laid down the dictum that the relationship between Briton and Indian must be that of manly comradeship.

Is Sir Francis prepared to practise what he preached? If so, his example will have a most beneficial effect. He is honoured personally as a brave man and as a good soldier. There are many and valid objections to the policy with which his name is associated beyond the borders of India, but his personal character stands high in the estimation of all who know him.

Myra is ever notorious for nasty cases and the matter has in season and out of season been brought to the notice of the rulers of the land, but without any appreciable relief. To bring the gravity of the situation home to the authorities and the public alike the local paper "Charu Mibir" has published in a recent issue a long list of 21 specific instances in which female modesty has been taken undue liberty of by force both in the dark and in the day light.

The Hon'ble Mr. Fuller, Chief Commissioner of Assam, deserves public thanks for taking immediate and vigorous measures to remove the alleged grievances of the inmates of the Sylhet jail, ventilated through the local paper "Paridarsak," and to which we drew His Honour's attention. Mr. Fuller, we are given to understand, has ordered Major Hall, the Superintendent of the jail, to personally hold an enquiry into the matter.

The Army reform scheme, we understand, has been hung up pending receipt of a detailed reply from the Secretary of State to the Viceroy's protest.

The reader is aware that, the Imperial Anglo-Indian Association has entered a protest against the Carlyle Circular. It has pointed out only one dangerous element in the document, and it is contained in the following paragraphs:—

"3. But as regards judicial officers, though, in paragraphs 4 and 6, it is clearly and rightly laid down that 'the executive must avoid any attempt at or appearance of interference except through the High Court' and that 'in regard to his judicial work the Judge is under the High Court alone,' the Council regret to notice that in paragraph 3, amongst the cases in which the authority of the Commissioner may be usefully exercised, are included cases in which officers are guilty of 'disregard of the interests of other departments.'

"4. It is difficult to see to what other cases this can possibly refer but those in which judicial officers in their judgments or orders, or in the course of proper judicial remarks on the cases being tried before them, may feel constrained to comment adversely on the actions (and thus apparently 'disregard the interests') of other departments of Government, such, for instance, as the Police, the Excise, the Court of Wards, etc.

"5. The Council cannot but feel that, if this is intended, a very serious blow has been aimed at that independent and impartial administration of justice, which it is the aim of the Government and the public alike to conserve and foster; and they respectfully appeal to the Government to explain or modify this portion of the Circular in view of the serious apprehensions felt as to its true meaning."

The plaignant, in his opinion, was not likely to get justice. The Hon'ble Judges apparently held the same view of the case as the Sessions Judge did; for they have issued a Rule on the District Magistrate of Khulna to show cause why the case should not be transferred to some other district.

There is another important feature of the case which deserves the serious attention of the higher authorities. While the case was being enquired into, the Magistrate called for an explanation from the police, but none was given nor did the police explain why it had ignored the order of the head of the district. This is not the only instance in the case in which the police defied the authority of the Magistrate.

The District Magistrate himself at one time asked the complainant to compromise the case and the hearing was adjourned on more than three occasions for this purpose, but the police showed no sign to comply with that order. Again, when the District Magistrate visited the scene of action, he asked the complainant to withdraw the case on receipt of Rs. 100 from the accused police officer. The complainant was agreeable to the proposal, but the police refused to listen to the words of the District Magistrate. In spite of all these facts, the trying Magistrate dismissed the complaint without even issuing processes against the police officer! So a poor man has been made to dance attendance from court to court for nearly 14 months without securing any redress of his grievances.

SCRAPS.

In our Rangoon correspondent is to be credited, the Health Officer of the local Municipality is looking after the sanitation of the town with a vengeance. On the 28th June, a school boy was presented at his instance for committing nuisance, and do you know the nature of the crime he committed? Why, he threw the skin of a mango, which he was eating, on the street! The Hon'y. Magistrate, who tried the case was for discharging the juvenile accused, but would it not lower the prestige of the Health Officer? So the boy was convicted and fined one anna!

Mymensingh is ever notorious for nasty cases and the matter has in season and out of season been brought to the notice of the rulers of the land, but without any appreciable relief. To bring the gravity of the situation home to the authorities and the public alike the local paper "Charu Mibir" has published in a recent issue a long list of 21 specific instances in which female modesty has been taken undue liberty of by force both in the dark and in the day light.

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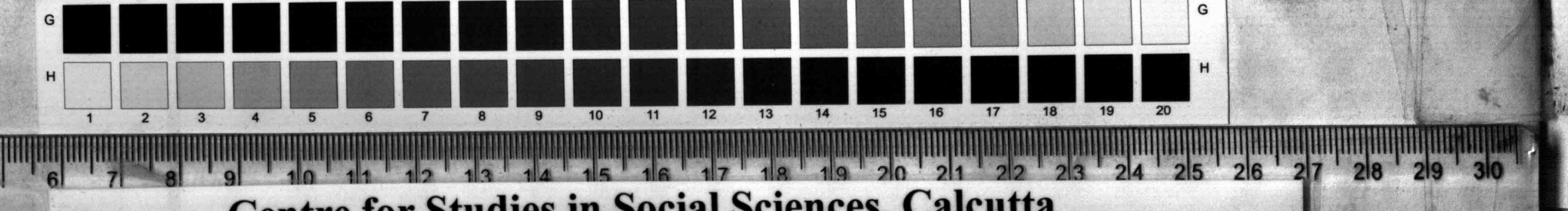
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Correspondence.

IS CONSUMPTION CURABLE?

TO THE EDITOR.

Sir, Post-mortem and pathological investigations have shown that spontaneous healing of tuberculous lesion does occur in cases where the disease had not even been suspected.

I can cite the opinions of many distinguished authorities who have declared that consumption is curable. Laennec, the master of masters on this subject, boldly asserts that "a number of facts have proved to me that in some cases a patient may recover after having had in his lungs tubercles which have disintegrated and formed an ulcerated cavity."

There have been studying this method of treatment for the last eight months under Walthers, and I propose to give the result of my experience in a series of articles. In my next article I shall give the main features of the treatment as followed in the Nordrach Sanatorium of Walthers.

J. N. Ghose, M.D. Nordrach-Sanatorium, Black Forest, Germany. June 1905.

three things:—fresh air, feeding and rest—exercise.

The rational treatment of consumption is not a new thing, so long ago as 1840. George Bodington, an English country doctor, wrote a pamphlet entitled "An essay on the cure of Pulmonary Consumption, on Principles Natural, Rational and Successful," in which he recommended fresh air, nourishment and exercise to be the three chief factors for the cure of consumption.

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EMPEROR'S BIRTHDAY.

There has been some trouble at the Bishop Cotton's school, Bangalore. On Friday the boys asked Mr. Miller, the Headmaster, if they were to have a holiday on Monday in honour of the King's Birthday.

THE FINAL BATTLE.

Though the peace preliminaries are in progress and Russia has selected M. Nelidoff, Ambassador in Paris, as one of the plenipotentiaries and has agreed to Washington and let in August as the place and time for the peace discussion, preparations are being made for the great battle in Manchuria.

CARAVONICA COTTON.

A Coorg correspondent writes to the "Madras Mail":—"Mr. G. Haller, who is now Assistant Superintendent of Land Records and Agriculture, has sent round a circular advising the cultivation of the above. The points in its favour are that it thrives on poor soil; that it comes into bearing in six months; and the profits which will accrue from it, if the cultivation is successful, will be large, since it requires little done to it, with the exception of keeping down the weeds, till it becomes established.

PRIMARY EDUCATION IN BOMBAY.

Bombay, June 30.—The Bombay Corporation have begun the consideration of compulsory primary education on the motion by the Hon. Ibrahim Rahimtoola. The Corporation is of opinion that the time has arrived when a beginning should be made to introduce free and compulsory primary education for boys in the city of Bombay.

OUR TRUE RELATIONSHIP WITH INDIA.

LECTURE BY COL. FRANCIS YOUNGHUSBAND.

Col. Sir Francis Younghusband delivered the Rede lecture at Cambridge on June 10, his subject being "Our True Relationship with India." The Vice-Chancellor (Mr. E. A. Beck, Master of Trinity Hall) presided, and the attendance included many of the heads of Houses, professors, and members of the Senate, and a number of ladies.

Sir Francis Younghusband, who met with a very cordial reception, said that at the beginning of the last century many great Anglo-Indians who knew the people best and had the most sympathy with them conceived it to be our duty to so train and educate them that they would eventually be able to take their own place in the world.

OUR MISSION IN INDIA.

But, if we were to retain our connection with India, we must regard not merely our own selfish interests but the good of the people of India as well. In the development of the human race the use of force seemed inevitable.

special gift under the "Pax Romana." During the last three-quarters of a century there had been a marked quickening in the religious life of the people, resulting in such movements as the Brahma Somaj, the Arya Somaj, and others.

A SPIRIT OF COMRADESHIP.

What, then, was to be our relationship with them? No one in the present day would like it to be that of conqueror and conquered. We did not conquer India for the sake of conquering it. We never had any such design.

THE GRANDEUR OF OUR TASK.

In concluding his address Sir Francis Younghusband said:—"The idea, then, which I would venture to suggest to your minds as governing all other ideas regarding our management of India is this fundamental idea of treating the relationship between us and the people of India as one of healthy comradeship."

RANGOON NOTES.

THE PENNELL WILSON CASE.

(FROM OUR OWN CORRESPONDENT.)

Before Mr. Justice Biggs, this suit for the recovery of Rs. 15,000 damages for libel, came on for the settlement of issues. Mr. Agabeg appeared for the plaintiff and Mr. McDonnell for the defence.

After reading the pleadings Mr. Agabeg said His Honour would notice that the specific acts relating to the letters of the 24th and 27th were neither admitted nor denied, although there was a general denial of publication.

Mr. McDonnell again repeated that it was for the plaintiff to prove the publication of the letters. The Judge:—"But do you deny that?" Mr. McDonnell said it was difficult for him to say and he must ask his client.

Mr. Agabeg said that the first issue would be whether the suit was barred by Act 18 of 1850. His Honour asked what that Act was. Mr. Agabeg said it was an Act consisting of one section only and it protected judicial officers against any acts done in the course of their judicial duties.

CROP REPORT.

Rainfall very heavy in Tavoy, heavy in other coast districts, light in dry-zone tract, with none in Kyaukse, and moderate elsewhere. Reaping of dry-weather paddy commenced in Minbu and completed in Mandalay and Kyaukse.

THE CARLYLE CIRCULAR.

A PROTEST.

Mr. W. C. Madge, Secretary of the European and Anglo-Indian Defence Association has addressed the Chief Secretary to the Government of Bengal as follows:—"I am directed by the Council of this Association to submit, for the consideration of His Honour the Lieutenant-Governor of Bengal the following observations regarding the Circular No. 1817-J, dated 24th February last, known as Mr. Carlyle's Circular."

2. With reference to the main portion of the Circular dealing generally with the relations between Commissioners of Divisions and the officers subordinate to them, its object is apparently to secure both efficiency and due subordination to authority in the public service and the attainment of this object is clearly for the public good.

3. But as regards judicial officers, though in paragraphs 4 and 6, it is clearly and rightly laid down that the executive must avoid any attempt at or appearance of interference except through the High Court and that "in regard to this judicial work the Judge is under the High Court alone," the Council regret to notice that in paragraph 8 amongst the cases in which the authority of the Commissioner may be usefully exercised, are included cases in which officers are guilty of disregard of the interests of other departments.

4. It is difficult to see to what other cases this can possibly refer, but those in which judicial officers in their judgments or orders, or in the course of proper judicial remarks on the cases being tried before them, may feel constrained to comment adversely on the actions (and thus apparently "disregard the interests") of other departments of Government, such, for instance, as the Police, the Excise, the Court of Wards, etc.

5. The Council cannot but feel that, if this is intended, a very serious blow has been aimed at that independent and impartial administration of justice, which is the aim of the Government and the public alike to conserve and foster; and they respectfully appeal to the Government to explain or modify this portion of the Circular in view of the serious apprehensions felt as to its true meaning.

We hear from Kabul that friction is going on between the Ameer and his brother, Sardar Nasrullah Khan. The latter is not taking part in State affairs, and intends making a pilgrimage to Mecca.

RECOMMENDED BY DEALERS EVERYWHERE.

Mr. M. Links, a storekeeper at Carcass, N. S. W. Australia, says: "I never fail to recommend Chamberlain's Colic, Cholera and Diarrhoea Remedy, because I know it is good." You make no mistake when you buy this medicine. Dealers all over the country will tell you the same thing. Sold by

CONTRACTED CHRONIC DIARRHOEA WHILE IN THE PHILIPPINES.

"While with the U. S. Army in the Philippines, I contracted chronic diarrhoea. I suffered severely from this terrible disease for over three years and tried the prescriptions of numerous physicians, but found nothing that did me any good until I tried Chamberlain's Colic, Cholera and Diarrhoea Remedy, two small bottles of which entirely cured me and I have since had no return of the disease."—Herman Stein, 212 N. Union Ave., Pueblo, Colorado, U. S. A. For sale by

